

## **TITLE 17: ZONING**

- Chapter 17.1 GENERAL PROVISIONS
- Chapter 17.2 DISTRICTS AND BOUNDARIES THEREOF
- Chapter 17.3 DEFINITIONS
- Chapter 17.4 GENERAL STANDARDS
- Chapter 17.5 RESIDENTIAL DISTRICT REGULATIONS
- Chapter 17.6 COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS
- Chapter 17.7 OVERLAY DISTRICT REGULATIONS
- Chapter 17.8 SPECIAL EXCEPTIONS AND OTHER PERMITS
- Chapter 17.9 OFF-STREET PARKING AND LOADING STANDARDS
- Chapter 17.10 SIGN STANDARDS
- Chapter 17.11 LANDSCAPE STANDARDS
- Chapter 17.12 NONCONFORMING USES
- Chapter 17.13 AMENDMENTS AND ENFORCEMENT
- Chapter 17.14 PLANNING AND ZONING COMMISSION
- Chapter 17.15 BOARD OF ADJUSTMENT

## TITLE 17: ZONING

### Chapter 17.1 - GENERAL PROVISIONS

- 17.1.01 Title reference
  - 17.1.02 Purpose and intent
  - 17.1.03 Interpretation of ordinance
  - 17.1.04 Severability of provisions
- 

#### **History:**

Ordinance    Date of adoption    Effect

91-01            2/18/91            Codified Articles I, II, III and IV of Ordinance 64 as amended.

## TITLE 17: ZONING

### Chapter 17.1 - GENERAL PROVISIONS

- 17.1.01      Title reference This title shall be known, cited and referred to as the Zoning Ordinance of the City.
- 17.1.02      Purpose and intent The zoning regulations and districts provided herein have been established in accordance with a comprehensive plan, for the purpose of promoting the health, safety, and general welfare of the citizens of the City of Dalworthington Gardens. They have been designed to lessen 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 the districts and for their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, consistent with a comprehensive plan.
- 17.1.03      Interpretation of ordinance
- A.      Interpretation When interpreting and applying the provisions of this title, such provisions shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity and general welfare.
  - B.      Conflict with other laws Nothing in this title shall be construed as repealing any existing ordinances regulating nuisances or as permitting or requiring uses which are now prohibited by law. This ordinance does repeal and replace Ordinances #13 and 18 which were temporary zoning ordinances.
  - C.      District boundaries When definite distances in feet are not shown on the Zoning District Map, the district boundaries on the map are intended to be along existing streets, alleys or property lines or extensions of or from the same. Where boundaries are shown to follow streets or alleys, the centerline of such streets or alleys shall be the zoning boundary. When the location of a district boundary line is not otherwise determined, it shall be determined by the scale of the map measured from a given line.
  - D.      Discrepancies in map If, because of error or omission on the Zoning District Map, any property in the City is not shown and included in a zoning district, such property shall be classified as “SF” Residential District until changed by amendment.
  - E.      Discrepancies in meaning or implication In case of any difference of meaning or implication between the text of this title and any caption, illustration, chart or table, the text shall control.

## Chapter 17.1 - GENERAL PROVISIONS

### 17.1.04 Severability of provisions

- A. It is hereby declared to be the intention of the City Council that the several provisions of this title are severable.
- B. If any court of competent jurisdiction shall judge any provision of this title to be invalid, such judgment shall not affect any other provision of the title not specifically included in said judgment.
- C. If any court of competent jurisdiction shall judge invalid the application of any provision of this title to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

## TITLE 17: ZONING

### Chapter 17.2 - DISTRICTS AND BOUNDARIES THEREOF

- 17.2.01 Districts established
  - 17.2.02 Purpose of districts
  - 17.2.03 Zoning district map
  - 17.2.04 Cumulative nature of zoning
  - 17.2.05 Amendments to zoning district map
  - 17.2.06 Vacated streets and alleys
- 

#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Added 17.2.02C, G & H; codified 5.1 - 5.4 & 6.1 of Ord. #64.
05-08	6/16/05	Added GH provisions

## TITLE 17: ZONING

### Chapter 17.2 - DISTRICTS AND BOUNDARIES THEREOF

17.2.01 Districts established The zoning regulations and districts as herein set forth are approved and established. The City is hereby divided into classes of use districts, such districts being of the shape and area deemed best suited to carry out the purpose and intent of this title. Within such districts, this title hereby regulates and restricts the erection, construction, reconstruction, alteration, repair and use of buildings, structures and land as herein set forth.

A. Residential Districts

"SF" Residential District  
"MF" Residential District  
"GH" Residential District

B. Commercial Districts

"B-1" Business District  
"B-2" Business District  
"B-3" Business District  
"LI" Light Industrial District

C. Overlay Districts

"PD" Planned Development District  
"PD-R" Redevelopment District

17.2.02 Purposes of districts

A. "SF" Residential District (Single-family) This district is intended to be composed of single-family dwellings on large-sized lots, together with the public and parochial schools, churches, public parks and other public facilities essential to create basic neighborhood units, particularly along existing streets and thoroughfares of the city. This district is also considered to be the proper classification for large areas of undeveloped land appropriate for future single-family use, in order to protect and encourage the continued development of such areas for such use.

A-1 "GH" Residential District (Single-family) This district is designed to accommodate detached single-family dwellings in a medium density setting allowing for innovation in development designed to encourage individual home ownership either on platted conventional lots or in a clustered site-plan configuration.

B. "MF" Residential District (Multi-family) This district is designed for attached multi-family dwellings on moderate-sized lots, to provide in appropriate locations an orderly transition from neighborhoods of exclusively single-family dwellings to less restrictive use districts.

## Chapter 17.2 - DISTRICTS AND BOUNDARIES THEREOF

- C. “B-1” Business District This district is designed for limited, low-intensity offices, financial institutions and governmental buildings and facilities not involving retail trade, located in close proximity to and compatible with residential uses. The regulations of this district require a high standard of development in order to protect and provide an orderly transition from more restrictive adjacent districts.
- D. “B-2” Business District This district is provided to accommodate convenience retail sales and personal service activities as well as limited general business activities. The district regulations are designed for the types of commercial uses which do not typically generate high volumes of vehicular traffic. Nevertheless, it is not anticipated that development of land in this district will take place other than at or near the intersection of major thoroughfares.
- E. “B-3” Business District This district is intended to accommodate general business uses, offices, banking, governmental, utility and institutional business services, community shopping centers and some automobile-related uses, primarily in appropriate areas along major highways.
- F. “LI” Light Industrial District The “LI” Light Industrial District is characterized by industrial development of a warehousing, distribution and light processing type. The regulations of this district are intended to preserve a light industrial nature, particularly with regard to noise, odors, dust and other noxious conditions. This district may be appropriate adjacent to commercial districts or on major highways.
- G. “PD” Planned Development District The classification, procedures and regulations of this district are designed to be used in combination with and superimposed upon the geographical area of other districts (one or more) in large area developments so as to permit creative land use design, the flexible location of buildings and other structures, and the maximizing of open space and public amenities. The overlay district may be used with both residential and commercial districts.
- H. “PD-R” Redevelopment District This district is to be used in areas where existing development has deteriorated substantially and there is need for the redevelopment of the land and its infrastructure. Using the PD processes, this district may be overlaid on either residential or commercial districts.

17.2.03 Zoning district map The boundaries of the districts are as shown on the Official Zoning District Map, which is hereby adopted and made a part of this title as if the boundaries of the district, notations and information shown thereon were fully contained and described herein. It shall be the duty of the City Secretary to keep two complete sets of the official zoning district maps, one of which shall be kept

## Chapter 17.2 - DISTRICTS AND BOUNDARIES THEREOF

in its original conditions as a permanent record; and, the second of which shall indicate the dates and locations of all revisions subsequent to the adoption of the map in its original condition. The City Secretary shall also keep any other maps used for administration purposes up to date, clearly indicating thereon all changes, variances and special exceptions. These maps shall be maintained in the City Hall and shall be available to the public during normal business hours.

### 17.2.04 Cumulative nature of districts

- A. The uses of the districts listed in 17.2.01A shall not be cumulative.
- B. The districts listed in 17.2.01B shall be deemed a hierarchy of districts in the order in which they are there listed, the most restrictive use being "B-1" and the least restrictive being "LI". The City Council may, upon proper application to zone property to a particular district, zone the property to such district or any more restrictive district within the hierarchy of districts.

### 17.2.05 Amendments to zoning district map Upon the effective date of this amendment, the Zoning Map, as heretofore amended, shall be changed as follows:

- A. All districts designated "SF-1" and SF-2" shall be redesignated "SF".
- B. All districts designated "MF-1" and "MF-2" shall be redesignated "MF".
- C. All districts designated "LB" shall be redesignated "B-2".
- D. All districts designated "B" shall be redesignated "B-3".

### 17.2.06 Vacated streets and alleys Whenever a street or alley that forms a district boundary is vacated by the Council, adjacent district boundaries shall extend to the centerline of the street or alley vacated.

## TITLE 17: ZONING

### Chapter 17.3 - DEFINITIONS

17.3.01 Rules for definition

17.3.02 Defined terms

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#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-03	3/18/91	Codified Art. VIII of Ord. #64.
96-07	5/16/96	"Lot" definitions
03-02	2/20/03	"Finished floor elevation" defined

## TITLE 17: ZONING

### Chapter 17.3 - DEFINITIONS

#### 17.3.01 Rules for definition

- A. For the purposes of this title, certain words and terms that apply to the title are defined in 17.3.02 hereof. As to words and terms not defined in this title, the same shall be as defined elsewhere in this Code; or, if not elsewhere herein defined, then as defined in the most recently published edition of Webster's New Collegiate Dictionary.
- B. Words used in the present tense shall include the future, words used in the singular number shall include the plural number, and words used in the plural shall include the singular.
- C. The word "shall" is mandatory and not discretionary.
- D. The word "may" is permissive.
- E. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", "occupied for", and shall apply exclusively to physically existing uses.

#### 17.3.02 Defined terms For the purposes of this title, certain terms, words, and phrases shall have the meanings assigned thereto in this Chapter.

A-1 Access A means of passage to and from a place.

A-2 Accessory building or use A subordinate use or building incident to and located on the lot occupied by the main use or building. When a substantial part of the wall of an accessory building is a part of the wall of the principal building in a substantial manner, as by a roof, such accessory building shall be deemed a part of the principal building.

A-3 Adjoining or adjacent lot Any lot, parcel or piece of land that shares with the lot under consideration a common lot line, alley or any point of tangency.

A-4 Alley A public way less in size than a street, designed for the special accommodation of abutting property, and not intended for general travel or primary access.

A-5 Amusement, commercial An establishment offering entertainment or games of skill to the general public for a fee or charge.

A-6 Apartment A dwelling unit in an apartment house.

A-7 Apartment house A building or portion thereof arranged, designed or occupied as two or more dwelling units not for transient use.

## Chapter 17.3 - DEFINITIONS

- A-8        Auto wrecking The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete, or wrecked motor vehicles or their parts.
- B-1        Block A tract of land bounded by streets or by a combination of streets, and public parks, cemeteries, or corporate boundaries of the City.
- B-2        Board The Board of Adjustment of the City.
- B-3        Buffer Area An area of land, together with specified planting and/or structures thereon, which may be required between land uses of different intensities to eliminate or minimize conflicts between such uses.
- B-4        Build To erect, convert, enlarge, reconstruct, restore or alter a building or structure.
- B-5        Building Any structure which is built for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind.
- B-6        Building line A line established, in general parallel to the front curb line, between which and the front curb line in which no part of a building shall project, except as otherwise provided in this ordinance.
- B-7        Business park An office and warehouse complex that meeting the standards of 17.6.04 A-12 of this Title.
- C-1        Child care facility A facility used for any type of group child care program, including without limitation nurseries for children of working parents, nursery schools for children under the minimum age for education in public schools, privately conducted kindergartens not a part of a public or parochial school, and programs for after-school care of more than six (6) children exclusive of children in the immediate family of the operator of the facility.
- C-2        City The City of Dalworthington Gardens.
- C-3        Clinic A building in which a group of physicians, dentists, or physicians and dentists and allied professional assistants are associated for the purpose of treating and diagnosing ill or injured out-patients. A clinic may include a dental or medical laboratory or dispensing apothecary.
- C-4        Commercial parking A place for the storage or parking of motor, man-powered or unpowered vehicles for a fee.

## Chapter 17.3 - DEFINITIONS

- C-5            Commission The Planning and Zoning Commission of the City.
- C-6            Council The City Council of the City.
- C-7            Court An open, unoccupied space bounded on more than one side by the walls of a building or buildings and used as a primary means of access to all or any part of said buildings. For the purpose hereof, an alcove or entrance way less than twenty (20) feet in depth shall not be considered a court.
- C-8            Customarily incidental use A use of a building or premises, not involving the conduct of a business, which use is only secondary to the principal use and is indispensably necessary to the enjoyment of the premises for any of the principal uses permitted within a zoning district. A customarily incidental use may include a customary home occupation.
- C-9            Customary home occupation (See “home occupation” this chapter.)
- D-1            Development or to develop “Development” shall mean the construction of one or more new buildings or structures on one or more building lots, the location of an existing building on another building lot, or the use of open land for a new use. “To develop” shall mean to create a development.
- D-2            District A zoning district; a section of the City for which the regulations governing the area, height, and use of buildings and land are uniform.
- D-3            Duplex A detached building having separate accommodations for and occupied as, or to be occupied as, a dwelling for only two families.
- D-4            Dwelling A building or a portion thereof designed or used exclusively for residential occupancy, including single family dwellings, two family dwellings and multiple family dwellings, but not including hotels or motels.
- D-5            Dwelling, attached A dwelling which is joined to another dwelling at one or more sides by a partial wall or walls.
- D-6            Dwelling, detached A dwelling which is entirely surrounded by open space on its building lot.
- D-7            Dwelling, multiple A building used or designed as a residence for three or more families or households living independently of each other.
- D-8            Dwelling, one-family A detached dwelling having accommodations for and occupied by only one family.
- D-9            Dwelling unit One or more rooms arranged, designed, or used as separate living quarters for an individual family. Kitchen facilities, including at least a stove or cooking device, and a permanently installed sink, plus bathroom facilities, shall always be included for each dwelling unit.

## Chapter 17.3 - DEFINITIONS

- E-1      Easement Authorization by a property owner of the use by another, including the City and/or public agencies, for a specified purpose, of any designated portion of property. A 'surface' easement describes an easement for which the authorization of use includes activities which occur at or above ground level and which the use of such property for other above ground uses limits.
- E-2      Educational institution Elementary, junior high, high schools, junior colleges, colleges, or universities or other schools giving general academic instruction in the several branches of learning and study required by the State of Texas.
- E-3      Establishment A place of business.
- F-1      Family An individual or two or more persons related by blood, marriage or adoption; or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living in a dwelling unit.
- F-2      Fence A masonry wall or a barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space or separating parcels of land. The term "Fence" does not include retaining walls.
- F-3      Finished Floor Elevation ("F.F.") The finished surface of the floor of the first story of a structure - i.e., the story, the floor of which is closest in vertical elevation to the most adjacent grade of the structure.
- G-1      Garage private A building used for the *storage* of motor vehicles for the private use of the occupants of the premises.
- G-2      Garage public Any building not a private garage, used for housing motor vehicles; or, a place where vehicles are repaired for operation or kept for remuneration, hire or sale. A commercial motor vehicle parking facility.
- G-3      Grade The lowest point of elevation of the finished surface of the ground between the exterior of a structure and a point five (5) feet therefrom.
- G-4      Gross floor area When applied to a building, the area in square feet measured by taking outside dimensions of the building at each floor, excluding however, the floor area of basement or attics when not occupied or used.
- H-1      Health care facility A facility, other than a hospital, for the care of the chronically ill, aged or infirm residents of the premises, and typically not containing equipment or facilities for surgical care.

## Chapter 17.3 - DEFINITIONS

- H-2        Hobby The engagement of a person in a branch of the fine arts or sciences for pleasure, conducted as a sparetime activity. Such activity shall not be engaged in for business profit, and any remuneration shall be secondary and incidental to the pursuit. Such activity shall be carried on within an enclosed or screened area and shall not involve any activity that requires open storage of automobiles, building materials, glassware or antiques, used furniture or other materials or goods.
- H-3        Home occupation Any occupation or activity which is clearly incidental and secondary to the use of premises for dwelling purposes, is carried on within the dwelling, and is not detrimental or injurious to the economic or aesthetic value of adjoining property. Customary home occupations shall include the sale of farm produce grown on the same premises as the primary residence, but shall not include: barber or beauty shops, carpenters', electricians', or plumbers' shops; radio shops, auto repairing, auto painting, furniture repairing, sign painting, or any other form of merchandising activity; or, child care in excess of four. (4) children not members of the family residing in the home.
- H-4        Hospital An institution in which there are complete facilities for diagnosis,treatment, surgery, laboratory, X-ray, nursing, and the prolonged care of bed patients.
- H-5        Hotel A building or buildings used as the more or less temporary abiding place of individuals who are lodged with or without meals, in which the rooms are occupied for hire, and there is generally a common kitchen.
- I-1        Impervious Surface A surface which does not absorb water, including all building roofs, paved parking areas and driveways, roads, sidewalks, structures, and any other areas of concrete, asphalt or similar surface.
- I-2        Institution A building occupied by a non-profit corporation; a non-profit establishment for public use.
- J-1        Junk or salvage yard Premises on which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles and used building materials. This term shall also include an automobile wrecking yard and automobile parts yard.
- K-1        Kenel An establishment for the breeding, raising or boarding of four (4) or more dogs, cats or other domestic household animals, at which establishment provisions are made for the enclosure of such animals in runs, cages, yards, or pens.

## Chapter 17.3 - DEFINITIONS

- L-1        Lot Land occupied or to be occupied by a building and its accessory buildings and including such open spaces as are- required under this title and having its principal frontage upon a public street or officially approved place, the boundaries of which have been fixed by plat pursuant to Chapter 212 of the Local Government Code of Texas.
- L-2        Lot, corner A lot abutting upon two (2) or more streets at their intersection.
- L-3        Lot line A boundary of a building lot.
- L-4        Lot of record An area of land designated as a lot on a plat of a subdivision recorded pursuant to statute with the County Clerk of Tarrant County, Texas.
- L-5        Lot wide, commercial The length of a line extending from side lot line to side lot line of a non-residential lot, measured along the street frontage of the lot.
- L-6        Lot width, residential The length of a line extending from side lot line to side lot line of a residential lot, parallel to the street frontage of the lot.
- L-7        Lot, panhandle A panhandle lot is a lot, other than a cul-de-sac lot, which is not of a buildable width when measured at the street frontage of the lot .
- M-1        Masonry Referring to building exterior walls and screening devices, fired clay brick or natural stone.
- M-2        Mobile home A movable or portable dwelling built on a vehicular chassis, connected to utilities, and designed for year round living, whether on wheels or rigid supports.
- M-3        Motor vehicle sales An area, other than a street, used for the display, sale or rental of new or used automobiles, trucks or trailers, where no repair work is done, except minor reconditioning of motor vehicles or trailers to be displayed, sold or rented on the premises. Such area shall not include automobile wrecking or dismantling or the sale of salvaged parts, nor shall it include the storage of either new or used motor vehicles or trailers.
- M-4        Motel A hotel with accommodations for the parking of motor vehicles in close proximity to guest rooms.
- M-5        Museum An establishment operated as a non-profit, non-commercial repository for a collection of scientific, natural or literary curiosities or objects of interest or works of art, not including the regular sale or distribution of the objects collected.

## Chapter 17.3 - DEFINITIONS

- N-1        Nonconforming use A use that does not conform to the regulations or use in the zoning district in which it is located but which may legally continue because such use pre-dated the application of the zoning ordinance to it and has not since been abandoned.
- O-1        Open space The area included in any side, rear or front yard or any unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches.
- O-2        Open storage The storage of any equipment, machinery, building materials or commodities, including raw, semi-finished and finished materials, the storage of which is not accessory to a residential use, and which is visible from ground level; provided, however, that vehicular parking shall not be deemed to be open storage.
- P-1        Parking space A surface area, enclosed or unenclosed sufficient in size to store one automobile, with a surfaced driveway connecting the parking space with the street or alley, and permitting ingress and egress of an automobile.
- P-2        Pawn shop The business location of a pawnbroker, as defined by and licensed pursuant to state law.
- P-3        Personal service shop An establishment supplying limited personal services such as: cleaning and laundry collection, self service laundry, interior decorating, watch and jewelry repair, art gallery, library, museum, studio for professional art work, photography, dance or fine arts, including teaching of applied and fine arts.
- P-4        Print shop An establishment utilizing offset, letter press, or other duplicating equipment.
- P-5        Private school A non-governmental educational institution accredited by a national or regional association of institutions of like kind; or, a privately owned, state-licensed vocational or technical training school.
- P-6        Professional office An office occupied by a doctor, lawyer, dentist, engineer, or any other vocation involving predominately mental or intellectual skills and requiring state licensure, but specifically excluding any activity involving sales of personal property; and, excluding also veterinary clinics.
- R-1        Recreational area An area devoted to facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds, community clubhouses, and other similar uses.
- R-2        Recreational vehicle or RV A vehicular, portable structure built on a chassis, either self-powered or trailer, and designed to be used as a temporary dwelling. An RV shall include a travel trailer, motor home, pickup camper, or any variation thereof.

## Chapter 17.3 - DEFINITIONS

- R-3        RV park Any premises on which one or more RVs may be parked or situated and used for the purpose of supplying to the public a parking space therefor.
- R-4        Residential recreation facility A private recreation facility located within a single and/or multi-family residential development, designated and intended for the use in common of residents of the development and/or members of the operating club or association and their guests, but not the general public, and including such recreational amenities as a swimming pool, tennis courts, racquet ball courts, sauna, exercise room and similar facilities, and food and beverage service.
- S-1        Screening device A barrier of stone, brick, pierced brick or block, uniformly colored wood or other permanent material of equal character, density and design, not more than six (6) feet in height.
- S-2        Shopping center A composite arrangement of shops and stores which provide a variety of goods and services to the general public, when the same are developed as an integral unit.
- S-3        Sign A name, identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land, which sign directs attention to an object, project, place, activity, institution or business; provided, however, that this term shall not include a display of an official court or public notice nor the flag, emblem or insignia of a nation, political unit, school or religious group.
- S-4        Sign illuminated Any sign designed to give forth any artificial light or to reflect light from one or more sources, natural or artificial.
- S-5        Stable, private A stable with a capacity for not more than four (4) horses, mules or other domestic animals.
- S-6        Story That portion of a building between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above.
- S-7        Street Any public thoroughfare dedicated to the public use and not designated as an alley or officially approved place.
- S-8        Secondary use A collateral use of land or buildings which is customarily done or performed in conjunction with a permitted principal use, but not constituting a majority of either the employment, area or revenues of the combined uses.

## Chapter 17.3 - DEFINITIONS

- S-9            Storage The retention and housing of goods, wares and merchandise preliminary to the sale or use thereof. As such term is applied to open storage the use as described above or, if at the location of retail sale, rental or lease, the exhibition of goods, wares or merchandise for a period of more than three (3) consecutive business days.
- T-1            Thoroughfare, major A street designated as a major thoroughfare on the last officially adopted “Plan for Major Thoroughfares” of the City.
- T-2            Townhouse A row of single-family attached dwelling units which constitute an architectural whole.
- U-1            Use When applied to land or buildings, the purpose or activity for which such land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.
- V-1            Variance An adjustment in the application of the specific regulations of this title to a particular piece of property, which property because of special circumstances uniquely applicable to it is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone, and which adjustment remedies disparity in privileges.
- V-2            Veterinary clinic A place where a veterinarian maintains treatment facilities, sound proof, with no outside runs.
- W-1            Warehouse A building used for the storage of goods, wares and merchandise, including offices and sales space.
- W-2            Wholesale office An office for the conduct of the business of selling tangible personal property to retail establishments.
- Y-1            Yard Any open space, other than a court, on a lot unoccupied and unobstructed from the ground upward unless specifically otherwise permitted in this ordinance.
- Y-2            Yard, front A yard extending along the whole length of the front lot line between the side lot lines and being the minimum horizontal distance between the street right-of-way line and main building or any projections thereof other than steps and unenclosed porches.

## Chapter 17.3 - DEFINITIONS

- Y-3            Yard, rear A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof other than steps, unenclosed balconies, or unenclosed porches.
- Y-4            Yard, side A yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building or projections thereof and the side lot line.
- Z-1            Zoning administrator The person designated by the Council to enforce and administer the provisions of this title and his or her designated representative.
- Z-2            Zoning district map The map or maps incorporated into this title as a part hereof by reference thereto.

## TITLE 17: ZONING

### Chapter 17.4 - GENERAL STANDARDS

- 17.4.01 Purpose
  - 17.4.02 Lot requirements
  - 17.4.03 Yard requirements
  - 17.4.04 Principal and accessory buildings and uses
  - 17.4.05 Screening devices
  - 17.4.06 Height standards
  - 17.4.07 Agricultural uses
  - 17.4.08 Design standards
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#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Added 17.4.01, .02, .03E & F, .05C, .06 and .07; codified 6.2 through 6.5 of Ordinance 74.
02-01	2/21/02	Amended 17.4.03, reverse corner lots
03-02	2/20/03	Amended 17.4.06, method of height measurement
05-07	4/21/05	Added 17.4.08, design standards

## TITLE 17: ZONING

### Chapter 17.4 - GENERAL STANDARDS

17.4.01 Purpose The purpose of this chapter is to state certain standards which, except where specifically stated otherwise, apply to all zoning districts.

17.4.02 Lot requirements

- A. No building shall be hereafter erected and no existing building shall be hereafter enlarged unless the same is situated on a lot platted pursuant to state law and the provisions of Chapter 16.1 of the City Code.
- B. In the SF District, no more than one main building shall be allowed on a single lot, except as hereinafter provided.
- C. In any district, more than one structure may be erected and/or used for a permitted principal use (other than a single-family dwelling) on a single platted lot, provided that all of the requirements of this title, as to yard and other regulations, are met as to each structure as if the same were the only principal structure on such lot.

17.4.03 Yard requirements

- A. Double frontage lots On double frontage lots, a minimum front yard shall be required on both streets; provided however, that when a principal structure on a double frontage lot will back on a major thoroughfare, the minimum rear yard in an “SF” district may be reduced as provided in the District Regulations, when:
  - (1) The front and rear yards and building lines therefor are designated on a plat approved by the Council and recorded in the plat records of Tarrant County, Texas; and
  - (2) A screening device approved by the City as to location and height is erected along the property line abutting the major thoroughfare.

When a double frontage lot is located in an SF district, the right-of-way of the major thoroughfare shall be the rear lot line and such lot shall face on the minor street.

## Chapter 17.4 - GENERAL STANDARDS

- B. Reverse corner lots On a reverse corner lot in any district, the rear line of which abuts a lot zoned for residential purposes, no structure or portion thereof shall be located within twenty-five (25) feet of any part of said rear lot line. Further, any portion of a structure which is located within thirty-five (35) feet of such rear lot line shall observe the same yard requirements on its side-street side as are specified by this title for the lot which it abuts to its rear.
- C. Swimming pools and tennis courts In all districts, a swimming pool or tennis court shall be permitted in a required side or rear yard under the following conditions:
1. The pool area shall be enclosed in compliance with Article VII of Chapter 15.1 of this Code.
  2. Pools and tennis courts shall not be located within ten (10) feet of a property line measured from the outside edge of the coping (in the case of pools) or the playing surface (in the case of tennis courts).
  3. Lighting shall be directed toward the recreation area and away from adjacent residential uses.
- D. Permitted obstructions in required yards and open spaces The following shall not be considered to be obstructions when located in the required yards and open spaces specified.
1. In all required yards:
    - a. Open terraces not over four (4) feet above the average grade of the property at the nearest property line, but not including a permanently roofed terrace or porch, awning or canopy.
    - b. Steps four (4) feet or less above grade which are necessary for access to a permitted building, or to a building lot, from a street or alley.
    - c. Chimneys projecting twenty-four (24) or less inches into the yard.
    - d. Fences, subject to (2) (c) hereof.

## Chapter 17.4 - GENERAL STANDARDS

2. In front yards:
  - a. Bay windows, balconies and overhanging eaves or gutters, none of which shall project more than four (4) feet into a required yard.
  - b. Plants, hedges or other natural growth, so long as the same do not constitute a sight obstruction, as described and regulated by 5. hereof.
  - c. Fences not exceeding four (4) feet in height which do not constitute a sight obstruction.
3. In side yards: Bay windows, overhanging eaves or gutters projecting two feet or less into a required yard.
4. In rear yards: In residential districts, none of the following shall be considered an obstruction in a rear yard, provided that it is not situated within ten (10) feet of the property line of adjacent residential property and does not exceed a height of fifteen (15) feet: detached off-street parking structures; accessory sheds, tool rooms and similar buildings or structures for domestic or agricultural storage but not designed or used for human habitation; breezeways and open, unroofed porches. In addition, in residential districts, the following shall not be considered obstructions provided tht they are not situated within twenty (20) feet of the property line of adjacent residential property: balconies, bay windows and overhanging eaves or gutters. Open off-street parking spaces shall be permitted in required yards unless elsewhere herein prohibited.
5. Sight obstructions: Nothing herein provided shall be construed as permitting any obstruction to view which may constitute a traffic hazard. On the contrary, it shall be unlawful for any person to erect or place or cause to be erected or placed, or to perpetuate or maintain, on any property under his control any hedge, tree, shrub, or other growth or any fence or other structure in such manner or at such location as to constitute an obstruction to view creating a traffic hazard. On corners or on street curves of more than sixty (60) degrees, when doubt may exist regarding sight obstructions, the approval of the City Engineer shall be required.

## Chapter 17.4 - GENERAL STANDARDS

- E. Front yard storage No part of a required front yard in a residential district shall be used for any period of more than ten (10) consecutive days for the parking or storage of any vehicle, object or material not elsewhere herein permitted.

### 17.4.04 Principal and accessory buildings and uses

- A. All residential uses and buildings, except servants' and guests' quarters are principal uses and buildings; provided that guests' or servants' quarters shall be permitted as a use accessory to single family dwelling uses, if: (i) the guests' quarters are occupied only by bona fide guests of the occupant of the primary dwelling, without payment of rental or other consideration; and (ii) the servants' quarters are occupied only by a domestic employee of the occupant of the primary dwelling, employed for such purpose not less than twenty-five (25) hours per week, and by such employee's immediate family.
- B. No accessory building, other than servants' or guests' quarters, shall be used for dwelling purposes.
- C. In addition to those uses listed as accessory uses in the district regulations, the following are also accessory uses to appropriate principal uses:
  - 1. Storage of goods used or produced by manufacturing activities on the premises occupied by such activities, when such storage is permitted by the district regulations.
  - 2. The production, processing, cleaning, servicing, altering, testing, repairing or storing of merchandise normally incidental to a retail service or business, when conducted by the person engaged in the principal use, when such activity is permitted by the district regulations.
  - 3. Off-street motor vehicle parking areas and loading facilities for the exclusive use of the owners, customers, clients and employees of the principal use.
  - 4. Swimming pools and tennis courts as part of single-family residences, when used by residents and their guests only.

## Chapter 17.4 - GENERAL STANDARDS

5. In multi-family residential developments: club rooms, clothes washing and drying facilities, swimming pools, sauna baths and other indoor and outdoor recreation facilities common to such developments, when such uses exist for the use and benefit of residents and their guests but not for the general public.

### 17.4.05 Screening devices

- A. Where required A screening device, as herein defined, shall be erected before any use other than uses permitted in the “SF” or “MF” districts is made of property in “B-1” or less restrictive districts when such property abuts residentially zoned property. Insofar as it is practical, such screening device shall be erected along the entire length of the common line between such non-residential property and the abutting residentially-zoned property.
- B. Erection and maintenance responsibility
  1. When a screening device is required under the terms of 17.4.05A hereof, it shall be the responsibility of the user of the commercial or industrial property to erect the required screening device, and the same shall be a condition precedent to the issuance of a certificate of occupancy for the premises on which said device is located.
  2. All screening devices required by this title or action of the Board of Adjustment shall be perpetually maintained by the user of the property on which said device is located.
  3. No fence or other screening device, whether required or not, shall exceed six (6) feet in height, without prior Board approval.
- C. PD screening In residential planned developments the Council may approve as part of the PD site plan masonry walls higher than provided above in required yards so long as the same do not violate visibility restrictions.

### 17.4.06 Height standards

- A. The maximum heights of structures contained in the district regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other structural appurtenances usually placed

## Chapter 17.4 - GENERAL STANDARDS

above roof level and not intended for human occupancy, but no sign or other advertising display may be located on a structure and above the maximum height of structures permitted in the district in which the same is situated.

- B. The height of a building shall be measured from the finished floor elevation to the highest point of the building roof, exclusive of the permitted structures listed in A. of this section. Measurement shall be made from the highest point of the roof to the finished floor directly below such point. If a building has a finished floor at more than one grade, a height measurement shall be made using each such grade, but no structure shall exceed the maximum height therefor prescribed in the applicable district regulations.
- C. The height of a sign shall be measured from the surface grade vertically beneath the sign to the highest point of the sign face.

### 17.4.07

#### Agricultural uses

- A. In districts where the same are otherwise herein permitted, agricultural and livestock uses shall not be conducted on any lot or tract having an area of less than 40,000 square feet.
- B. The intensity of use of land for grazing purposes shall not exceed 10,000 square feet of grazing area per equine or bovine animal and 3,000 square feet of grazing area per each other kind of domestic animal.

### 17.4.08

Design Standards Non-residential buildings in the City shall be built in accordance with the provisions for building design and materials standards contained in this paragraph 17.4.08.

- A. Materials and color - walls Exterior wall construction for permitted non-residential buildings in any zoning district shall be in accordance with the following:
  - 1. A wall shall be not less than 80% masonry.
  - 2. The percentage calculation shall apply to each building elevation and each elevation shall be calculated independently.

## Chapter 17.4 - GENERAL STANDARDS

3. For the purpose of calculation, wall area shall include eaves, gables and parapets, but shall not include exterior windows and doors, roofs, awnings and signs.
  4. As used in this paragraph, "masonry" includes:
    - a. brick, stone or tile, hand laid unit by unit;
    - b. veneer simulations of the materials having the appearance of hand laid units, when approved by the City;
    - c. stucco when applied in accordance with building code standards therefor; and
    - d. tilt-wall and other pre-cast walls, but only when the exterior surface is faced with one or more of the applications described in a. through c. of this sub-paragraph 4 on each street frontage and on the sides of the building. The rear elevation of the building shall also be so faced when the rear abuts property zoned or used for residential purposes.
  5. Glass shall not exceed 50 percent of the area of any one facade of a building.
  6. Exterior wall surfaces shall consist of no more than three colors: a base color in an earth tone, which may be 100% of the wall area; a trim color, which may not exceed 20% of the wall area; and, an accent color that may not exceed 1% of the wall area.
  7. In combination, accent materials and non-masonry materials shall not exceed 20% of any one building elevation.
  8. Awnings shall be canvases or a lusterless, non-metallic material closely resembling canvas, at least 98% of which is a single deep or neutral solid color. The remaining 2%, if a different, shall be a contrasting color. Awnings shall not be backlit.
- B. Materials, color and design - roofs Roof construction for permitted non-residential buildings in any zoning district shall be in accordance with the following:

## Chapter 17.4 - GENERAL STANDARDS

1. All structures having 6000 square feet or less footprint shall be constructed with a pitched roof having a pitch not less than 2/12. Those having a footprint greater than 6000 square feet shall be constructed with either a pitched, parapet or mansard roof system, which shall be enclosed on all sides.
2. Standing seam metal roofs shall be made of copper or shall have a factory-treated, non-metallic, matte finish. Metal roofs with lapped-seam construction, bituminous built-up roofs, and flat membrane roofs that are visible shall be prohibited.
3. Pitched roofs shall have roofing material of a lusterless neutral/earth tone or green color. Green colors shall be limited to dark forest greens, pale bluish-gray greens, slate greens and copper patina.
4. Roof-mounted equipment otherwise visible from the same or adjacent property shall be screened from view. The screen shall be the color of the roof material or the wall material, whichever most effectively minimizes visibility from the ground.

### C. Building Articulation On all building elevations the following horizontal

1. Horizontal Articulation: A building elevation extending horizontally more than eighty (80) feet shall have no less than 30% of the total area of the elevation offset a minimum of four (4) feet, either protruding forward of or recessed back from the remainder of the elevation. A building elevation extending horizontally less than eighty (80) feet shall have no less than 30% of the total area of the elevation offset a minimum of two (2) feet.
2. Vertical Articulation: No wall shall extend horizontally for a distance greater than three (3) times the height of the wall without changing the height by a minimum of 15% of the wall height, and such height change shall continue for a minimum distance equal to 25% of the maximum horizontal length of either adjacent plane.
3. Application The horizontal and vertical articulation requirements of this sub-paragraph C shall apply to: (a) all street frontage and side yard building elevations; and (b) rear elevations on property adjacent to property zoned or used for residential purposes, but excluding from application those elevations adjacent to and within five feet of other buildings.

## TITLE 17: ZONING

### Chapter 17.5 - RESIDENTIAL DISTRICT REGULATIONS

#### 17.5.01 General Provisions

- A. Table of Standards
- B. Accessory uses
- C. Parking
- D. Special Standards

- 17.5.01 "SF" Residential District
- 17.5.02 "MF" Residential District
- 17.5.03 "GH" Residential District

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#### History:

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Codified 9.1, 9.2 and 9.4 of Ord. 64 as amended.
92-13	10/15/92	Amended Table 17.5.01
96-07	5/16/96	Amended Table 17.5.01 - panhandle lots
02-01	2/21/01	Amended Table 17.5.01
03-02	2/20/03	Amended Table 17.5.01
05-08	6/16/05	Added "GH" District

## TITLE 17: ZONING

### Chapter 17.5 - RESIDENTIAL DISTRICT REGULATIONS

#### 17.5.01 General provisions

- A. Table of standards The standards contained in the following table shall govern the height, area, yard and parking requirements of residential and permitted non-residential uses in the residential districts.

**Table 17.5.01**

REGULATIONS	DISTRICTS				
	Residential	SF Non-residential	MF Residential	Non-residential	GH
HEIGHT (Max in ft.)	35 (n-1)	45 (n-1)	35 (n-1)	45 (n-1)	35
AREA (n-2) Lot area (Min. per dwelling unit in sq. ft.)		None		None	6000
Single-family	21780		21780		
Multi-family			7200		
Living area (Min. per dwelling unit in sq. ft.)	1250		800		2000
LOT Width (Min. in ft.)	80	None	60	None	50
Coverage, building (Max. % of lot area)	25	25	40	40	50
Coverage, impervious Surface (Max. % of lot area)	40	40	40	40	70
YARDS (n-3) (Min. in ft.)					
Front	50	50	25	25	15
Side-interior lot	25	25	5	-	5
Side-corner lot	35	35	15	15	15
Rear (n-4)	25	25	10	10	15
Rear-double frontage	35	35	20	20	-
PARKING (Min. spaces per dwelling unit)	2	n-5	2.25	n-5	Garage-2 Guests-2
SPACE Landscaped open Space (Min. % of lot area)	-	20	-	20	

## Chapter 17.5 - RESIDENTIAL DISTRICT REGULATIONS

### NOTES TO TABLE 17.5.01:

1. In addition to the minimum yard requirements contained herein, each side and rear yard shall be increased an additional foot for each foot (or fraction thereof) the structure exceeds 35 feet in height; provided, that in no event shall the height of a building exceed by ten (10) feet the maximum height prescribed for such structure and district in Table 17.5.01.
2. Lot area shall be exclusive of the means of vehicular access thereto, whether by public or private street or other access easement or way.

Lots of 14,500 square feet or more but less than 21,780 square feet created by plat or deed and recorded in the office of the County Clerk of Tarrant County before April 13, 1981, the effective date of this amendment, shall not be deemed non-conforming as to lot area.

3. Any single-family residential lot which on February 18, 1991, was classified "SF-2", shall not be deemed non-conforming as to front and side yards if the lot has a front yard of not less than 35 feet and side yards of not less than 15 feet each (25 feet, if a corner lot). (#92-13)

Lots platted and zoned for residential use which are "panhandle" lots, as herein defined, shall comply with the provisions of this table or 17.5.01D, whichever is more restrictive.

4. Any single-family residence constructed on a lot which was created by plat or replat recorded in the office of the County Clerk of Tarrant County before March 1, 2002, shall not be deemed non-conforming as to minimum rear yard if such yard is not less than 15 feet.
5. Non-residential parking is regulated by Chapter 17.9 of this title.

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### B. Accessory-uses

1. Accessory buildings may include a private garage, guest and/or servants' quarters, and similar uses; provided, that they may not be used for commercial purposes, and may be used for hobbies only insofar as such activities are not offensive by reason of odor, noise or manner of operation.
2. An accessory building shall not occupy any portion of a required front or side yard.
3. An accessory building shall not occupy any portion of a required rear yard, except as provided in 17.4.03D4 hereof; and further, in the "MF" district, shall not occupy more than 50% of the minimum rear yard of a one-story principal building, nor more than 40% of the minimum rear yard of a multi-story principal building.

## Chapter 17.5 - RESIDENTIAL DISTRICT REGULATIONS

4. Refuse containers at non-residential uses shall be screened so that they shall not be visible from adjacent public streets.

### C. Parking

1. On any lot used for single-family residential purposes, there shall be provided two (2) covered vehicle parking spaces of not less than 180 square feet each, per dwelling unit. An additional parking space shall be provided for guest or servants' quarters.
2. On any lot used for multi-family residential purposes, there shall be provided 2.25 covered vehicle parking spaces per dwelling unit, complying with the standards prescribed in Chapter 17.9 of this title.
3. On any lot used for non-residential purposes, parking and loading areas shall be provided complying with the standards of Chapter 17.9 of this title.
4. All non-residential parking and loading areas shall be screened from adjacent residential property. Parking or loading in a required yard is prohibited.

### D. Special standards

Panhandle lots shall conform to the following minimum requirements:

1. In calculating the lot area for the purpose of determining compliance with 17.5.01, including maximum building coverage and maximum impervious surface coverage, the area of the panhandle shall not be deemed a part of the lot.
2. All minimum yards shall be thirty (30) feet.
3. Maximum building coverage shall be 20%.
4. Maximum impervious surface shall be 30%.
5. No building, either primary or accessory, shall be located in either the panhandle or any required yard.

17.5.02 "SF" Residential District A building or premises in this district shall be used only for the following purposes:

- A. One-family detached dwellings, other than mobile homes.

## Chapter 17.5 - RESIDENTIAL DISTRICT REGULATIONS

- B. Parks, playgrounds, community centers, fire stations or other public safety buildings operated by or under the control of the City or other governmental authority.
- C. Electric transmission towers and lines, gas transmission lines and metering stations, other local utility distribution lines, sewage pump stations, and water reservoirs, pump stations, wells and transmission lines.
- D. Churches and rectories; and, public or parochial schools (without student housing).
- E. Accessory buildings, as elsewhere herein regulated.
- F. Customarily incidental uses.

17.5.03 "MF" Residential District A building or premises in this district shall be used only for the following purposes:

- A. One-family attached or multi-family dwellings.
- B. Accessory buildings, as elsewhere herein regulated.
- C. Customarily incidental uses.

17.5.04 "GH" Residential District A building or premises in this District shall be used only for the following purposes under the standards herein contained:

- A. In this District there shall be only garden homes and accessory buildings as elsewhere herein regulated.
- B. Any building in this district shall meet the following design standards:
  - (1) The building shall be not less than 85% masonry. As used in this paragraph, "masonry" includes: brick, stone or tile, hand laid unit by unit; veneer simulations of the materials having the appearance of hand-laid units, when approved by the City; and, stucco when applied in accordance with building code standards therefor.
  - (2) The building shall have a minimum 8/12 roof pitch and not less than a 40-yr quality architectural profile shingle.

## Chapter 17.5 - RESIDENTIAL DISTRICT REGULATIONS

- C. Any development in the GH district shall be developed in accordance with a site plan meeting the requirements of developments having a PD overlay.
- D. Uses allowed in GH and in other zoning classifications may be developed under a common PD plan meeting the procedural requirements of Chapter 17.7.

## TITLE 17: ZONING

### Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

- 17.6.01 General provisions
    - A. Table of Standards
    - B. Special Standards
  - 17.6.02 "B-1" Business District
  - 17.6.03 "B-2" Business District
  - 17.6.04 "B-3" Business District
  - 17.6.05 "LI" Light Industrial District
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#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Added "B-1" regulations; codified 10.1.2 through 10.1.4 of Ordinance 64 as amended.
96-04	2/15/96	Amended Table of Standards, 17.6.01A
96-07	5/16/96	Amended Table of Standards, 17.6.01B
04-05	4/19/04	Outdoor display

## TITLE 17: ZONING

### Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

#### 17.6.01 General provisions

A. Table of standards The following table of standards shall govern the height, area, yard and other special conditions of permitted non-residential uses in the commercial and industrial districts.

**Table 17.6.01**

REGULATIONS	DISTRICTS			
	B-1	B-2	B-3	LI
HEIGHT (Maximum in feet)	35	45	None	None
<b>LOT</b>				
Width (Minimum in feet)	80	80	80	None
Coverage, building (Maximum as % of lot area)	30	30	30	None
Coverage, impervious surface (Maximum as % of lot area)	70	70	80	None
<b>YARDS (Minimum in feet)</b>				
Front	25	20	20	20
Side-interior	20	None	None	None
Side-corner lot	25	20	20	10
Rear	15	10	10	None
<b>Abutting residential district:</b>				
One-story	20	20	20	10
Multi-story	20	20	20	20
	[-----subject to 17.6.01 B2 and B5-----]			
<b>STORAGE</b>				
Inside building	No storage of merchandise	Not more than 25% of the area of any occupancy or 1000 sq. ft. per occupancy (whichever is less); no storage of goods for off-premises sale.	Permitted-Not more than 75% of building area	Permitted
Outside	Not permitted	Not permitted	Auto-related uses;	Screened

Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

Table 17.6.01 (continued)

REGULATIONS	DISTRICTS			
	B-1	B-2	B-3	LI
REFUSE DISPOSAL CONTAINERS	[Behind required yard; screened per 17.6.01B]			Screened 17.6.01B
DISPLAY-outside	Not permitted	Not permitted	Behind required yard; per 17.6.04B	Behind required yard

B. Special standards The following standards shall be applicable in all of the commercial and industrial districts, unless otherwise herein limited.

1. No building shall hereafter be erected, reconstructed, altered or enlarged for residential use in any of the districts of this chapter, unless the same is located or to be located on a lot of record, a plat of which was recorded prior to November 12, 1973, and which is subject to restrictive covenants limiting the use thereof to residential purposes.
2. For a multi-story structure on property adjacent to a residential district, the minimum yard abutting the, residential district shall be increased five (5) feet for each story more than one.
3. Outside solid waste containers shall be screened from public view by a masonry screening device.
4. Any development in the commercial and industrial districts of more than four (4) acres in gross land area shall be developed under the conditions of 17.7.01 hereof.
5. The minimum yard requirements shall be subject to the minimum building separations provided in Chapter 15.4, the Fire Prevention Code of the city. In the event of conflict between the two, the more restrictive provision shall control.

17.6.02 "B-1" Business District

A. Permitted uses A building or premises in this district shall be used only for the following purposes:

## Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

1. Professional offices and other business office uses, excluding however:
    - (a) The display, storage or sale of merchandise; and;
    - (b) The telemarketing of services or merchandise.
  2. Parks, playgrounds, community centers, fire stations or other public safety buildings operated by or under the control of the City or other governmental authority.
  3. Banks, savings and loan associations, and other similar state or federally chartered financial institutions.
  4. Public buildings, including municipal buildings, schools and libraries.
  5. Electric transmission towers and lines, gas transmission lines and metering stations, other local utility distribution lines, sewage pump stations, water reservoirs, wells and transmission facilities.
  6. Lodges, fraternal organizations and civic clubs.
  7. Pharmacies, specialty shops, personal service shops and convenience retail sales, provided that no single such use shall occupy more than 3000 square feet of floor area and the total of all such uses on any lot shall not occupy more than 30% of the floor area of all buildings on the lot.
  8. Uses as part of a Planned Development as described in C. hereof.
- B. Restrictions on use The uses in this district described in A. above shall be permitted, however, only upon the following conditions:
1. There shall be no sales of alcoholic beverages in this district.
  2. No outdoor activities or uses shall be permitted in this district other than: vehicular parking; solid waste disposal containers; and, outdoor recreation as part of a Planned Development.

## Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

3. All buildings shall:
    - (a) Have exterior walls of not less than 75% masonry surface;
    - (b) Be residential in architectural character;
    - (c) Have exterior walls containing window and door openings which do not exceed 60% of the surface area of any such wall; and
    - (d) Have mansard, hip or gable roof type.
  4. No non-public use within this district shall be open for operation except between the hours of 6:00 a.m. and 11:00 p.m. Central time.
  5. In addition to complying with the requirements of Chapter 17.11 of this title, each lot in this district shall have not less than 20% landscaped open space.
  6. Any use shall comply with the applicable special conditions contained in Table 17.6.01.
- C. Planned development regulations When land within this district is made part of a Planned Development:
1. Child care facilities may be included in a PD plan.
  2. Yards abutting adjacent non-PD property shall be not less than 25 feet.
  3. All SF uses shall be permitted, but not to exceed the maximum densities allowed therefor in the SF district.

### 17.6.03

#### "B-2" Business District

- A. Permitted uses A building or premises in this district shall be used only for the following purposes:
1. Any use permitted in the "B-1" District.
  2. Food service:
    - (a) Retail sale of food products;

apter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

- (b) Bakery or confectionery, including preparation for on-premise retail sale only;
  - (c) Cafeteria;
  - (d) Restaurant or cafe, without drive-in service.
5. Personal service shops, including:
- (a) Barber or beauty shop;
  - (b) Dry-cleaning pick-up station;
  - (c) Cleaning or laundry (self-service) using fully automatic equipment, the number of machines of all types not to exceed twenty-five (25), as follows:
    - (i) Washers, capacity of not more than 20 pounds;
    - (ii) Dryers or extractors, capacity of not more than 60 pounds;
    - (iii) Dry-cleaning machines.
  - (d) Pet grooming and small animal veterinary services (sound-proof; no outside runs).
  - (e) Massage establishments licensed pursuant to Article 4512k, V.T.C.S.
4. Retail sales (other than listed), offering all types of personal consumer goods for retail sale (new goods only; repair activities only incidental to sales and to be conducted indoors only).
5. Child care facilities.
6. Churches; and, public and parochial schools (without student housing).
7. Resale boutique: Retail sale of used clothing, accepted only on an individual consignment basis.

## Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

8. Customarily incidental uses.

B. Restrictions on use The uses in this district described in A. above shall be permitted, however, only upon the following conditions:

1. There shall be no alcoholic beverage sales for on-premises consumption except pursuant to a special exception as provided in Chapter 17.8 of this title.
2. The impervious surface percentage in this district shall not exceed 70%.
3. Any use shall comply with the applicable special conditions contained in Table 17.6.01.

C. Planned Development regulations When land within this district is made part of a Planned Development, yards abutting adjacent non-PD property shall be not less than 20 feet..

### 17.6.04

#### "B-3" Business District

A. Permitted uses A building or premises in this district shall be used only for the following purposes:

1. Any use permitted in the "B-2" District.
2. Auto-related uses:
  - a. Auto.repair and service, under the following conditions:
    - (i) Areas used for the repair of vehicles shall not occupy a required yard.
    - (ii) No salvage, dismantling or wrecking on premises.
    - (iii) No vehicle sales permitted.
  - b. Sale of automotive accessories.

Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

3. Food service:
    - a. Bakery or confectionery, wholesale.
    - b. Restaurant or cafe, with drive-in or pick- up service.
  4. Antique shop or secondhand goods store.
  5. Cold storage plant (locker rental).
  6. Cleaning, pressing and dyeing, under the following conditions:
    - a. No direct exterior exhaust from cleaning plant.
    - b. Dust must be controlled by either bag or filter and separator or precipitator so as to eliminate the exhausting of dust, odor, fumes or noise outside the plant.
  7. Wholesale offices.
  8. Philanthropic institutions.
  9. Custom cabinet making, upholstery and woodworking shops of craftsmen.
  10. Plumbing, electrical, air conditioning sales and/or service shop.
  11. Building material or lumber sales.
  12. Business park: office, retail and warehouse, not to exceed 10,000 square feet per building; not less than 25% of building area to be used for office or retail. Type I fire resistant construction required.
  13. Schools, clubs or centers for gymnastics, exercise, or physical fitness.
  14. Customarily incidental uses.
- B. Restrictions on use The uses in this district described in A. above shall be permitted, however, only upon the following conditions:

## Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

1. There shall be no outside storage of merchandise.
2. In connection with any permitted use conducted within an enclosed building, there shall be allowed as an accessory use the display of merchandise out-of-doors, subject to the following limitations:
  - a. All sales of such merchandise shall be consummated indoors, and no cash register or package wrapping counter shall be located out-of-doors.
  - b. The merchandise displayed out-of-doors shall not be readily identifiable by type or product name from adjacent public streets by reason of package labels, sales tag markers, or otherwise. Only new merchandise may be displayed.
  - c. Merchandise displayed out-of-doors must be within the required building setback lines of the property and shall be placed on impervious surfaces only.
  - d. Outdoor area devoted to display shall not exceed in area twice the floor area of the permitted use conducted in an enclosed building on the same property, but in no event shall the outdoor display area exceed 10,000 square feet.
  - e. Merchandise shall not be displayed at a height of more than ten (10) feet within ten (10) feet of the building and not more than six (6) feet in height elsewhere.
  - f. For the purpose of this section, the location of merchandise outdoors and not taken indoors when the business is not open shall be deemed to be the storage and not the display of merchandise.
3. The impervious surface percentage in this district shall not exceed 80%.
4. Drive-up windows shall be permitted when there is not less than 60 feet of driveway vehicle waiting capacity per window, exclusive of other parking and access requirements for the property.

Chapter 17.6 - COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS

5. Any use shall comply with the applicable special conditions of Table 17.6.01.

C. Planned Development regulations When land within this district is made part of a Planned Development, yards abutting adjacent non-PD property shall be not less than 25 feet.

17.6.05 "LI" Light Industrial District: A building or premises in this district shall be used only for the following purposes:

- A. Any use permitted in the "B-3" district.
- B. Public or private utility shop and storage.
- C. Contractor's plant, shop and storage.
- D. Heavy machinery sales and storage.
- E. Machine shop.
- F. Salvage or reclamation of products (inside).
- G. Building materials and lumber storage.
- H. Kennel (outside runs permitted).
- I. Storage warehouse or distribution center.
- J. Other light industrial and manufacturing activities, provided that the same shall be conducted inside buildings, except for storage uses, which may be located in screened areas outside a required yard.
- K. Customarily incidental uses.

## TITLE 17: ZONING

### Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

17.7.01 - PD eligibility criteria

17.7.02 - Planned development administration

17.7.03 - "PD" Planned Development District

17.7.04 - "PD-R" Planned Development - Redevelopment District

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#### History:

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Initial adoption
04-15	4/15/04	Amended PD administration

## TITLE 17: ZONING

### Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

17.7.01 "PD" eligibility criteria The Council may approve, from time to time, the development and use of land pursuant to a planned development process, by approving the superimposing ("overlay") of conditions or standards on certain of the zoning districts. No such development and use, however, shall be approved except in accordance with a development plan adopted by the City pursuant to the procedures established in this chapter. For a development to be eligible for submission to the planned development process, the following criteria must exist:

- A. The minimum area requirements, as herein provided, must be met.
- B. The intended development shall not exceed the density or intensity of use permitted in the underlying base district.
- C. The planned development shall be of such design that the resulting development will achieve the purposes of zoning in a manner superior to the conventional development of the same property under base district regulations.
- D. The development shall efficiently utilize the available land and shall protect and preserve all scenic assets and natural features, such as trees and topographic features, to the greatest extent possible consistent with reasonable development of the land.
- E. The planned development shall be located in an area where transportation, public safety, public facilities and utilities are or will be available and adequate for the proposed uses of the development.

#### 17.7.02 Planned development administration

- A. Application Application for submission of land to the planned development process shall be made in the same manner as any other application for a change in zoning classification. The application may seek a PD designation on land without a change in the base district classification; or, the application may seek a PD designation on land concurrently with a change in the base district classification. The application shall be made to the zoning administrator and shall be accompanied by the fees prescribed therefor in Chapter 3.3 of this Code.
- B. Approval procedure A PD application shall be processed in the following sequence:

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

17. The applicant shall submit the application with the concept plan.
  17. The zoning administrator and other relevant city staff persons shall review the application and the concept plan, may conduct a pre-hearing conference thereon (one or more, as the zoning administrator may require) with the applicant, and may require data from the applicant supplementing the concept plan.
  17. The zoning administrator shall prepare a staff report to the Commission on the application bearing on conformance of the plan and the proposed development with the standards, spirit and intent of this title.
  17. The Commission shall conduct a public hearing on the application in the same manner as any other request for zoning change, and shall make its recommendation to the Council as required by law.
  17. After receiving a report of the Commission's recommendation on the application, the city Council shall hold a public hearing to consider the approval of the plan.
  17. If the application is approved, the zoning map shall be amended so that the base district designation of the property shall bear a suffix of PD or PD-R, as the case may be.
  17. The applicant shall submit a final development plan and obtain Council approval thereof as a prerequisite to any development of the property.
- C. Concept Plan The Concept Plan shall include a site plan drawing, prepared to a scale of not less than one inch equaling one-hundred feet (1:100), depicting at least the following:
1. The dimensioned boundaries of the property, the location and widths of streets and highways adjacent to and on the property, and any other easements thereon or adjacent thereto;
  2. The topography of the property showing elevations at 5 foot intervals;
  3. The general location and description of existing utility services, including size of water and sewer mains;

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

- . Existing improvements proposed to be retained when the property is developed;
  - . Undimensioned location and approximate size of proposed buildings;
  - . Undimensioned proposed locations of parking and points of access;
  - . All proposed uses and their approximate locations on the site;
8. Identifiable water courses and low areas;
  9. Proposed maximum height of buildings;
  10. Proposed landscaped areas;
    - . Height and elevation of all buildings.
- D. Final Plan The Final Plan for PD development shall comply with the following standards:
- . The Final Plan shall clearly indicate all significant features of the proposed development, on an accurate scaled drawing, to include:
    - a. A location map showing the location of the site in reference to existing streets.
    - b. The boundaries of the area included in the plan, surveyed by a competent licensed surveyor, showing the total gross acreage of the plan.
    - c. All recorded or physically existing public and private rights-of-way and easement lines located on or adjacent to the plan area.
    - d. The approximate topography of the plan area, major watercourses and 100-year flood plains.
    - e. The proposed land uses and the approximate location of proposed buildings and other structures on the plan area site and structures and existing uses adjacent to the site.

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

- f. The character and approximate density of all proposed uses in the plan area. For dwelling units, a table showing type by size, number of bedrooms, number of each type; and, floor plans for each type unit.
- g. The approximate location and dimensions of all parking areas, malls, water bodies, open areas and recreational areas.
- h. All proposed streets, alleys, ways, including walkways, dedicated to public use, and the location and size of all utilities.
- i. The maximum percentage of site coverage.
- j. All areas reserved for common ownership with an indication of the properties.
- k. The location and type of walls, fences, screen planting and landscaping.
- l. A plan, including elevation drawings, showing location, size, height, orientation and design of all signs.
- m. In multi-family and commercial sections of the plan, the location of each outside facility for solid waste disposal.
- n. development schedule, indicating the following:
  - (i) The estimated date when development construction in the plan area shall commence;
  - (ii) The stages, if any, in which the plan area will be developed and the estimated date development of each stage will commence;
  - (iii) The estimated date of completion of each stage in the development;
  - (iv) The area and location of common open space that will be developed at each stage; and

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

17. The area and location of non- residential uses that will be developed at each stage.

17. The city council may, at the request of the applicant, limit the proposed PD uses to less than all of the uses otherwise permitted by the base district regulations. Such limitation of uses shall be recited in the approved plan and placed of record as herein provided.
17. A preliminary drainage study, as outlined in Chapter 16.1 of this Code and/or a preliminary plat shall be submitted concurrently with any Final Plan.
17. The Final Plan shall clearly indicate that the proposed development will be in complete accordance with the provisions of the applicable plan approval district zoning.
17. Upon receipt of a mylar reproducible of the approved Final. Plan reflecting all stipulations approved by the city Council, the zoning administrator shall record a copy thereof.
17. All Final Plans recorded hereunder shall be binding upon the applicant thereof, his successors and assigns, and shall limit and control the issuance of all building permits within the plan area.
17. Prior to issuance of any building permits, the Final Plan shall reflect all stipulations as approved by the city Council and the property shall be platted in accordance with Chapter 16.1 of this Code and the platting policies of the Commission and the Council.
17. Development implementation
  17. Except as provided in 2. Below, no building permit or certificate of occupancy shall issue for any building or use within a PD or PD-R district unless: the Final Plan therefor shall have been approved; and, the proposed building or use complies with such Final Plan.
  4. When property carries a PD designation but a Final Plan has not been approved therefor, it may be developed without plan approval only in accordance with the base district regulations. Any such development shall constitute an abandonment of the Concept Plan and the PD suffix shall be removed from the zoning map designation for such property.

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

3. When the base district zoning classification of a property is changed as part of or concurrently with approval of a PD overlay under this chapter and the plan thereafter expires pursuant to paragraph G of this section because either: the Final Plan is never approved; or, the Final Plan is never implemented, the base district zoning classification of the property shall revert to its zoning classification existent prior to the approval of the PD overlay. Until such time as the plan is implemented, the re-zoned property shall be designated on the zoning map as "(base district)-PD-C (conditional)".

### F. Plan amendments

1. No material change shall be made to an approved Final Plan unless the same shall have first been approved as described in 3. below.
2. A change in an approved Final Plan may be initiated by the zoning administrator if the same is not a material change. A change is not a material change if it will not result in any of the following:
  - a. A change in the character of the development;
  - b. An increase in the ratio of the gross floor areas in structures to the area of any lot;
  - c. An increase in the intensity of use;
  - d. A reduction in the approved separations between buildings;
  - e. An increase in the problems of circulation, safety, and utilities;
  - f. An increase in the external effects of the development on adjacent property;
  - g. A reduction in the approved setbacks from property lines;
  - h. An increase in lot coverage by structures;
  - i. A reduction in the ratio of off-street parking and loading space to gross floor area in structures;

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

- j. A change in the subject, size, lighting, or orientation of approved signs; or
  - k. A change in the location or character of approved landscape features.
3. Proposal of a plan amendment shall be made to the zoning administrator by the applicant on mylar of the approved plan. Upon receipt of such a proposed plan revision, copies of the proposed revised plan shall be submitted to the Council for its review and determination as to whether the proposed revision constitutes such a significant change in land use or structures that a public hearing should be called regarding said revision. If, in the council's determination, the proposed revised plan does not constitute a significant change, no public hearing shall be called and the revision shall be deemed approved. If such revision is determined by the Council to be a significant change, a public hearing shall be scheduled regarding such revision, proper notice shall be given, and thereafter the proposed revision shall be considered by the Council for approval or denial; provided, however, the Council in its sole discretion may direct any development plan revision to the Commission for its review and recommendation and, in such event, said revision shall follow the procedures set out in Chapter 17.13 of this title herein regarding amendments. No proposed revision shall be effective until the same is approved by the Council.
- G. Plan expiration If development of property pursuant to a Final Plan has not commenced within two (2) years of the date of a plan approval, the plan shall be deemed to have expired, and a review and reapproval of the plan by the Council shall be required before any building permit may be issued for development pursuant to the plan. Any review and reapproval shall be made in the context of conditions existing, as to the property, at the time of such review.

### 17.7.03

#### "PD" Planned Development District

- A. Use regulations A building or premises in this zoning district shall be used only for the purposes permitted in the base district or districts or which the PD designation has been overlaid by an approved Final Plan.

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

When made a part of the PD application and after notice and hearing as provided for the "PD" process, the city council may approve a use which would otherwise be a special exception in the base district as if it were a permitted use as a matter of right and without the necessity of a separate special exception application and proceeding.

- B. Height regulations The maximum height requirement for permissible uses in this district shall conform to the maximum height requirements which would be applicable to such uses if the same were situated in the most restrictive base district in which such uses are permitted.
- C. Area regulations The minimum gross land area which may be developed in this district shall be:
  - 1. For residential developments, four (4) acres; and
  - 2. for non-residential developments, two (2) acres.
- D. Density and coverage regulations
  - 1. Density of development and maximum site coverage shall be established on the approved Final Plan with due regard to site and general area characteristics including land use, zoning, topography, thoroughfares and open space opportunity. In no case, however, shall maximum density and site coverage exceed the maximum percentages prescribed therefor in the applicable base district regulations.
  - 2. When common open space is provided for recreational purposes, the developer may propose that the percentage of the gross site area in common open space be added to the maximum site coverage percentages referred to in 1. above. In no case, however, shall the additional percentage points added to the maximum site coverage regulations total more than the total percentage of the site in common open space. Such proposal shall be evaluated as part of the plan.
- E. Open space regulations provisions for public, private and common open space shall be evaluated with due regard to density, site coverage, and physical characteristics of the site and, if deemed necessary, required as part of the Plan.' When common open space, common recreational areas

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

or common area containing some other amenity to the development are approved as a part of a Final Plan, such areas shall be retained and owned by the owner or owners of the residential units contained within the development or an owners association of which they are members, and shall, be perpetually maintained by the owner or owners or the association as a part of the development for the use and benefit of the residents of the development.

- F. Setback regulations Minimum setbacks shall be approved as a part of the development plan; provided however, that the minimum setbacks on the boundaries of a PD district shall not be less than the requirements of the least intensive zoning district in which the use is permitted.
- B. Off-street parking regulations
- C. Off-street parking facilities shall be provided at locations designated on the Final Plan.
- D. Minimum off-street parking requirements shall be established on the Final Plan, but shall not be less than the minimum requirements for permitted uses prescribed in Chapter 17.9 of this Title.
- E. "PD-R" Planned Development-Redevelopment District
- F. Development regulations The regulations of this district as to use, height, density, coverage, open space, setback and parking, shall be the same as provided in 17.7.03 hereof.
- G. Area regulations The minimum gross land area which may be developed in this district is two (2) acres.
- H. Development standards and procedures The standards and procedures for development in this district shall be as provided in this Chapter for PD district development, but shall include also the following:
  - 1. In any PD-R district where substandard streets or utilities are in existence, the property owner or developer shall install, rebuild, or improve all necessary streets and utilities at his sole expense, including off-site streets and utilities which are determined by the Council to be necessary to serve the redevelopment, subject to the standard cost sharing policies and ordinances which determine the development costs which the city may pay, and subject to any agreements for cost sharing which are mutually agreed upon by the

## Chapter 17.7 - OVERLAY DISTRICT REGULATIONS

property owner and the city. The City's participation in redevelopment shall in every instance be conditioned upon the determination by the Council, in its sole discretion, of the availability of public funds therefor at the time of such development.

2. Installation, rebuilding, or improvement of necessary streets and utilities shall be required when new buildings are constructed within the PD- R District.
3. Uses conducted in existing buildings shall not require the construction of streets and utilities unless: additional construction, such as additional paved parking, must be done on the site; a change or expansion in use would require increased utility service; or, the Council finds that such construction is necessary at the time the PD-R plan is approved.

## TITLE 17: ZONING

### Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

17.8.01 - Special exceptions

17.8.02 - Temporary uses

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#### History:

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Codified Article XI of Ord. 64, as amended.
98-02	7/16/98	Added S/E for long-term care
04-03	1/15/04	Added S/E for schools, clubs for physical fitness
05-04	3/17/05	Amended S/E for motor vehicle sales

## TITLE 17: ZONING

### Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

#### 17.8.01 Special exceptions

- A. Purpose Certain uses are classified as special exceptions, and may be permitted in designated districts when specifically authorized by this Chapter after approval by the Board. Such exceptions may be granted in order that the City may develop in accordance with the intent and purpose of this title, that land may be fully utilized for a lawful purpose, and that substantial justice may be done.
- B. Criteria for granting a special exception In reaching a decision on any application for a special exception, the Board shall determine:
1. That the requested exception will establish only those uses permitted under this Chapter;
  2. That the location of proposed activities and improvements are clearly defined on a site plan filed by the applicant; and
  3. That the exception will be wholly compatible with the use and permitted development of adjacent properties, either as filed or subject to such requirements as the Board may find necessary to protect and maintain the stability of adjacent properties.
- C. Authorized special exceptions The following uses may be allowed as special exceptions in the districts specified, subject to full and complete compliance with all conditions here-in provided, together with such other conditions as the Board may impose. The conduct of any of the uses described in this paragraph C. shall be illegal in the City unless on property bearing a valid special exception therefor issued in accordance with the terms of this Chapter.

<u>Special Exception</u>	<u>District Requiring Board Approval</u>
1. Construction field office and storage yard (other than on job site). Conditions: Temporary, for time fixed by the Board.	All Districts
2. Amusement or entertainment, commercial commercial, indoor or outdoor.	B-2 - LI
3. Child care facilities.	MF - LI
4. Residential recreation facilities.	SF - MF
5. Parking, under Ch.17.9 conditions.	All districts

## Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

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|---|---------------|
| 6. Development sign of more than one year duration.   | SF - MF       |
| 7. Screening devices, over height or in required front yard.  | All Districts |
| 8. Service of alcoholic beverages for on-premises consumption.  | B-2 - LI      |
| 9. Light industrial or manufacturing uses, other than storage, to be conducted outside buildings.   | LI            |
| 10. Real estate sales office: A temporary real estate sales office  | SF - MF       |
| 11. Retail gasoline service stations, pumps and facilities, storage tanks underground.  | B-3 - LI      |
| 12. A private stable under the following conditions:  | SF            |
| (a) The use must be one that would in all respects qualify as an incidental use under the terms of 17.5.02F of this title if located on the same property as a primary residential use. |               |
| (b) The property on which the use is to be conducted must be adjacent to or within 500 feet of the primary residence to which it would be incidental if located on the same property;   |               |
| (c) The owner of the primary residence and the private stable must be the same; and   |               |
| (d) The private stable shall not be used for commercial purposes.   |               |
| This special exception may be revoked by the Board upon notice and after hearing in the event of a violation of any of the conditions described above.                                  |               |
| 13. Private school.   | B-2 - LI      |
| 14. Motor vehicle sales.  | LI            |
| 15. Retail specialty and novelty establishment.   | B-3 - LI      |

Definitions: For the purpose of this paragraph:

- (a) "Retail specialty and novelty establishment" is a place of business which derives more than 50% of its monthly revenues from the retail sale of specialty and novelty items.
- (b) "Specialty and novelty items" means any of the following:
- (1) Drug paraphernalia, as that term is defined in 481.002 of the Texas Health and Safety Code.

Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

(2) Wearing apparel containing obscene pictures or word, such as T-shirts, belt buckles, jewelry or any other wearing apparel;

(3) Salves, ointments, gels, creams, jellies, lotions and oils advertised and designed as a sexual stimulus;

(4) Magazines, books, record, video cassettes, pictures, drawings and other similar material depicting and describing sexual conduct in a manner that is designed for adult use and consumption;

(5) Incense.

16. Billiard table establishment. B-3 - LI

Definitions: For the purposes of this paragraph:

(a) "Billiard table establishment" means any business containing a billiard table for commercial use and not merely for sale.

(b) "Billiard table" means a table surrounded by a ledge or cushion with or without pockets on which balls are impelled by a stick or cue, but not including a coin-operated billiard table.

17. Skill or pleasure coin-operated machines, commercial use of eight (8) or more per occupancy. B-3 - LI

Definitions: For the purposes of this paragraph, the term "skill or pleasure coin-operated machine" shall have the meaning ascribed thereto by Article 8801, V.T.C.S.

18. Sexually oriented business. LI

Definition: For the purpose of this paragraph, "Sexually oriented business" shall have the meaning ascribed thereto by Chapter 243 of the Texas Local Government Code.

Condition: No such use may be permitted at a location within one thousand (1,000) feet of a church, school, public park, boundary of a residential district or property line of a lot devoted to residential use.

19. Motor vehicle parking, commercial. B-3 - LI

20. Long-term personal care facility SF - MF

Definition: For the purposes of this paragraph, a "long-term personal care facility" is a residence used as an assisted living residence for not more than four (4) unrelated persons.

## Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

Conditions: No such use shall be permitted unless:

- (a) The State of Texas has issued a license for the location under Chapter 142 of the Texas Health and Safety Code; and
- (c) The owner of the facility resides in the residence.

The special exception shall continue for so long as a valid state license, as described in (a), shall be in effect, unless the special exception should otherwise be terminated for violation of its terms or applicable laws.

- 21. Schools, clubs or centers for gymnastics, exercise or physical fitness. B-1 - B-2  
Condition: The use shall comply with all regulatory provisions of the District in which it is located.

### D. Application for special exception

- 1. Qualification of applicant: application for a special exception may be made by the owner of, or other person having a contractual or possessory interest in, the subject property. Any application filed by a person who is not the owner of the property for which the special exception is sought shall be accompanied by evidence of the consent of the owner.
- 2. Contents of application: An application for a special exception shall be filed with the Zoning Administrator. The application shall contain the following information as well as such additional information as may be prescribed by rule of or reasonably requested by the Commission or the zoning Administrator:
  - (a) The applicant's name, address and interest in the subject property;
  - (b) The owner's name and address, if different from that of the applicant, and the owner's signed consent to the filing of the application;
  - (c) The street address and legal description of the property;
  - (d) The zoning classification and present use of the subject property;
  - (e) A description of the proposed special exception;

## Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

- (f) A site plan sketch, showing the location of the use on the property;
  - (g) A statement as to why the proposed special exception will not cause substantial injury to the value, use or enjoyment of other property in the neighborhood;
  - (h) A statement as to how the proposed special exception is to be designed, arranged and operated in order to ensure that development and use of neighboring property in accordance with the applicable district regulations will not be prevented or made unlikely, and that the value, use and reasonable enjoyment of such property will not be impaired or adversely affected; and
  - (i) An identification of any potentially adverse effects that may be associated with the proposed special exception and the means proposed by the applicant to avoid, minimize or mitigate such effects.
3. Processing of application: Upon receipt of an application for a special exception, it shall be referred to the Commission for investigation as to the manner in which the proposed character and location of the special exception will affect the Master Plan of the city. The Commission shall report the results of its study to the Board, and thereafter the Board may, after public notice and hearing, grant the permit, including the imposition of conditions of use which the Board may deem essential to insure that the special exception is consistent with the spirit, purpose and intent of this title, will not substantially and permanently injure the appropriate use of neighboring property, and will substantially serve the public convenience and welfare.

### 17.8.02

#### Temporary uses

- A. Purpose Certain temporary uses of land are essential to the full development and utilization of the land for its lawful purpose. The temporary uses hereinafter enumerated shall not be deemed violations of this title when made under the conditions herein provided.

Chapter 17.8 - SPECIAL EXCEPTIONS AND OTHER PERMITS

- B. Permitted uses The permissible temporary uses, the conditions of use and the zoning districts wherein the same shall be permitted are:

<u>Use</u>	<u>Districts</u>
1. <u>Construction office</u>	All Districts

Temporary field or construction offices and building material storage areas to be used solely in support of construction on the property where the same is located may be permitted for specific periods of time when approved by the Zoning Administrator, but such uses shall not continue beyond completion of construction and may be terminated sooner on the order of the Zoning Administrator.

2. <u>Real estate sales office</u>	SF - MF
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Temporary real estate sales offices may be authorized by the Zoning Administrator when such use is located in a permanent residential structure or "model home"; provided, that: (i) sales activities conducted therein shall related only to the sale of property within such subdivision; , (ii) such use may be terminated on the order of the Zoning Administrator; and (iii) in no event shall such use continue after the substantial development and sale of the subdivision.

3. <u>Holiday plant sales</u>	B-3 - LI
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The temporary sales of Christmas trees and other forms of decorative plant materials associated with the celebration of religious events shall be permitted for a period of thirty (30) days prior to the day of religious celebration. The Zoning Administrator shall issue a permit for such sale when he finds:

- (a) That there is available on the property an off-street parking area, either improved or unimproved, equal to the size of the plant material display and sales area; and
- (b) That the location and layout of drives, parking areas, lighting, and sale signs will not constitute a hazard to public travel on the abutting public streets.

Trees, stands, equipment, trash, signs and lighting shall be removed from the property by the permit holder within seven (7) days after final termination of sales activities.

## TITLE 17: ZONING

### Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

- 17.9.01 - Purpose
  - 17.9.02 - General provisions
  - 17.9.03 - Minimum off-street parking standards
  - 17.9.04 - Schedule of off-street parking standards
  - 17.9.05 - Minimum off-street loading standards
  - 17.9.06 - Loading space-for emergency vehicles
  - 17.9.07 - Handicapped parking
- 

#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Codified Article XII of Ordinance 64 as amended.

## TITLE 17: ZONING

### Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

17.9.01 Purpose To secure safety from fire, panic and other dangers; to lessen congestion in the streets; to facilitate the adequate provision of transportation; to conserve the value of buildings; and, to encourage the most appropriate use of land, minimum off-street parking and loading areas shall be provided as set forth in the following schedules and provisions.

17.9.02 General provisions

- A. Parking spaces and loading berths required herein, together with aisles and maneuvering area, shall be connected to a public street by a driveway, and shall have, in the case of single-family residences, an all weather surface; and, in the case of multi-family and non-residential uses, a paved surface.
- B. In determining the required number of parking spaces, fractional spaces shall be counted to the nearest whole space. Parking spaces located in buildings used for repair garages or auto laundries shall not be counted as meeting the required minimum parking.
- C. The floor area of structures devoted to off-street parking of vehicles shall be excluded in computing the floor area for off-street parking requirements.
- D. Where a lot or tract of land is used for a combination of uses, the off-street parking requirements shall be the composite or sum of the requirements for each type of use and no off-street parking space provided for one type use or building shall be included in calculation of the off-street parking requirements for any other use or building.
- E. The following provisions shall apply to all head-in parking adjacent to a public street:
  - 1. Head-in Parking spaces so situated that the maneuvering of a vehicle in entering or leaving such spaces is done on a public street or within public right-of-way shall not be classified as off-street parking in computing any parking requirements herein.
  - 2. The construction of head-in parking as described in subparagraph 1. hereof shall be prohibited hereafter. All such head-in parking facilities in existence on November 12, 1973 are hereby declared to be a non-conforming use of land subject to the provisions of Chapter 17.12 of this title.

## Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

- F. No off-street parking or loading space shall be located, either in whole or in part, within any fire lane required by ordinance of the city or within aisles, driveways or maneuvering areas necessary to provide reasonable access to any parking space.
- G. No required off-street parking or loading space shall be used for sales, non-vehicular storage, repair or service activities.
- H. Lighting facilities, if provided, shall be so situated as to direct light away from adjacent or nearby property zoned or used for residential purposes.

### 17.9.03

Minimum off-street parking standards In all districts there shall be provided, in connection with appropriate permitted uses, off-street vehicle parking spaces in accordance with the following requirements.

- A. In any district, there shall be provided on each single-family residential lot two (2) vehicles parking spaces of not less than 180 square feet each, open or enclosed.
- B. In all districts where such use is permitted, there shall be provided on any lot devoted to multi-family, townhouse or zero-lot line residence, there shall be provided two (2) vehicles parking spaces of not less than 180 square feet each, per dwelling unit. No part of such required spaces shall occupy a required front yard.
- C. Required off-street parking for residential uses shall be provided on the lot or tract occupied by the principal use.
- D. Required off-street parking for permitted non-residential uses in the SF and MF districts and for permitted uses in all other districts shall be provided on the lot or tract occupied by the principal use or upon a lot or tract dedicated to parking use by an instrument filed for record and consolidated under a single certificate of occupancy with the principal use. Such parking facility shall be located in the same zoning district as, and within 300 feet of, the principal use.
- E. The Board may permit a parking facility to accommodate either required or additional parking, as a special exception, under such regulations and conditions as the Board may deem advisable, when:
  - 1. the proposed parking facility is on a site within 300 feet of the property on which the principal use is located; and

Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

2. the principal use is located in the SF or MF district as a conforming use and the proposed parking facility is located in one of such districts; or
3. the principal use is required by this title to be located in an "B-2" or less restrictive district, and the proposed parking facility is located in one of such districts.

This special exception shall be available, in any event, only to conforming non-residential uses, and may be granted in the manner prescribed in Chapter 17.8 of this title. In the granting thereof, the Board shall approve the location of entrances and exits to parking areas, and may require screening devices along parking area boundaries.

- F. In all districts where such use is permitted, there shall be provided for any non-residential use parking spaces of not less than 162 square feet each, in a number not less than that provided in 17.9.04. Such parking spaces shall be striped or otherwise clearly designated on the parking surface, and shall not include any fire lane or other area necessary for aisles or maneuvering of vehicles.

17.9.04 Schedule of off-street parking standards

<u>Use</u>	<u>Number of parking spaces/unit of measure</u>
1. INSTITUTION AND SPECIAL	
(a) Community or welfare center	1/200 sq. ft of floor center area
(b) School - private	
Elementary	1/25 students
Junior High	1/18 students
Senior High	1/5 students
Trade/vocational	1/1 student
(c) Place of public assembly	1/4 seats
(d) College or university	1/4 day students
(e) Church	1/4 seats in sanctuary
(f) Kindergarten, child care	1/8 pupils
(g) Hospital, chronic care	1/6 beds

## Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

<u>Use</u>	<u>Number of parking spaces/unit of measure</u>
(h) Hospital, acute care	1/bed
(i) Home for the elderly	1.5/dwelling unit
(j) Library	1/350 square feet of public area
(k) Fraternity or sorority	1/2 members or residents
(l) Student religious center	1/250 sq. ft. of floor area
(m) Mortuary, funeral chapel	1/4 seats in chapel
2. RECREATIONAL, SPECIAL AND ENTERTAINMENT	
(a) Theater	1/4 seats
(b) Bowling alley	6/lane
(c) Pool halls, coin-machine arcades, other commercial amusements, indoors	1/200 sq. ft. of floor area
(d) Commercial amusements, outdoor	1/600 square feet of site area exclusive of buildings
(e) Ballpark, stadium	1/8 seats
(f) Lodge, fraternal organization	1/200 sq. ft. of floor area
3. PERSONAL SERVICE AND RETAIL	
(a) Personal service shop	1/200 square feet of floor area
(b) Retail store or shop	1/200 square feet of inside floor area
(c) Furniture sales, appliance sales and repair	1/600 square feet of site area exclusive of buildings
(d) Open retail sales	1/600 square feet of site area exclusive of buildings
(e) coin-operated or self-served laundry or dry cleaning	1/machine

## Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

4. FOOD AND BEVERAGE SERVICES
  - (a) Eating or drinking place (drive-up and take out) 1/75 square feet of floor area; minimum of 8 spaces
  - (b) Eating or drinking place (drive-up and eat on premises) 1/50 square feet of floor area; minimum of 12 spaces
  - (c) Eating or drinking place (inside eating only; includes tavern, night club, private club) 1/100 square feet of floor area
5. BUSINESS SERVICES
  - (a) Bank 1/300 square feet of floor area
  - (b) Savings & loan or similar institution 1/400 square feet of floor area
  - (c) Medical, dental, clinic or office 1/150 square feet of floor area
  - (d) Other office, business/professional 1/300 square feet of floor area
6. AUTOMOTIVE EQUIPMENT
  - (a) service station 1/200 square feet of floor area; minimum of 4 spaces
  - (b) Auto repair, garage or shop (indoor) 1/500 square feet of floor area; minimum of 5 spaces
  - (c) Auto parts & accessories, sales 1/1,000 square feet of floor area
  - (d) Vehicle or machinery sales 1/500 square feet of floor area
  - (e) Car wash 1/500 square feet of floor area; minimum of 10 spaces including area of process line
7. STORAGE, WHOLESALE AND MANUFACTURING
  - (a) Brick or lumberyard or similar use 1/1,000 square feet of site area
  - (b) Warehouse & enclosed storage, wholesale or manufacture operation 1/1,000 square feet of floor area

Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

17.9.05 Minimum off-street loading standards

- A. Off-street facilities shall be provided and maintained for receiving and loading of merchandise, supplies and materials within a building or on the premises, in accordance with Table 17.9.05, "Schedule of Minimum Off-Street Loading Standards".
- B. Required off-street loading spaces may be adjacent to a public alley or private service drive, or may consist of a berth within a structure.
- C. No portion of a loading space may extend into a public right-of-way or into an off-street parking area elsewhere herein required.
- D. The off-street loading spaces or truck berths herein required shall have minimum dimensions as follows:
  - 1. At least one-half (1/2) shall be not less than ten (10) by forty (40) feet.
  - 2. The remaining one-half (1/2) shall be not less than ten (10) by twenty (20) feet.

Table 17.9.05 Schedule of Minimum Off-Street Loading Standards

<u>Use</u>	<u>Gross floor area in square feet</u>	<u>Minimum required loading berths</u>
1. Retail, commercial	0 to 25,000	1
	25,000 to 84,000	2
	84,000 to 156,000	3
	156,000 to 236,000	4
	236,000 to 325,000	1 additional
2. Hotels, office buildings, restaurants and similar establishments	0 to 150,000	1
	150,000 to 300,000	2
	300,000 to 500,000	3
	500,000 to 1,000,000	4
	Each additional 500,000	1 additional

17.9.06 Loading space for emergency vehicles There shall be provided within 30 feet of the entrance to every building, according to the criteria set forth below, one permanently marked area not less than 30 feet in length and marked "Emergency vehicles only". This requirement shall apply to:

Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

- A. every building accommodating commercial, industrial or office uses and having a gross floor area of 9000 square feet or more; and
- B. every residential occupancy building exceeding two stories in height or 9000 square feet in area.

If visitor or tenant parking is permitted adjacent to the building or along a curb or walkway next to the building, the emergency vehicle zone shall be reserved adjacent to a raised island extending from the building or parking curb for a distance equal to the depth of the adjoining parking spaces, but need not be more than 20 feet.

17.9.07 Handicapped parking For every parking lot of more than 15 spaces, there shall be provided a minimum number of parking spaces for handicapped persons, meeting the requirements of this section.

- A. The number of required handicapped parking spaces shall be calculated as follows:

<u>Total parking spaces</u>	<u># required handicap spaces</u>
16 - 50	1
51 - 100	2
101 - 300	3
301 - 500	5
over 500	1% of total

- B. Such parking spaces shall be located on an accessible circulation route and as near as is reasonably possible to the primary entrances to the building. In separate parking structures, lots or basement garages, parking spaces shall be located on the shortest possible circulation route. Spaces shall not include any fire lane or other area necessary for aisles or the maneuvering of vehicles.
- C. Such parking spaces shall be open on at least one side so as to allow room for persons using wheel-chairs, crutches or braces to enter and leave the vehicle safely from a level surface suitable to accommodate the handicapped person. Such spaces shall not be located so as to require handicapped persons to move behind parked vehicles.

## Chapter 17.9 - OFF-STREET PARKING AND LOADING STANDARDS

- D. Head-in or diagonal spaces shall be not less than 96 inches wide, with an adjacent aisle or clear space not less than 60 inches wide. Two 96-inch spaces may share a common aisle.
- E. If parallel parking is located adjacent to the flow of vehicular traffic, the space shall be designed and placed so that handicapped persons may exit or enter the vehicle out of the flow of traffic.
- F. Vehicles shall not be parked so as to protrude into and reduce the clearance of routes of access to handicapped parking spaces.
- G. Parking spaces and the aisles leading immediately thereto shall not slope in any direction more than 2%.
- H. Parking spaces for the handicapped shall be identified and reserved by signs incorporating the universal symbol therefor, of such size and location as to be readily recognizable by persons using the parking area.

## TITLE 17: ZONING

### Chapter 17.10 - SIGN STANDARDS

17.10.1	Purpose
17.10.2	Definitions
17.10.3	Schedule of Sign Standards
17.10.4	General provisions

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#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Adopted Article XIII of Ordinance 64 verbatim without changes in reference numbers.
05-19	11/17/05	Re-codification of 91-01

## TITLE 17: ZONING

### Chapter 17.10 - SIGN STANDARDS

17.10.01 Purpose Signs are recognized as important means of communication and reasonable mode of advertising, and therefore constitute a significant and specific use of land. Standards for the construction of signs are herein provided for the purpose of protecting places and areas of historical and cultural importance; to increase safety and lessen congestion in the streets; to conserve the value of buildings and land; to preserve residential values; and, to encourage the most appropriate use of land.

17.10.02 Definitions

**Advertising Sign:** A sign which is a primary use of land (not an accessory use) and which directs attention to a business, product, activity or service which is not necessarily conducted, sold, offered or located on the premises where the sign is located. This term shall include billboards.

**Sign Structure:** Any part of a sign, including the base, supporting columns or braces, display surface, or any other appendage thereto.

**Required Setback:** The distance from the property line or right-of-way line of all streets adjacent to the premises on which a sign is located.

**Lighting:** The illumination of a sign face by a light source exterior to and not a part of such face or a source of light not exposed to the eye.

**Flashing Sign:** A sign or part thereof operated so as to create flashing; changes in light intensity, color or copy; or intermittent light impulses more frequent than one in every four (4) seconds.

17.10.03 Schedule of Sign Standards All signs erected, maintained or displayed within the City shall comply with the Schedule of Sign Standards contained in Table 17.10 of this Article.

TABLE 17.10 - SCHEDULE OF SIGN STANDARDS

Sign Type	Districts permitted	Max. area in square feet	Max height in feet	Construction type	Set back	Spacing	Duration	Note
Nameplate	All	1	None	G,W,P	None	None	Permanent	-
Real estate	All	12	6	G,W,P	None	1/street frontage	Temporary	5
Institution	All	60	20	G,W,P	15'	1/street frontage	Permanent	1

## Chapter 17.10 - SIGN STANDARDS

TABLE 17.10 - SCHEDULE OF SIGN STANDARDS (continued)

Sign Type	Districts_ permitted	Max. area in square feet	Max height in feet	Construction type	Set back	Spacing	Duration	Note
Construction	All	100	20	G,W,P	None	1/street or site	Temporary Until construction completed	
Development	All	200	20	G,W,P	None	1/street entrance	Temporary See note 6	6
Apartment	MF	50 20	None 18	W G,P	None 15'	1/street 1/street	Permanent Permanent	1 2
Advertising	B-3	600	None	G,P	Behind front yard	1/500 ft	Per permit	3
General Business	B-2 B-3	Note 8	None	W	None	1/bldg face	Permanent	8
General Business	B-2 B-3 LI	50	30	G, P	15'	1/100'	Permanent	4
	B-2 B-3 LI	50	None	M	None	1/use /street frontage	Permanent	

### Notes to Schedule of Sign Standards

1. Permitted on face of fence or wall in required front yard.
2. Building identification only.
3. Permit required from City Council; duration not more than two years. Measurement shall be along centerline of roadway and shall apply to signs on both sides of street.
4. Shopping centers (multi-unit developments in B-2, B-3 and LI) may substitute one directory sign of 50' maximum height, 50 square feet sign face per tenant, but no other ground or pole signs shall be permitted on the property.
5. Permitted only on the property being offered for sale or rent.

## Chapter 17.10 - SIGN STANDARDS

6. Development sign duration is temporary: (1) Residential - Until 90% complete but not longer than one year. (2) Non-residential - Until complete. For sign duration of more than one year, special exception is required under Chapter 17.8 hereof.
7. Permit required from city Council. For corner property, one sign face visible from both streets maybe permitted, with a maximum area of 100 square feet.
8. A wall sign shall not exceed .75 square feet for each horizontal linear foot of the building face, with a maximum area of 200 square feet.

### 17.10.04 General provisions

- A. The standards and regulations prescribed in this section shall apply to those signs classified and defined in the Building Code of the city. For the purposes of the Schedule of Sign Standards, the designations therein contained shall have the following meanings:

G - Ground sign

W - Wall Sign

M - Marquee sign

P - Pole sign

PR - Projecting Sign

- B. The provisions of this section shall be applicable to the location, size, and placement of signs and shall otherwise be considered supplementary to the Building Code of the city. No provisions specified herein shall be construed to otherwise amend or nullify any provision of the Building Code or any ordinance or regulation of the City pertaining to the erection, use, maintenance or operation of signs.
- C. Any sign used in conjunction with a nonconforming use of land or buildings, if such sign is not in accordance with the provisions of this section, shall be deemed a separate nonconforming use of land.
- D. A sign in direct line of vision of any signal light, traffic control sign or other such device from any point in a moving traffic lane within one-hundred (100) feet of and approaching such traffic control shall not be permitted.
- E. No revolving beam or beacon light resembling any emergency vehicle light shall be permitted as part of a sign display in any zoning district, nor shall any

## Chapter 17.10 - SIGN STANDARDS

sign be located so as to obstruct the vision or sight distance of motor vehicle operators or pedestrians at any street intersection, street crossing or other point of traffic concentration.

F. No high intensity light shall be permitted as part of a sign display visible from an adjacent street in any zoning district; and in this regard, no reflectorized lights shall be permitted which shall exceed the intensity of a twenty-five (25) watt frosted-face bulb, except general informational type signs such as time or temperature signs.

G. Notwithstanding any provisions of this section, no sign shall be erected which constitutes an obstruction to view of operators of motor vehicles on public streets or entering such streets from private property.

H. The sign standards herein provided shall apply to signs situated on the lot, tract, parcel or premises on which there is also situated the primary use or purpose to which such sign refers. No sign shall be permitted which is not situated on the same premises as the use or activity which it describes or to which it refers- *i.e.*, no off-premise sign shall be permitted, except as follows:

(1) An advertising sign when authorized as provided in the Schedule of Sign Standards; or

(2) A development sign for a residential subdivision, provided that any such sign shall be situated on premises which are a part of such subdivision and shall otherwise comply with the Schedule of Sign Standards.

## TITLE 17: ZONING

### Chapter 17.11 - LANDSCAPE STANDARDS

- 17.11.01 - Purpose and intent
- 17.11.02 - Scope of chapter
- 17.11.03 - Administration and enforcement
- 17.11.04 - Required landscape mixture
- 17.11.05 - Content of landscaping plans
- 17.11.06 - Description of planting material
- 17.11.07 - Landscaping credit
- 17.11.08 - Maintenance of landscaping
- 17.11.09 - Landscaping of parking lots
- 17.11.10 - Landscaping adjacent to residential districts
- 17.11.11 - Conflict with traffic
- 17.11.12 - Existing nonconforming uses

### Appendix A - Recommended plant material

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#### **History:**

<u>Ordinance</u>	<u>Date of Adoption</u>	<u>Effect</u>
91-04	5/20/91	Initial adoption

## TITLE 17: ZONING

### Chapter 17.11 - LANDSCAPE STANDARDS

- 17.11.01     Purpose and intent     The purpose of this Chapter is to establish minimum standards for landscaping in the City in order to enhance property values and improve the appearance of the city. The intent of these standards is to insure that landscaping shall not be limited to the application of turf or grass; but shall include also the coordinated planting (or retention) of grass, shrubs, ground cover, flowering plants, and trees and the grading or moving of earth to form a visually aesthetic and pleasing environment. The review of all site plans pursuant to this chapter shall include the consideration of the plan applicant's efforts in coordinating a variety of plant material with the physical features of the property.
- 17.11.02     Scope of chapter     The standards contained in this Chapter are minimum standards and shall apply to all new construction and modifications exceeding fifty percent of the value of existing improvements on any lot; provided, that lots used or platted and developed to be used solely for single family residences are hereby made exempt from the provisions of this chapter.
- 17.11.03     Administration and enforcement
- A.     The provisions of this Chapter shall be administered and enforced by the Zoning Administrator (in this chapter called the Administrator). Administrative fees shall be as prescribed in Chapter 3.3 of this Code.
  - B.     No permits for the use or improvement of property within the scope of this chapter shall be issued or development contracts executed by the City until a landscape plan conforming to provisions of this Chapter has been submitted and approved by the city. The city shall review a submitted site plan and respond to the applicant within thirty (30) days after submission. If not approved, the response will include written, specific comments setting forth the changes to the plan necessary to conform to this Chapter.
  - C.     Prior to issuance of an initial certificate of Occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the approved landscape plan. If an initial Certificate of Occupancy is sought at a season of the year in which the Administrator determines that it would be impractical to plan trees, shrubs or grass, or to lay turf, a Conditional Occupancy certificate may be issued, notwithstanding the fact that the landscaping required by the Landscape Plan has not been

## Chapter 17.11 - LANDSCAPE STANDARDS

completed, if the applicant shall escrow with the City a sum of money, in cash, reasonably sufficient, in the opinion of the Administrator, to pay all of the costs of implementation of the plan as of the commencement of the planting season next following the date of escrow.

17.11.04 Required Landscape Mixture Twenty percent (20%) of the total land area in any proposed development in the SF, MF, B-1 and B-2 Districts, and fifteen percent (15%) in the B-3 and LI Districts shall be landscaped. At least fifty percent (50%) of the total landscaped area shall be located in the street yard(s) (Exhibit A). The following are minimum requirements for grass, shrubs, and trees to be provided by an applicant pursuant to an approved plan:

- A. All ground surfaces not used for buildings, sidewalks, roadways or other impermeable surfaces shall be covered with live grass, turf, shrubbery, trees, ground cover, flowering plants or appropriate mulching.
- B. Shrubs not less than eighteen (18) inches in height or five (5) gallons in container size shall be planted on-site, one shrub for each five (5) lineal feet of the public street right-of-way located adjacent to the property.
- C. Landscaping shall include the retention or planting of one (1) three (3) inch caliper tree per each fifty (50) feet of street frontage which may be credited toward satisfying the requirement of trees in parking lot perimeter areas contained in 17.11.09 A2 hereof. Planting locations on the street frontage will be at the applicant's discretion.

17.11.05 Content of Landscaping Plans Landscaping plans shall be prepared by a landscape architect, landscape contractor or landscape designer. Landscape plans shall be drawn to a minimum scale of one (1) inch equals fifty (50) feet, except as otherwise approved by the Administrator, and shall contain the following:

- A. Location, trunk diameter and specie of all existing trees on site, reasons for removal of any existing tree, and how preserved trees will be designated and protected.
- B. Location of all plants and landscaping material to be used including paving, benches, screens, fountains, statues, or other landscape features.
- C. Species of all plant material to be used.
- D. Size of all plant material to be used.

Chapter 17.11 - LANDSCAPE STANDARDS

- E. Quantity and spacing of plant material where appropriate.
- F. A general layout and description of irrigation, sprinkler or water systems, including placement of water sources as designed by a licensed irrigator.
- G. Description of maintenance provisions for the Landscape Plan.
- H. Planting and irrigation specifications as part of the Landscape Plan.
- I. Name and address of the owner, location of the subject property, surrounding zoning, utility lines, water mains and easements, public or private streets and drives and other restrictive uses mandated by covenants of record.
- J. A general grading and drainage plan.
- K. Projected date of completion.

17.11.06 Description of Planting Material

- A. Plant materials used in conformance with the provisions of this Chapter shall conform to the standards of the AMERICAN STANDARD FOR NURSERY STOCK, or equal thereto. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.
- B. Appendix A is a list of recommended landscape plant material. The applicant may use other plant material not listed if it is determined to be an appropriate and functional element of the landscape plan.
- C. The following is a list of plant materials which shall not be incorporated in a landscape plan:

TABLE 17.11.01

Arizona Ash	Fraxinus velutina "Arizona"
Bois D'arc	Maclura pomifera
Cottonwood	Populus deltoides
American Elm	Ulmus americana
Siberian Elm	Ulmus pumila

Chapter 17.11 - LANDSCAPE STANDARDS

TABLE 17.11.01 (continued)

Hackberry	Celtis occidentalis
Silver Maple	Acer saccharinum
Mimosa	Albizzia julibrissen
Mulbery	Morus alba
Lombardy Poplar	Populus nigra italica
Sycamore	Platanus occidentalis
Chinese Tallow	Sapium sebiferum
Arborvitae	Thuja occidentalis
Euonymus	Euonymus japonicus
Weeping Willow	Salix babylonica
Wax Ligustrum	Ligustrum japonicum
Pittosporum	Pittosporum tobira "Variegata" or "Wheeler's Dwarf"
Loquat	Eriobotraya japonica
Oleander	Nerium oleander

17.11.07 Landscaping credit Landscape credits may be applied to the overall landscape requirement, as provided in 17.11.04, Required Landscape Mixture. However, in no instance shall the credits reduce the total amount of landscaping on a lot to less than ten (10) percent of the total lot area. Credits will only be allowed if they are maintained as a permanent element of the landscape plan. Credits may be obtained as follows:

- A. For each one (1) square foot of area that is landscaped in the public street right-of-way, one (1) square foot of landscape credit will be applied to the overall landscaping requirement.
- B. For each one (1) square foot of area that is landscaped with flowering seasonal color, two (2) square feet of landscape credit will be applied to the overall landscaping requirement.
- C. In addition to the required shrub planting, for each newly planted shrub 18" in height or contained in a five (5) gallon container, which is maintained in a living and growing condition fifteen (15) square feet of landscape credit will be applied to the overall landscape requirement.
- D. In addition to the required tree planting, for each newly planted or acceptable existing tree of at least three (3) inches in trunk diameter,

## Chapter 17.11 - LANDSCAPE STANDARDS

measured twelve (12) inches above grade, which is maintained in a living and growing condition, one hundred (100) square feet of landscape credit will be applied to the overall landscape requirement. Planting of two (2) ornamental trees of eight (8) feet height shall receive the same landscape credit as one (1) three (3) inch caliper tree.

- E. In addition to the required tree planting, for each newly planted or acceptable existing tree of at least six (6) inches in trunk diameter, measured twelve (12) inches above grade, which is maintained in a living and growing condition, two hundred fifty (250) square feet of landscape credit will be applied to the overall landscape requirement. Each additional one (1) inch diameter of tree over six (6) inches shall receive twenty (20) square feet of landscape credit.

17.11.08 Maintenance of landscaping All landscaping maintenance shall be the responsibility of the property owner, occupant, or person otherwise in charge of the property. The following are minimum standards for landscaping maintenance:

- A. All landscaping shall be permanently maintained and shall include an underground irrigation system installed by a licensed irrigator and meeting all applicable requirements of the city.
- B. Irrigation systems may be buried on public street rights-of-way. The city or any franchised utility will not be responsible for damage to any landscaping material or equipment while performing repairs or maintenance to its systems. However, landscaped rights-of-way shall be irrigated.
- C. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping.
- D. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year.
- E. Plant materials which die shall be replaced with plant material of similar variety and size within a six (6) month period.

17.11.09 Landscaping of parking lots It is the intent of this section to encourage the design and construction of parking areas so as to landscape areas within a parking lot as well as areas considered unusable for parking or maneuvering space. The

## Chapter 17.11 - LANDSCAPE STANDARDS

following are the minimum requirements for parking and vehicle use areas exceeding 9,000 square feet or 16 parking spaces, whichever is greater. Landscaping of parking lots shall be credited toward satisfying minimum lot landscaping as provided in 17.11.04 hereof.

- A. Perimeter Landscaping Off-street parking and vehicular use areas shall be screened from all abutting properties and/or public rights-of-way with a thirty (30) inch high screen, hedge, berm or other durable landscape barrier. Perimeter landscape areas shall be protected from vehicle encroachment by six (6) inch concrete curbs and shall conform to the following criteria and standards:
1. Whenever an off-street parking or vehicular use area abuts a public right-of-way, except a public alley, a perimeter landscape area of at least fifteen (15) feet in depth, which may include landscaped right-of-way, shall be maintained between the abutting public street and off-street parking or vehicular use area.
  2. Plants and materials used in living screens shall be at least 18 inches high at time of planting and shall be of an evergreen type and specie that will attain a maximum height of thirty (30) inches at maturity. Spacing should be calculated to obtain a seventy-five (75) percent screen two (2) years after planting. Other barriers or screening devices shall be thirty (30) inches in height. The remaining areas shall be landscaped with shrubs, grass or other ground cover in accordance with criteria contained in 17.11.06, above, except they shall include at least one (1) tree for each fifty (50) lineal feet, or fraction thereof, of the lot. perimeter. Trees required by 17.11.04C which are also located in perimeter areas may be applied to satisfy this requirement.
  3. Necessary accessways from the public right-of- way and between adjacent lots, shall be permitted through all such landscaping. The maximum width for accessways shall be: fifty (50) feet for non-residential two way movements; thirty (30) feet for residential two way movements; twenty (20) feet for one-way movements.
  4. Whenever an off-street parking or vehicular use area abuts an adjacent property line, a perimeter landscape area at least ten (10) feet in width shall be maintained between the edge of the parking area and the adjacent property line except in those areas where off-

## Chapter 17.11 - LANDSCAPE STANDARDS

street parking is continuous, or is planned to be continuous, across lot boundaries. Landscaping criteria contained in 17.11.09 A 2 and 3 hereof shall apply.

### B. Interior landscaping

1. Parking lots shall contain a minimum of one hundred forty (140) square feet of landscaped island per each sixteen (16) contiguous parking spaces required. The landscape island shall include one (1) three (3) inch caliper tree. Islands at the end of parking rows abutting vehicle access ways qualify for this purpose and are encouraged.
2. Landscaped islands shall be irrigated by an underground system as provided in 17.11.08 hereof. Irrigation of all landscaped areas adjacent to any parking and/or driving surfaces shall be so designed, operated and maintained that a minimum of water is applied to parking and/or driving surfaces.
3. All shrubbery, flowering plants, and trees planted in parking lot islands or adjacent to parking lots shall be set back three (3) feet from any curb that provides for "head-in" automobile parking, as illustrated in Exhibit A to this chapter.
4. Landscape material in parking lots shall include shrubs and trees or a combination thereof, which in turn may be planted with a combination of grass, ground cover and/or flowering plants.
5. All landscaping within the parking lot shall be located within a landscape island or module, delineated from the surrounding paved area by a curb or barrier, constructed of masonry or concrete, not less than six (6) inches in height around the perimeter of the island or module.
6. At least three-fourths (3/4) of the tree drip line (at maturity) area must be in permeable area, as illustrated in Exhibit B to this chapter.
7. For larger existing trees located in the parking area, which are being retained and incorporated into the landscape plan, an appropriate aeration system or an alternative method of protecting the tree must be provided and detailed in the landscape plan.

## Chapter 17.11 - LANDSCAPE STANDARDS

17.11.10 Landscaping adjacent to residential districts For any development in commercial districts, and those institutional uses including churches, schools and governmental facilities in all zoning districts which abut districts zoned residential, there shall be a minimum twenty (20) foot wide green belt of "live plant material of the evergreen variety" which is expected to grow to six (6) feet in height at maturity, a minimum of three (3) feet in height at the time of installation and planted on five (5) foot centers, for the entire distance along which the development abuts the residential district. Where a fire lane is required, the green belt may be reduced to five (5) feet, as illustrated in Exhibit C to this chapter.

These requirements are in addition to requirements for screening devices required by sections 17.4.05 and 17.5.01 C 4 of this Title.

17.11.11 Conflict with traffic Landscape planting shall not be erected or installed in such a manner as to interfere with traffic view or impose a safety hazard. Visibility triangles required by Chapter 16.1 shall apply to intersections of vehicle access ways and public streets.

17.11.12 Existing nonconforming uses All uses existing at the time of adoption of this Chapter which do not meet the standards provided herein will be considered as nonconforming to City landscape standards. Effective conformance with these standards may be approved by accomplishment of the following within four (4) years of the adoption of this chapter; otherwise, the nonconforming uses will be subject to provisions of Chapter 17.12 of the City Code. .

A. The owner shall provide a landscape plan to the City for approval in accordance with provisions of 17.11.05, addressing landscaping of existing open areas and parking facilities. The standards of this chapter shall be applied to the extent that existing physical layouts and improvements will permit without making major modification thereto.

B. Landscape work shall be completed in accordance with the approved plan. The Administrator will inspect completed work and upon approval shall issue a conditional Certificate of Occupancy noting the effective compliance with landscape standards. The certificate shall remain valid as long as landscaping is protected and maintained in accordance with provisions of this chapter.

Chapter 17.11 - LANDSCAPE STANDARDS

EXHIBIT A

Street Yard Landscaping Requirements

and

Landscaping Requirements for Head-in Parking

Chapter 17.11 - LANDSCAPE STANDARDS

EXHIBIT B

Description of Dripline

Chapter 17.11 - LANDSCAPE STANDARDS

EXHIBIT C

Rear and Side Landscape Buffer Requirement  
without Fire Lane Provided

and

Rear and Side Landscape Buffer Requirement  
With Fire Lane Provided

Chapter 17.11 - LANDSCAPE STANDARDS

APPENDIX A  
RECOMMENDED PLANT MATERIAL

A. Overstory Trees (Range from 30 to 60 feet)

Bald Cypress	Taxodium distichum
Cedar Elm	Ulmus crassifolia
Lacebark Elm	Ulmus parvifolia
Pecan	Carya illinoensis
Chinese Pistache	Pistacia chinensis
Bur Oak	Quercus macrocarpa
Red Oak	Quercus shumardii
Sweet Gum	Liquidambar styraciflua
Green Ash	Fraxinus pennsylvanica
Live Oak	Quercus virginiana
Western Soapberry	Sapindus drummondii
Post Oak	Quercus stellata
Black Jack Oak	Quercus marilandica
Eastern Red Cedar	Juniperus virginiana
Southern Magnolia	Magnolia grandiflora
Slash pine	Pinus elliotii
Japanese Black pine	Pinus thunbergii
Austrian pine	Pinus nigra
Afghan Pine	Pinus eldarica

B. Accent Trees (Range from 10 to 20 feet)

Redbud	Cercis canadensis
Crape Myrtle	Lagerstroemia indica
Yaupon Holly	Ilex vomitoria
Bradford Pear	Pyrus calleryana 'Bradford'
Texas Sophra	Sophora affinis
Wild Plum	Prunus Americana
Crab Apple	Malus Augstifolia
Deciduous Holly	Ilex decidua
Falmeleaf Sumac	Rhus copallina
Cherry-Laurel	Prunus caroliniana
Chase Tree	Vitex angus-castus

Chapter 17.11 - LANDSCAPE STANDARDS

APPENDIX A (continued)

C. Shrubs (Range from 3 to 5 feet)

Dwarf Crape Myrtle	<i>Langerstoemia indica nana</i>
Dwarf Buford Holly	<i>Ilex cornuta 'burfordii nana'</i>
Dwarf Chinese Holly	<i>Ilex cornuta 'rotunda'</i>
Dwarf Yaupon Holly	<i>Ilex vomitoria 'nana'</i>
Fraser's Photinia	<i>Photinia Fraseri</i>
Purple Sage	<i>Leucophyllum frutescens</i>
Purple Leaf Japanese Barberry	<i>Berberis thunbergi 'atropurpurea'</i>
Pampus Grass	<i>Cortaderia selloana</i>
Nandina	<i>Nandina domestica</i>
Juniper	<i>Juniperus chinensis</i>
Fountain Grass	<i>Pennisetum</i>

D. Grounds Cover (Ranges from 18 inches)

Juniper, Creeping	<i>Juniperus horizontailis or procumbens</i>
Periwinkle	<i>Vinca major</i>
Liriope	<i>Liriope muscari</i>
Asian Jasmine	<i>Trachelospermum asiaticum</i>
Confederate Star Jasmine	<i>Trachelospermum jasminoides</i>
Monkey Grass	<i>Ophiopogon Japonicus</i>

E. Vines

Coral Honeysuckle	<i>Lonicera sempervirens</i>
Carolina Yellow Jasmine	<i>Gelsemium sempervirens</i>
Lady Banksia Rose	<i>Rosa baksiae</i>
Cross Vine	<i>Bignonia capreolata</i>
Sweet Autumn Clematis	<i>Clematis paniculata</i>
Virginia Creeper	<i>Parthenociss quinquefolia</i>
Boston Ivy	<i>Parthenociss tricuspidata</i>

F. Perennial and Annual Flowers

Chrysanthemum	<i>Chrysanthemum</i>
Canna	<i>Canna generalis</i>
Copper Leaf	<i>Acalyopha wilkesiana</i>

Chapter 17.11 - LANDSCAPE STANDARDS

APPENDIX A (continued)

F. Perennial and Annual Flowers (continued)

Periwinkle	Catharanthus roseus
Iris	Iris
Lantana	Lantana camera
Daffodil	Narcissus Jonquil, Tazetta, & King Alfred
Petunia	Petunia hybrida
Marigold	Tagetes
Tulip	Tulipa
Zinnia	Zinnia
Caladium	Caladium hortulanum 'candidum' 'pink beauty'
Moss Rose or Portulaca	Portulaca grandiflora
Wild Flowers	

## TITLE 17: ZONING

### Chapter 17.12 - NONCONFORMING USES

- 17.12.01 - Intent
  - 17.12.02 - Nonconforming uses regulated
  - 17.12.03 - Nonconforming status
  - 17.12.04 - continuing lawful use of property
  - 17.12.05 - changing non-conforming uses
  - 17.12.06 - Restoration of damaged property
  - 17.12.07 - Termination of nonconforming uses
  - 17.12.08 - Registration of nonconforming uses
- 

#### **History:**

<u>Ordinance</u>	<u>Date of Adoption</u>	<u>Effect</u>
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91-01	2/18/91	Codified Article VII of Ordinance 64, as amended.
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## TITLE 17: ZONING

### Chapter 17.12 - NONCONFORMING USES

#### 17.12.01 Intent

- A. Within the districts established by this title or amendments hereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this title was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not conform to the regulations of the district in which it is located. It is the intent of this chapter to permit such nonconforming uses to continue, under regulations herein contained, until the same are removed, but not to encourage their survival.
- B. It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- C. Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

17.12.02 Nonconforming uses regulated Except as herein provided, no nonconforming use of land or buildings nor any nonconforming structure shall be enlarged, changed, altered or repaired except in conformity with the regulations contained in this chapter.

17.12.03 Nonconforming status Any use or structure which does not conform with the regulations of the zoning district in which it is located shall be deemed a nonconforming use when it possesses any of the following characteristics.

- A. Such use or structure was in existence and lawfully operating on November 12, 1973, and has since been in regular and continuous use.
- B. Such use or structure is a lawful and conforming use at the time of the adoption of any amendment to this title but by such amendment is placed in a district wherein such use is not otherwise permitted.
- C. Such use or structure was in existence at the time of annexation to the City and has since been in regular and continuous use.

## Chapter 17.12 - NONCONFORMING USES

### 17.12.04 Continuing lawful use of property

- A. A non-conforming use is a lawful use of land, although such does not conform to the provisions hereof, and may be continued; but if said nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of this title.
- B. A legal nonconforming use, when discontinued or abandoned, shall not be resumed. Discontinuance or abandonment shall be defined as follows:
  - 1. When land used for a legal nonconforming use shall cease to be used in such manner for a period of one (1) month.
  - 2. When a building or other structure designed or used for a nonconforming use shall cease to be used in such manner for a period of six (6) months.
- C. Abandonment of a nonconforming use shall be determined by the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance, as the facts are found to be by the Board of Adjustment.

### 17.12.05 Changing nonconforming uses

- A. A nonconforming use of a building may be changed to another nonconforming use of the same or more restrictive classification, after approval by the Board of Adjustment; provided, that when a nonconforming use is changed to a conforming use of a higher or more restrictive classification, it shall not later be reverted to the former, less restrictive classification.
- B. No nonconforming use shall be changed to another nonconforming use which requires more off-street parking spaces or off-street loading space than the original nonconforming use unless additional off-street parking and loading space is provided so as to comply with the requirements of Chapter 17.9 of this title.

- 17.12.06 Restoration of damaged property Nothing in this chapter shall be taken to prevent restoration of a building destroyed to the extent of not more than fifty (50%) percent of its reasonable value by fire, explosion, or other casualty or act of God, or a public enemy, nor the continued occupancy or use of such building or part thereof which existed at the time of such partial destruction.

## Chapter 17.12 - NONCONFORMING USES

17.12.07 Termination of nonconforming uses The right to operate a nonconforming use shall cease and such use shall be terminated under any of the following circumstances:

- A. When such use is abandoned, as herein above provided.
- B. When any provision of this or any other ordinance of the City is violated with respect to a nonconforming use.
- C. When a nonconforming use is changed to a conforming use by re-zoning.
- D. When the structure in which a nonconforming use is housed, operated or maintained is damaged to the extent of more than fifty (50%) percent of its value, as provided in 17.12.06 hereof.
- E. When the right to maintain or operate a nonconforming use has been terminated by the Board as provided in Chapter 17.15 hereof.

17.12.08 Registration of nonconforming uses The operator, owner, or occupant of any nonconforming use of land or buildings shall, within six (6) months after the date of this amendment (of nonconforming on such date) or within six (6) months after having been rendered nonconforming by any subsequent amendment hereto, register such nonconforming by obtaining from the zoning enforcement authority of the City a certificate of occupancy bearing the designation "Nonconforming", even though a previous certificate of occupancy may have been issued. Such certificate (nonconforming) shall be considered as evidence of the legal existence of a nonconforming use, as contrasted with an illegal use or violation of this title. The enforcement authority shall maintain a register of all certificates of occupancy issued for nonconforming uses and shall, on written request and payment of fee, issue a duplicate certificate to anyone having a proprietary interest in the property in question. A nonconforming structure need not be registered.

## TITLE 17: ZONING

### Chapter 17.13 - AMENDMENTS AND ENFORCEMENT

- 17.13.01 - Authority to amend
  - 17.13.02 - Recommendations of commission
  - 17.13.03 - Public hearing on proposed amendment
  - 17.13.04 - Amendment over protest
  - 17.13.05 - Limitations on reapplication
  - 17.13.06 - Permits and certificates of occupancy
  - 17.13.07 - Penalty for violation
- 

#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Codified 14.2,14.4 and 14.5 of Ordinance 64, as amended.

## TITLE 7: ZONING

### Chapter 17.13 - AMENDMENTS AND ENFORCEMENT

- 17.13.01     Authority to amend     The Council may, from time to time, on its own motion, or on petition of an interested property owner or owners, amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established. Each such petition shall be accompanied by a fee payable to the City, no part of which shall be refundable, unless the petition is withdrawn by the applicant prior to a public hearing by the Commission, in which case the city shall rebate a sum out of said fee to the petitioner. The amounts of fees and rebates shall be as provided in Chapter 3.3 of this code.
- 17.13.02     Recommendations of Commission     Before taking action on any proposed amendment, supplement or change, the Council shall submit the same to the Commission for its recommendations and report.
- 17.13.03     Public hearing on proposed amendment     A public hearing shall be held by the Council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given in the manner prescribed by law, stating the time and place of such hearing, which time shall not be earlier than (15) days from the first date of publication.
- 17.13.04     Amendment over protest     If a protest against such amendment, supplement or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty (20%) per cent or more, either of the area of the lots included in such proposed changes, or those immediately adjoining the same, such amendment, supplement or change shall not become effective except by a three-fourths (3/4) vote of the Council.
- 17.13.05     Limitations on re-application     In order that zoning may promote the stability and well-being of the community and may offer certainty to the citizens of the city with respect to the use and development of property, the following requirements shall govern the filing of re-applications. When the application has been withdrawn at or before the Commission meeting thereon and after the giving of public notice, no new application of like nature shall be accepted by the city or scheduled for hearing by the Commission within a period of twelve (12) months of the date of Council denial or withdrawal of application; provided however, on receipt of written request by the original applicant stating how conditions have changed substantially in the community since prior considerations of his proposal so as to justify an earlier review of this matter, the Council may waive the mandatory period and authorize the acceptance of a new application.

## Chapter 17.13 - AMENDMENTS AND ENFORCEMENT

### 17.13.06 Permits and certificates of occupancy

- A. No building hereafter erected or structurally altered shall be used, occupied or changed in use until a certificate of -occupancy shall have been issued by the city stating that the building or proposed use of a building or premises complies with the building laws and the provisions of this ordinance.
- B. Certificates of occupancy shall be applied for coincident with the application for building permit, and shall be issued within ten (10) days after the erection or structural alteration of such building shall have been completed in conformity with the provisions of pertinent statutes and ordinances. A record of all certificates shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

17.13.07 Penalty for violation Any person or corporation who shall violate any of the provisions of this title or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than the amount provided in Chapter 1.1 of Title 1 of this code, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of this title shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation shall be guilty of a separate offense and upon conviction shall be fined as herein provided. The City likewise shall have the power to enforce the provisions of this title through civil court action as provided by state law.

## TITLE 17: ZONING

### Chapter 17.14 - PLANNING AND ZONING COMMISSION

- 17.14.01 - Commission created
  - 17.14.02 - Membership, appointment and term of office
  - 17.14.03 - organization and rules of procedure
  - 17.14.04 - Expenses
  - 17.14.05 - Powers, jurisdiction and scope of activity of Commission
- 

#### **History:**

<u>Ordinance</u>	<u>Date of adoption</u>	<u>Effect</u>
91-01	2/18/91	Codified 14.1 of Ordinance 64, as amended.
03-100	7/17/03	Amended 17.14.02, re alternate members

## TITLE 17: ZONING

### Chapter 17.14 - PLANNING AND ZONING COMMISSION

- 17.14.01     Commission created The Planning and Zoning commission, as heretofore duly created by ordinance and now performing its authorized duties in compliance with Chapter 211 of the Texas Local Government Code, is hereby perpetuated, and the terms of office of the present membership shall not be affected by this amendment.
- 17.14.02     Membership, appointment and term of office The commission shall be composed of five regular (5) members and two (2) alternate members to serve in the absence of regular members, all of whom shall be residents and real property tax payers in the City. Annually, at the regular meeting of the council held during the month of May, or as soon thereafter as practicable, expiring memberships shall be filled by appointment for a term of three (3) years. Members may be removed from office at any time by a majority vote of the council, and in case of vacancies in the membership of said Commission by death, resignation, or other cause, such vacancies shall be filled by the Council for the unexpired term. All members shall serve without pay.
- 17.14.03     Organization and rules of procedure The members of the Commission shall organize and elect their own officers and shall hold meetings regularly at least once in each quarter and shall designate the time and place of such meetings; provided however, that the same shall be held within the corporate limits of the city. The Commission shall have the power to adopt its own rules of procedure insofar as same are consistent with the statutes of the State of Texas and the ordinances of the City and shall keep a written record of all its proceedings. The city Secretary shall have the duty of care, custody and control of all records of the Commission. Three (3) members of the Commission shall constitute a quorum for the transaction of business.
- 17.14.04     Expenses Whenever it is deemed necessary by the Commission to incur any expenses in the performance of duties assigned to such Commission, an estimate of such proposed expenses shall be submitted to the council and no debts of any kind or character shall be made or incurred by the commission, or anyone acting for such Commission, unless and until such expenditures have been specifically authorized in writing by the council prior to the time such obligations are incurred.

## Chapter 17.14 - PLANNING AND ZONING COMMISSION

### 17.14.05 Powers, jurisdiction and scope of activity of Commission

- A. The Commission shall procure information and make recommendations to the Council on the creation or modification of zoning districts, as provided in Chapter 211 of the Texas Government Code. which authorizes cities and incorporated villages to pass zoning regulations. All powers granted under such chapter are specifically adopted and made a part hereof.
- B. The Commission shall procure information and make recommendations to the Council and shall cooperate with the Park Board and all similar organizations as to all facts bearing upon the needs of the city with regard to recreation grounds, the development and improvement of parks and boulevards, the extension and opening of streets and avenues, and other public ways and places, and city plans and improvements generally. The Commission shall keep itself informed with reference to the progress of city planning in this and other areas and shall make studies and recommendations for improvement of the plan of the city with a view to the present and future movement of traffic, the convenience, health, recreation, safety, general welfare, and the needs of the City dependent upon such plans; it shall consider and report to the Council with reference to all facts bearing upon the design and the relation to the City plan of all new public ways, lands, buildings, bridges, extensions, or openings of streets and avenues.
- C. The Commission shall pass upon and recommend all preliminary and revised preliminary plats of land to the City Council, which shall be the final authority for approval of final plats of land pursuant to the terms of Chapter 212 of the Texas Local Government Code. The Commission shall formulate and furnish to the Council regulations governing the platting of additions for the guidance of the public.
- C. In addition to its zoning duties and the review and recommendations to the Council relative to preliminary and revised preliminary and their review and approval of all final plats, it is contemplated within this title that the Commission shall act as an advisory board to the Council relating to all nature of public improvements, civic improvements, city planning, openings, widening and changing of streets, routing of public utilities, controlling. and regulating traffic upon the public streets and ways of the City, as the said Commission may deem beneficial and to the best interest of the city.

## TITLE 17: ZONING

### Chapter 17.15 - BOARD OF ADJUSTMENT

- 17.15.01 - organization
  - 17.15.02 - Appeals to the Board of Adjustment
  - 17.15.03 - Powers of Board
  - 17.15.04 - Vote required for Board decisions
  - 17.15.05 - Appeals from Board decisions
- 

#### **History:**

Ordinance   Date of adoption   Effect

91-01      2/18/91      Codified 14.3 of Ordinance 64, as amended.

## TITLE 17: ZONING

### Chapter 17.15 - BOARD OF ADJUSTMENT

#### 17.15.01 Organization

- A. *Board created; membership; vacancies:* There is hereby created a Board of Adjustment consisting of five (5) members, each to be appointed by the Mayor subject to approval by a majority of the Council for a term of two years and removable for cause by the appointing authority, and the vacancy filled with a suitable person to serve out the unexpired term of any member whose place on the Board has become vacant for any cause.
- B. *Alternate members; vacancies:* The Mayor shall appoint four (4) alternate members of the Board, who shall serve in the absence of one or more of the regular members of the Board when requested to do so by the Mayor, or in his absence the mayor pro tern, so that all cases to be heard by the Board will always be heard by four (4) members. The alternate members, when appointed, shall serve for the same period as the regular members, and alternate members shall also be removable for cause.
- C. *Meetings; rules of procedure, records:* The Board may adopt rules governing its proceedings, not inconsistent with this title. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if a member is absent or fails to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The office of the City Secretary is hereby designated as the office of the Board. The City Secretary shall have the duty of care, custody and control of the records of the Board.

#### 17.15.02 Appeals to the Board of Adjustment

- A. *Method of appeal; record:* Appeals to the Board can be taken by any person aggrieved or by any officer, board or department of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within fifteen (15) days time after the decision has been rendered by the administrative officer by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying

## Chapter 17.15 - BOARD OF ADJUSTMENT

the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

- B. *Fees:* All such appeals shall be accompanied by a fee payable to the City in the amount prescribed therefor in Chapter 3.3 of this Code, no part of which shall be returnable, regardless of the disposition of any such appeal; provided, however, that no fee shall be required of any officer, department or board of the municipality acting officially.
- C. *Staying of proceedings:* An appeal shall stay all proceedings of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on notice to the officer from whom the appeal is taken and on due cause shown.
- D. *Hearing and notice thereof:* The Board shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. During the hearing, any party may appear in person or by attorney or agent. The hearing shall be set so that at least one Council meeting occurs between the time of appeal and the public hearing.
- E. *Rehearing of appeals:* No appeal to the Board for a special exception or a related variance on the same piece of property shall be allowed prior to the expiration of six (6) months from a previous ruling by the Board on any appeal to such body unless other property in the immediate vicinity has, within the said six (6) months period, been changed or acted on by the Board or Council so as to alter the facts and conditions on which the previous Board action was Based. Such change of circumstances shall permit the rehearing of an appeal by the Board prior to the expiration of a six (6) month period, but such conditions shall in no wise have any force in law to compel the Board, after a hearing, to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

## Chapter 17.15 - BOARD OF ADJUSTMENT

### 17.15.03 Powers of Board

- A. The Board shall have the following powers:
1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this title.
  2. To hear and decide special exceptions to the terms of this title upon which the Board is required to pass under this title.
  3. To authorize upon appeal in special cases such variances from the terms of this title as will not be contrary to the public interest, where, owing to special conditions, the literal enforcement of the provisions of this title will result in unnecessary hardship, and so that the spirit of this title shall be observed and substantial justice done.
  4. To interpret the intent of the zoning map where uncertainty exists and none of the rules set forth in 17.1.04 apply.
  5. To approve the use of a lot for off-street parking of vehicles when said lot is in one district and the principal use served by the parking facility is located in another district.
  6. To initiate, on its motion or otherwise, action to bring about the discontinuance of a nonconforming use in accordance with paragraph (7) below.
  7. To require the discontinuance of a nonconforming use under any plan whereby full value of the structure or use can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this title.
  8. To permit such variance of the front yard, side yard, rear yard, lot width, lot depth, minimum setback standards, off-street parking or off-street loading regulations where the literal enforcement of the provisions of this title would result in an unnecessary hardship, and where such variance is necessary to permit a specific lot which differs from other lots in the same district by being of such

## Chapter 17.15 - BOARD OF ADJUSTMENT

restricted area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other lots in the same district. A modification of the standards established by this ordinance shall not be granted to relieve a self-created or personal hardship, nor for financial reason only, nor shall such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the same district.

- B. In exercising its powers the Board may, in conformity with the provisions of Chapter 211 of the Texas Local Government Code, revise or reform wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.

17.15.04 Vote required for Board decisions The concurring vote of four (4) members of the Board shall be necessary to revise any order, requirement, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this title or to effect any variance under this title.

17.15.05 Appeals from Board decisions Any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer or any officer, department or board of the City may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board.