



AGENDA

Planning and Zoning Commission Meeting

November 9, 2023 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Notice is hereby given that a meeting of the City of Lucas Planning and Zoning Commission will be held on November 9, 2023, at 6:30 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002-7651, at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the Planning and Zoning Commission may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

If you would like to watch the meeting live, you may go to the City's live streaming link at <https://www.lucastexas.us/departments/public-meetings/>.

How to Provide Input at a Meeting:

Speak In Person: Request to Speak forms will be available at the meeting. Please fill out the form and give to the Assistant City Manager prior to the start of the meeting. This form will also allow a place for comments.

Submit Written Comments: If you are unable to attend a meeting and would like to submit written comments regarding a specific agenda item, email Kent Souriyasak, Assistant City Manager at kent@lucastexas.us no later than 3:30 pm the day of the meeting. The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made. Any requests received after 3:30 pm will not be included at the meeting.

Call to Order

- Determination of Quorum
- Reminder to turn off or silence cell phones
- Pledge of Allegiance

Consent Agenda

All items listed under the consent agenda are considered routine and are recommended to the Planning and Zoning Commission for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

1. Consent Agenda:

- A. Approval of the minutes of the October 12, 2023 Planning and Zoning Commission meeting.

Public Hearing Agenda

2. Continuation of a Public Hearing and consider a Specific Use Permit (SUP) application filed by Aaron Aldape to permit an accessory dwelling unit with more than 600 square feet of habitable space at 121 Estelle Lane, Lucas, Texas, and being more particularly described as Lot 8, Block C of the Huntwick Addition. (Canceled)

Regular Agenda

3. Discuss updating the City of Lucas Code of Ordinances, Chapter 14 titled “Zoning”.
(Development Services Director Joe Hilbourn)

Executive Session

As authorized by Section 551.071 of the Texas Government Code, the Planning and Zoning Commission may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney regarding any item on the agenda at any time during the meeting. This meeting is closed to the public as provided in the Texas Government Code.

4. Executive Session: There is not an executive session scheduled for this meeting.

Adjournment

5. Adjournment.

Certification

I do hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002 and on the City’s website at www.lucastexas.us on or before 5:00 p.m. on November 3, 2023.

Kent Souriyasak, Assistant City Manager

In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to Assistant City Manager Kent Souriyasak at 972-912-1213 or by email at kent@lucastexas.us at least 48 hours prior to the meeting.



City of Lucas
Planning and Zoning Commission
Agenda Request
November 9, 2023

Item No. 01

Requester: Planning and Zoning Commission

Agenda Item Request

Consent Agenda:

- A. Approval of the minutes of the October 12, 2023 Planning and Zoning Commission meeting.

Background Information

NA

Attachments/Supporting Documentation

- 1. Minutes of the October 12, 2023 Planning and Zoning Commission Meeting

Budget/Financial Impact

NA

Recommendation

Staff recommends approval of the consent agenda as presented.

Motion

I make a motion to approve the consent agenda as presented.



MINUTES PLANNING AND ZONING COMMISSION MEETING

October 12, 2023 | 6:30 PM

Council Chambers

City Hall | 665 Country Club Road, Lucas, Texas

Commissioners Present:

Chairman Tommy Tolson
Vice-Chairman Joe Williams
Commissioner Peggy Rusterholtz
Alternate Commissioner Frank Hise
Alternate Commissioner Sean Alwardt

Staff Present:

City Manager Joni Clarke
Assistant City Manager Kent Souriyasak
Development Services Director Joe Hilbourn
City Attorney Courtney Morris

City Council Liaison Absent:

Mayor Jim Olk

Commissioners Absent:

Commissioner Chris Bierman
Commissioner James Foster

Call to Order

The meeting was called to order at 6:30 pm and the Pledge of Allegiance was recited.

Chairman Tolson announced Alternate Commissioner Hise and Alternate Commissioner Alwardt as voting members to meet requirements of a quorum for the meeting.

Consent Agenda

1. Consent Agenda:

- A. Approval of the minutes of the September 14, 2023 Planning and Zoning Commission meeting.**

Chairman Tolson moved this item from the consent agenda to the regular agenda for discussion.

Public Hearing Agenda

- 2. Continuation of a Public Hearing and consider a Specific Use Permit (SUP) application filed by Aaron Aldape to permit an accessory dwelling unit with more than 600 square feet of habitable space at 121 Estelle Lane, Lucas, Texas, and being more particularly described as Lot 8, Block C of the Huntwick Addition.**

- A. Presentation by Development Services Director Joe Hilbourn**
- B. Conduct Public Hearing**
- C. Take action on the Specific Use Permit request**

Chairman Tolson indicated this item needs to be taken off the table and requires a motion.

Development Services Director Joe Hilbourn recommends leaving the item on the table until the next Planning and Zoning Commission meeting so the applicant can submit further information.

Chairman Tolson recommended postponing consideration of this item until the next meeting.

MOTION: A motion was made by Chairman Tolson, seconded by Commissioner Rusterholtz to remove this agenda item from the table. The motion passed unanimously by a 5 to 0 vote.

MOTION: A motion was made by Commissioner Rusterholtz, seconded by Commissioner Alwardt to postpone the public hearing until the applicant contacts the City for the next Planning and Zoning Commission meeting in November. The motion passed unanimously by a 5 to 0 vote.

3. Conduct a Public Hearing and consider a Specific Use Permit (SUP) requested by Wal-Mart Real Estate to permit a drive-through restaurant at 2662 West Lucas Road, Lucas, Texas, situated on a 0.975-acre tract of land in the W. Snider Survey, Part of Lot 1, Block A Wal-Mart Lucas Addition.

A. Presentation by Development Services Director Joe Hilbourn

B. Conduct Public Hearing

C. Take action on the Specific Use Permit request

Development Services Director Joe Hilbourn presented this item indicating the Specific Use Permit for Panda Express has expired as there was no permit issued for construction within 12 months.

Chairman Tolson opened the Public Hearing at 6:41 pm. There were no members of the public wishing to speak. Chairman Tolson closed the Public Hearing at 6:41 pm.

Commissioner Hise asked if it is normal to extend a Specific Use Permit. Mr. Hilbourn clarified this is a request for a new Specific Use Permit to move forward with their plans.

MOTION: A motion was made by Commissioner Williams, seconded by Commissioner Rusterholtz to approve a Specific Use Permit requested by Wal-Mart Real Estate to permit a drive-through restaurant at 2662 West Lucas Road, Lucas, Texas, situated on a 0.975-acre tract of land in the W. Snider Survey, Part of Lot 1, Block A Wal-Mart Lucas Addition.

Regular Agenda

4. Consider approving a request by Aziz Aghayev on behalf of Forest Grove Lucas, LLC for a minor plat creating two lots being 2.34 acres of a called 7.33-acre tract of land located in the John W. Kerby Survey, Abstract Number 506, Tract 13, otherwise known as 950 West Forest Grove Road, Lucas, Texas.

Chairman Tolson removed this item from the agenda at the request of the applicant.

5. Discuss updating the City of Lucas Code of Ordinances, Chapter 14 titled “Zoning”.

The Planning and Zoning Commission reviewed each page of Chapter 14 and provided recommended changes including:

- Add definition for “cosmetic tattooing”
- Revise definitions for “lot of record” and “public park, playground or community center”

- Remove definitions for “main building” and “nuisance”
- Consider a future agenda item for City Council to consider changing the definition of “nuisance” in Chapter 8
- Remove entire language in (c) from Division 2, Section 14.03.053
- Remove entire language in (1) and (2) from Division 3, Section 14.03.111
- Regarding area regulations from R2, R1.5 and R1 sections, remove specific language “where a building line is established on a plat, which is not consistent with this ordinance, the building line that is a greater distance from the front property line shall be observed”
- Regarding lot widths from R2, R1.5 and R1 sections, change “street property line” to “building line setback”
- Remove specific language referring to minimum percentage and construction materials for dwellings from various sections
- Remove entire language in (3) from Division 6, Section 14.03.292
- Remove entire “editor’s note” from Division 6, Section 14.03.296
- Remove entire language in (A) from Division 6, Section 14.03.353
- Remove entire language in (1), (2) and (3) from Division 9, Section 14.03.471
- Move specific language “all drive-through, drive-in and drive-up businesses shall require a specific use permit” from Division 9, Section 14.03.471 to Section 14.03.472
- Remove entire language in (g) from Division 9, Section 14.03.472
- Add “personal services” to the list of off-street nonresidential parking in Division 2, Section 14.04.033.
- Remove entire language in (1), (2), (3) and (5) from Division 2, Section 14.04.032
- Make edits for clarity and consistency regarding off-street nonresidential parking for nonresidential uses to Division 2, Section 14.04.033
- Revise language referring to the United States Bureau of Mines Information Circular 7118 if it needs to be updated in Division 3, Section 14.04.073
- Remove specific language referring to 10 feet in relation to attached and detached accessory buildings and structures in Division 8, Section 14.04.304 (1)(A) and (1)(B)
- Prepare a revision to regulations regarding accessory dwelling units

6. Approval of the minutes of the September 14, 2023 Planning and Zoning Commission meeting.

This item was moved from the consent agenda to the regular agenda for discussion. Commissioner Rusterholtz proposed an amendment to correct the term “maximum” to “minimum” on the second page of the minutes under Agenda Item 2.

MOTION: A motion was made by Commissioner Rusterholtz, seconded by Commissioner Williams to approve the minutes of the September 14, 2023 Planning and Zoning Commission meeting with the amendment. The motion passed unanimously by a 5 to 0 vote.

7. Adjournment.

Chairman Tolson adjourned the meeting at 7:50 pm.

Tommy Tolson, Chairman

Kent Souriyasak, Assistant City Manager



City of Lucas
Planning and Zoning Commission
Agenda Request
November 9, 2023

Item No. 02

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Continuation of a Public Hearing and consider a Specific Use Permit (SUP) application filed by Aaron Aldape to permit an accessory dwelling unit with more than 600 square feet of habitable space at 121 Estelle Lane, Lucas, Texas, and being more particularly described as Lot 8, Block C of the Huntwick Addition. (Canceled)

Background Information

The applicant Aaron Aldape, property owner of 121 Estelle Lane, requested to construct an accessory building with habitable space that meets the City's requirements. The lot is currently zoned R-2 (Residential 2-Acres). The total square footage of the proposed accessory dwelling unit is 1,460 square feet. The specific use permit (SUP) application is to allow an accessory dwelling unit that is greater than 600 square feet.

On September 14, 2023, a public hearing was held by the Planning and Zoning Commission where this agenda item was tabled to allow time for the applicant to address concerns. On October 12, 2023, the Commission agreed to table this agenda item further until the applicant contacted the City.

Development Services Director Joe Hilbourn has been notified by the applicant to withdraw the SUP application. The continuation of this public hearing is canceled.

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas Planning and Zoning Commission Agenda Request November 9, 2023

Item No. 03

Requester: Development Services Director Joe Hilbourn

Agenda Item Request

Discuss updating the City of Lucas Code of Ordinances, Chapter 14 titled “Zoning”.

Background Information

The City Council requested that a strategic review of the Code of Ordinances be done with specific focus on Chapter 14 titled “Zoning.” At the June 1, 2023 City Council meeting, the Council gave direction that the Planning and Zoning Commission review Chapter 14 in segments and bring updates to the City Council. Councilmembers will inform City staff of any specific areas of concern to bring to the Planning and Zoning Commission.

Staff incorporated proposed edits to Chapter 14 following each review by the Planning and Zoning Commission. On October 12, 2023, the Planning and Zoning Commission reviewed all comprehensive edits and provided further proposed changes.

The following is the proposed review schedule for the Planning and Zoning Commission:

| Section of Chapter 14 | Meeting |
|---|---|
| 14.01.004, Definitions 14.02 Division 2 14.02 Division 3 14.02 Division 5 REVIEW COMPLETED | June 8, 2023 P & Z Meeting |
| 14.03 Division 6 14.03 Division 8 14.03 Division 10 14.03 Division 15 REVIEW COMPLETED | July 13, 2023 P & Z Meeting |
| 14.01.004, Definitions 14.03 Divisions 6, 8, 10, and 15 14.04 Division 5 Remainder of 14.01 Remainder of 14.02 REVIEW COMPLETED | August 10, 2023 P & Z Meeting |
| Remainder of 14.03 Remainder of 14.04 REVIEW COMPLETED | September 14, 2023 P & Z Meeting |
| Comprehensive Chapter 14 Review by P & Z REVIEW COMPLETED | October 12, 2023 P & Z Meeting |
| Final Chapter 14 Review by P & Z | November 9, 2023 P&Z Meeting |



City of Lucas
Planning and Zoning Commission
Agenda Request
November 9, 2023

Item No. 03

| | |
|------------------------|--|
| Review by City Council | December 7, 2023 City Council Meeting |
| First Public Hearing | January 11, 2024 P & Z Meeting |
| Second Public Hearing | January 18, 2024 City Council Meeting |

Attachments/Supporting Documentation

1. Chapter 14 “Zoning” Comprehensive Edits (updated November 1, 2023)

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 14

Zoning

ARTICLE 14.01

GENERAL PROVISIONS

Division 1

Generally

§ 14.01.001 **Short title and application of chapter.**

These regulations shall be known as, and may be cited as, “The City of Lucas, Texas, Zoning Ordinance” and shall apply to the land within the corporate limits of the city.

(1995 Code, sec. 9-1)

§ 14.01.002 **Interpretation and purposes.**

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for promotion of the public health, safety, and welfare. The zoning regulations and districts as herein established have been made for the purpose of promoting health, safety, moral responsibility, and the general welfare of the city, and have been designed, among other things:

- (1) To lessen congestion on streets;
- (2) To secure safety from fire, panic, and other dangers;
- (3) To promote health and the general welfare;
- (4) To provide adequate light and air;
- (5) To prevent the overcrowding of land;
- (6) To avoid undue concentration of population;
- (7) To facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements;
- (8) To conserve the value of the property and encourage the most appropriate use of land throughout the community;
- (9) To minimize the threat of release, spillage or seepage of trash, garbage, debris, sewage, wastewater, noxious fumes or odors, or toxic materials; and
- (10) To lessen the potential pollution of the environment in the city or its environs.

(1995 Code, sec. 9-2)

§ 14.01.003 **Scope.**

It is not intended by these regulations to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by covenant,

deed, easement, or other private agreement. Where this chapter imposes a greater restriction upon land, buildings, or structures than is imposed or required by other ordinances, covenants, or agreements, the provisions of these regulations shall govern. Where other ordinances impose a greater restriction than is imposed herein, the provisions of such other ordinances shall govern.

(1995 Code, sec. 9-3)

§ 14.01.004 Definitions.

Accessory buildings and structures.

Buildings or structures located on the same lot as a dwelling or other principal building, the use of which is subordinate in area, volume and extent as well as incidental in use to the use of the dwelling or other principal building.

Accessory building or use.

Is:

- (1) Subordinate to and serves a principal building or principal use;
- (2) Subordinate in area, extent, or purpose to the principal building or principal use served;
- (3) Contributes to the comfort, convenience, and necessity of occupants of the principal building or principal use served; and
- (4) Located on the same building lot as the principal use served. "Accessory" when used in the text shall have the same meaning as accessory use.

Accessory dwelling unit (ADU).

Building area that does not have a permanent interconnection with the primary dwelling, is located on the same lot as the primary dwelling, and that is used, designed or intended to be used for human habitation as an additional abode that contains space for living, sleeping, sanitation, ~~and space for~~ cooking and/or eating.

Accessory use.

Use of land, buildings, or structures that are subordinate and incidental to the primary use and contributes to the comfort, convenience, and necessity of occupants of the principal building or principal use of the land.

Alley.

A public space or thoroughfare which may afford secondary means of access to property abutting thereon.

Area of the lot.

Shall be the net area of the lot and shall not include portions of public streets or alleys.

Athletic/Sports training facility.

A facility designed and used primarily for training in team sports, athletic performance programs, consisting of outdoor and/or indoor athletic fields and related facilities, including but not limited to gymnasiums, equipment, training rooms, offices, locker, and the use of personal trainers.

Automobile repair.

- (1) Collision services. Body, frame, and fender straightening or repair; customizing; painting.
- (2) Major. Major repair, rebuilding or reconditioning of engines, radiators, or transmissions; undercoating

and rust proofing; any operation requiring dismantling or removal of head, crankcases, engines or other major parts; and recapping or re-grooving of tires; any use of a welder or cutting torch; any repair of heavy load vehicles; and other operations not listed as minor repair, but not collision services.

- (3) **Minor.** Minor repair or replacement of parts, tires, batteries, and accessories; diagnostic services; minor motor services such as grease, oil, spark plug and filter changes; tune-ups; replacement of starters, alternators, hoses, brake parts, mufflers, water or fuel pumps; state inspections; steam cleaning and detailing; servicing of air-conditioning systems; for vehicles, but not heavy load vehicles and not including any operation listed as major repair or collision service.

Block.

An area enclosed by streets and occupied by or intended for buildings; or, if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street on the said side.

Building.

Any structure built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building height.

The number of stories contained in a building and/or the number of feet above the average level of the adjoining ground.

Building line (setback line).

A line parallel or approximately parallel to the centerline of a street or to a property line when not adjacent to a street and having a specific minimum distance as established by this code based on the zoning district in which the property is located delineating where a building may be erected.

Building lot.

A single tract of land located within a single block which (at the time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may be subsequently subdivided into two or more "building lots" or a number of "building lots," subject to the provisions of this chapter and the subdivision ordinance.

Building official.

The building inspector or administrative official charged with the responsibility for issuing permits and enforcing the zoning ordinance, subdivision ordinance, and building code.

Certificate of occupancy or compliance.

An official certificate issued by the city through the building official which indicates conformance with or approval of a conditional waiver from the zoning regulations and authorizes legal use of the premises for which it was issued.

Child care center.

A facility licensed, certified or registered by the Texas Department of Family and Protective Services ("TDFPS") to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Church or rectory.

A place of assembly and worship by a recognized religion including synagogues, temples, churches, instruction rooms, and the place of residence for the ministers, priests, rabbis, teachers, and directors of the premises.

City.

The word "city" shall mean the City of Lucas.

Clinic.

A group of offices for one or more physicians, surgeons, dentists or similar members of the medical profession to treat sick or injured outpatients or animals.

College or university.

An institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university, but excluding trade and commercial schools.

Commission and/or planning commission.

The planning and zoning commission of the city.

Community home.

A place meeting the requirements established under section 123.004 of the Texas Human Resources Code and where no more than six (6) persons with disabilities and up to two (2) supervisors reside at the same time to provide services to persons with disabilities including food, shelter, personal guidance, care, habilitation and supervision.

Cosmetic tattooing.

To mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin or mucosa. Cosmetic tattooing shall include permanent cosmetics, micro-pigmentation, permanent color technology, and micro-pigment implantation.

Commented [KS1]: "Cosmetic tattooing" was added to the definitions

Conditional use.

A use which shall be permitted in a particular district only upon fulfillment of the conditions as set forth for that use in the use regulations for the appropriate district.

Council.

The word "council" shall mean the city council.

Courtyard.

An open, occupied space bounded on more than two (2) sides by the walls of a building. An inner courtyard is entirely surrounded by the exterior walls of a building. An outer courtyard is a court having one side open to a street, alley, yard, or other permanent open space.

Depth of lot.

The mean horizontal distance between the front and rear lot lines.

Design review committee (DRC).

The DRC is comprised of staff members representing the various departments and divisions involved in the review and approval process (administration, planning, engineering, building inspection, public works, fire, parks and health). DRC is responsible for review of development and building plans, subdivision plats and zoning applications. It offers reports and recommendations to both P&Z and city council pertaining to applications and proposals requiring actions by these bodies. DRC has final approval authority for certain plats such as amending plats, replats and minor plats in compliance with Texas Local Government Code, section 212.0065 and section 212.016.

Development or to develop.

A "development" includes the construction of new buildings or structures on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To "develop" is to create a development.

District.

A section of the city for which the regulations of this chapter, such as the area, height, use, etc., of the land and buildings, are uniform.

Drive-through, drive-thru, drive-in, or drive-up.

A product or service provided by a business that allows customers to purchase a product or service without leaving their cars. For the purposes of this definition, any product or service that is provided to a customer without the need for the customer to leave their vehicle is a drive-through, drive-thru, drive-in or drive-up.

Dwelling unit.

A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters of a family and including facilities for food preparation and sleeping.

Dwelling, multiple family.

Any building or portion thereof which is designed, rented, leased, or let to be occupied as two or more dwelling units or apartments of ~~for~~ which is occupied as a home or residence of two or more families.

Dwelling, single-family.

A detached building, but not a mobile home, manufactured housing or RV, having accommodations for and occupied by not more than one family, located on a lot or separate building tract, and having no physical connection to a building located on any other separate lot or tract.

Equestrian boarding.

A business consisting of a minimum of two (2) acres and up to five (5) acres for the boarding of a maximum of two (2) horses per acre regardless of ownership, that receives compensation through the boarding of horses. On lots greater than five (5) acres no such limit shall be imposed.

Equestrian facilities.

A facility or place used for horse boarding, including equestrian pasture boarding, horse training, riding lessons, horse breeding, horse rescue or horse shows. The facility may contain a riding arena provided the arena does not exceed ten percent (10%) of the total lot size or a maximum of twenty thousand 20,000 square feet (20,000 sq. ft.) regardless of the size of the lot.

Family.

One or more persons related by blood, marriage, or adoption; or a group not to exceed four (4) persons not all related by blood or marriage, adoption or guardianship, occupying a dwelling unit.

Farm or ranch.

An area which is used for growing of usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on said premises, but not including the commercial feeding or the feeding of garbage to swine or other animals and not including any type of agricultural or husbandry specifically prohibited by ordinance or law.

Farmer's market.

The retail sale of farm produce by individual vendors for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers and honey, where such produce, or its

portion, is not grown on the premises.

Floor area.

The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding porches, carports, garages or unfinished cellars.

Garage, auto repair.

A building or portion thereof whose principal use is for the repair, servicing, equipping, or maintenance of motor vehicles or motor vehicle components, including engines, radiators, starters, transmissions, brakes, tires and wheels, seats, and similar components.

Halfway house.

A residence for former mental patients, convicts, or recovering drug users or alcoholics that serves as a transitional environment between confinement and the return to society.

Home occupation.

A business, occupation, or profession conducted wholly within an allowable residential building and dwelling unit by only the residents thereof, and which shall have the following characteristics:

- (1) The activity shall employ only members of the immediate family of the resident of the dwelling unit.
- (2) There shall be no external evidence of the occupation detectable at any lot line, said evidence to include, advertising signs, or displays, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, storage of materials or equipment, or traffic or parking of vehicles in a manner evidencing the conduct of a business or that creates a nuisance to persons of ordinary sensibilities that occupy surrounding properties.

Hospital.

A legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.

HUD-code manufactured home.

A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD), transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR section 3282.8(g).

Kennel.

Any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that keeps, breeds and/or boards and/or trains dogs and/or cats for profit. Veterinary hospitals shall not be considered a kennel, unless such hospitals contain pens or facilities for housing, boarding, breeding, training, harboring, or keeping dogs, cats or other domesticated animals, swine, equine, or other livestock or animals other than, or in addition to, short-term care incidental to the hospital use. Kennels must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city.

Livestock.

Any horses, mules, donkeys, ponies, cattle, sheep, goats, hogs, pigs, of any and all kinds regardless of

sex.

Lot.

Land occupied or to be occupied by a building(s) and its accessory building including such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved place.

Lot depth,

The distance, measured in a straight line, between the front lot line and the rear lot line measured at the respective midpoints of the front lot line and the rear lot line.

Lot Depth Illustration

[\[Image\]](#)

Lot flag.

A lot of irregular shape with reduced frontage along a public or private street with dimensions that are otherwise adequate at the building lines.

[\[Image\]](#)

Lot lines.

The lines bounding a lot as defined herein.

- (1) Lot line, front. A "front lot line" is that boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots, either street line may be selected as the front lot line providing that a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.
- (2) Lot line, rear. The "rear lot line" is that boundary of a building lot which is the most distant from and is, or is most nearly, parallel to the front lot line.
- (3) Lot line, side. A "side lot line" is that boundary of a building lot which is not a front lot line or a rear lot line.

Lot of record.

A lot which is part of a subdivision, the plat of which has been ~~filed by the city and~~ recorded in the office of the ~~county country~~ clerk prior to ~~May 1, 1995 the adoption of this chapter.~~

Lot width.

The width of a lot, measured in a line generally parallel to the front property line at the front building line setback line.

Lot Width Illustration

[\[Image\]](#)

~~Main building.~~

~~The building or buildings on a lot which are occupied by the primary user.~~

Major retail development.

A singular retail establishment or shopping center that involves any one, or a combination of the following and as defined herein:

- (1) New construction of a singular retail sales establishment that is greater than ~~twenty thousand~~ 20,000 gross square feet (20,000 GSF) in size;
- (2) New construction of a shopping center on a parcel or combination of parcels comprising ten acres or larger; or
- (3) Expansion to a singular retail sales establishment or shopping center existing as of the effective date of May 1, 1995 ~~adoption of this chapter~~ and which said expansion will increase the square footage of a singular retail sales establishment to become more than ~~twenty thousand~~ 20,000 gross square feet (20,000 GSF) in area or increase the size of a shopping center to more than ten acres.

Masonry.

An exterior building material which includes: Brick of a minimum three and one-half inch (3-1/2") nominal thickness, stone with a minimum average thickness of two inches (2") or stucco.

Mobile home.

A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

Mobile home park.

Any premises on which one or more mobile homes are parked or situated and used for living or sleeping purposes, or any premises used or held out for the purpose of supplying to the public a parking space for one or more mobile homes whether such vehicles stand on wheels or on rigid supports. A trailer park is a mobile home park.

Museum, library or art gallery (public).

An institution for the collection, display and distribution of books and objects of art, or science and sponsored by a public or quasi-public agency and open to the general public.

Nonconforming.

A building, structure, or use of land lawfully occupied at the time of May 1, 1995 ~~the effective date of this chapter~~ or amendments thereto, and which does not conform to the use ~~for of~~ the regulations of the district in which it is situated.

Noxious matter.

A material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being or comfort of humans.

Nursing home facility (also termed skilled nursing facility, convalescent home, assisted living, memory care facility or long-term care facility.)

A facility providing primarily inpatient health care, personal care or rehabilitative services over a long period of time to persons chronically ill, aged, or disabled who need ongoing health supervision and such facilities comply with the required state licensing, if any.

Occupancy.

The use or intended use of the land or building by proprietors or tenants.

Office, general business or professional.

An establishment providing administrative, business, executive, management or professional services, but not involving medical or dental services or the sale of merchandise, except as incidental to a permitted use.

Office, medical or dental.

An office or group of offices for one or more physicians, surgeons, dentists or other health-care professionals to treat sick or injured patients who do not remain overnight.

Open space or open areas.

Area included in any side, rear, or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, or porches.

Open storage.

The storage of any equipment, machinery, commodities, raw or semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six feet above ground level.

~~**Park, playground, community center.**~~

~~An open recreation facility or park owned and operated by a general public agency and available to the general public.~~

Parking space.

A surface area, enclosed or unenclosed, sufficient in size to store one automobile together with a surface driveway connecting the parking space with the street or alley and permitting ingress or egress of an automobile.

Pet.

A domesticated animal kept for companionship or pleasure that includes any dogs, cats, birds, rodents, of any and all kinds regardless of sex, and those similar in nature and function.

Pet boarding.

Commercial establishment which provides accommodations, feeding and general care for pets.

Plat.

A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the city and subject to approval by the planning and zoning commission. Reference to a plat in this chapter means an official plat of record which has been approved by the planning and zoning commission and filed in the plat records of the county.

Premises.

Land together with any buildings or structures occupying it.

~~**Primary or principal building, primary dwelling unit or principal use.**~~

~~Primary building, dwelling, or use of property on a single lot on which the building or dwelling unit is located, occupied or maintained under this chapter.~~

Public park, playground, or community center.

Any publicly owned park, playground, ~~facility~~, parkway, greenbelt, or roadway within the jurisdiction

and control of the city.

Recreation area.

A privately owned park, playground, or open space maintained by a community club, property owners' association, or similar organization.

Refueling station.

Any building or premises used for the dispensing, sale, or offering for sale at retail any automobile fuels, oils, propane, natural gas, or electrical recharging. If the dispensing, sale, or offering for sale is incidental to a public garage, the premises shall be classified as a public garage.

Registered family home.

- (1) A home that is registered with the Texas Department of Family Protective Services ("TDFPS") and that provides regular care in the caretaker's own residence for not more than six (6) children under fourteen (14) years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six (6) additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed twelve (12) at any given time.
- (2) The term does not include a home that provides care exclusively for any number of children who are related to the caretaker. For purposes of this definition regular care means care that is provided at least:
 - (A) Four (4) hours a day, three (3) or more days a week, for three (3) or more consecutive weeks; or
 - (B) Four (4) hours a day for forty (40) or more days in a period of twelve (12) months.

Residence.

Same as a dwelling; also, when used with "district," an area of residential regulations.

Restaurant or cafeteria.

An eating establishment where service is provided to customers at tables and not involving service of food to customers in automobiles.

Retail sales establishment.

An establishment or place of business primarily engaged in selling goods directly to the consumer, where such goods are generally available for immediate purchase and removal from the premises by the purchaser.

Retirement home/senior independent living facility.

A multifamily dwelling complex or similar living arrangements that is age restricted for senior citizens but which is not an assisted-living center or long-term care facility.

School, private.

A school under the sponsorship of a private agency or corporation other than a public agency.

School, public or parochial.

A school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including private, trade, or commercial schools.

Schools, trade and commercial.

Establishments, other than public or parochial schools, private primary or secondary schools, or colleges, offering training or instruction in a trade, art, or occupation.

Screening device.

A barrier of stone, brick, pierced brick or block, uniformly colored wood, or other permanent material of equal character, density, and acceptable design at least four (4) feet in height, where the solid area equals at least sixty-five percent (65%) of the wall surface, including an entrance gate or gates; or foliage of an acceptable type with a density that will not permit through passage; or an acceptable combination of these materials. Such screening device shall be continuously maintained.

Servant's quarters.

~~An accessory building or portion of a main residential building located on the same lot as the principal residential building, occupied only by such persons and their families as are employed full time by the occupants of the principal residence.~~

Shopping center.

A grouping of two (2) or more commercial units built primarily for retailing purposes on common property planned, developed, owned or managed as a unit with common off-street parking provided on the same site. For purposes of this chapter, a neighborhood shopping center shall be considered to be a shopping center primarily serving adjacent residential area.

Specific use.

A means for developing certain designated uses in a manner in which the specific use will be compatible with the adjacent property and consistent with the character of the neighborhood.

Stadium or playfield, public.

An athletic field or stadium owned and operated by a public agency for the general public including a baseball field, football field or stadium.

Street.

An area for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or otherwise designated.

Street line.

A dividing line between a lot, tract, or parcel of land and contiguous street.

Structural alterations.

Any change in the supporting member of a building, such as a bearing wall, column, beams, or girders.

Toxic materials.

Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

Use.

The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied and maintained, and shall include any manner of such activity with respect to the standards of this chapter.

Use, principal.

The main use of land or buildings as distinguished from a subordinate or accessory use.

Utility facilities, private or franchised.

A nonpublic utility requiring specific facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the municipality or the normal franchised utilities.

Yard.

An open space other than a courtyard, on the lot on which a building is situated and which is open and unobstructed from a point forty (40) inches above the general ground level of the graded lot to the sky, except as provided for roof overhang, similar special building features and other accessory structures as provided for in this code.

Yard, front.

An open, unoccupied space on a lot facing a street extending across the lot between the side lot lines and from the front building line to the street.

Yard, rear.

An open, unoccupied space from the rear building line extending across the rear of a lot from one side lot line to the other side lot line to the rear property line.

Yard, side.

An open, unoccupied space or spaces between the property line and the side building line that would not be consider front yard or rear yard that extends between the front building line and the rear building line.

Yard & Building, Line Illustrations

[\[Image\]](#)

Zoning district map.

The official certified map upon which the boundaries of the various districts are drawn and which is an integral part of the zoning ordinance.

(Ordinance 2012-05-00715, sec. 2, adopted 5/17/12; Ordinance 2012-06-00718, sec. 1, adopted 6/21/12; Ordinance 2012-10-00737 adopted 10/4/12; Ordinance 2013-07-00760 adopted 7/18/13; Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2016-03-0832 adopted 3/3/16; Ordinance 2016-04-00835 adopted 4/7/16; Ordinance 2018-03-00876 adopted 3/1/18; Ordinance 2022-05-00953 adopted 5/19/22; Ordinance 2022-08-00535 adopted 9/1/2022; Ordinance 2023-05-00979 adopted 5/4/2023)

§ 14.01.005 Compliance with the regulations.

Except as herein specifically provided:

- (1) No land shall be used except for a purpose permitted in the district in which it is located.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.
- (3) No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which such building is located.
- (4) No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which such building is located.
- (5) No building shall be erected, converted, enlarged, reconstructed, or structurally altered to the extent specifically provided herein except in conformity with the off-street parking and loading regulations provided herein for the use for which the building is intended.
- (6) The minimum yards, parking spaces, and open area, including lot area per dwelling unit, required by

this chapter for each and every building existing at the time of passage of this chapter or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking, nor shall any lot area be reduced below the requirements of this chapter for the district in which such lot is located.

- (7) Every building hereafter erected or structurally altered shall be located on a building lot as herein defined and, except as specifically provided herein, there shall not be more than one main building on one (1) lot.
- (8) No construction of any sewer system, sanitary landfill, public utility, or facility for the treatment of wastewater in any part of the city or its extraterritorial jurisdiction and within two thousand ~~2,000~~ feet (2,000') of Lake Lavon shall be permitted.
- (9) All lots shall front on a street and all lots shall have street frontage of not less than fifty percent (50%) of the required width at the front building line but not less than forty feet (40') unless as provided in this code. No lot shall be landlocked.

(1995 Code, sec. 9-5; Ordinance 2022-08-00535 adopted 9/1/2022)

ARTICLE 14.02 ADMINISTRATION

Division 1

Generally

§ 14.02.001 Enforcement and penalties.

Any person, firm, corporation, or political subdivision who violates any of the provisions of these regulations shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be subject to a fine of not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense and such violation is hereby declared to be a common nuisance which may be abated by the city in any manner authorized by law, including injunction and an action for damages.

(1995 Code, sec. 9-6)

§ 14.02.002 through § 14.02.030. (Reserved)

Division 2

Board of Adjustment

§ 14.02.031 Members and terms of office.

- (a) There is hereby created a board of adjustments consisting of five (5) regular members and (2) alternate members who shall be appointed by the city council. The members shall serve for a period of two (2) years and until their successors are duly appointed and qualified. Members may be removed for cause by the city council upon written charges and after public hearing. A vacancy for the unexpired term of any member will be filled in the same manner as the original appointment was made.
- (b) The members of the board of adjustments shall meet the requirements of section 1.05.001 of this code.

(Ordinance 2016-01-00826, sec. 3, adopted 1/7/16)

§ 14.02.032 Meetings.

The board of adjustments will have the authority to adopt rules consistent with state law. Meetings of the board of adjustments shall be held at the call of the chairman and at such other times as the board of adjustments 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 of adjustments shall be open to the public. The ~~city board of adjustments~~ shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing 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 of adjustments and shall be a public record.

(Ordinance 2016-01-00826, sec. 3, adopted 1/7/16)

§ 14.02.033 Quorum and voting.

Cases must be heard by a minimum of seventy-five percent (75%) of the members of a board panel. The concurring vote of seventy-five percent (75%) of the members of a panel is necessary to:

- (1) Reverse an order, requirement, decision, or determination of an administrative official involving the interpretation or enforcement of the zoning ordinance;
- (2) Decide in favor of an applicant on a matter on which the board is required to pass under state law, the city charter, or city ordinance; or

- (3) Authorize a variation from the terms of the zoning ordinance. For purposes of this section, administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue.

(Ordinance 2016-01-00826, sec. 3, adopted 1/7/16)

§ 14.02.034 Powers and duties.

- (a) The board of adjustments shall have the authority, subject to the standards established in chapter 211 of the Texas Local Government Code, as amended, and those established herein, to exercise the following powers and perform the following duties:
 - (1) To hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or an ordinance adopted under this chapter;
 - (2) To interpret the intent of the zoning district map when uncertainty exists because the actual physical features differ from those indicated on the zoning district map and when the rules set forth in the zoning district boundary regulations do not apply;
 - (3) To hear and decide special exceptions that are expressly provided for in this chapter;
 - (4) To grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single-family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that:
 - (A) The variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done;
 - (B) The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
 - (C) The variance is not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this section to other parcels of land with the same zoning.
 - (5) Hear and decide special exceptions to the requirements when necessary or appropriate to:
 - (A) Permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with any master plan and present no conflict or nuisance to adjacent properties.
 - (B) Permit a public utility or public service structure or building in any district with a ground area or of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
 - (C) Grant a permit for the extension of a height or area regulation into an adjoining district which divides a lot into a single ownership on the effective date of this chapter.
 - (D) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

- (E) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision ~~or of~~ parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- (F) Determine, in cases of uncertainty, the classification of any use not specifically named in this chapter.
- (b) In exercising its authority, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose has the same authority as the administrative official.

(Ordinance 2016-01-00826, sec. 3, adopted 1/7/16)

§ 14.02.035 Appeals.

- (a) Procedure. A decision made by an administrative official of the city may be appealed to the board of adjustment by a person aggrieved by the decision or by any officer, department, board or bureau of the city affected by the decision. Such appeal shall be made by filing a notice of appeal with the office of the board and with official from whom the appeal is taken specifying the grounds thereof. The office, official or department from which the appeal is taken shall forthwith transmit to the board of adjustment all of the papers constituting the records upon which the action appealed from was taken. The appeal must be filed within twenty (20) days after the date of the decision of the administrative official from which the appeal is taken.
- (b) Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In such case, the proceedings may be stayed only by a restraining order granted by the board or by a court of record on application, after notice to the official, if due cause is shown.
- (c) Notice of hearing on appeal. The board shall set a reasonable time for the hearing on the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within five hundred feet (500') ~~two hundred feet (200')~~ or less of street frontage of any point of the lot or portion thereof on which a variation is desired. The city shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall hear and decide the appeal within a reasonable time. Notice of such hearings may be sent by the board in writing, properly addressed to the last known addresses of the proper parties, and such notices shall be deemed complete when deposited in the mail.

(Ordinance 2016-01-00826, sec. 3, adopted 1/7/16)

§ 14.02.036 Decisions.

- (a) Every decision of the board shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. The decision shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the city secretary ~~building official~~, and shall be open to the public for inspection. A true and correct copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be publicly posted in the office of the city secretary ~~building official~~ for two (2) weeks after the filing thereof.
- (b) The board shall in every case reach a decision without unreasonable or unnecessary delay.
- (c) If a decision of the board reverses or modifies a refusal, order, or disallowance of the building official, or varies the application of any provision of this code, the building official shall immediately take action

in accordance with such decision.

- (d) Any person, firm, or corporation aggrieved by any decision of the board may present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Unless such verified petition (appeal) shall be presented to the court within ten (10) days of the date that the decision of the board is filed with the city secretary, the decision of the board shall become final.

(Ordinance 2016-01-00826, sec. 3, adopted 1/7/16)

§ 14.02.037 through § 14.02.059. (Reserved)

Division 3 Changes and Amendments

§ 14.02.060 **Zoning upon annexation.**

- (a) All territory hereinafter annexed to the city shall be classified as “AO” Agricultural until other zoning is established by the city. The procedure for establishing zoning other than “AO” for annexed territory shall conform to the procedure set forth in this division.
- (b) Following annexation, the city shall schedule public hearings to zone the recently annexed land.
- (c) In an area classified as “AQ” Agricultural:
 - (1) No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building or use permitted in the “AO” District, unless and until such territory has been classified in a zoning district other than the “AO” District, by the city council in the manner prescribed by this division.
 - (2) An application for a building permit for any proposed use other than those specified in the “AO” District must be made to the building official of the city within three (3) months after annexation. If the applicant shows that plans and other preparation for developing the property commenced prior to annexation by the city, the city council may authorize the construction of the project by a majority vote. The action of the city council concerning any such permit shall take into consideration the appropriate land use for the area. Upon approval by the city council, the city manager shall notify the building official.

(Ordinance 2008-10-00631 adopted 10/16/08)

§ 14.02.061 **Declaration of policy.**

- (a) The council declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:
 - (1) To correct a manifest error in the regulations or map;
 - (2) To recognize substantial changed or changing conditions or circumstances in a particular locality; or
 - (3) To recognize substantial changes in technology, the style of living, or manner of doing business.
- (b) Every proposal to amend these regulations shall be considered in light of the above declaration of policy and by the purposes enumerated in the preamble of these regulations.

(1995 Code, sec. 9-7)

§ 14.02.062 **Authority to amend.**

The council from time to time, after receiving a final report thereon by the commission and after public hearings required by law, may amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts. Any amendment, supplement, or change may be ordered for consideration by the council, be initiated by the commission, or be requested by proposal of the owner of the property or by a person holding a lease on the property with the consent of its owner. The commission on its own motion or on request of council may initiate consideration of a change in any district boundary or zoning regulation whenever it finds that public benefit will derive from consideration of such matter.

(1995 Code, sec. 9-8)

§ 14.02.063 **Procedure.**

- (a) Proposal required. Every proposal to amend these regulations shall be considered in light of the above declaration of policy and by the purposes enumerated in section **14.01.002** (Interpretation and purposes).
- (b) Public hearing and notices.
 - (1) Prior to making its report to the council, the commission shall hold at least one public hearing thereon.
 - (2) Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for city taxes, located within five hundred feet (500') of any property affected thereby before the fifteenth (15th) day before such hearing is held. Such notice may be served by using the last known address as listed on the city roll and depositing the notice, postage prepaid, in the United States mail.
 - (3) Posting of property. Not less than fifteen (15) or more than forty-five (45) days prior to the date set for the public hearing on any proposed changes in district boundaries, the city shall erect at least one notification sign on the affected property. Such sign(s) shall be erected within twenty-five (25) feet of whatever boundary line of such land that abuts the street of the advertised address. If no public road abuts thereon, then such sign shall be erected along the nearest opened public right-of-way. Signs shall be erected in such a manner as may be most readily seen by the public. Each sign shall indicate a proposed land use change, a public hearing will be held, the telephone number to call and the website to visit for further information. If the affected land includes more than one (1) tract as shown on a plat recorded in the land records of the county, then a sign shall be erected on the land in each such tract. Any such sign shall be maintained on the property at all times until a decision on the application has been made by the city council.
- (c) Commission report. The commission, after the public hearing is closed, shall prepare its report and recommendations on the proposed change stating its findings and evaluation of the request and of the relationship of the request to the comprehensive plan.
- (d) Council consideration.
 - (1) Proposal recommended for approval. Every proposal which is recommended favorably by the commission shall be forwarded to the council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
 - (2) Proposal recommended for denial. When the commission determines that a proposal should be denied, it shall so report and recommend to the council. No hearing shall be set on the proposal until and unless the council receives an appeal as provided below.
 - (3) Appeal procedure. An appeal from the decision of the commission may be taken whenever any party in interest is aggrieved by the action of the commission on a specific proposal. The following procedure

shall be required:

- (A) The aggrieved party shall file a written appeal with the director of development services within thirty (30) days following the commission action. The director of development services shall forward the appeal to the council with the regular report of commission action on the subject proposal.
- (B) Upon receipt of written appeal, the council shall schedule a public hearing on the original proposal and recommendation.
- (4) Council hearing and notice. The council may from time-to-time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established. A public hearing on such amendment, supplement, or change shall be held by the council. Notice of council hearing shall be given by publication one time in the official paper of the city, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the date of publication.
- (5) Negative recommendations and written protest. An amendment, supplement, or change shall not become effective except by favorable vote of three-fourths (3/4) of all members of the council, if:
 - (A) The commission recommends disapproval of the proposed change; or
 - (B) Written protest is filed by the owners of at least twenty percent (20%) of either:
 - (i) Of the area of the lots or land included in such proposed change; or
 - (ii) The area of the lots or land immediately adjoining the area of such proposed change and extending five hundred feet (500') therefrom.

Protests signed by property owners may be filed prior to or at one of the public hearings conducted by either the commission or the council. Written protests filed with the commission shall be forwarded to the council with the commission's recommendation.

- (C) In computing the percentage of land area under subsection (d), the area of streets and alleys shall be included.

(1995 Code, sec. 9-9; Ordinance 2005-08-00532, sec. 1, adopted 8/1/05; Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2023-05-00981 adopted 5/4/2023)

§ 14.02.064 Limitation on reapplication.

When the city council has denied a proposal, or when the applicant has withdrawn his proposal at the commission meeting thereon, no new applications 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 the council denial or applicant's withdrawal. Provided, however, on receipt of written request by the original applicant stating how conditions have changed substantially in the community since prior consideration of his proposal so as to justify an earlier review of this matter, the city council may waive the mandatory delay period and authorize the acceptance of a new application.

(1995 Code, sec. 9-10)

§ 14.02.065 through § 14.02.080. (Reserved)

Division 4

Specific Use Permits

§ 14.02.081 **Generally.**

- (a) A specific use permit allows uses compatible with other permitted uses, provided the uses meet the specific criteria established by the city under this section.
- (b) The city council may authorize the granting of a specific use permit, by an affirmative vote, after notice to all parties affected and a public hearing, in accordance with state law, and after recommendation from the planning and zoning commission that the use is in general conformance with the comprehensive plan of the city and containing such requirements and safeguards as are necessary to protect adjoining property.
- (c) Specific use permits shall not be used to legalize nonconforming structures or uses, and shall not be used when a variance, deviation, waiver or minor modification could be used to achieve the same result.
- (d) A development plan shall be submitted concurrently with the application for a specific use permit. However, development plans will not be approved until the specific use permit is approved by the city council. Approval of the specific use permit does not constitute approval of a development plan.
- (e) Uses permitted by a specific use permit shall not be enlarged or substantially modified, structurally altered, or otherwise significantly changed without an amendment to the specific use permit. Amendment to a specific use permit requires the same processes and procedures as an original specific use permit application, specifically, public notice and hearing. Minor changes or alterations or changes that do not alter the basic relationship of the proposed development to adjacent property or expand the use into other portions of the building or property and may be approved by the development services director. Changes or alterations that change the uses permitted, increase the density, building height, coverage of the site, off-street parking ratio, or area regulations are not minor changes and must be considered through the amendment process.
- (f) All recommendations made by the city planning and zoning commission to the city council shall be considered advisory in nature and shall not be binding upon the governing body; the city council shall have the sole and final authority to grant or deny any request for specific use permits.
- (g) The board of adjustment does not have authority to hear an appeal or act on an application for a specific use permit.
- (h) A specific use permit may be granted for those uses indicated by “S” in the schedule of uses chart in section **14.03.801(e)**.
- (i) Refer to article **14.04**, division 8, accessory buildings, structures and uses for additional regulations.

(Ordinance 2022-05-00950 adopted 5/5/22)

§ 14.02.082 **Application and processing.**

- (a) Any individual, partnership, corporation, or group of persons having a proprietary interest in any property, upon proof of such, may file an application with the planning and zoning commission for a specific use permit.
- (b) The application for a specific use permit shall be accompanied by a development plan and ~~site sign~~ plan, as applicable. The city shall make available application forms specifying application requirements. The application shall include:
 - (1) A site plan that includes the dimensions, bearings, and street frontage of the property;

- (2) The location of buildings, structures, and uses;
- (3) The method of ingress and egress;
- (4) Off-street parking and loading requirements, as applicable;
- (5) Screening, lighting, and landscaping, as applicable;
- (6) A traffic impact analysis if the development services director determines that the analysis is necessary;
- (7) Any other information the development services director, planning and zoning commission or city council determines necessary for a complete review of the proposed development which may include, but is not limited to additional information or drawings, operating data, expert evaluation, or testimony concerning the location, function, or characteristics of any building or proposed use.
- (c) The planning and zoning commission shall provide notice and hold a public hearing in accordance with section **14.02.063**.
- (d) Following the public hearing by the planning and zoning commission, the commission shall make a recommendation for the city council at the properly noticed public hearing, where the council shall consider the granting or denial of the specific use permit.
- (e) In recommending that a specific use permit be granted, the planning and zoning commission and city council shall determine that such uses are compatible with the building structures and uses of abutting property and other property in the vicinity of the premises under consideration and shall make recommendations for conditions and requirements to be included in the specific use permit. In approving the requested specific use permit, the planning and zoning commission and city council may consider the following:
 - (1) Whether the use is compatible with surrounding existing uses or proposed uses;
 - (2) Whether the use requests by the applicant are normally associated with the permitted uses in the base district;
 - (3) Whether the nature of the use is reasonable;
 - (4) Whether any negative impact on the surrounding area has been mitigated;
 - (5) Any additional conditions specified ensure that the intent of the district purposes is being upheld.
 - (f) The conditions and requirements approved by the council shall be set forth in the ordinance granting the specific use permit, including, but not limited to, attached site plan drawings and other depictions of design and use elements.

(Ordinance 2022-05-00950 adopted 5/5/22)

§ 14.02.083 Zoning amendment and limitations.

- (a) Each specific use permit granted under the provisions of this chapter shall be considered as an amendment to the comprehensive zoning regulations applicable to such property. When the city council authorizes granting of a specific use permit, the zoning map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, said amendment to indicate the specific use by an "S" designation.
- (b) In granting any specific use permit, the city council may impose conditions and requirements as necessary and which shall be complied with by the grantee before any building permit is issued and as

an ongoing requirement to retain a certificate of occupancy.

- (c) A building permit shall be obtained from the city not later than six (6) months after the effective date of the ordinance granting the specific use permit if new construction is required to comply with the specific use permit, provided however, the director of development services may authorize one extension not to exceed six (6) months.
- (d) If the planning and zoning commission denies an application for a specific use permit, the application will not be considered by the city council unless the applicant requests the application be forwarded to the city council within ten (10) days of the planning and zoning commission denial of the application. If the applicant timely requests the application for specific use permit be forwarded to the city council, approval of the specific use permit by the city council shall require the affirmative vote of seventy-five percent (75%) of the city council.
- (e) Following the denial of a specific use permit, no new application for the same or a substantially similar request shall be accepted within one year of the date of denial unless it is determined by the development services director there has been a substantial change in the area or in the request in which the specific use permit has been requested.

(Ordinance 2022-05-00950 adopted 5/5/22)

§ 14.02.084 Expiration, termination, revocation.

- (a) A specific use permit shall expire if a required building permit has not been issued within the time required in this section, or if a building permit has been issued but has subsequently expired. If a building permit is not required, the specific use permit shall expire six (6) months after the effective date of the ordinance granting the specific use permit if a certificate of occupancy is not obtained. If the specific use permit expires in accordance with this section, the property shall conform to the regulations of the original zoning district of such property.
- (b) A specific use permit shall terminate if the property for which the specific use permit was issued is vacant, or the building or property, though still occupied, is not being used for the purpose for which the specific use permit was granted for a period of six (6) months. The development services director may grant one six (6) month extension upon written request by the owner of the property. Such written request shall be filed with the development services director no later than one hundred fifty (150) days after the onset of the vacancy. If the specific use permit terminates in accordance with this section, the property shall conform to the regulations of the original zoning district of such property.
- (c) A specific use permit may be revoked if the owner fails to meet the conditions and requirements set out in the ordinance granting the specific use permit. Revocation of a specific use permit may be recommended by the planning and zoning commission to the city council after proper notice and public hearing. After proper notice and public hearing, the city council may consider the planning and zoning commission's recommendation for revocation of a specific use permit. If the specific use permit is revoked in accordance with this section, the property shall conform to the regulations of the original zoning district of such property.

(Ordinance 2022-05-00950 adopted 5/5/22)

§ 14.02.085 through § 14.02.110. (Reserved)

Division 5
Final Plans Approval

§ 14.02.111 Submission of final plans.

- (a) After approval by the planning and zoning commission of the site plan, architectural plan and

landscaping plan ~~(and, in the case of properties in the VC district only, the architectural plan)~~, the developer shall, within twelve (12) months thereafter, submit to the city ~~three (3) nine (9)~~ copies, ~~one (1) electronic copy~~, and one (1) ~~mylar master~~ copy of the final site plan and the final landscaping plan. At the same time, three (3) copies of the final construction plans for the development shall be submitted to the city and three (3) copies of the final construction plans to the city engineer.

- (b) In the event that the developer does not submit final plans within the twelve (12) months, the plans approved by the planning and zoning commission shall be considered as being void and must be resubmitted to planning and zoning commission along with payment of all appropriate fees.
- (c) After acceptance of the final plans by the city council, one (1) set each of the final site plan, the final landscaping plan, and the construction plans shall be returned to the developer signed by the city engineer and the mayor for the city council that the plans are approved for construction.
- (d) All final plans shall be in strict accordance with those approved by the planning and zoning commission including all conditions of approval. It shall be unlawful to issue a building permit prior to final approval of the site plan and landscaping plan by city council. As to proposed development located in the VC district, it shall further be unlawful to issue a building permit prior to approval of final construction plans by the city council.

(1995 Code, sec. 9-150)

ARTICLE 14.03 DISTRICTS

Division 1 Generally

§ 14.03.001 **Division of districts.**

(a) For the purposes of this chapter, the city is hereby divided into ten (10) districts as follows:

- (1) AO - Agriculture;
 - (2) R2 - Single-family residential, 2-acre lots;
 - (3) R1.5 - Single-family residential, 1.5-acre lots;
 - (4) R1 - Single-family residential, 1-acre lots;
 - (5) VC - Village center;
 - (6) CB - Commercial business district;
 - (7) LI - Light industrial;
 - (8) ED - Estate development;
 - (9) OS - Open space; and
 - (10) MHD - Manufactured home district.
- (b) The location and boundaries of the districts herein established are shown upon the official zoning map, which is hereby incorporated into this chapter. Said zoning map, together with all notations, references, and other information shown thereon, and all amendments thereto, shall be as much a part of this chapter as if fully set forth and described herein. Said zoning map, properly attested, is on file in the office of the city secretary.

(Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.002 **Maintenance of zoning map.**

- (a) The official zoning map shall be kept in the office of the city secretary and one (1) copy shall be maintained in the office of the building official.
- (b) It shall be the duty of the city secretary to keep the official map current and the copies thereof, herein provided for, by entering on such maps any changes which the city council may from time to time order by amendments to the zoning regulations of the city or the zoning map.
- (c) The city secretary, upon the adoption of this chapter, shall affix a certificate identifying the map in the secretary's office as the official zoning map of the city. The city secretary shall likewise officially identify the copies directed to be kept by the planning and zoning commission and in the office of the building official. All amendments of the map shall be made immediately after their enactment and the date of the change shall be noted on the certificate.

(1995 Code, sec. 9-25)

§ 14.03.003 **Rules for the interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts shown on the zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines, street lines, or highway right-of-way lines, such lines shall be construed to be said boundaries.
- (2) Where district boundaries are so dedicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are indicated as approximately following a parallel to a drainage course or other prominent physical feature, such drainage course, other prominent physical feature, or parallel line shall be construed to be said boundaries.
- (4) Where district boundaries are so indicated that they are approximately parallel to the centerline or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions are determined by the use of the scale of said zone.
- (5) Where district boundaries are so indicated that they are approximately perpendicular to the centerline or right-of-way lines of streets, highways, or drainage courses, such district boundaries shall be construed to be perpendicular to said streets, highways, or drainage courses.
- (6) If unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (7) In the case of a district boundary line dividing a lot into two (2) parts, the district boundary line shall be construed to be the lot line nearest the district boundary line as shown.
- (8) Whenever any street, alley, or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such variation [vacation] and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
- (9) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.

(1995 Code, sec. 9-26)

§ 14.03.004 through § 14.03.050. (Reserved)

Division 2
AO Agricultural District

§ 14.03.051 **Use regulations.**

This zone is designated to provide for general ranching and farming under a minimum of restrictions. No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses, and article **14.02** division 4, specific use permits.

- (1) Principal uses not permitted:
 - (A) No feedlots shall be established for commercial purposes, except as would be required to perform the principal permitted use.
 - (B) No slaughter pens or rendering works, or associated business shall be permitted.

(C) No facility or use for the treatment and/or storage of noxious matter, toxic materials or any form of liquid or solid waste materials from any source shall be permitted, except under the provisions of article **14.02**, division 4, specific use permits.

(D) At no time shall the residential density exceed one ~~primary single-family~~ residence per twenty (20) acres.

(E) No mobile homes or HUD-code manufactured homes as defined herein shall be permitted.

(2) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds ~~fifty thousand -50,000~~ square feet (50,000 sq. ft.).

(Ordinance 2008-11-00634 adopted 11/20/08; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.052 **Height regulations.**

Same as residential, section **14.03.112**.

(1995 Code, sec. 9-31)

§ 14.03.053 **Area regulations.**

(a) Roof pitch. Residential dwelling structures shall have a roof pitch of not less than six inches (6") vertical for each twelve inch (12") horizontal (6:12). Alternative roof design and roof pitches may be considered and approved by the design review committee (DRC).

(b) Exterior walls and foundation. The exterior walls of residential dwellings shall be supported on a continuous solid concrete beam or slab; or on a fully grouted masonry foundation designed to carry the imposed loads. Exterior and load bearing walls shall be secured to the foundation as required by the adopted residential building code.

~~(c) At any time that there is more than one (1) single family dwelling per twenty (20) acres, the provisions of section 14.03.113 shall apply.~~

(Ordinance 2011-03-00677 adopted 3/17/11)

§ 14.03.054 through § 14.03.110. (Reserved)

Division 3

R2 Single-Family Residential District

§ 14.03.111 **Use regulations.**

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses, and article **14.02** division 4, specific use permits.

~~(1) No mobile homes or HUD-code manufactured homes as defined herein shall be permitted.~~

~~(2) A special exception shall be required when the total combined square footage of the main building and/or any accessory buildings exceeds 50,000 square feet.~~

(Ordinance 2008-11-00634 adopted 11/20/08)

§ 14.03.112 **Height regulations.**

No building shall exceed thirty-five feet (35') or two and one-half (2-1/2) stories in height.

(1995 Code, sec. 9-36)

§ 14.03.113 **Area regulations.**

(a) Size of yards.

- (1) Front yard. The building line adjacent to a street shall be established at seventy-five feet (75') from the centerline of the street right-of-way or street reflected as type C or D roadway on the Master Thoroughfare Plan. (85' for type B, and 110' for Type A). ~~Where a building line is established on a plat, which is not consistent with this ordinance, the building line that is a greater distance from the front property line shall be observed.~~ No required parking shall be allowed within the required front yard.
- (2) Side yard. The building line adjacent to the side property line(s) there shall be not less than ten percent (10%) of the lot width, ~~for~~ twenty feet (20'), whichever is less. No side yard for allowable nonresidential uses shall be less than twenty-five feet (25').
- (3) Rear yard. The building line adjacent to the rear property line shall be of not less than fifty feet (50').

(b) Size of lot.

- (1) Lot area. No building shall be constructed on any lot of less than two (2) acres (87,120 square feet).
- (2) Lot width. The width of the lot shall be not less than two hundred feet (200') at the front building line setback street property line, ~~nor shall its average width be less than two hundred feet (200')~~. The minimum width of a lot on a cul-de-sac shall be not less than forty feet (40') at the property line, nor shall its average width be less than two hundred feet (200'). The minimum width of a lot on a curve exceeding thirty degrees shall be not less than one hundred feet (100') at the property line, nor shall its average width be less than two hundred feet (200').
- (3) Lot depth. The average depth of the lot shall not be less than one hundred eighty feet (180').
- (4) Where a lot having less area, width, and/or depth than herein required exists in separate ownership on May 1, 1995 upon the effective date of this chapter, the above regulations shall not prohibit the erection of a one-family dwelling thereon.
- (c) Minimum dwelling size. The minimum floor area of any dwelling shall be two thousand square feet (2,000 sq. ft.), exclusive of garages, breezeways, and porches. ~~Dwellings shall have a minimum seventy-five percent (75%) of the exterior walls of masonry construction or the heartwood of a natural decay resistance wood, cementitious siding, stucco, cultured stone exterior or combination of these materials. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.~~
- (d) Lot coverage. In no case shall more than thirty percent (30%) of the total lot area be covered by the combined area of the main buildings and accessory buildings.
- (e) Roof pitch. Residential dwelling structures shall have a roof pitch of not less than six inch (6") vertical for each twelve inch (12") horizontal (6:12). Alternative roof design and roof pitches may be considered and approved by the design review committee (DRC).
- (f) Exterior walls and foundation. The exterior walls of residential dwellings shall be supported on a continuous solid concrete beam or slab; or on a fully grouted masonry foundation designed to carry the imposed loads. Exterior and load bearing walls shall be secured to the foundation as required by the adopted residential building code.
- (g) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds fifty thousand 50,000 square feet (50,000 sq. ft.).

Commented [KS2]: Remove language from R2, R1.5, and R1

(h) Accessory buildings and structures shall comply with Article 14.04, Division 8, of this chapter.

(1995 Code, sec. 9-37; Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2022-08-00535 adopted 9/1/2022)

§ 14.03.114 through § 14.03.170. (Reserved)

Division 4

R1.5 Single-Family Residential District

§ 14.03.171 **Use regulations.**

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section 14.03.801, schedule of uses, and article 14.02 division 4, specific use permits.

(Ordinance 2008-11-00634 adopted 11/20/08)

§ 14.03.172 **Height regulations.**

No building shall exceed thirty-five feet (35') or two and one-half (2-1/2) stories in height.

(1995 Code, sec. 9-41)

§ 14.03.173 **Area regulations.**

(a) Size of yards.

(1) Front yard. The building line adjacent to a street shall be established at seventy-five feet (75') from the centerline of the street right-of-way or street reflected as type C or D roadway on the Master Thoroughfare Plan. (85' for type B, and 110' for Type A). ~~Where a building line is established on a plat, which is not consistent with this ordinance, the building line is a greater distance from the front property line shall be observed.~~ No required parking shall be allowed within the required front yard.

(2) Side yard. The building line adjacent to the side property line(s) shall be not less than ten percent (10%) of the lot width, ~~for~~ twenty feet (20'), whichever is less. No side yard for allowable nonresidential uses shall be less than twenty-five feet (25').

(3) Rear yard. The building line adjacent to the rear property line shall be not less than fifty feet (50').

(b) Size of lot.

(1) Lot area. No building shall be constructed on any lot of less than one and one-half (1-1/2) acres (65,340 square feet).

(2) Lot width. The width of the lot shall be not less than one hundred sixty feet (160') at the front building line setback, front street property line, nor shall its average width be less than one hundred seventy-five feet (175'). The minimum width of a lot on a cul-de-sac shall be not less than thirty-five feet (35') at the property line, nor shall its average width be less than one hundred seventy-five feet (175'). The minimum width of a lot on curve exceeding thirty degrees shall be not less than thirty-five feet (35') at the property line, nor shall its average width be less than one hundred seventy-five feet (175').

(3) Lot depth. The average depth of the lot shall not be less one hundred eighty feet (180').

(4) Where a lot having less area, width, and/or depth than herein required exists in separate ownership on May 1, 1995 upon the effective date of this chapter, the above regulations shall not prohibit the erection of a one-family dwelling thereon.

(c) Minimum dwelling size. The minimum floor area of any dwelling shall be one thousand eight hundred

~~eighteen hundred~~ square feet (1,800 sq. ft.), exclusive of garages, breezeways, and porches. ~~Dwellings shall have a minimum seventy-five percent (75%) of the exterior walls of masonry construction or the heartwood of a natural decay resistance wood, cementitious siding, stucco, cultured stone exterior or combination of these materials. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.~~

- (d) Lot coverage. In no case shall more than thirty percent (30%) of the total lot area be covered by the combined area of the main buildings and accessory buildings.
- (e) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds ~~fifty thousand 50,000~~ square feet ~~(50,000 sq. ft.)~~.
- (f) Accessory building uses and structures shall comply with article **14.04**, division 8, of this chapter.
- (g) Roof pitch. Residential dwelling structures shall have a roof pitch of not less than six inches (6") vertical for each twelve-inch (12") horizontal (6:12). Alternative roof design and roof pitches may be considered and approved by the design review committee (DRC).
- (h) Exterior walls and foundation. The exterior walls of residential dwellings shall be supported on a continuous solid concrete beam or slab; or on a fully grouted masonry foundation designed to carry the imposed loads. Exterior and load bearing walls shall be secured to the foundation as required by the adopted residential building code.

(1995 Code, sec. 9-42; Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2022-08-00535 adopted 9/1/2022)

§ 14.03.174 through § 14.03.230. (Reserved)

Division 5

R1 Single-Family Residential District

§ 14.03.231 **Use regulations.**

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses, and article **14.02** division 4, specific use permits.

(Ordinance 2008-11-00634 adopted 11/20/08)

§ 14.03.232 **Height regulations.**

No building shall exceed thirty-five feet (35') or two and one-half (2-1/2) stories in height.

(1995 Code, sec. 9-51)

§ 14.03.233 **Area regulations.**

(a) Size of yards.

- (1) Front yard. The building line adjacent to a street shall be established at seventy-five feet (75') from the centerline of the street right-of-way or street reflected as type C or D roadway on the Master Thoroughfare Plan. (85' for type B, and 110' for Type A). ~~Where a building line is established on a plat, which is not consistent with this ordinance, the building line is a greater distance from the front property line shall be observed.~~ No required parking shall be allowed within the required front yard.
- (2) Side yard. The building line adjacent to the side property line(s) shall be not less than ten percent (10%) of the lot width, ~~for~~ twenty feet (20'), whichever is less. No side yard for allowable nonresidential uses shall be less than twenty-five feet (25').

- (3) Rear yard. The building line adjacent to the rear property line shall be not less than fifty feet (50').
- (b) Size of lot.
- (1) Lot area. No building shall be constructed on any lot of less than one (1) acre (43,560 square feet).
- (2) Lot width. The width of the lot shall be not less than one hundred forty feet (140') at the front building line setback street property line, nor shall its average width be less than one hundred sixty feet (160'). The minimum width of a lot on a cul-de-sac shall be not less than thirty feet (30') at the property line, nor shall its average width be less than one hundred sixty feet (160'). The minimum width of a lot on a curve exceeding 30 degrees shall be not less than thirty feet (30') at the property line, nor shall its average width be less than one hundred sixty feet (160').
- (3) Lot depth. The average depth of the lot shall not be less than one hundred eighty feet (180').
- (4) Where a lot having less area, width, and/or depth than herein required exists in separate ownership on May 1, 1995 upon the effective date of this chapter, the above regulations shall not prohibit the erection of a one-family dwelling thereon.
- (c) Minimum dwelling size. The minimum floor area of any dwelling shall be one thousand eight hundred eighteen hundred square feet (1,800 sq. ft.), exclusive of garages, breezeways, and porches. Dwellings shall have a minimum eighty-five percent (85%) of the exterior walls of masonry construction, stucco, cultured stone exterior or combination of these materials. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.
- (d) Lot coverage. In no case shall more than thirty percent (30%) of the total lot area be covered by the combined area of the main buildings and accessory buildings.
- (e) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds fifty thousand 50,000 square feet (50,000 sq. ft.).
- (f) Accessory building uses and structures shall comply with article **14.04**, division 8, of this chapter.
- (g) Roof pitch. Residential dwelling structures shall have a roof pitch of not less than six inches (6") vertical for each twelve-inch (12") horizontal (6:12). Alternative roof design and roof pitches may be considered and approved by the design review committee (DRC).
- (h) Exterior walls and foundation. The exterior walls of residential dwellings shall be supported on a continuous solid concrete beam or slab; or on a fully grouted masonry foundation designed to carry the imposed loads. Exterior and load bearing walls shall be secured to the foundation as required by the adopted residential building code.

(Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2016-02-00829 adopted 2/4/16; Ordinance 2022-08-00535 adopted 9/1/2022)

§ 14.03.234 through § 14.03.290. (Reserved)

Division 6
VC Village Center District

§ 14.03.291 **Purpose.**

The intent of this district is to provide a clustered village setting with a rural country style as a retail and neighborhood services area.

(1995 Code, sec. 9-60)

§ 14.03.292 **Use regulations.**

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses, and article **14.02**, division 4, specific use permits.

- (1) Any retail store or personal service listed in section **14.03.801** shall be permitted subject to the following conditions:
 - (A) The business establishment supplies the everyday shopping needs of the area.
 - (B) The business is conducted wholly within an enclosed building.
 - (C) Such use not be objectionable because of odor, excessive lights, smoke, dust, noise, vibration, or similar nuisance.
- (2) No mobile homes or HUD-code manufactured homes as defined herein shall be permitted.
- ~~(3) A specific use permit shall be required when the total square footage of any building exceeds 25,001 square feet.~~
- (3) Major retail development by specific use permit.
- (4) All drive-through, drive-in, and drive-up businesses shall require a specific use permit.

(Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2017-08-00861 adopted 8/3/17)

§ 14.03.293 **Building regulations.**

- (a) Buildings shall be clustered on site.
- (b) No flat roofs.
- ~~(c) A minimum of seventy five percent (75%) of all building exteriors shall be constructed with a 75% masonry exterior. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.~~
- (c) All mechanical equipment shall be screened from public view either by landscaping materials or materials that blend with the building.
- (d) Refuse collection areas shall be screened from public view.
- (e) Parking and drive to be weather-impervious surface developed in accordance with the city's pavement design manual standards.
- (f) Development shall comply with performance standards (article **14.04**, division 3, of this chapter).

(1995 Code, sec. 9-62; Ordinance 2012-06-00718, sec. 6, adopted 6/21/12)

§ 14.03.294 **Height regulations.**

Building height. Buildings shall not exceed a height of more than twenty-five feet (25').

- (1) The height shall be measured from the sidewalk or ground surface elevation along the side of the building fronting onto a public right-of-way to the highest point of the roof excluding chimneys, weather vanes and similar materials.

(Ordinance 2011-09-00685, sec. 1, adopted 9/1/11)

§ 14.03.295 **Area regulations.**

- (a) Lot area. Minimum three (3) acres net, exclusive of all street rights-of-way and the 100-year floodplain as determined by a registered surveyor.
- (b) Building area. The total building area shall not exceed a floor-area-to-land ratio of 0.30 to 1.
- (c) Front yard. Minimum fifty feet (50') from property line.
- (d) Side yard. Minimum fifty feet (50') from property line.
- (e) Rear yard. Minimum fifty feet (50') from property line.
- (f) Impervious coverage. The maximum impervious coverage shall not exceed seventy percent (70%) of the total lot area.
- (g) Development shall comply with performance standards (article 14.04, division 3, of this chapter).
- (h) Replacement of buffering/screening/fencing. All existing buffering, screening, and fencing that is replaced is required to be replaced with materials required by code for new construction. If there is no material listed for the application then the replacement will match existing material for buffering, screening, or fencing, the item being replaced.

(1995 Code, sec. 9-64; Ordinance 2011-09-00685, sec. 1, adopted 9/1/11; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.296 **Site plan approval.**

- (a) Prior to issuance of any building permit, an application in writing, for the approval of the site plan, together with seven (7) copies, shall be filed with the city secretary. The plans are to be submitted at least fourteen (14) consecutive calendar days before the meeting of the planning and zoning commission at which they are to be considered; if the site plan is to be considered at such meeting. No site plan will be considered by the city until the prescribed filing fees have been paid. Applicant shall submit proof of written notification set forth in chapter 10, division 2, section 10.03.037 ~~6, article 4, section 6-11~~, of the Code of Ordinances. The site plan shall contain those items as designated by approved city procedure, but not be limited to the following information:

~~**Editor's note** The reference above to "chapter 6, article 4, section 6-11, of the Code of Ordinances" is no longer applicable. Former chapter 6 has been completely superseded by Ordinance No. 2006-07-00567, which is now codified in chapter 10, article 10.03.~~

- (1) The boundaries and dimensions of the proposed development, including total area.
- (2) Adjoining property, owners, and zoning.
- (3) Contour lines at five-foot intervals.
- (4) Location map.
- (5) Existing or platted streets, public rights-of-way, easements or railroads within or adjacent to the tract.
- (6) Existing and proposed utility lines showing sizes of water and sewer lines.
- (7) Existing and proposed fire hydrants and fire lanes.
- (8) Location of all easements.

- (9) Building setback lines.
- (10) Location and dimensions of buildings.
- (11) Means of ingress and egress.
- (12) Engineering for drainage.
- (13) Areas designated for landscaping and location of exterior lighting.
- (14) Parking area locations and specifications.
- (15) Must be drawn to an acceptable scale.
- (16) Must provide signature lines for chairman of planning and zoning commission, city engineer, and mayor to signify approval.
- (b) For the purpose of assisting in-process planning, a properly designated “preliminary” site plan may be submitted for consideration. Approval of a “preliminary” site plan will not imply approval of all elements of a site plan.
- (c) Final plans shall be approved by city council as provided in article **14.02**, division 5, of this chapter.

(1995 Code, sec. 9-65; Ordinance 1996-11-00343, sec. 10, adopted 11/4/96; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.297 Landscaping plan approval.

- (a) Prior to issuance of any building permit, ~~an electronic copy in PDF format there shall be seven (7) copies~~ of a landscape plan ~~shall be~~ submitted to the city ~~secretary~~. The plans are to be submitted at least fourteen (14) days prior to the planning and zoning commission meeting at which they are to be considered. The landscape plan shall be approved or disapproved based on its compliance with the following requirements and any other deemed necessary to promote the character and value of the surrounding neighborhoods:
 - (1) Plans shall be to same scale as approved site plan.
 - (2) A minimum of ~~fifteen percent (15%)~~ of the gross area must be landscaped.
 - (3) The area between the property line and the street shall be included in the landscape plan and shall be maintained by the abutting property owner.
 - (4) Heights of landscaping materials shall be such that they do not create safety hazards for vehicular traffic by blocking sight lines at ingress and egress points.
 - (5) The specifications shall state the common names, sizes, and quantity of all materials to be utilized.
 - (6) Where the property abuts a ~~different zoning district~~~~different zone~~, it shall be screened as provided in article **3.18** of this code.
- (b) It shall be the property owner’s responsibility to permanently maintain the approved landscaping in a neat and orderly manner.
- ~~(c)~~ Final plans shall be approved by city council as provided in this chapter.

(Ordinance 2011-09-00685, sec. 1, adopted 9/1/11; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.298 **Architectural plan approval.**

(a) Prior to the issuance of a building permit, ~~an electronic copy in PDF format there shall be seven (7) copies~~ of a proposed architectural elevation of the building or buildings ~~shall be~~ submitted to the city ~~secretary~~. The plans are to be submitted at least fourteen (14) days prior to the planning and zoning commission meeting at which they are to be considered. The proposed architectural rendering, including use of site and/or building signage, shall be approved or disapproved based on its ability to create a village setting with a rural country style as a retail and neighborhood services area. This effort shall entail several design fixtures such as the use of clustered buildings as opposed to strip-type development. Sloping roofs are required as are overhanging colonnades.

(b) Final plans shall be approved by city council as provided in this chapter.

(1995 Code, sec. 9-67; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.299 **Off-street loading and parking.**

See article **14.04**, division 2.

(1995 Code, sec. 9-68)

§ 14.03.300 through § 14.03.350. (Reserved)

Division 7

CB Commercial Business District

§ 14.03.351 **Purpose.**

This is a general commercial zoning district for areas that provide the greatest number and mix of retail and commercial uses. This zoning district is designed and intended to serve as the commercial support zone of the entire community. It should be located in such a manner as to have reasonable access to arterial roadways so that ingress and egress to the CB area may be managed in a safe and controlled manner.

(Ordinance 2005-12-00544, sec. 1, adopted 12/5/05)

§ 14.03.352 **Use regulations.**

In the commercial business district, land uses shall be those associated with retail, commercial, office, service, institutional or professional activities. Major retail development shall be permitted by specific use permit. No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses, and article **14.02** division 4, specific use permits.

(Ordinance 2008-11-00634 adopted 11/20/08)

§ 14.03.353 **Development regulations.**

In the commercial business district, the following development regulations shall be applicable to all buildings:

- (1) Building height. Buildings shall not exceed a height of more than thirty-five feet (35').
 - (A) The height shall be measured from the sidewalk or ground surface elevation along the side of the building fronting onto a public right-of-way to the top of the roof.
- (2) Setbacks. The following setbacks are required in the commercial business district:
 - (A) Front yard setbacks shall be a minimum of fifty feet (50') from the street right-of-way.
 - (B) Side yard setbacks shall be a minimum of twenty feet (20'). Where a CB zone abuts on the side of a

- property zoned as single-family residential, each portion of a building in excess of ten feet (10') in height shall be set back two (2) additional feet for each additional one (1) foot in height.
- (C) Rear yards shall be a minimum of twenty-five feet (25') ~~except~~ where the lot abuts property zoned as single-family residential ~~where~~ there shall be a minimum rear yard of not less than one hundred feet (100') and not separated by a street or public right-of-way.
- (D) Rear yard setbacks abutting property zoned as single-family residential shall include at least fifty feet (50') of green space adjacent to the residential district. Green space includes landscaping and turf grass.
- (3) Minimum lot area. The minimum area for lots in the commercial business district shall be thirty thousand ~~square feet~~ (30,000 ~~sq. ft.~~) ~~square feet~~ on lots with access to city sewer, lots without access to city sewer shall be a minimum of ~~forty-three thousand five hundred sixty~~ 43,560 square feet (43,560 ~~sq. ft.~~) exclusive of all street rights-of-way and the designated 100-year floodplain as determined by a registered survey.
- (4) Maximum lot coverage. The maximum lot coverage for buildings on individual lots is forty percent (40%) of the lot area, including accessory buildings.
- (5) Floor area. Each store, shop or business shall have a minimum of five hundred (500) square feet of floor area. ~~There is no maximum floor space.~~
- (6) Business operations. The following special conditions apply to business operations within the CB district:
- ~~(A) All commercial uses within this district shall be sales and/or service type uses.~~
- (A) All business shall be conducted entirely within a building. Restaurants offering outside dining or businesses with outside storage and/or display of any type shall be allowed only upon the approval of a specific use permit.
- (B) No drive-in services of any type shall be located nearer than one hundred feet (100') of an abutting single-family zoned district. Where drive-in services are allowed, a solid fence of wood or masonry with a height of six feet (6') shall be required to buffer the drive-in service from the abutting single-family residential district.
- (7) Off-street parking and loading. Required off-street parking may be located within the required setback, provided there is a ~~fifty-foot~~ (50') landscape buffer adjacent to the property line. Such off-street parking spaces shall be on a hard-surfaced drive or parking area. Specific off-street parking and loading requirements are contained in article **14.04**, division 2, of this chapter.
- (8) Buffering and screening. The following standards for buffering and screening shall apply for all buildings in the commercial business district:
- (A) Parking lot layout, landscaping, buffering and screening shall minimize direct views of parked vehicles from streets.
- (B) Off-street loading areas shall be located at the rear of all buildings and shall be adequately screened from view of any adjacent single-family residential use.
- (C) Outdoor storage of trash receptacles shall be at the side or rear of the site and shall be ~~totally circled or~~ screened by fence, planting or other suitable visual barrier and be secured from public access.
- (D) Transformers, HVAC equipment (if located at ground level), lift stations, utility meters and other machinery, as well as garbage collection points, shall be located at the rear property line, drive, or alley.

If such uses are visible from an adjacent right-of-way or property, they shall be totally screened by a fence or suitable plant or other visual barrier of an appropriate height or as proposed or approved in the development site plan. Trash receptacles shall have a door which shall remain closed at all times.

- (9) Impervious coverage. The maximum impervious coverage shall not exceed sixty-five percent (65%) of the total lot area.
- (10) Accessory buildings and structures customarily associated with any of the above establishments to which they refer shall be constructed to meet all of the requirements of the main building.
- (11) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds fifty thousand 50,000 square feet (50,000 sq. ft.).
- (12) All drive-through, drive-in, and drive-up businesses shall require a specific use permit.
- (13) Replacement of buffering/screening/fencing. All existing buffering, screening, and fencing that is replaced is required to be replaced with materials required by code for new construction. If there is no material listed for the application then the replacement will match existing material for buffering, screening, or fencing, of the item being replaced.

(Ordinance 2005-12-00544, sec. 1, adopted 12/5/05; Ordinance 2006-10-00577, sec. 2, adopted 10/16/06; Ordinance 2013-05-00756, sec. 2, adopted 5/2/13; Ordinance 2013-07-00761 adopted 7/18/13; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.354 Special district requirements.

- (a) Site plan approval. The following site plan elements shall be required for development of property:
 - (1) Prior to issuance of a building permit an electronic copy, seven (7) copies of a site plan, drawn to a scale of not less than one inch equals fifty feet, shall be submitted to the city secretary a minimum of fourteen (14) days prior to the date at which the planning and zoning committee is scheduled to consider said site plan on their regular agenda. The site plan must contain at a minimum the following:
 - (A) The boundaries and dimensions of the proposed development, including total area.
 - (B) The owners, zoning classification and description of adjacent properties.
 - (C) Contour lines with five-foot intervals.
 - (D) Location map showing site within the city.
 - (E) Existing and platted streets, public rights-of-way, easements and railroads within and adjacent to the site.
 - (F) Existing and proposed utility lines showing sizes of water and sewer lines.
 - (G) Existing and proposed fire hydrants and fire lanes.
 - (H) Location and dimension of all buildings and building setback lines.
 - (I) Engineering for drainage.
 - (J) Areas designated for landscaping together with proposed irrigation and a tree management plan.
 - (K) Parking area locations and specifications.

- (L) Signage and lighting.
- (M) Location of all exterior mechanical, electrical and communication equipment.
- (N) Location of all refuse containers, loading docks and screening.
- (O) Signature lines for chairman of the planning and zoning committee, city engineer and mayor shall be provided to signify approval.
- (2) For the purposes of assisting in-process planning, a properly designated “preliminary” site plan shall be submitted for consideration. Approval of a “preliminary” site plan will not imply approval of all elements of a “final” site plan.
- (3) The site plan may only be approved by the planning and zoning commission and the city council.
- (4) Any changes to an approved “final” site plan will require approval of the planning and zoning commission and the city council.
- (b) Landscape plan approval. The following landscape plan elements shall be required for the development of the property:
 - (1) Prior to issuance of a building permit, ~~electronic seven (7)~~ copies of a landscape plan, drawn to a scale of not less than one inch equals fifty feet, shall be submitted to the city secretary a minimum of fourteen (14) days prior to the date at which the planning and zoning committee is scheduled to consider said landscape plan on their regular agenda. The site plan must contain at a minimum the following:
 - (A) A minimum of fifteen percent (15%) of the gross area of the property shall be landscaped.
 - (B) The area between the property line and the paved street shall be included in the landscape plan and shall be maintained by the abutting property owner.
 - (C) Heights of landscape materials shall be such that they do not create safety hazards for vehicular traffic by blocking sight lines at ingress/egress points.
 - (D) The landscape specifications shall indicate the common names and scientific names, sizes and quantities of all material to be utilized.
 - (E) Property abutting different districts shall be screened by a living screen. Plantings which serve as living screens shall be evergreen with a minimum initial height of six feet (6') and shall provide a solid visual barrier within two (2) years of planting.
~~(2) — years of planting.~~
 - (c) It shall be the property owner’s responsibility to permanently maintain the approved landscaping in a neat and orderly manner.
 - (d) Landscaping shall mean plant materials (other than turf grasses) and other approved landscape materials arranged in an approved manner. All plant materials shall be selected from any plant list or landscape ordinance adopted by the city.
- (e) Architectural plan approval. The following architectural plan elements shall be required for development of property.
 - (1) Prior to issuance of a building permit, seven (7) copies of an architectural plan, drawn to a scale of not less than one inch equals fifty feet, shall be submitted to the city secretary a minimum of fourteen (14)

days prior to the date at which the planning and zoning committee is scheduled to consider said architectural plan on their regular agenda. The site plan must contain at a minimum the following:

- ~~(A) A minimum of seventy-five percent (75%) of all building exteriors shall be constructed with a 75% masonry exterior. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.~~
- ~~(B) All buildings shall be designed and constructed in an architecturally compatible manner which conveys a village setting as a retail and neighborhood services area with a clustered setting for buildings, as opposed to "strip type" commercial development.~~
- (C) Storefronts or faces of commercial buildings in excess of sixty feet (60') shall have a minimum five-foot setback at no greater intervals than sixty feet (60'). Multiple adjacent building fronts shall conform to this same rule.
- (f) Pet boarding. Pet boarding shall be permitted with a special use permit in commercial business and light industrial districts provided they meet the following requirements:
 - (1) Pets shall be supervised when they are outdoors.
 - (2) Pets shall only be permitted outdoors between the hours of 6:00 a.m. and 10:00 p.m.
 - (3) Adequate facilities shall be provided to separate animals of different species, size, and sex (if needed).
 - (4) Pets shall have an environment that supports their safety and well-being.
 - (5) Pet boarding shall only serve pets for a period not to exceed sixty (60) consecutive days.

(Ordinance 2005-12-00544, sec. 1, adopted 12/5/05; Ordinance 2013-10-00772 adopted 10/3/13; Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2018-03-00876 adopted 3/1/18)

§ 14.03.355 Major Development Standards.

The following development standards apply to all major ~~retail~~ development. The goal of these development standards is to affirm the city's objective that major ~~retail~~ development[s] create or impart a sense of place and/or streetscape at a scale appropriate to the character of Lucas with its small town atmosphere, as well as preserving the diversity and vitality of Lucas' commercial districts and the quality of life of Lucas residents. It is generally noted that the typical or classic 'big box' type of commercial building and development pattern does not meet these community development objectives. In addition to the development standards prescribed elsewhere in this chapter, including, but not limited to the applicability of site plan review or discretionary review process prescribed in this chapter, all major retail development shall comply with the following development standards:

- (1) A typical or classic 'big box' design shall not be allowed (e.g., large four-sided structure with little or no ornamentation, decoration, unique architectural features, interesting fenestration, etc.).
- (2) When the project site is within three hundred ~~(300)~~ feet (300') of a residential zoning district, measured from the property line and excluding streets and alleys, the maximum height of any wall excluding architectural accent features shall be the maximum height permitted in that residential zoning district.
- (3) The design of service areas, including outdoor storage, trash collection, loading, outdoor display, shall be incorporated into the primary building design and shall be of materials of comparable quality and appearance as that of the primary building.
- (4) When the service areas (loading docks, refuse storage and enclosures, etc.) are adjacent to or across the

street from residential neighborhoods, all delivery trucks, garbage trucks, and other large vehicles servicing the commercial development shall access the service areas via internal driveways and not from the residential street.

- (5) Rooftop equipment shall not be visible from a point of view that is five-feet above grade at a distance of two hundred (200) feet from the walls of the structure.
- (6) The off-street parking serving the commercial development shall be divided into multiple 'lots', as necessary, so that no single 'lot' has more than one hundred twenty (120) parking spaces. The 'lots' shall be separated from each other by a visually aesthetic buffer, such as a landscape area including a landscaped street or landscaped pedestrian way, or other appropriate landscape or hardscape features.
- (7) The maximum number of off-street parking spaces serving the development shall not exceed by more than ten ~~(10)~~ percent (10%) the minimum number of required off-street parking as prescribed in the Lucas ~~Municipal Code~~ of Ordinances.
- (8) A covered passenger loading area shall be provided. ~~±~~
- (9) Pedestrian walkways within the development shall be differentiated from driving surfaces through a change in elevation and materials.
- (10) Parking and security lights shall not be taller than the buildings within the development, or a maximum of twenty-four (24) feet above grade, whichever is less.
- (11) All freestanding signs shall be located in a landscaped area that is equal in size or larger than the total sign area for that freestanding sign.
- (12) No reader boards having changeable copy, electronic or otherwise, are allowed.
- (13) If the development is located on an existing public transit route, or a reasonably foreseeable future transit route, a bus pullout and shelter shall be developed on-site or at a location approved by the transit service provider.

(Ordinance 2007-06-00591, sec. 2, adopted 6/7/07)

§ 14.03.356 Major retail development traffic studies.

- (a) Traffic impact study. All development applications for major retail development as defined herein, shall prepare a traffic impact analysis which provides for assessment of current road conditions, estimates of traffic generation matters involving current traffic counts, proposed optimum ingress and egress patterns along with internal traffic flow.

(Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.357 through § 14.03.410. (Reserved)

Division 8

PD Planned Development District

§ 14.03.411 General purpose and description.

- (a) The city council, after public hearing and proper notice to all parties affected and after recommendation from the planning and zoning commission, may authorize the creation of a planned development district.
- (b) The planned development district is a district which accommodates planned associations of uses developed as integral land use units such as industrial districts, offices, commercial or service centers,

shopping centers, retail centers, residential developments or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A planned development district may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter. While greater flexibility is given to allow special conditions or restrictions, which would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

(Ordinance 2006-01-00548, sec. 1, adopted 1/3/06)

§ 14.03.412 Permitted uses.

An application for a planned development district shall specify the base district(s), [and] the use or the combination of uses proposed. Uses which may be permitted in a planned development district must be specified if not permitted in the base district(s). Specific use permits allowed in a base zoning district are allowed in a planned development district only if specifically identified at the time of approval by the city council.

(Ordinance 2006-01-00548, sec. 1, adopted 1/3/06)

§ 14.03.413 Planned development requirements.

- (a) Development requirements for each separate planned development district shall be set forth in the ordinance granting the planned development district and shall include, but may not be limited to: uses, density, lot area, lot width, yard depths and widths, building height, building elevations, building material coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, hours of operation, project phasing or scheduling, management associations, and other requirements as the city council may deem appropriate.
- (b) All applications for a planned development district shall list all requested deviations from the standard requirements set forth throughout this chapter. The planned development district shall conform to other sections of this chapter unless specifically excluded in the granting ordinances granting the planned development district.
- (c) Detailed site plan. A detailed site plan shall be submitted as a part of the planned development district application shall set forth the final plans for development of the planned development district ~~and shall be considered part of the planned development district~~. Changes of detail on the detailed site plan, which differ from the approved detailed site plan, but do not alter the basic relationship of the proposed development to the adjacent property, the uses permitted, or increase the density, building height or coverage of the site, the off-street parking ratio or reduce the yards provided at the boundary of the site, or do not significantly alter the landscape plans as indicated on the approved site plan, may be authorized by the city council without an amendment to the planned development district ordinance.

(Ordinance 2006-01-00548, sec. 1, adopted 1/3/06)

§ 14.03.414 Mandatory homeowners' association.

In a planned development district for residential uses, property owner or homeowner associations are to be established for the purpose of ownership, maintenance and management of open spaces. The initial term of the agreement, covenants and restrictions establishing and creating the homeowners' association shall be for a twenty-five-year period and shall automatically renew for successive ten-year periods, and the homeowners' association may not be dissolved without the prior written consent of the city.

(Ordinance 2006-01-00548, sec. 1, adopted 1/3/06)

§ 14.03.415 **City/developer facilities agreement.**

Planned development districts may require a city/developer facilities agreement prior to or contemporaneous with the final plat approval. This agreement shall reflect the cost-sharing agreement between the city and the developer for the installation or over-sizing of utility systems, perimeter streets, mandatory construction or dedication of park or open space area, landscaping or greenbelt development or other comparable items, phasing of the development, maximum density or intensity of use during the construction process, and the maintenance of open space.

(Ordinance 2006-01-00548, sec. 1, adopted 1/3/06)

§ 14.03.416 **Zoning ordinance compliance and zoning map.**

All planned development districts approved in accordance with the provisions of the zoning ordinance in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such planned development districts, together with the category of uses permitted therein, shall be maintained as a part of this code.

(Ordinance 2006-01-00548, sec. 1, adopted 1/3/06)

§ 14.03.417 through § 14.03.470. (Reserved)

Division 9

LI Light Industrial District

§ 14.03.471 **Use regulations.**

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses, and article **14.02** division 4, specific use permits.

~~(1) No mobile homes or HUD code manufactured homes as defined herein shall be permitted.~~

~~(2) A special exception shall be required when the total square footage of the main building and/or any accessory buildings exceeds 50,000 square feet.~~

~~(3) All drive-through, drive-in and drive-up businesses shall require a specific use permit.~~

(Ordinance 2008-11-00634 adopted 11/20/08; Ordinance 2013-05-00756, sec. 3, adopted 5/2/13)

§ 14.03.472 **Building regulations.**

(a) All drive-through, drive-in and drive-up businesses shall require a specific use permit.

~~(a) A minimum of seventy-five percent (75%) of all building exteriors shall be constructed with a 75% masonry exterior. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.~~

(b) All mechanical equipment shall be screened from public view either by landscaping materials or materials that blend with the building.

(c) Refuse collection areas shall be screened from public view.

(d) Parking and drives to be weather-impervious surface developed in accordance with city standards.

(e) Outside storage by specific use permit.

(f) Loading docks to be at rear or side of building and shall be screened from public view.

~~(g) A specific use permit shall be required when the total square footage of the main building and/or any~~

~~accessory buildings exceeds 50,000 square feet.~~

- (g) Replacement of buffering/screening/fencing: all existing buffering, screening, and fencing that is replaced is required to be replaced with materials required by code for new construction. If there is no material listed for the application then the replacement will match existing material for buffering, screening, or fencing, of the item being replaced.

(1995 Code, sec. 9-81; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.473 Height regulations.

The maximum height for the main building, including roof-mounted mechanical equipment, shall be two and one-half (2-1/2) standard stories, but shall not exceed thirty-five feet (35') in height provided that any building or portion thereof may be erected above the said limit if setbacks from all streets and required yard lines are an additional one foot (1') for each one foot (1') of its height above said limit.

(1995 Code, sec. 9-82)

§ 14.03.474 Area regulations.

- (a) Lot area. Minimum two (2) acres net, exclusive of all street rights-of-way and the 100-year floodplain as determined by a registered survey.
- (b) Building area. The total building area, including accessory buildings, shall not exceed a floor-area-to-land ratio of 0.40 to 1.
- (c) Front yard. Minimum of one hundred feet (100') from property line.
- (d) Side yard. Minimum twenty-five feet (25') from property line. Minimum fifty feet (50') from a residential district.
- (e) Rear yard. Minimum twenty-five feet (25') from property line. Minimum fifty feet (50') from a residential district.

(1995 Code, sec. 9-83; Ordinance 1996-11-00343, sec. 14, adopted 11/4/96)

§ 14.03.475 Site plan approval.

Same as section **14.03.296**, save and except that side must be screened where it abuts different zoning districts.

(Ordinance 1996-11-00343, sec. 15, adopted 11/4/96)

§ 14.03.476 Landscaping plan approval.

Same as section **14.03.297**.

(1995 Code, sec. 9-85)

§ 14.03.477 Off-street loading and parking.

See article **14.04**, division 2.

(1995 Code, sec. 9-86).

§ 14.03.478 through § 14.03.530. (Reserved)

ED Estate Development District

§ 14.03.531 Purpose.

It is the intended purpose of this zoning district to provide for the unified and coordinated development of parcels or tracts of primarily vacant land. Certain freedom of choice as to intended land use shall be permitted, provided that the special requirements which may apply are complied with and that the intended uses are not in conflict with the general purpose and intent of either this chapter or the comprehensive plan for the city.

(1995 Code, sec. 9-90)

§ 14.03.532 Use regulations.

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section 14.03.801, schedule of uses, and article 14.02 division 4, specific use permits.

(Ordinance 2008-11-00634 adopted 11/20/08)

§ 14.03.533 Height regulations.

No building shall exceed thirty-five feet (35') or two and one-half (2-1/2) stories in height.

§ 14.03.534 Area regulations.

(a) Size of yards.

(1) Front yard. The building line adjacent to a street shall be established at seventy-five feet (75') from the centerline of the street right-of-way or street reflected as type C or D roadway on the Master Thoroughfare Plan. (85' for type B, and 110' for Type A). No required parking shall be allowed within the required front yard.

(2) Side yard. The building line adjacent to the side property line(s) shall be not less than ten percent (10%) of the lot width, or twenty feet (20'), whichever is less. No side yard for allowable nonresidential uses shall be less than twenty-five feet (25').

(3) Rear yard. The building line adjacent to the rear property line shall be not less than fifty feet (50').

(b) Size of lot.

(1) Lot area.

No building shall be constructed on any lot of less than one and one-half (1-1/2) acres (65,340 square feet).

(2) Lot width.

The width of the lot shall be not less than one hundred sixty feet (160') at the front building line setback. The minimum width of a lot on a cul-de-sac shall be not less than thirty-five feet (35') at the property line, nor shall its average width be less than one hundred seventy-five feet (175'). The minimum width of a lot on curve exceeding thirty degrees shall be not less than thirty-five feet (35') at the property line, nor shall its average width be less than one hundred seventy-five feet (175').

(3) Lot depth.

The average depth of the lot shall not be less one hundred eighty feet (180').

(4) Where a lot having less area, width, and/or depth than herein required exists in separate ownership upon the effective date of this chapter, the above regulations shall not prohibit the erection of a one-family dwelling thereon.

(c) Minimum dwelling size.

The minimum floor area of any dwelling shall be one thousand eight hundred square feet (1,800 sq. ft.), exclusive of garages, breezeways, and porches.

(d) Lot coverage.

In no case shall more than thirty percent (30%) of the total lot area be covered by the combined area of the main buildings and accessory buildings.

(e) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds fifty thousand square feet (50,000 sq. ft.).

(f) Accessory building and structures shall comply with article 14.04, division 8, of this chapter.

(g) Roof pitch.

Residential dwelling structures shall have a roof pitch of not less than six inch (6") vertical for each twelve inch (12") horizontal (6:12). Alternative roof design and roof pitches may be considered and approved by the design review committee (DRC).

(h) Exterior walls and foundation.

The exterior walls of residential dwellings shall be supported on a continuous solid concrete beam or slab; or on a fully grouted masonry foundation designed to carry the imposed loads. Exterior and load bearing walls shall be secured to the foundation as required by the adopted residential building code.

14.03.535. Special conditions.

(1) No front-entry garages will be allowed.

(2) The minimum lot size is one and a half acres (1 ½) acres, the average lot size for the proposed development shall be four (4) acres.

(3) A homeowners' association must be created to maintain the open spaces. Association guidelines and rules will be submitted at time of site plan plat approval.

(4) Underground utilities will be required.

§ 14.03.533 Height, lot, and yard requirements.

(a) Height, lot, and yard requirements shall conform to the requirements of the appropriate sections of this chapter, except that modifications in these regulations may be granted if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this chapter, and will not adversely affect nearby properties.

(b) The following requirements shall be used for areas developed as half-acre lots:

(1) Height regulations. No building shall exceed thirty-five feet (35') or two and one-half (2 1/2) stories in

height.

~~(2) Area regulations.~~

~~(A) Size of yards.~~

~~(i) Front yard. There shall be a front yard having a depth of not less than fifty feet (50').~~

~~(ii) Side yard. There shall be a side yard on each side of the lot having a minimum width of twenty-five feet (25'). A side yard adjacent to a side street shall not be less than fifty feet (50').~~

~~(iii) Rear yard. There shall be a rear yard having a depth of not less than twenty-five feet (25').~~

~~(B) Size of lot.~~

~~(i) Lot area. No building shall be constructed on any lot of less than twenty-one thousand seven hundred eighty (21,780) square feet.~~

~~(ii) It is intended to preserve the rural atmosphere with deep setbacks and wide lot widths.~~

~~(3) Building regulations. The minimum floor area of any dwelling, exclusive of garages, breezeways, and porches, shall be sixteen hundred square feet (1,600 sq. ft.) with a minimum of seventy-five percent (75%) of the exterior walls of masonry construction or the heartwood of a natural decay resistance wood, cementitious siding, stucco, cultured stone exterior or combination of these materials. Alternate materials may be approved by the DRC so as to maintain the architectural compatibility with existing structures.~~

~~(1995 Code, sec. 9-92; Ordinance 2012-06-00718, sec. 9, adopted 6/21/12)~~

§ 14.03.534 Area requirements.

For the purposes of this chapter, the entire tract to be zoned "ED" may be considered as one building lot, or separate areas intended for separate land uses may be considered as separate building lots. Required open space is established at a minimum of 15% of the total developed acreage. Open space must have public access and may include public street rights of way exclusive of impervious surface.

~~(1995 Code, sec. 9-93)~~

§ 14.03.535 Parking regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in article 14.04, division 2.

~~(1995 Code, sec. 9-94)~~

§ 14.03.536 Special conditions.

The following special conditions apply to uses located in this zoning district:

~~(1) A minimum land area of ten (10) acres shall be required before application for an estate development will be approved.~~

~~(2) All requirements of any subdivision regulations of the city pertaining to procedure, plan, and design criteria among others shall be complied with and include height, lot, yard, and area requirements as designated in the appropriate sections of this chapter.~~

~~(3) No front entry garages will be allowed.~~

- ~~(4) All proposed estate developments shall require a mandatory site and landscape plan submittal as per sections **14.03.296** and **14.03.297** of this chapter. The site and landscape plans will be reviewed and approved by the planning and zoning commission, city engineer, and the city council in public hearings prior to receiving plat approval or building permit. In addition to the site plan, the owner shall provide such other sketches, diagrams, and calculations necessary to determine whether the proposed development conforms with the provisions of the district and to determine the effect of the proposed development on population densities, streets, schools, recreation, and other community facilities in the area. Such site plans, sketches, diagrams, and calculations shall become a part of the amendment for the “ED” district and shall form the basis for issuance of a building permit on conformity therewith.~~
 - ~~(5) Property to be developed for nonresidential purposes, other than public and semipublic uses, shall be located upon a thoroughfare, except if it abuts property which is zoned for commercial or industrial purposes and which has major street frontage. A plan for development of the property, showing adequate access to and from the major streets, shall be submitted to the planning and zoning commission.~~
 - ~~(6) Prior to the issuance of a certificate of occupancy, a screening device, as defined in this chapter, shall be built along that boundary of the area proposed for “VC” use which abuts property developed, zoned, or designated for any type of residential use.~~
 - ~~(7) Lighting devices in conjunction with “VC” uses or parking lots shall not be operated so as to produce direct or reflected light or glare across abutting property lines.~~
 - ~~(8) Loudspeakers and similar devices in conjunction with commercial uses or parking lots shall not be used.~~
 - ~~(9) Accessory building and structures shall comply with article **14.04**, division 8, of this chapter.~~
 - ~~(10) Open space will be interconnected from interior of the site to the exterior when feasible.~~
 - ~~(11) A landscape plan shall include irrigation system size, quantity, and type of landscaping materials drawn to same scale as the site plan. A minimum of twenty percent (20%) shall be materials other than grasses. The landscape plan shall be submitted to the planning and zoning commission for approval.~~
 - ~~(12) Cluster development is preferred.~~
 - ~~(13) Residential uses are limited to single family detached housing and their related accessory buildings.~~
 - ~~(14) Cul de sac streets shall have open space access for the public to the required open space system.~~
 - ~~(15) A homeowners’ association must be created to maintain the open spaces. Association guidelines and rules will be submitted at time of site plan approval.~~
 - ~~(16) Underground utilities will be required.~~
 - ~~(17) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds 50,000 square feet.~~
- ~~(1995 Code, sec. 9-95; Ordinance 2006-10-00577, sec. 2, adopted 10/16/06; Ordinance 2015-08-00816 adopted 8/20/15)~~

§ 14.03.537 through § 14.03.590. (Reserved)

Division 11

(Reserved)

§ 14.03.591 through § 14.03.650. **(Reserved)**

Division 12

Manufactured Home District

§ 14.03.651 **Purpose.**

It is the intended purpose of this zoning district to provide for a district in which manufactured homes are permitted for single-family residential use. The term “manufactured home” as used herein is defined in V.T.C.A., Occupations Code, section 1201.003.

(Ordinance 1995-09-00310, sec. 2, adopted 9/11/95)

§ 14.03.652 **Manufactured home district (MHD).**

Any area or tract of land that is zoned as a manufactured home district (MHD) is restricted to one (1) HUD-code manufactured home or a site-built home per lot for use as a single-family residence.

(Ordinance 1995-09-00310, sec. 2, adopted 9/11/95)

§ 14.03.653 **Use regulations.**

No land shall be used and no building shall be erected, altered, converted or used for a use other than those specified in section **14.03.801**, schedule of uses. Additionally, a lot in this zoning district may be used for any use allowed in R2 district as defined in this chapter in addition to the use of a HUD-code manufactured home for residential purposes. All regulations or ordinances of the town that relate to health, safety and welfare shall apply to a manufactured home district.

(Ordinance 2008-11-00634 adopted 11/20/08)

§ 14.03.654 **Height, lot, and yard requirements.**

Height, lot and yard requirements shall conform to the following requirements, except that modifications in these regulations may be granted if it shall be found by clear and convincing evidence that such modifications are in the public interest, are in harmony with the purposes of this chapter, and will not compromise or endanger the public health, or any property within five hundred feet (500') of the lot on which a modification is requested. Modifications must be approved by the board of adjustments following a public hearing.

(1) The following requirements shall apply to each developed lot:

(A) Height regulations. No site-built building or structure shall exceed twenty-six feet (26') in height or two (2) stories.

(B) Area regulations. Same as section **14.03.113**.

(i) No lot without public sanitary sewer shall be less than two (2) acres.

(Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.655 **Parking regulations.**

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in article **14.04**, division 2.

(Ordinance 1995-09-00310, sec. 2, adopted 9/11/95)

§ 14.03.656 **Supports, tiedowns and skirting.**

Every manufactured home situated in this district must be supported by cinderblocks or concrete piers at a minimum of eight (8) points under the frame of the manufactured home, together with eight (8) tiedowns. Each manufactured home must be completely skirted within sixty (60) days from the date of installation.

(Ordinance 1995-09-00310, sec. 2, adopted 9/11/95)

§ 14.03.657 through § 14.03.710. **(Reserved)**

Division 13
OS Open Space District

§ 14.03.711 **Purpose.**

To provide land use regulations to control development in areas designated OS; to provide environmental aesthetic control of the open spaces; to provide recreational facilities; and to coordinate with the county open space plan.

(1995 Code, sec. 9-120)

§ 14.03.712 **Use regulations.**

In an OS district, no land shall be used and no building shall be used, erected, or converted to any use other than:

- (1) Golf courses.
- (2) Equestrian uses.
- (3) Nonmotorized trails.
- (4) Public parks.
- (5) Agricultural uses.
- (6) Single-family residences on a minimum of ten (10) acres and in accordance with all other regulations listed under R2 district.
- (7) Any use or public building to be erected or used by the city government.
- (8) Other uses not prohibited by this code may be permitted under the provisions of article **14.02**, division 4, specific use permits.
- (9) No mobile homes or HUD-code manufactured homes as defined herein shall be permitted.
- (10) A specific use permit shall be required when the total square footage of the main building and/or any accessory buildings exceeds fifty thousand ~~50,000~~ square feet (50,000 sq. ft.).
- (11) Accessory buildings and structures customarily associated with any of the above nonresidential establishments to which they refer shall be constructed to meet all of the requirements of the main building. Accessory buildings associated with residential structures shall comply with article **14.04**, division 8, of this chapter.

(1995 Code, sec. 9-121; Ordinance 1995-09-00310, sec. 1(G), adopted 9/11/95; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.03.713 **Building regulations.**
Same as village center (VC).

(1995 Code, sec. 9-122)

§ 14.03.714 **Height regulations.**
Same as residential-2 (R2).

(1995 Code, sec. 9-123)

§ 14.03.715 **Area regulations.**
Same as residential-2 (R2).

(1995 Code, sec. 9-124)

§ 14.03.716 **Site plan approval.**
Same as village center (VC).

(1995 Code, sec. 9-125)

§ 14.03.717 **Landscape plan approval.**
Same as village center (VC).

(1995 Code, sec. 9-126)

§ 14.03.718 **Architectural plan approval.**
Same as village center (VC).

(1995 Code, sec. 9-127)

§ 14.03.719 **Off-street loading and parking.**
Same as village center (VC).

(1995 Code, sec. 9-128)

§ 14.03.720 through § 14.03.770. **(Reserved)**

Division 14
(Reserved)

§ 14.03.771 through § 14.03.800. **(Reserved)**

Division 15
Schedule of Uses

§ 14.03.801 **Use designations.**

- (a) The use of land and/or buildings shall be in accordance with those listed in the following schedule of uses chart. No land or building shall hereinafter be used and no building or structure shall be erected, altered, converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in this schedule of uses is:

X Designates use permitted in the zoning district indicated

Designates use prohibited in district indicated

S Designates use may be approved by specific use permit. (See also section **14.02.081**)

- (b) If a use is not listed, it is not allowed in any district.
- (c) Use chart organization.
- (1) Residential uses.
- (2) Educational, institutional, public and special uses.
- (3) Office and professional.
- (4) Retail and related uses.
- (5) Automobile, transportation, utility, communication and related uses.
- (6) Other uses.
- (d) Classification of new/unlisted uses. It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the city. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the schedule of uses chart shall be made as follows:
 - (1) Initiation.
 - (A) A person, city department, the planning and zoning commission, or city council may propose zoning amendments to regulate new and previously unlisted uses.
 - (B) A person requesting the addition of a new or unlisted use shall submit to the director of planning all information necessary for the classification of the use, including but not limited to:
 - (i) The nature of the use and whether the use involves dwelling activity, sales, services, or processing;
 - (ii) The type of product sold or produced under the use;
 - (iii) Whether the use has enclosed or open storage and the amount and nature of the storage;
 - (iv) ~~Anticipated~~ Employment typically anticipated with the use;
 - (v) Transportation requirements;
 - (vi) The nature and time of occupancy and operation of the premises;
 - (vii) The off-street parking and loading requirements;
 - (viii) The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated; and
 - (ix) The requirements for public utilities such as sanitary sewer and water and any special public services that may be required.
 - (2) The development services director shall refer the question concerning a new or unlisted use to the planning and zoning commission requesting a recommendation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by the

statements of facts in subsection (B) above. An amendment to this chapter shall be required as prescribed by ordinance.

- (3) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the most similar and should be permitted.
- (4) The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall approve ~~for~~ disapprove the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be amended in the use charts of the zoning ordinance according to ordinance.
- (5) Standards for new and unlisted uses may be interpreted by the ~~development services director~~ ~~director of planning~~ as those of a similar use. When a determination of the appropriate zoning district cannot be readily ascertained, the same criteria outlined in subsection (B) above shall be followed for determination of the appropriate district. The decision of the ~~development services director~~ ~~director of planning~~ may be appealed according to the process outlined in subsections (2) through (4) above.
- (e) Schedule of uses chart.

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|---|----|----|------|----|----|----|----|----|----|--------------|
| Residential uses | | | | | | | | | | |
| Accessory buildings | X | X | X | X | | | X | X | | X |
| Accessory dwelling unit buildings with habitable space | X | X | X | X | | | | | | X |
| Caretaker/guard residence | X | | | | | S | | | X | |
| Community home | X | X | X | X | | | | | | X |
| Home occupation | X | X | X | X | | | | X | | X |
| Mobile home on individual lot | | | | | | | | X | | |
| Mobile home park | | | | | | | | X | | |
| Multifamily residence | | | | | | | | X | | |
| Registered family home | S | S | S | S | | | | | | S |
| Single-family dwelling (detached) | X | X | X | X | | | | | | X |
| Temporary field construction office | X | X | X | X | X | X | | | X | X |

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|--------------|
| Educational, institutional, public and special uses | | | | | | | | | | |
| Adult, child care or day care center | S | | | | | X | | S | | S |
| Amateur communications antenna | X | X | X | X | | | | X | | |
| Athletic stadium or field (not with public school) | S | S | S | S | | S | | | S | |
| Church including church related activities | X | X | X | X | X | X | X | X | X | X |
| Community center (public) | X | X | X | X | X | X | | X | X | |
| Equestrian facilities | X | S | | | | X | X | | X | |
| Equestrian boarding | X | X | | | | X | X | | X | |
| Farm, ranch, garden or orchard | X | X | X | X | | X | X | X | X | |
| Fire or police station | X | X | X | X | X | X | | X | X | |
| Government offices (federal, state, county, city) | X | X | X | X | X | X | X | X | X | |
| Halfway house | | | | | | | | | X | |
| Hospital | | | | | | S | | | X | |
| Clinic | | | | | S | X | | | X | |
| Library (public) | X | X | X | X | X | X | | X | X | |
| Movie theater | | | | | | X | | | X | |
| Municipal uses operated by the city | X | X | X | X | X | X | X | X | X | X |
| Museum | X | S | S | S | X | X | | S | X | S |
| Nursing home | | | | | S | S | | | S | |
| Pet boarding | S | | | | | S | | | S | |
| Pet day care | | | | | | S | | | S | |

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----------|----|----|----|----------|
| Philanthropic institutions | | | | | S | X | | | X | |
| Public park or playground | X | X | X | X | X | X | X | X | X | <u>X</u> |
| Radio, TV antenna or tower | | | | | | S | | | S | |
| Broadband antenna support structure | X | X | X | X | | | | | | <u>X</u> |
| Recreation area | | | | | S | X | | | X | |
| <u>Recycle container</u> | | | | | | <u>S</u> | | | | |
| Retirement home/senior independent living facility | | | | | S | S | | | S | |
| School (private) | S | S | S | S | S | X | | S | X | <u>S</u> |
| School (public) | X | X | X | X | X | X | X | X | X | X |
| School, trade or commercial | S | | | | S | S | | | X | |
| Trade days/periodic or seasonal open market | S | | | | | S | | | X | |
| Office and Professional | | | | | | | | | | |
| General professional office | | | | | X | X | | | X | |
| Bank or credit union | | | | | X | X | | | X | |
| Medical/dental clinic | | | | | X | X | | | X | |
| Medical laboratory | | | | | S | S | | | X | |
| Medical minor emergency clinic | | | | | S | S | | | X | |
| Radio broadcasting without tower | | | | | S | X | | | X | |
| Real estate sales office (permanent) | | | | | X | X | | | X | |
| Retail and Related Uses | | | | | | | | | | |
| Antique shop | | | | | X | X | | | X | |
| Art and craft supply store | | | | | X | X | | | X | |

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----------|----------|----|----|----------|----|
| <u>Athletic training facilities</u> | | | | | | <u>S</u> | | | <u>S</u> | |
| Bakery (retail) | | | | | X | X | | | X | |
| Barber shop or beauty salon | | | | | X | X | | | X | |
| Bicycle, lawnmower sales, repair enclosed | | | | | | X | | | X | |
| Bookstore | | | | | X | X | | | X | |
| Building materials and hardware (inside) | | | | | | X | | | X | |
| Camera store | | | | | X | X | | | X | |
| Ceramics store | | | | | | X | | | X | |
| Clothing, apparel or shoe store (new) | | | | | X | X | | | X | |
| Coffee house | | | | | S | X | | | X | |
| Computer sales and repair (new and used) | | | | | X | X | | | X | |
| Convenience store with refueling station | | | | | | S | | | X | |
| Convenience store without refueling station | | | | | X | X | | | X | |
| <u>Cosmetic tattooing</u> | | | | | <u>S</u> | <u>S</u> | | | | |
| Dance studio or gymnastics | | | | | S | X | | | X | |
| Department store (retail) | | | | | S | S | | | S | |
| Donut shop | | | | | X | X | | | X | |
| Driving school | | | | | | X | | | X | |
| Dry cleaning/laundry (no plant on site) | | | | | X | X | | | X | |
| Dry cleaning plant | | | | | | | | | X | |

Commented [KS3]: Added "cosmetic tattooing" to use chart and would require SUP in Village Center and Commercial Business

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|-------------------------------------|----|----|------|----|----|----|----|----|----|----|
| Fabric store | | | | | X | X | | | X | |
| Farmer's market | S | | | | S | S | | | X | |
| Feed store | | | | | | X | | | X | |
| Fish and tackle store | | | | | S | X | | | X | |
| Florist | | | | | X | X | | | X | |
| Funeral home | | | | | | X | | | X | |
| Furniture store, home furnishings | | | | | X | X | | | X | |
| Gift shop (new merchandise) | | | | | X | X | | | X | |
| Grocery store | | | | | X | X | | | X | |
| Gunsmith | | | | | | S | | | S | |
| Hobby or toy store | | | | | X | X | | | X | |
| Ice cream or frozen yogurt sales | | | | | X | X | | | X | |
| Kennels | S | | | | | | | | S | |
| Key shop or locksmith | | | | | X | X | | | X | |
| Laundromat (self-service) | | | | | | | | S | | |
| Meat market (retail) | | | | | X | X | | | X | |
| Medical aids and equipment | | | | | X | X | | | X | |
| Musical instrument sales and repair | | | | | X | X | | | X | |
| Nursery (retail) | | | | | | X | | | X | |
| Outside display of merchandise | S | | | | | S | | | S | |
| Optical store | | | | | X | X | | | X | |
| Paint store | | | | | | S | | | X | |
| Pet shop | | | | | S | S | | | S | |

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| Pharmacist or drug store (without drive thru) | | | | | X | X | | | X | |
| Pharmacist or drug store (with a drive thru) | | | | | S | S | | | S | |
| Printing shop | | | | | | X | | | X | |
| Produce stand (including wood and seasonal items) | S | | | | S | X | | | X | |
| Recycling collection center | | | | | | X | | | X | |
| Refueling station | | | | | | S | | | X | |
| Restaurant, cafe or cafeteria (excluding smoked on site) | | | | | X | X | | | X | |
| Restaurant drive in | | | | | S | S | | | X | |
| Restaurant (food smoked on site) | | | | | S | S | | | X | |
| Self-storage | | | | | | S | | | S | |
| Sporting goods | | | | | X | X | | | X | |
| Tack and saddle shop | S | | | | X | X | | | X | |
| Therapeutic message | | | | | S | S | | | S | |
| Used clothing store | | | | | S | S | | | S | |
| Veterinarian office (with outside pens) | | | | | | S | | | X | |
| Veterinarian office (without outside pens) | | | | | | X | | | X | |
| Wallpaper, flooring and carpet supply | | | | | | X | | | X | |
| Automobile, Transportation, Utility, Communication and Related Uses | | | | | | | | | | |
| Auto paint (in building) | | | | | | S | | | S | |

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|--------------|
| Auto parts store | | | | | | X | | | X | |
| Automotive repair minor | | | | | | S | | | S | |
| Automobile sales (new) | | | | | | S | | | X | |
| Automobile sales (used) | | | | | | S | | | X | |
| Boat sales (new or used) | | | | | | S | | | X | |
| Communication towers | | | | | | S | | | S | |
| Electrical substation | S | S | S | S | | S | S | S | S | |
| Manufacturing (light industrial - enclosed only) | | | | | | | | | X | |
| Mobile home sales (new or used) | | | | | | | | | S | |
| Motorcycle repair/paint (enclosed) | | | | | | S | | | X | |
| Recreation vehicle sales (new or used) | | | | | | | | | X | |
| Telephone exchange | S | S | S | S | | S | S | S | S | |
| Truck sales (new) | | | | | | | | | X | |
| Truck sales (used) | | | | | | | | | X | |
| Truck rental, leasing | | | | | | | | | X | |
| Trailer rental/sales | | | | | | | | | X | |
| Tractor sales (new or used) | | | | | | | | | X | |
| Vehicle leasing or rental | | | | | | S | | | X | |
| Vehicle wash | | | | | | S | | | X | |
| Water utilities | X | X | X | X | X | X | X | X | X | X |
| Other uses | | | | | | | | | | |
| Forestry | S | | | | | | | | | |
| Mining | S | | | | | | | | | |

| Use | AO | R2 | R1.5 | R1 | VC | CB | OS | MH | LI | ED |
|--|----|----|------|----|----|----|----|----|----|----|
| RV, boat, motorized or non-motorized vehicles, (inside or outside storage) | | | | | | | | | S | |
| Temporary real estate sales office | | X | X | X | X | | | | | |

(Ordinance 2008-11-00634 adopted 11/20/08; Ordinance 2012-05-00715, sec. 4, adopted 5/17/12; Ordinance 2012-10-00737 adopted 10/4/12; Ordinance 2016-03-00832 adopted 3/3/16; Ordinance 2016-10-00845 adopted 10/20/16; Ordinance 2017-04-00853 adopted 4/6/17; Ordinance 2017-07-00859 adopted 7/6/17; Ordinance 2018-03-00876 adopted 3/1/18; Ordinance 2020-12-00927 adopted 12/17/20)

ARTICLE 14.04 SUPPLEMENTARY REGULATIONS

Division 1

Generally

§ 14.04.001 **Community homes.**

Community homes shall be subject to the following limitations:

- (1) Not more than six (6) disabled persons, regardless of their legal relationship to one another, and two (2) supervisory personnel may reside in a community home at the same time.
- (2) A community home shall provide the following services to the disabled residents: food and shelter, personal guidance, care, habilitation services, and supervision.
- (3) The residents of a community home may not keep, on the premises of the home or on the public rights-of-way adjacent to the home, more than one (1) motor vehicle per bedroom for the use of the residents of the community home.
- (4) Meet the current fire suppression and alarm requirements for a new house and any other state requirements.
- (5) A community home may not be established within one-half (1/2) mile of a previously existing community home.

(Ordinance 2012-05-00715, sec. 5, adopted 5/17/12; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.04.002 **Equestrian boarding.**

Equestrian boarding shall be subject to the following limitations:

- (1) Lots shall be a minimum of two (2) acres;
- (2) A maximum of two (2) horses per acre shall be permitted, regardless of ownership, for all lots five (5) acres or less; and
- (3) For lots in excess of five (5) acres, there shall be no limitation on the maximum number of horses per acre.

(Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.04.003 through § 14.04.030. (Reserved)

Division 2

Off-Street Parking and Loading

§ 14.04.031 **Vehicle parking regulations.**

Except as hereinafter provided, no building or structure or part thereof shall be erected, altered, or converted for any use permitted in the district in which it is located unless there shall be provided on the lot of such buildings or structures, vehicle parking in the following ratio of vehicle spaces for the uses specified in the designated districts and no existing vehicle parking in connection with said use at the effective date of this ordinance may be reduced below the minimum number of spaces as hereinafter required.

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.032 **Off-street residential parking.**

The following shall be the minimum off-street parking spaces for residential uses:

~~(1) — R-1, one family residence. Two (2) spaces for each dwelling unit.~~

~~(2) — R-2, one family residence. Two (2) spaces for each dwelling unit.~~

~~(3) — R-1.5, one family residence. Two (2) spaces for each dwelling unit.~~

~~(1)(4)~~ All primary ~~other~~ dwelling units. Two (2) spaces for each dwelling unit.

~~(5) — PD, planned development. Two (2) spaces for each dwelling unit plus such additional requirements as may be specified by the amending ordinance.~~

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.033 **Off-street nonresidential parking.**

The following shall be the minimum off-street parking spaces for nonresidential uses:

- | | | |
|--------------------|--|---|
| (1) | Bank, savings and loan or similar financial establishment | One (1) space for each three hundred square feet (300 <u>sq. ft.</u>) of floor area. |
| (2) | Bowling alley | Six (6) spaces for each lane. |
| (3) | Churches, <u>religious or spiritual</u> | One (1) space for each three (3) seats in the main sanctuary. |
| (4) | Medical Clinics or doctors' offices | One (1) space for each three hundred square feet (300 <u>sq. ft.</u>) of floor area – minimum of five (5) spaces. |
| (5) | <u>Amusement, athletic, recreational facilities</u> Commercial outdoor amusement | One (1) space for each three <u>hundred square feet (300 sq. ft.)</u> (3) seats provided or persons accommodated. |
| (6) | Convalescent home or home for aged | One (1) space for each six (6) rooms or beds. |
| (7) | Gasoline service station | Minimum six (6) spaces. |
| (8) | Golf course | Minimum thirty (30) spaces. |
| (9) | High school, college or university | One (1) space for each classroom, laboratory or instruction area plus one (1) space for each (2) students accommodated in the institution. |
| (9)(4) | Hospitals | One (1) space for every two (2) beds. |
| (10)(4) | Hotel or motel | One (1) space for each room, unit or guest accommodation plus requirements for clubs, restaurants and other uses. |
| (11)(2) | Institutions of philanthropic nature | Ten (10) spaces plus one (1) space for each |

employee.

| | | |
|-------------------|---|--|
| (12+3) | Library or museum | Ten (10) spaces plus one (1) for each three hundred square feet (300 <u>sq. ft.</u>) of floor area. |
| (13+4) | Manufacturing, processing or repairing | One (1) space for each two (2) employees or one (1) space for each one thousand square feet (1000 <u>sq. ft.</u>) of floor area, whichever is greater. |
| (14+5) | Offices, general | One (1) space for each three hundred square feet (300 <u>sq. ft.</u>) of floor area – minimum five (5) spaces. |
| (15+6) | Places of public assembly (not listed) | One (1) space for each three (3) seats provided. |
| (16) | <u>Personal services to include but not limited to nail salon, hair salon, cosmetic tattooing, or therapy</u> | <u>Three (3) spaces for each station.</u> |
| (17) | Recreational, private or commercial area or building (other than listed) | One (1) space for every <u>one hundred square feet (100 sq. ft.)</u> three (3) persons to be normally accommodated in the establishment. |
| (18) | Restaurant or cafeteria | One (1) space for every three (3) seats under maximum seating arrangement – minimum of five (5) spaces. <u>One (1) space per one hundred square feet (100 sq. ft.).</u> |
| (19) | Retail or personal service less than ten thousand square feet (10,000 sq. ft.) | One (1) space for each two hundred square feet (200 <u>sq. ft.</u>) of floor area – minimum of five (5) spaces. |
| (20) | Schools <u>(elementary or junior high, high school, trade school, college, or university);</u> elementary or junior high | One (1) space for each classroom plus one (1) space for each four (4) seats in the main auditorium, gymnasium or other place of assembly. |
| (21) | Storage or warehousing | One (1) space for each two (2) employees or one (1) space for each one thousand square feet (1,000 <u>sq. ft.</u>), whichever is greater. |
| (22) | Theatres, meeting rooms and places of public assembly | One (1) space for every three (3) seats. |
| (23) | Adult day care center | One (1) space for each five hundred square feet (500 <u>sq. ft.</u>) of gross floor area. |
| (24) | Furniture store | One (1) space for each eight hundred square feet (800 <u>sq. ft.</u>) of gross floor area. |
| (25) | <u>Automobile repair/paint and body</u> | <u>Three (3) spaces for each stall plus one (1) space</u> |

for each employee.

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.034 Special off-street parking regulations.

- (a) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building development.
- (b) In the VC or CB, or MU districts, no parking space or other automobile storage space which is visible from the street shall be used for the storage of any commercial type vehicle including but not limited to commercial type truck, panel truck, box truck, commercial type van, box van, and trucks, vans or other vehicle that exceeds a two (2) ton capacity.
- (c) Floor area of structure devoted to off-street parking of vehicles shall be excluded in computing the off-street parking requirements of any use.
- (d) All required parking spaces in all nonresidential zoning districts shall be located in such a manner so as to permit maneuvering from each space to the nearest adjacent public street or alley without encroachment on the other parking spaces or requiring other vehicles to be moved.
- (e) Where nonresidential or multifamily parking is constructed adjacent to residentially zoned property, a masonry screening wall of at least six ~~(6)~~ feet (6') in height but not greater than eight 8 feet (8') in height shall be erected.

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.035 Parking requirements for new and unlisted uses.

- (a) Where questions arise concerning the minimum off-street parking requirements for any use not specifically listed, the requirements may be interpreted as those of a similar listed use.
- (b) Where a determination of the minimum parking requirements cannot be readily ascertained for new or unlisted uses according to subsection (a) above or where uncertainty exists, the minimum off-street parking requirements shall be established by the same process as provided in section **14.03.801** for classifying new and unlisted uses.

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.036 Minimum distance for off-street parking.

- (a) Ninety-degree (90°) angle parking. Each parking space shall be not less than nine feet (9') wide nor less than eighteen feet (18') in length with a curb stop, otherwise 20 feet (20') in length. Maneuvering space shall be in addition to parking space and shall be not less than twenty-four feet (24') perpendicular to the building or parking line.
- (b) Sixty-degree (60°) angle parking. Each parking space shall be not less than nine feet (9') wide perpendicular to the parking angle nor less than eighteen ~~feet~~ (18') in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than twenty feet (20') perpendicular to the building or parking line.
- (c) Forty-five-degree (45°) angle parking. Each parking space shall be not less than nine feet (9') wide perpendicular to the parking angle nor less than eighteen ~~feet~~ (18') in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than eighteen feet (18') perpendicular to the building or parking line.

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.037 Off-street loading space.

Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or other use similarly involving the receipt or distribution by vehicles of materials or merchandise shall provide and maintain on the same premises loading space in accordance with the following requirements:

- (1) For retail, commercial, sales, service, or industrial use buildings and establishments, off-street loading facilities shall be provided in accordance with the following schedule:

| Square Feet of Gross Floor Area | Minimum Required Spaces or Berths |
|---------------------------------|-----------------------------------|
| 0 to 5,000 | None |
| 5,000 to 15,000 | 1 |
| 15,000 to 40,000 | 2 |
| 40,000 to 65,000 | 3 |
| 65,000 to 100,000 | 4 |
| Each additional 50,000 | 1 additional |

- (2) For hotels, office buildings, restaurants, and similar establishments, off-street loading facilities shall be provided in accordance with the following schedule:

| Square Feet of Gross Floor Area | Minimum Required Spaces or Berths |
|---------------------------------|-----------------------------------|
| 0 to 10,000 | None |
| 10,000 to 50,000 | 1 |
| 50,000 to 100,000 | 2 |
| 100,000 to 200,000 | 3 |
| Each additional 200,000 | 1 additional |

- (3) Each required loading space shall have a minimum size of twelve feet by sixty feet (12' x 60') for LI and twelve feet by thirty-five feet (12' x 35') for CB uses with a vertical clearance of at least fourteen feet (14'), together with access and maneuvering areas.
- (4) No loading facilities may be located facing any street.
- (5) Loading facilities located on the side of a building but not facing a street shall be set back from the front property line a minimum distance of sixty feet (60').

(Ordinance 2011-09-00685, sec. 2, adopted 9/1/11)

§ 14.04.038 Driveways.

- (a) The driveway entry radius must not overlap the common property lines as projected to the street.

- (b) Driveway culverts must be sized for each specific application. For new development, culvert size and material will be specified on the civil construction plans for each lot. For all other applications, the culvert size and material will be specified by the city at the time of the building permit or at the time a drive entry is required by the property owner. Culvert pipe material shall be either of reinforced concrete or minimum 16 gauge galvanized corrugated steel.

| Culvert Material¹ | Minimum Inside Diameter | Minimum Extension² | Concrete Header Required |
|-------------------------------------|--------------------------------|--------------------------------------|---------------------------------|
| Reinforced concrete | 18" | 36" | No |
| Galvanized/corrugated steel | 18" | N/A | Yes ³ |

¹ Embedment of class B+ or better per NCTCOG design manual drawing 3020 dated October 2004 required for all permanent culvert installations.

² Minimum extension beyond the edge of the driveway. If a header is used, no extension is required.

³ No header is required for temporary culverts.

(Ordinance 2020-12-00924 adopted 12/3/20)

§ 14.04.039 Off-site parking requirements.

Required parking for a development may be located off site when approved by the planning and zoning commission and the city council. The planning and zoning commission and/or city council may authorize such alternative location of required parking space, along with any conditions determined necessary to promote safety and will adequately serve the public interest, subject to the following conditions:

- (1) Except for the location, all other requirements relating to off-street parking shall be met.
- (2) Such space shall be conveniently usable without causing unreasonable:
 - (A) Hazard to pedestrians;
 - (B) Hazard to vehicular traffic;
 - (C) Traffic congestion; or
 - (D) Detriment to the appropriate use of other properties in the vicinity.
- (3) A written agreement shall be drawn to the satisfaction of the city attorney and executed by all parties concerned, assuring the continued availability of the off-street parking facility for the development it is intended to serve, subject to a minimum of the following conditions:
 - (A) Shuttling service provided to and from the off-site parking location starting a minimum of one hour prior to the start of the event and for a minimum of one hour following the event; and
 - (B) Advertisement posted three (3) business days prior to the event disclosing the site of off-site parking and shuttle service.

(Ordinance 2014-08-00786 adopted 8/7/14)

§ 14.04.040 through § 14.04.070. (Reserved)

Division 3
Performance Standards

§ 14.04.071 **Applicability.**

All uses in all districts shall conform in operation, location, and construction to the performance standards hereinafter specified.

(1995 Code, ch. 9, art. 19, intro)

§ 14.04.072 **Noise.**

At no point at the bounding property line of any use in the “VC,” “C” [CB] or “LI” districts shall the sound pressure level of any daytime operation or plant exceed the decibel limits specified in the octave band groups designated in the following table:

(1) Octave band frequencies.

| Octave Band | Maximum Permitted Sound Pressure Level |
|-------------------|--|
| Cycles per Second | Decibels |
| 20–75 | 97 |
| 75–150 | 76 |
| 150–300 | 70 |
| 300–600 | 65 |
| 600–1,200 | 63 |
| 1,200–2,400 | 58 |
| 2,400–4,800 | 55 |
| 4,800–10,000 | 53 |

(2) Corrections. The following corrections shall be made to the table of octave band-decibel limits in determining compliance with the noise level standards:

| Type of Operation or Character of Noise | Correction in Decibels |
|--|------------------------|
| Noise source operates less than 20% of any one-hour period | Plus 5* |
| Noise source operates less than 5% of any one-hour period | Plus 10* |
| Noise source operates less than 1% of any one-hour period | Plus 15* |

| Type of Operation or Character of Noise | Correction in Decibels |
|--|------------------------|
| Noise of impulsive character (hammering, etc.) | Minus 5 |
| Noise of periodic character (hum, screech, etc.) | Minus 5 |
| Noise present at night | Minus 7 |

* Apply one correction only

- (3) "Daytime" shall refer to the hours between 7:00 a.m. and 7:00 p.m. on any given day.
- (4) "Bounding property line" shall be interpreted as being at the far side of any street, alley, stream, or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be interpreted as the bounding property line.
- (5) "Measurement of noise" shall be made with a sound level meter or octave band analyzer meeting the standards prescribed by the American Standards Association.
- (6) Exemptions. The following uses and activities shall be exempt from the noise level regulations herein specified:
 - (A) Noises not directly under control of the property uses [user].
 - (B) Noises emanating from construction and maintenance activities during daytime hours.
 - (C) Noises of safety signals, warning devices, and emergency pressure relief valves.
 - (D) Transient noise of moving sources such as automobiles, trucks, airplanes, and railroads.

(1995 Code, sec. 9-160)

§ 14.04.073 Smoke and particulate matter.

No operation or use in any district shall cause, create, or allow the emission for more than three (3) minutes in any one (1) hour of air contaminants, which at the emission point or within the bounds of the property are:

- (1) As dark or darker in shade as that designated as no. 2 on the Ringelmann Chart as published by the United States Bureau of Mines Information Circular 7118, or in violation of the standards specified by the Texas Air Control Board Regulations for the Control of Air Pollution as published by the department of state health services or as such regulations may be amended.
- (2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in (1) above except that: when the presence of uncombined water is the only reason for failure to comply with [such standard] or when such contaminants are emitted inside a building which prevents their escape into the outside atmosphere, the standards in 8-501(1) and (2) [subsections (1) and (2) of this section] shall not apply.
- (3) The open storage and open processing operations, including on-site transportation movements which are the source of wind- or air-borne dust or other particulate matter, or which involve dust or other particulate air contaminant generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting, shall be so conducted that dust and other particulate matter so generated is located in concentrations ~~not~~ exceeding fifty-four (54) grains per one thousand (1,000) cubic feet of air.

Commented [KS4]: US Bureau of Mines may no longer exist. Double check with Courtney if this should be changed.

(1995 Code, sec. 9-161)

§ 14.04.074 Odorous matter.

- (a) No use shall be located or operated in any district which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the threshold at the bounding property line or any point beyond the tract on which such use or operation is located.
- (b) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures as specified by American Society for Testing Materials (ASTMD) 1391-56 [1391-57] entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and a copy of ASTMD 1391-57 is hereby incorporated by reference.

(1995 Code, sec. 9-162)

§ 14.04.075 Fire and explosive hazard material.

- (a) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted in an "LI" district except that chlorates, nitrates, perchlorates, phosphors, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists, or wholesalers may be permitted when approved by the fire department.
- (b) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the city.

(1995 Code, sec. 9-163)

§ 14.04.076 Toxic and noxious matter.

No operation or use permitted in an "LI" district shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten percent (10%) of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the department of state health services in "Threshold Limit Values Occupational Health Regulations No. 3," a copy of which is hereby incorporated by reference and is on file in the office of the building official of the city.

(1995 Code, sec. 9-164)

§ 14.04.077 Vibration.

No operation or use in an "LI" district shall at any time create earthborne vibration which, when measured at the bounding property line of the source of operation, exceeds the limits of displacement set forth in the following table in the frequency ranges specified:

| Frequency | Displacement |
|-------------------|--------------|
| Cycles per Second | (Inches) |
| 0 to 10 | .0010 |
| 10 to 20 | .0008 |
| 20 to 30 | .0005 |

| Frequency | Displacement |
|-------------------|--------------|
| Cycles per Second | (Inches) |
| 30 to 40 | .0004 |
| 40 and over | .0003 |

(1995 Code, sec. 9-165)

§ 14.04.078 Glare.

No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

(1995 Code, sec. 9-166)

§ 14.04.079 Waste materials.

No use or operation shall discharge into the open, onto the ground, or into any drainageway, open pit, or pond any waste materials, liquids, residue, or byproducts for storage, decomposition, disposal, or fill unless approved by the building official.

(1995 Code, sec. 9-167)

§ 14.04.080 through § 14.04.120. (Reserved)

Division 4

Height and Area Exceptions and Modifications

§ 14.04.121 Height.

- (a) The height regulations prescribed herein shall not apply to church spires, belfries, monuments, tanks, water and fire towers and spires, chimneys, elevator penthouses, smokestacks, conveyers, flagpoles, ~~electric display signs~~, and necessary mechanical appurtenances.
- (b) Public or semipublic service buildings, hospitals, institutions, or schools, where permitted, may be erected to a height not exceeding sixty feet (60') and churches and other places of worship may be erected to a height not exceeding seventy-five feet (75') when each of the required yards are increased by one foot (1') for each foot of additional building height above the height regulations for the district in which the building is located.

(1995 Code, sec. 9-170)

§ 14.04.122 Front yards.

- (a) Where twenty-five percent (25%) or more of the frontage upon the same side of the street between two intersecting streets is occupied or partially occupied by a building or buildings with front yards of less depth than required by this chapter, or where the configuration of ground is such that conformity with the front yard provisions of this chapter would work a hardship, the board of adjustment may permit modifications of the front yard requirements.
- (b) Visibility triangles will be maintained at all street intersections. The minimum triangle shall be thirty-five feet (35') along each right-of-way line. No fence, structure, or planting higher than three and one-half feet (3-1/2') above the established street grades, nor any tree with foliage extending below ten feet (10') above the established street grades, shall be maintained within this area.

- (c) Open and unenclosed terraces or porches and eaves and roof extensions may project into the required front yard for a distance not to exceed four feet (4'), provided, however, that no supporting structure for such extensions may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend beyond the building line but shall never be closer to the property line than twelve feet (12'). The building line of a gasoline filling station shall mean the actual wall of the building and shall not be interpreted as being the curb of a walk or driveway or as the front of a canopy of the columns supporting same.
- (d) Where an official line has been established for future widening or opening of street upon which a lot abuts, then the width of a front or side yard shall be measured from such official line of the future street.

(1995 Code, sec. 9-171; Ordinance 1996-11-00343, sec. 18, adopted 11/4/96)

§ 14.04.123 **Side yards.**

- (a) On a corner lot the width of the yard along the side street shall not be less than any required front yard on the same side of such street between intersecting streets, provided, however, that the buildable width of a lot of record shall not be reduced to less than thirty feet (30').
- (b) No accessory building shall project beyond a required yard line along any street.
- (c) The area required in a yard shall be open to the sky, unobstructed except for the ordinary projections of the window sills, belt courses, cornices, or other ornamental features.
- (d) A roof overhang, an open fire escape, or an outside stairway may project not more than three feet (3') into a required side yard.

(Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.04.124 **Mailbox location.**

A mailbox located along public streets must meet following criteria and meet any standards of the United States Postal Service (USPS). Setback measurements are from the front of the mailbox with the door closed. Height is from the surface of the ground to the bottom of the mailbox.

| Street Style | Setback | Height |
|------------------------|---|-------------------------------|
| Residential, no curb | 18–24 inches | 42–48 inches |
| Residential, curb | Flush with back of curb <u>6 to 8 inches back from the curb</u> | 41-45 36-42 inches |
| Collector/thoroughfare | 2–5 feet* | 42–48 inches |

* Check with postmaster. Traffic obstructions, safety of carrier, and width of shoulder are factors in determination of desirable location.

(Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.04.125 through § 14.04.170. (Reserved)

Division 5

Nonconforming Uses

§ 14.04.171 Existing land.

The lawful use of land existing upon the effective date of this chapter although such use does not conform to the provisions hereof may be continued, subject to the provisions hereof.

(1995 Code, sec. 9-180)

§ 14.04.172 Existing building.

The lawful use of a building existing upon the effective date of this chapter may be continued, only in conformance with these regulations, although such use does not conform to the provisions hereof. Such use may be extended throughout such portions of the buildings as are arranged or designed for such use, provided no structural alterations or extensions, except those required by law or ordinance, are made therein. If such nonconforming building is voluntarily removed, the future use of such premises shall be in conformity with the provisions of this chapter.

(1995 Code, sec. 9-181)

§ 14.04.173 Voluntary discontinued use of a building for one year.

In the event an existing nonconforming use of any building or premises is voluntarily discontinued for a period of one (1) year, the use shall thereafter conform to the provisions of the district in which it is located.

(1995 Code, sec. 9-182)

§ 14.04.174 Existing residence.

A residential dwelling unit having a lesser floor area at the time of the passage of this chapter than the minimum floor area required for the district in which it is located shall not be construed to be nonconforming.

(1995 Code, sec. 9-183)

§ 14.04.175 Repairs.

Repairs and alterations may be made to a nonconforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance unless the building is changed to a conforming use.

(1995 Code, sec. 9-184)

§ 14.04.176 Nonconforming use not to be extended or rebuilt.

A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other causes. In the case of partial destruction by fire or other causes not exceeding fifty percent (50%) of its value, the building inspector shall issue a permit for reconstruction. If destruction is greater than fifty percent (50%) of its value, the board of adjustment may grant a permit for repair or replacement after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the character of the areas surrounding the designated nonconforming use and the purposes of this chapter.

(1995 Code, sec. 9-185)

§ 14.04.177 through § 14.04.210. (Reserved)

Exploration for and Production of Oil, Gas and Other Minerals

§ 14.04.211 Prohibition against exploration and production in residential, commercial, and village center districts.

- (a) The exploration for or the production of oil, gas and other minerals (including sand, gravel and select fills) is prohibited in the following districts:
- (1) “R2” single-family residential districts;
 - (2) “R1.5” single-family residential districts;
 - (3) “R1 “ single-family residential districts;
 - (4) “ED” estate development districts;
 - (5) “CB” commercial business districts;
 - (6) “VC” village center districts;
 - (7) “MHD” manufactured housing districts;
 - (8) “AO” agriculture districts;
 - (9) “OS” open space districts.
- (b) Exploration for or the production of oil, gas and other minerals (including sand, gravel and select fills) is allowed by specific use permit only in the following districts:
- (1) “LI” light industrial districts~~;~~
- (c) Permit application. Every application for a permit to drill for or the production of oil, gas and other minerals (including sand, gravel and select fills) shall be in writing~~;~~
1. ~~§~~ Signed by the applicant or by some person duly authorized to sign the same on his behalf.
 2. The application shall state the drilling block and the proposed depth and the particular lot and location in the block where the proposed well or excavation site is to be located and shall have attached to it certified or photostatic copies of the deed, oil and gas lease, or drilling or excavation contract with the owners of the land covering the lots, blocks of tracts in such drilling block over which the applicant has control for oil and gas purposes, together with abstracts of title or certificates of title, satisfactory to the city council.
 3. ~~to the end that~~ The application will show what proportion and what part of the drilling or excavation block the applicant owns in fee or holds under lease or drilling or excavation contract from the owners; or satisfactory information may be provided on the plat by showing lessors, lessees, and volume and page where the lease or contract is recorded in the deed records.
 4. The applicant may withdraw the abstracts or certificate of title after they have been examined and released by the city council.
 5. The application shall also be accompanied by a map or maps of the drilling/excavation block showing the designation of the lots, blocks, or tracts owned or controlled by the applicant, as well as the ownership of all tracts and interests within the drilling block, and showing the exact location of the proposed well or excavation site, which location shall be as nearly as is practicable in the center of the drilling block.

- (d) No permit shall be issued for any oil or gas well to be drilled at any location within an oil well drilling block or a gas well drilling unit, which location is nearer than five hundred (500) feet to any residence, building ~~for~~ structure, unless the applicant for the permit for such well first secures the written permission of the owner of such residence, building or structure.
- (e) In addition to the requirements for specific use permits as stated in article **14.02**, division 4, of this chapter, the applicant is required to provide the city with proof of adequate insurance providing personal injury and property damage protection and demonstrate that adjacent districts ~~residential, commercial, and village center districts~~ will not suffer an adverse impact.

(Ordinance 1997-06-00348, sec. 1, adopted 6/9/97; Ordinance 2007-07-00592 adopted 7/5/07; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.04.212 through § 14.04.250. (Reserved)

Division 7 Lighting

§ 14.04.251 **Purpose and intent.**

It is the intent of this division to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. Such individual fixtures and lighting systems are designed, constructed, and installed to: control glare and light trespass, minimize obtrusive light, conserve energy and resources while maintaining safety, security and productivity, and curtail the degradation of the nighttime visual environment.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.252 **Definitions.**

Cut-off angle (of a luminaire).

The angle, measured up from the nadir, between the vertical axis and the first line of sight at which the bare source is not visible.

Footcandle.

A unit of illuminance amounting to one lumen per square foot.

Full cut-off type fixture.

A luminaire or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90-degree horizontal plane from the base of the fixture. Full cut-off fixtures must be installed in a horizontal position as designed, or the purpose of the design is defeated.

Fully shielded.

A fully shielded luminaire is a luminaire constructed or shielded in such a manner that all light emitted by the luminaire, either directly from the lamp or indirectly from the luminaire, is projected below the horizontal plane through the luminaire's lowest light-emitting part as determined by photometry test or certified by the manufacturer. Fixtures will be installed in a horizontal position as designed, or disability glare will result.

Glare.

The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

Illuminance.

The quantity of light, or luminous flux, arriving at a surface divided by the area of the illuminated surface, measured in lux or footcandles.

Light trespass.

Light emitted by a lighting installation which falls outside the boundaries of the property on which the installation is sited.

Luminaire.

A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

Luminance.

The physical quantity corresponding to the brightness of a surface (e.g., a lamp, luminaire, sky, or reflecting material) in a specified direction. It is the luminous intensity of a area of the surface divided by that area. The unit is candela per square meter.

Lux (lx).

The SI unit of illuminance. One lux is one lumen per square meter.

Obtrusive light.

Spill light which, because of quantitative, directional or spectral context, gives rise to annoyance, discomfort, distraction or a reduction in the ability to see essential information.

Spill light.

Light emitted by lighting installation that falls outside the boundaries of the property on which the installation is sited.

Up-lighting.

Any light source that distributes illumination above a 90-degree horizontal plane.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.253 **General provisions.**

- (a) **Curfew.** All nonessential lighting in any district will be required to be turned off after business hours in the commercial zones and after midnight in residential areas, leaving only the necessary lighting for site security. The nonessential lighting shall remain off until dawn or one-half hour before a business opens, whichever is earlier. ("Nonessential" can apply, but is not limited to: display, aesthetic, parking, sign lighting, playground, or yard lights) excluding seasonal lighting in residential.
- (b) **Light trespass limits.** No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. The pre-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 3 lux. The post-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 1 lux.
- (c) **Streetlights.** All street or other common or public area pole-mounted lights shall be fully shielded.

General requirements applicable to all outdoor lighting.

- (1) When the outdoor lighting installation or replacement is part of a development proposal for which a site plan or plat is required under these regulations, the planning and zoning commission shall review and

recommend approval or disapproval to the city council for the lighting installation as part of its site plan or platting process. All other lighting installations or replacements shall be reviewed for compliance with this chapter, and approved or denied by the city manager or his or her designee.

- (2) Exterior lighting fixtures, whether attached to a building and/or freestanding, shall be of harmonious design.
- (3) The applicant shall submit to the city sufficient information, in the form of an overall exterior lighting plan, to enable the city to determine that the applicable provisions will be satisfied. The lighting plan shall include subsections (A) through (E) below and also conform to subsections (F) through (N) below:
 - (A) A site plan, drawn to a scale of one-inch equaling 20 feet, showing buildings, landscaping, parking area, and all proposed exterior fixtures including lamps, supports, reflectors and other devices.
 - (B) Specifications for all proposed lighting fixtures including photometric data, designation as IESNA full cut-off fixtures where required, and other descriptive information on the fixtures.
 - (C) Proposed mounting height of all exterior mounting fixtures.
 - (D) Luminance level diagrams showing that the proposed installation conforms to the lighting level standards in this chapter.
 - (E) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures.
 - (F) All exterior floodlights, pole lights, and carriage lights should be designed or retrofitted with shielding in a manner such that all of the luminous flux falls upon either the surface of the structure to be illuminated or on the ground wholly within the property on which it is installed.
 - (G) All new lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption, and eliminate unneeded lighting when required by the planning and zoning commission and city council.
 - (H) When an outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this section, and shall be reviewed by the city manager or his or her designee.
 - (I) Expansions, additions, or replacements to outdoor lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.
 - (J) Electrical service to outdoor lighting fixtures shall be underground.
 - (K) Proposed lighting installations that are not covered by the special provisions in this chapter may be approved only if the planning and ~~zoning~~ commission and city council find they are designed to minimize glare, do not direct light beyond the boundaries of the area being illuminated or onto adjacent properties or streets, and do not result in excessive lighting levels.
 - (L) In the case of flags, statues, or other top-of-pole mounted objects which cannot be illuminated with down-lighting, upward lighting may be used only in the form of one narrow-cone spotlight which confines the illumination to the object of interest.
 - (M) Shielding requirements. Full cut-off shielding is required on undirected light sources of 150 watts or greater, and for directed or focused light sources with spot output of 100 watts or greater, not to exceed 1800 lux.

~~(N) Light trespass. No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property. The pre-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 3 lux. The post-curfew illuminance level measured on the property line at eye height on a plane perpendicular to the line of sight shall be no greater than 1 lux.~~

- (4) Lighting plans, written according to the requirements listed in subsections **(3)(A), (B), (C) and (D)** of this section, shall contain descriptive data sufficiently complete to enable the plans examiners to readily determine whether compliance with this chapter has been met. If such plans do not enable this ready determination by reason of the nature or configuration of the proposed devices, fixtures or lamps, the applicant may be required to submit analyses and data performed and certified by a recognized testing laboratory as evidence of compliance.
- (5) Should any outdoor light fixtures or the type of light source therein be changed after the plan has been filed and approved, a change request must be submitted to the city for approval. The lighting plan change request must be received by the city prior to the change and it must contain adequate information to assure compliance with this chapter.
- (d) Security lighting.
 - (1) For the purposes of this section, security lighting is defined as lighting primarily designed to illuminate a fence line, barn or outdoor building which is intended to reduce the risk (real or perceived) of personal attack, to discourage intruders, vandals, or burglars, and to protect property.
 - (2) All lighting districts.
 - (A) All security lighting fixtures shall be shielded and aimed so that illumination is directed only within the owner's property boundaries and not cast on other areas. In no case shall lighting be directed above a horizontal plane through the top of the lighting fixture, and the fixture shall include shields that prevent the light source or lens from being visible from adjacent properties and roadways. The use of general floodlighting fixtures shall be prohibited unless it meets the shielding requirements of this chapter.
 - (B) Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level eight feet above grade or eight feet above the bottoms of doorways or entries, whichever is greater.
 - (C) Security lighting fixtures may be mounted on poles located no less than ten feet from the perimeter of the property boundary.
 - (D) Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located within five feet of the perimeter. The zone of activation sensors must be within the property boundaries of the property wishing to be illuminated.
 - (E) Security lights shall combine timers with dusk-to-dawn photocells to ensure lights are on only when it is dark.
 - (F) Security lighting standards in the various lighting districts are as shown in appendix A, the Illuminating Engineering Society of North America (IESNA).
 - (G) In addition to the application materials set forth in the general provisions of this chapter, applications for security lighting installations shall include a written description of the need for and purposes of the security lighting, a site plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles in which light will be directed,

and adequate cross-sections showing how light will be directed only onto the area to be secured.

(Ordinance 2007-08-00595 adopted 8/2/07; Ordinance 2015-08-00816 adopted 8/20/15)

§ 14.04.254 **Special provisions.**

Lighting installed and maintained by a public utility company or a public cooperative installed prior to May 1, 1995 ~~the effective date of the ordinance~~ amending this section [chapter] 14 shall be exempt.

(Ordinance 2007-08-00595 adopted 8/2/07)

§ 14.04.255 **Nonresidential provisions.**

The following provisions shall apply to all nonresidential land uses including, but not limited to, commercial, light industrial, industrial, open space and public/municipal.

- (1) All parking area lighting shall be full cut-off type fixtures. Pole-mounted lights shall be a maximum height of 25 feet, measured from ground level to the base of the light fixture.
- (2) All building lighting for security or aesthetics will be full cut-off or a shielded type, not allowing any upward distribution of light, and shall not exceed a height of 25 feet, measured from ground level. Floodlighting is discouraged, and if used, must be shielded to prevent:
 - (A) Disability glare for drivers or pedestrians.
 - (B) Light trespass beyond the property line.
 - (C) Light above a 90-degree horizontal plane.
- (3) Unshielded wall-pack type fixtures are unacceptable.
- (4) Adjacent to residential property, no direct light source will be visible at the property line at ground level or above.
- (5) Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. The lighting must be shielded to prevent direct glare and/or light trespass. The lighting must also be, as much as physically possible, contained to the target area. Internally lighted signs are acceptable. (See article **3.16** of chapter **3** for further restrictions on lighted signs.)
- (6) The “maintained horizontal illuminance recommendations” set by the Illuminating Engineering Society of North America (IES) shall be observed.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.256 **Site plan standards.**

- (a) A photo-metric light plan shall be included in all site plans and shall include, but not [be] limited to, locations, size, height, orientation, wattage, design and plans of all outdoor lighting and lighted signs. For site plans showing a high level of illumination, the commission may require an isolux plan indicating levels of illumination in footcandles, at ground level. The plan shall adhere to the “maintained horizontal illuminance recommendations” set by the Illuminating Engineering Society of North America (IESNA). (See appendix A.)
- (b) Should any outdoor light fixture or the type of light source be changed after the site plan has been approved, a change request must be submitted in writing to the building inspector for his approval, together with adequate information to assure compliance with this division, which must be received prior to substitution.

(Ordinance 2007-08-00595 adopted 8/2/07)

§ 14.04.257 Temporary lighting exemption.

- (a) Any person may submit a written request, on a form prepared by the city, to the ~~development services director building inspector~~ for a temporary lighting exemption request. A temporary exemption shall contain the following information:
- (1) Specific exemption or exemptions requested.
 - (2) Duration of time requested for exemption.
 - (3) Type of lamp(s), fixture(s) and shielding provided.
 - (4) Total wattage of lamp or lamps.
 - (5) Proposed location on premises of the outdoor light fixture(s), including height.
 - (6) Such other data and information as may be required by the building official.
- (b) The ~~development services director building inspector~~ shall have five business days from the date of submission of the request for temporary exemption to act, in writing, on the request. If approved, the exemption shall be valid for not more than thirty days from the date of issuance of the approval. The approval shall be renewable at the discretion of the ~~development services director building official~~ upon a consideration of all the circumstances. Each such renewed exemption shall be valid for not more than thirty days.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.258 Nonconforming lighting.

- (a) Existing lighting in conflict with this division shall be classified as nonconforming.
- (b) Nonconforming lighting shall not be altered, rebuilt, enlarged, extended, or relocated, unless doing so brings it into conformance.
- (c) Nonconforming lighting shall not be permitted to remain after cessation or change of the business or activity to which the lighting pertains.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.259 Administration.

The duties and responsibilities of administering this division shall be vested in the ~~development services director building inspector~~ of the city, the planning and zoning commission, or such other person as may be designated from time to time by the mayor.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.260 Penalty.

Any person, firm or corporation violating any of the provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty or fine not to exceed the sum of one thousand dollars (\$1,000) for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

(Ordinance 1999-12-00426.1 adopted 12/6/99)

§ 14.04.261 **Variances.**

The board of adjustment shall have authority to grant variances from the provisions of this division in accordance with article **14.02**, division 2, of this chapter.

| Appendix A. IES Maintained Horizontal Illuminance Recommendations | | | | | | |
|---|---|------|----------|--|------|----------|
| Parking Lot Levels of Activity (examples) | General Parking and Pedestrian (footcandles) | | | Vehicle Use Area Only (footcandles) | | |
| | Ave. | Min. | U. Ratio | Ave. | Min. | U. Ratio |
| | | | | | | |
| HIGH | 3.6 | 0.9 | 4:1 | 2.0 | 0.67 | 3:1 |
| Major league athletic events | | | | | | |
| Major cultural or civic events | | | | | | |
| Regional shopping centers | | | | | | |
| Fast food facilities | | | | | | |
| MEDIUM | 2.4 | 0.6 | 4:1 | 1.0 | 0.33 | 3:1 |
| Community shopping centers | | | | | | |
| Cultural, civic or recreational events | | | | | | |
| Office parks | | | | | | |
| Hospital parking | | | | | | |
| Transportation parking | | | | | | |
| Residential complex parking | | | | | | |
| LOW | 0.8 | 0.2 | 4:1 | 0.5 | 0.13 | 4:1 |
| Neighborhood shopping | | | | | | |
| Industrial employee parking | | | | | | |
| Educational facility parking | | | | | | |
| Church parking | | | | | | |
| (Ordinance 1999-12-00426.1 adopted 12/6/99) | | | | | | |

§ 14.04.262 through § 14.04.300. (Reserved)

Division 8
Accessory Buildings, Structures and Uses

§ 14.04.301 Purpose.

The purpose and intent of the accessory building, accessory structures and accessory use regulations is to:

- (1) Maintain neighborhood and community integrity and preserve the existing character of neighborhoods by encouraging compatible land uses.
- (2) Provide the residents of the city the opportunity to use their property to enhance the quality of life and/or fulfill personal objectives as long as the use of the property is compatible with the land uses or character of the neighborhood.
- (3) Assure that public and private services such as streets, water, storm water drainage, and electrical systems are not burdened by accessory uses to the extent that the accessory usage exceeds that which is normally associated with the principal use of the property.

(Ordinance 2006-10-00577, sec. 1, adopted 10/16/06; Ordinance 2023-05-00979 adopted 5/4/2023)

§ 14.04.302 Accessory buildings, structures, and uses permitted.

- (a) Accessory buildings and structures may be erected, maintained, and used for purposes which are clearly subordinate to the principal building, structure, or use permitted on the premises.
- (b) Accessory buildings, structures, and uses shall be so constructed, maintained, and utilized so that the use of the building, structure or equipment located therein does not produce excessive noise, vibration, concussion, dust, dirt, smoke, odors, noxious gases, heat, traffic, glare from artificial illumination or from reflection of light that may be offensive to persons of ordinary sensibilities that occupy surrounding properties.
- (c) The total square footage of the principal building or structure and any accessory buildings or structures shall not exceed the lesser of fifty thousand (50,000) square feet or thirty percent (30%) of the lot square footage without a specific use permit. Additionally, the total square footage of an accessory dwelling unit (ADU) shall not exceed six hundred (600) square feet without a specific use permit. A specific use permit for an ~~accessory dwelling unit~~ ADU in excess of six hundred (600) square feet may be granted by the city council when such property owner can show the following:
 - (1) Does not contain or support a use inconsistent with the zoning district regulation applicable to the property;
 - (2) Use of structure does not cause traffic congestion;
 - (3) Does not support use by any person other than owner or occupant of the principal building, structure, or dwelling; and
 - (4) That size and mass of the structure is consistent with the surrounding uses.
- (d) Except as provided herein, no trailers, containers, commercial boxes or other similar prefabricated containers shall be used as accessory buildings or structures. Exceptions to this subsection (4) are as follows:
 - (1) Agriculture uses with five (5) acres or more may utilize trailers, containers, or commercial boxes for permanent storage located behind the principal building or structure and completely obscured from public view; or

- (2) In industrial and commercial zoned districts, trailers, containers, or commercial boxes for temporary storage facilities may be used for a period not to exceed ninety (90) days total in any one calendar year. Such industrial or commercial temporary storage facilities shall be located behind the principal building or structure and completely obscured from public view. The director of development services may extend the allowable time in thirty (30) day increments up to a maximum of one hundred and eighty (180) days, provided the property owner provides just cause for the extension.
- (e) Except in the agricultural use district (AO), accessory buildings shall be built after the principal building or structure is substantially complete. Accessory buildings used for agricultural purposes that may be built before the principal building or structure in AO districts:
 - (1) ~~Include, but are not limited to~~ pole barns, livestock barns, riding arenas, implement storage facilities, and loafing sheds.
 - (2) Shall not contain area(s) designed or intended to be used for human habitation for living, sleeping, cooking and/or eating.

(Ordinance 2006-10-00577, sec. 1, adopted 10/16/06; Ordinance 2016-10-00845 adopted 10/20/16; Ordinance 2020-08-00920 adopted 8/20/20; Ordinance 2023-05-00979 adopted 5/4/2023)

§ 14.04.303 Exemptions.

The following accessory structures are exempt from this division:

- (1) Retaining walls;
- (2) Air-conditioning mechanical equipment;
- (3) Uncovered flatwork (such as, but not limited to, patios, sidewalks, concrete pool decking and driveways);
- (4) Playhouses less than one hundred and twenty-five (125) square feet without running water or electricity, playground equipment, tree forts, and similar structures located behind the front of the principal building or structure; and
- (5) Temporary (less than seven (7) days) membrane structures (such as, but not limited to, tents and bounce houses).

(Ordinance 2008-06-00617 adopted 7/19/08; Ordinance 2023-05-00979 adopted 5/4/2023)

§ 14.04.304 General accessory buildings and structures regulations.

In all residential districts, accessory buildings and structures shall comply with the following standards except as may be otherwise specifically provided for in this code:

- (1) Types of accessory buildings and structures.
 - (A) Attached accessory buildings and structures. ~~Accessory buildings and structures that are physically attached to a principal building or structure or located less than ten feet (10') from the principal building or structure shall be considered attached accessory buildings or structures.~~
 - (B) Detached accessory buildings and structures. ~~Accessory buildings and structures which are physically separated located ten feet (10') or more from a principal building or structure or structure and a minimum of ten feet (10') behind the required front setback line shall be considered detached accessory buildings.~~

(2) Design.

- (A) Attached accessory buildings and structures shall be designed to be architecturally compatible with the principal building, structure or dwelling and constructed of similar materials as the principal building.
- (B) Detached accessory buildings shall be constructed of materials designed for construction and have a minimum life expectancy of at least twenty (20) years.

(3) Setbacks.

(A) Accessory buildings:

- (i) Front yard setback: Attached accessory buildings or structures shall meet the required setback of the principal building or structure. Detached accessory buildings or structures shall be setback a minimum of ten feet (10') behind the rear build line of the principal building, structure or dwelling. A specific use permit may be granted to allow a detached accessory building or structure to be located in front of the principal building, structure or dwelling in AO and R-2 (Residential 2-acre) zoned districts and shall require a three-hundred foot (300') front yard setback.
- (ii) Rear yard setback: Accessory building and structures shall have a minimum setback of twenty feet (20').
- (iii) Side yard setbacks: Accessory building and structures shall be twenty feet (20') unless the side yard is adjacent to a street. Side yards adjacent to a street shall meet the required side yard setbacks as the principal building or structure.

~~(iv) Where a build line is established on a plat, which is not consistent with this article, the build line that is the greater distance from the front property line shall be observed.~~

(iv) No required parking shall be allowed within the required front yard setback.

- (B) In-ground swimming pools, sports courts, tennis courts and similar uses shall maintain a minimum rear yard setback of twenty-five feet (25'), a minimum side yard setback of twenty feet (20') and if the in-ground pool is in front of the principal building it shall maintain a front setback of three hundred feet (300'). In-ground swimming pool setbacks shall be measured from the inside wall of said pool.
- (C) The inside wall of an aboveground swimming pool and any elevated decking associated with an aboveground swimming pool shall be located behind the principal building and shall maintain a minimum rear yard setback of fifty feet (50') and a minimum side yard setback of twenty-five feet (25').

(4) Accessory Dwelling Units (ADUs). ADUs may only be used and/or occupied by the owner/occupant of the principal building, structure, or dwelling unit, their family, invited guests and/or domestic staff. An ADU may be a standalone structure, attached but not interconnected to the principal building, structure, or dwelling, or be a part of a permitted accessory building. All areas associated with, or providing support to an ADU shall be used in calculating the square footage of the ADU. These areas include but are not limited to habitable spaces, closets, halls, corridors, bathrooms, porches, patios, storage rooms, and covered vehicle storage areas. The calculation of area associated with an ADU is not intended to include areas of accessory buildings that are isolated and/or delineated for other uses, including but not limited to areas used as a barn, workshop, game/party room, art studio, or pool house. ADUs shall comply with the following:

(A) General regulations for ADUs:

- (i) Only one (1) accessory dwelling unit ADU may be constructed or maintained on a lot.
- (ii) ADUs shall meet the requirements for safety and occupancy of the International Residential Code as

Commented [KS5]: Courtney would like more time to see which elements of an ADU can be included

adopted by the city from time-to-time.

(iii) ADUs may not be rented, bartered, leased, or exchanged separate and apart from the principal building or structure.

(iv) Detached ADUs shall be limited to a maximum height of twenty-five feet (25') measured to the peak of the roof of the structure.

(B) Specific regulations for ADU square footage based on zoning district:

(i) In R-2 zoning districts, a maximum of six hundred (600) square feet. An additional nine hundred (900) square feet may be permitted with a specific use permit. Total area of ADU shall not exceed one thousand and five hundred (1,500) square feet.

(ii) In R-1.5 zoning districts, a maximum of six hundred (600) square feet. An additional six hundred (600) square feet may be permitted with a specific use permit. Total area of ADU shall not exceed one thousand and two hundred (1,200) square feet.

(iii) In R-1 and AO zoning districts, a maximum of six hundred (600) square feet. An additional four hundred (400) square feet may be permitted with a specific use permit. Total area of ADU shall not exceed one thousand (1,000) square feet.

(Ordinance 2006-10-00577, sec. 1, adopted 10/16/06; Ordinance 2008-06-00617 adopted 7/19/08; Ordinance 2015-08-00816 adopted 8/20/15; Ordinance 2016-10-00845 adopted 10/20/16; Ordinance 2020-08-00920 adopted 8/20/20; Ordinance 2023-05-00979 adopted 5/4/2023)

§ 14.04.305 through § 14.04.340. (Reserved)

Division 9 Telecommunication Antennas

§ 14.04.341 **Purpose.**

These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety, and general welfare of the city.
- (2) To enhance the ability of the providers of telecommunications services to provide such services to the community safely, effectively, and efficiently.
- (3) To provide regulations for antenna support structures and antennas that provide secure mounting and construction and prevent interference with public safety communications equipment.
- (4) To encourage the users of support structures and antennas to collocate where possible and to locate all facilities, to the extent possible, in areas where adverse impact on the community is minimal. Alternative or stealth designs are encouraged for all antenna support structures, antennas, and supporting equipment.
- (5) To protect and enhance the city's environmental and aesthetic quality.
- (6) To identify standards in order to ensure equitable treatment of providers of functionally equivalent telecommunications services.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

Commented [KS6]: P&Z requests Joe to come up with revised regulations and a total number of square footage for ADU

§ 14.04.342 **Applicability.**

- (a) This division applies to all telecommunication towers, support structures, and antenna installation unless exempted in (b) below.
- (b) Exemptions.
 - (1) In any zoning district, antennas that are two meters or less in diameter including satellite earth stations.
 - (2) In any zoning district, any receive-only home television antennas.
- (c) Support structures or antennas legally installed before adoption of this division [January 16, 2006] are not required to comply with this division but must meet all applicable state and federal requirements, building codes, and safety standards.
- (d) An AM array shall be subject to these regulations. An AM array consisting of one or more support structure units and supporting ground equipment, which functions as one AM broadcasting antenna, shall be considered one support structure. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the support structures, including the guide wires, in the array. Additional support structure units may be added within the perimeter of the AM array by right.

(Ordinance 2006-02-00561, sec. 1, adopted 2/20/06; Ordinance 2010-11-00668, sec. 2, adopted 11/4/10)

§ 14.04.343 **Definitions.**

For the purposes of this division, the following terms shall have the respective meanings as ascribed to them:

Alternative antenna support structure.

A clock tower, bell tower, steeple, manmade tree, light pole, or similar alternative-design mounting structure that camouflages or conceals the presence of antennas or support structures. The generic term “stealth” may also be applied to any method that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure. Panel antennas and omni and yagi antennas attached to existing structures are considered to be alternative in design if they are integrated into the architectural features of the structure or are painted to match the support structure.

Antenna.

Any exterior transmitting or receiving device mounted on or within a support structure, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, television signals, or other communication signals.

Antenna support structures.

The transmitting or receiving system, its supporting structures, and any appurtenances mounted thereon, including a freestanding structure built specifically to support or act as an antenna or a structure mounted on some other manmade object such as a building or bridge.

Backhaul network.

The lines that connect a communications provider’s support structure/cell sites to one or more telephone switching offices and/or long distance providers, or the public switched telephone network.

Collocation.

The use of a single support structure and/or site by more than one communications provider.

FAA.

The Federal Aviation Administration.

FCC.

The Federal Communications Commission.

Guyed lattice support structure.

A guyed three- or four-sided, open steel frame structure used to support telecommunications equipment.

Height.

The distance measured from the finished grade of the parcel to the highest point on the support structure or other structure including the base pad and any antenna.

Monopole.

A structure composed of a single spire used to support telecommunications equipment.

Omni antenna.

A thin, vertical, whip-type antenna that delivers an omni-directional signal.

Preexisting support structures and preexisting antennas.

Any support structure or antenna for which a building permit or specific use permit has been properly issued prior to the effective date of this division [ordinance adopted January 16, 2006], including permitted support structures or antennas that have not yet been constructed so long as such approval is current and not expired.

Self-supporting lattice support structure.

A self-supporting, open steel frame structure used to support telecommunications equipment.

Telecommunications facility.

Any unmanned facility consisting of equipment for the transmission, switching, and/or receiving of wireless communications. Such facility may be elevated (either structure-mounted or ground-mounted) transmitting and receiving antennas, low-power mobile radio service base station equipment, and interconnection equipment. The categories of facility types include both roof and/or structure-mount facilities and telecommunications support structures.

Telecommunication tower.

A structure designed for the support of one or more antennas and including guyed towers, self-supporting (lattice) towers or monopoles but not disguised support structures or buildings. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular phone towers, alternative tower structures, and the like.

Temporary antenna.

An antenna and supporting equipment used on a temporary basis in conjunction with a special event, emergency situation, or in case of equipment failure.

Transceiver radio.

Radio equipment rectangular in shape that attaches to lighting fixtures and/or utility poles and meets wind load requirements. Transceiver radios may have an attached omni-directional whip antenna.

Yagi antenna.

A horizontal beam-type, directional antenna with short vertical bars, generally used for micro cells.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06; Ordinance 2006-02-00561, sec. 1, adopted 2/20/06)

§ 14.04.344 **General requirements.**

- (a) Antennas and support structures may be considered either principal or accessory uses.
- (b) Antenna installations shall comply with all other requirements of all city ordinances and the zoning ordinance with the exception of those specified within this division.
- (c) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the city ~~manager administrator~~ to minimize adverse visual aspects associated with the proliferation and clustering of towers, ~~and~~ collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the provision in section ~~14.04.345~~ of this division.
- (d) Applications for antennas and antenna support structures shall include the following:
 - (1) The distance between the proposed support structure and the nearest residential unit and/or residential zoning district boundary line.
 - (2) An inventory or map of the applicant's existing support structures, antennas, or sites previously approved for such, either owned or leased, both within the city and within one mile of the city limits, including specific information about the location, coverage areas, height, and design of each support structure. The separation distance between the proposed support structure or antenna and these support structures shall also be noted.
 - (3) Certification of the following:
 - (A) That the applicant has sought and received all franchises or permits required by the city for the construction and operation of the communication system.
 - (B) Identification of the backhaul provider and connectivity locations for the installation.
 - (C) Certification of the structural engineering information.
 - (D) A notarized statement from the applicant that the proposed support structure can accommodate the collocation of additional antennas.
 - (4) Information concerning the finished color, alternative design standards (if applicable), and method of fencing.
 - (5) The application may require a site plan and landscape plan in accordance with this division. Platting of the property may be required in accordance with the subdivision ordinance.
 - (e) All commercial attachments including but not limited to signs, flags, lights and attachments, other than those required for emergency identification, communications operations, structural stability, or as required for flight visibility by the FAA and FCC, shall be prohibited on any antenna or antenna support structure. However, lights may remain or be replaced on light standards that are altered or replaced to serve as antenna support structures with fixtures that comply with the lighting regulations of the city. However, this provision shall not preclude the inclusion of an antenna within or mounted on a flagpole.
 - (f) All antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state and federal agency with regulatory authority over support structures and antennas. If standards change, owners must comply within six months or as required by the regulating authority.
 - (g) A building permit is required to erect or install an antenna, antenna support structure, and related equipment, unless the particular antenna is exempt from regulations of this division. All installations must comply with applicable state and local building codes and the standards published by the

Electronic Industries Association as may be amended from time to time. Owners shall have 30 days after receiving notice that an installation is in violation of applicable codes to fully comply, or the owner may appeal to the city council.

- (h) All support structures and antennas must be constructed and operated in a manner that does not create electromagnetic or other interference with the city's radio frequencies and public safety operations as required by the FCC.
- (i) No commercial antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires may be located within any required front, side, or rear yard setback.
- (j) All antennas and antenna support structures owned and/or operated by a governmental entity shall be permitted by right in any district.
- (k) Design.
 - (1) Subject to the requirements of the FAA or any applicable state or federal agency, towers shall be painted a neutral color consistent with the natural or built environment of the site.
 - (2) Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district [in] which the facility is located.
 - (3) Antennas attached to a building or disguised antenna support structure shall be of a color identical to or closely compatible with the structure or designed to be an architectural element of the facade to which they are mounted.
 - (4) All towers shall be surrounded by a minimum ~~six-foot (6')-foot~~-high decorative wall constructed of brick, stone or comparable masonry materials and a landscape strip of not less than ~~ten +9~~ feet (10') in width and planted with materials which will provide a visual barrier to a minimum height of ~~six 6~~ feet (6'). The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by administrative permit or by the city council in the case of a special use permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved.
 - (5) All towers, disguised support structures, and related structures, fences and walls shall be separated from the property line of any adjacent property zoned for a residential use at least a distance equal to the height of the tower structure.
 - (6) Vehicle or outdoor storage on any tower site is prohibited, unless otherwise permitted by the zoning.
 - (7) On-site parking for periodic maintenance and service shall be provided at all antenna or tower locations consistent with the underlying zoning district.
 - (l) Safeguards shall be utilized to prevent unauthorized access to an antenna support structure. Safeguards include those devices identified by the manufacturer of the antenna support structure utilized, a fence, climbing guard, or other commercially available safety device. Climbing spikes must be removed after use.
 - (m) Temporary antennas shall only be allowed in the following instances:
 - (1) In conjunction with a festival, carnival, or other special event.
 - (2) In case of an emergency as required by the police or fire department.

- (3) When needed to restore service on a temporary basis after failure of an antenna installation. The city must be notified within 72 hours of the placement of a temporary antenna. If the temporary antenna is to be needed for more than seven days, then the provider must acquire a permit for the use.
- (n) Applicants must notify the city of any change in collocation or backhaul providers within ~~thirty~~ (30) days of the exchange.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.345 Collocation.

Collocation shall be accomplished as follows:

- (1) All new support structures over ~~sixty 60~~ feet (~~60'~~) in height must be constructed to support antennas for at least two carriers, unless the structure is an alternative or stealth design, or the support structure is replacing an existing utility structure or light standard. Sufficient area for associated structures and equipment must also be provided. A written agreement committing to shared use as required by this section shall be submitted by the tower applicant. The willful and knowing failure of the owner of a tower built for shared use shall be in violation of this division and, among other remedies of the city, shall be cause for the withholding of future permits to the same owner to install, build or modify antennas or towers within the city.
- (2) A support structure which is modified or reconstructed to accommodate collocation shall be of the same type or design as the existing structure and is subject to the following regulations:
 - (A) The support structure may be modified or rebuilt to a height not to exceed ~~thirty 30~~ feet (~~30'~~) over the support structure's existing height, with a maximum height of ~~one hundred twenty 120~~ feet (~~120'~~). If a specific use permit issued for the support structure stipulated a maximum height, the support structure may not be modified unless the specific use permit is amended.
 - (B) Distance separation from other support structures and residential zoning district boundaries are based on the original support structure and are not increased.
 - (C) The support structure may be moved on the same property within ~~fifty 50~~ feet (~~50'~~) of its existing location but may not be moved closer to residentially zoned property. The new location must be within the boundaries of the specific use permit.
 - (D) The original support structure must be removed from the property within ~~ninety~~ (90) days of the completion of new support structure.
 - (E) Additional antennas attached to an existing support structure must comply with the design of the existing antenna on the support structure.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.346 Support buildings and equipment storage.

Support buildings and equipment storage areas or buildings must meet the following requirements:

- (1) When mounted on rooftops, they must be screened by a parapet wall or other mechanical unit screening.
- (2) When ground mounted, they must comply with the following:
 - (A) Meet all applicable front, side, and rear yard setback requirements.
 - (B) Be of a neutral color and use exterior building materials that are compatible with surrounding structures.

- (C) Be screened by an evergreen landscape screen with an initial planting size of five (5) gallons and four feet (4') in height, with an ultimate height of six feet (6'), or a solid masonry fence six feet (6') in height. Landscaping must be irrigated and maintained in a living, growing condition. Wooden fences are prohibited and wrought iron or chain link may only be used in conjunction with a landscape screen.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.347 Requirements for the placement of support structures and antennas.

- (a) In all zoning districts, except for commercial business “CB” and light industrial “LI,” antennas and antenna support structures are prohibited, except as specified within this division.
- ~~(1) No antennas or antenna support structures shall be allowed on lots used or platted for single family, two family, or single family attached purposes. Antennas and antenna support structures shall be installed on multifamily lots only as allowed below.~~
- (1) Antennas may be attached to a utility structure (e.g., electrical transmission/ distribution tower or elevated water storage tank) exceeding sixty 60 feet (60') in height.
- (2) Antennas may be totally enclosed within or integrated into the design of any building feature permitted in the zoning district. Antennas may be mounted flush to the exterior of a building if it is painted and integrated into the overall architectural design.
- (3) Antennas may be attached to existing streetlight, park ballfield lights, and parking lot light standards, or the light standard may be replaced to accommodate the antennas. The height of the light standard may be increased no more than fifteen 15 feet (15'), up to a maximum of sixty 60 feet (60'), to accommodate the antenna.
- (4) In residential districts, only omni, yagi, and small panel antennas not exceeding one foot in width by eight feet in length, mounted flush to the support structure, are allowed. Radio transceivers may also be used if the equipment box does not exceed eight inches by fourteen inches by five inches (8" x 14" x 5"). Other types of antennas may be used only when incorporated or enclosed within a building permitted in the district, or within a flagpole or other stealth design, or attached to any existing utility structure exceeding sixty 60 feet (60') in height.
- (5) Equipment buildings must comply with the same screening requirements specified in section **14.04.346** above, unless the equipment is attached to the support structure itself or enclosed within another structure on the property.
- (b) In commercial business “CB” and light industrial “LI” districts antennas and antenna support structures are allowed as follows:
- (1) Antenna support structures are allowed by right if they are sixty 60 feet (60') or less in height and by a specific use permit if over sixty 60 feet (60') in height.
- (2) Antennas may be attached to a utility structure including electrical transmission/ distribution tower or elevated water storage tanks.
- (3) Antennas may be attached to existing streetlight, park ballfield lights, and parking lot light standards, or the light standard may be replaced to accommodate the antennas. The height of the light standard may be increased a total of fifteen 15 feet (15'), up to a maximum of sixty 60 feet (60'), to accommodate the antenna. Only omni, yagi, and small panel antennas not exceeding one foot in width by eight feet in length, mounted flush to the support structure, may be attached to existing light standards less than sixty 60 feet (60') in height. Radio transceivers may also be used if the equipment box does not exceed eight inches by fourteen inches by five inches (8" x 14" x 5").

- (4) Antennas may be totally enclosed within or integrated into the design of any building or building feature permitted in the zoning district. Antennas may be mounted flush to the exterior of a building if it is painted and integrated into the overall architectural design.
- (5) Antennas mounted on a roof or existing structure, other than a support structure, shall extend no more than ten feet above the highest point of the structure.
- (6) Antennas may be mounted on or incorporated into flagpoles.
- (7) The height of a support structure is limited to ~~one hundred twenty +20~~ feet ~~(120')~~.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.348 Antennas on city-owned property.

Antennas owned by other than governmental entities may be located on property owned by the city, regardless of the zoning district, under the following conditions:

- (1) The antennas and support structures may be attached to an existing improvement or replace an existing improvement. The improvement shall be capable of supporting the antenna and any associated equipment and shall not interfere with the use or other operations of the city.
- (2) Prior authorization for use of city property must be shown by a franchise, lease, license, permit, or other document duly executed by an authorized city representative and adopted in conformance with all applicable city regulations for the property. The granting of a franchise, lease, license, or permit is at the discretion of the city council or its authorized designee and must comply with all ordinances.
- (3) The antennas and any accompanying equipment must comply with all ordinances, rules, and regulations.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.349 Aesthetic and alternative design requirements.

All antennas and antenna support structures must meet the following requirements:

- (1) Support structures shall have a galvanized steel finish or shall be painted a neutral color, unless other designs and colors are required by the Federal Aviation Administration for safety purposes.
- (2) Antennas and supporting equipment installed on an existing structure other than a support structure must be of a neutral color that is compatible with the color of the supporting structure.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.350 Appeals.

- (a) An applicant may appeal a decision of the city ~~manager administrator~~ for an antenna installation not requiring a specific use permit to the city council by filing a notice of appeal within ten days following the date the city ~~manager administrator~~ notifies the applicant of his action. The city council may approve, conditionally approve, table, or deny an appeal. All decisions of the city council are final.
- (b) Any entity that desires to erect or utilize telecommunications facilities that would be limited by the provisions of this division may petition the city council to modify this division. In determining the need to initiate an amendment to this division, the city council shall consider the extent to which strict application of these regulations would prohibit or have the effect of prohibiting communications services.

(Ordinance 2006-01-00553, sec. 1, adopted 1/16/06)

§ 14.04.351 through § 14.04.385. (Reserved)

Division 10

Licensed Amateur Communications Antennas

§ 14.04.386 Purpose.

(a) The provisions of this division apply only to antennas and antenna support structures used in licensed amateur communications. If the communication facilities do not comply with the applicable district development standards and the following regulations, then a specific use permit shall be required.

(b) In the event of a conflict between the rules and regulations in this division and the rules and regulations promulgated by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA), federal law shall control.

(Ordinance 2011-02-00676 adopted 2/17/11)

§ 14.04.387 Definitions.

For the purpose of this division and notwithstanding any conflicting definition contained in this chapter:

Antenna.

A “private antenna” for purposes of determining allowed uses under the schedule of uses in article 14.03, division 15.

Antenna support structure.

A structure, such as a mast, tower or pole, that is placed, erected or constructed to support one or more antennas for the purpose of engaging in licensed amateur communications. Buildings and associated roof mounted equipment shall not be considered as antenna support structures.

Compelling communications need.

A need for relief based upon the inability of the applicant to obtain reasonable communications goals due to engineering or technical limitations or physical characteristics, such as trees, buildings, or structures located on the subject and adjacent properties that obstruct or significantly impede communications to and from the subject property.

Licensed amateur communications.

An amateur radio operations, also known as the amateur radio service, as regulated and licensed by the Federal Communication Commission pursuant to 47 C.F.R. part 97.

(Ordinance 2011-02-00676 adopted 2/17/11)

§ 14.04.388 Maximum number of antennas and antenna support structures in residential districts.

(a) No more than two (2) antenna support structures for licensed amateur communications shall be allowed per lot of record in a residential district. Upon a showing of a compelling communications need, the design review committee (DRC) may administratively approve additional antenna support structures.

(b) Exceptions.

(1) Horizontal antennas located behind the main structure.

(2) A maximum of four (4) vertical antennas located behind the main structure.

(Ordinance 2011-02-00676 adopted 2/17/11)

§ 14.04.389 **Height.**

The maximum height for an antenna support structure in any district shall be eighty ~~(80)~~ feet (80'). Upon showing of a compelling communications need, the design review committee may administratively approve a maximum height of one hundred ~~(100)~~ feet (100'). An antenna support structure that exceeds one hundred ~~100~~ feet (100') in height shall be allowed only with the approval of a specific use permit.

(Ordinance 2011-02-00676 adopted 2/17/11)

§ 14.04.390 **Antenna and antenna support structure standards.**

- (a) Number and size. The number and size of antennas placed upon an antenna support structure used for licensed amateur communications shall be limited by the wind load requirements contained in the current version of the city's building codes or by the manufacturer's specifications for wind loading, whichever is more restrictive.
- (b) Setbacks.
 - (1) Front yards. Antenna support structures (including guy wires, foundations, anchors, and other components of the structure) shall not be permitted in required front yards.
 - (A) Exception. Houses sitting more than two hundred feet (200') from the road and that cannot meet the rear yard requirements may have up to 1 antenna not to exceed sixty feet (60') in height, with guide wires being no closer than one hundred seventy-five feet (175') behind the front property line.
 - (2) Rear yards. Guy wires shall be permitted in required rear yards. Minimum setbacks for antenna support structures shall be the same as those required for accessory buildings in the applicable residential district.
 - (3) Side yards. Guy wires, and antenna shall not be permitted in required side yard setbacks. Minimum setbacks for antenna support structures shall be the same as those required for accessory buildings in the applicable residential district.
 - (4) Separation. There shall be no minimum or maximum separation requirements for antenna support structures from other structures on the same lot of record.
- (c) Lights. Lights mounted on antenna support structures shall comply with the city's dark sky ordinance.
- (d) Construction standards. Antenna support structures shall be installed and may be modified in accordance with the manufacturer's specifications or under the seal of a registered professional engineer of the state.
- (e) Maintenance. Antennas and antenna support structures that have, due to damage, lack of repair, or other circumstances, become unstable, lean significantly out-of-plumb, or pose a danger of collapse shall be removed or brought into repair within ninety (90) days following notice given by the building official; provided that the building official may order immediate action to prevent an imminent threat to public safety or property.

(Ordinance 2010-11-00668, sec. 2, adopted 11/4/10)

§ 14.04.391 **License requirements.**

- (a) Only licensed amateur radio operators shall be permitted to install, or have installed, and operate licensed amateur communication facilities under the provisions of this division. Proof of license shall be required at the time application is made for a building permit to install and operate licensed amateur communication facilities under the provisions of this division.

- (b) Discontinuance.
- (1) Within 180 days of the date of discontinuance, the owner of property on which an antenna structure is located shall remove the structure from the property in the event licensed amateur communications shall be discontinued at the property due to the death of the licensee, or the loss or surrender of the FCC license authorizing those communications.
- (2) A ham radio operator shall remove any and all antenna prior to any sale or change in ownership, unless the property is sold to a licensed ham radio operator in accordance with this division.
- (c) Appeals process. Any decision made by the development services director of planning and zoning may be appealed to the ~~development services director~~ planning and zoning commission. An agenda request shall be filed with the city secretary by the ham radio operator along with a nonrefundable fee of \$100.00 (one hundred dollars) 15 days prior to the next regularly scheduled meeting of the planning and zoning commission.

Commented [KS7]: Does this "agenda request" filing process need to be included?

(Ordinance 2010-11-00668, sec. 2, adopted 11/4/10)

§ 14.04.392 through § 14.04.430. (Reserved)

Division 11 Wind Energy Conversion Systems

§ 14.04.431 **Purpose.**

(a) The purpose of this division is to facilitate the siting, installation, and construction of small, medium, and large wind energy conversion systems within the city, subject to reasonable restrictions, which will preserve the health and safety of the public, ensure compatibility with surrounding land uses, and provide guidelines in the protection of listed species.

(b) To the extent this Division conflicts with state or federal law, such state or federal law controls.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.432 **Definitions.**

For purposes of this division, the following terms shall have the respective meanings as ascribed to them:

Ambient sound.

All sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircrafts flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other nearby sounds from birds and animals or people. The nearby and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound. If present, a different time or location should be selected for determining the ambient background sound levels.

Biological/environmental assessment.

An assessment performed by a degreed biologist of the on-site and surrounding area habitat and the wildlife species that may be utilizing the project site or neighboring areas for foraging, nesting, breeding, or migratory purposes that may be impacted through development actions; the assessment usually includes identification of wetland, creek, river, bay, and other watershed habitats, and may be species specific.

Building/structurally-mounted wind energy system.

A small wind energy system for permanent mounting and operating on a building or other structure. Building or structurally-mounted systems must not exceed ten kilowatts (10 kW) in manufacturer rated power.

dbA (A-weighted sound level).

A measure of overall sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response.

dbC (C-weighted sound level).

Sound measurement used to measure low frequencies as a single number that represents the entire low frequency spectrum. A-weighted sound levels (dbA) de-emphasize and do not fully represent dbC sound levels when taken or recorded.

Fall radius.

The fall area for a wind energy system is measured by using the total system height of the tower as the radius around the center point of the base of the tower.

Flicker.

The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Grid system.

The transmission system created to balance the supply and demand of electricity for consumers.

Horizontal axis wind energy system.

A wind energy system that utilizes the shaft of the monopole to support the propeller at the top and the generator is situated perpendicular and horizontal to the shaft.

Large wind energy system.

A wind energy conversion system consisting of one wind turbine and designed to supplement other electricity sources for existing buildings or facilities, from which the power generated is used for on-site consumption. A large wind energy conversion system consists of a wind turbine, a tower, base, rotor blades, and associated control or conversion electronics and has a total rated capacity that is at least one hundred kilowatts (100 kW) but less than two hundred fifty kilowatts (250 kW).

Medium wind energy system.

A wind energy conversion system consisting of one wind turbine and designed to supplement other electricity sources for existing buildings or facilities, from which the power generated is used for on-site consumption. A medium wind energy conversion system consists of a wind turbine, a tower, base, rotor blades, and associated control or conversion electronics, which has a total rated capacity that is greater than ten kilowatts (10 kW) but less than one hundred kilowatts (100 kW).

Rated capacity.

The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

Small wind energy system.

A single system designed to supplement other electricity sources for existing buildings or facilities, from which the power generated is used for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, base, rotor blades, and associated control or conversion electronics, which for the purpose of this division has a total rated capacity of ten kilowatts (10 kW) or less.

Survival wind speed.

The maximum wind speed, as designated by the wind energy system manufacturer, at which a system, in unattended operation (not necessarily producing power) is designed to survive, without damage to any structural equipment or components of the system, or loss of the ability to function normally.

Tonal or “pure” sounds.

Sound that is defined as sound at discrete frequencies. It is caused by components such as meshing gears, nonaerodynamic instabilities interacting with a rotor blade surface, or unstable flows over holes or slits or a blunt trailing edge. A highly tonal sound is often described as a buzz, whine, or hum.

Total wind energy system height.

The distance from the grade to the highest point on the tower, including the vertical length of any extensions, such as the rotor blade:

- (1) For horizontal axis wind energy system towers, the distance between the ground and the highest point of the rotor blade in its vertical, upright position; and
- (2) For vertical axis wind energy system towers, the distance between the ground and the highest point of the monopole tower/shaft.

Turbine, guyed.

Any tower or wind energy system turbine supported in whole or in part by cables anchored to the ground.

Vertical axis wind energy system.

A wind energy system that utilizes a generator positioned at the base of the tower and has the blades wrapped around the shaft.

Wind energy system or wind energy conversion system.

A shaft, gearing belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device to convert the mechanical energy of the surface area into electrical energy, and the associated, tower, pylon, and rotor blades or other device.

(Ordinance 2011-10-00687 adopted 10/6/11)**§ 14.04.433 Applicability.**

- (a) The requirements of this section apply within the city where all wind energy conversion systems used to generate electricity or perform work that may be connected to a utility grid, serve as an independent source of energy, or serve as a hybrid system.
- (b) Wind energy systems in place prior to the effective date of this division are not required to meet the requirements of this section with the exception of those wind energy systems abandoned pursuant to section **14.04.436(f)(2)**.
- (c) Any preexisting wind energy system that is not producing energy for a continuous period of ~~six~~ (6) months must meet the requirements of this section prior to recommencing production of energy.
- (d) Any physical modification to an existing and permitted wind energy system that materially alters the size, type, power output, or number of wind energy systems, or other equipment, requires a permit modification from the city.
- (e) Accessory use. Accessory use for this section refers to the stipulation that the energy generated by a

wind energy system must be used on site and any additional energy produced above the total on-site demand can only be sold to an electrical utility that normally provides electrical power to the property.

- (f) Boat and RV wind energy systems. Wind energy systems with a total rated capacity less than one kilowatt (1 kW) of power that do not, and will not, require or implement the conversion of direct current (DC) to alternating current (AC) are exempt from the requirements of this section, with the stipulation that no wind energy system may extend more than fifteen ~~45~~ feet (15') above the primary supporting section of the structure being used for mounting.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.434 Requirements.

- (a) Certification. All wind energy systems must be approved under an emerging technology program, such as the California Energy Commission, IEC, or any other small wind certification program recognized by the American Wind Energy Association (AWEA) or the U.S. Department of Energy.
- (b) Permits. All wind energy systems require a building permit, electrical permit, and review by the city.
- (c) Inspection. All wind energy systems must be inspected by the city's building and electrical inspectors.
- (d) Permit issuance. All reviews by the city must be performed, and the building permit, electrical permit, and if applicable, specific use permit, must be issued prior to the mounting, pouring of a concrete pad, or construction and assembly of the wind energy system.
- (e) Survival wind speed. All wind energy systems and associated components, including, but not limited to, generator, rotor blades, or other components and covers, must be constructed of materials and be installed to meet or exceed the minimum wind resistant construction standards of the Texas State Department of Insurance Wind Load Factors for the North Texas area and the city's building code.
- (f) Controls and brakes. All wind energy systems must have automatic and manual braking systems that engage at the maximum wind speeds allowable as designated for the type of wind energy system installed, to prevent uncontrolled rotation and excessive pressure on the tower structure, rotor blades, and turbine components.
- (g) Maintenance. The owner and operator of a wind energy system must maintain the system to manufacturer standards. All required periodic maintenance must be performed as recommended by the manufacturer.
- (h) Appearance. All wind energy systems must maintain a nonreflective white, off-white, grey or tan finish.
- (i) Signs.
 - (1) Advertising. Advertising or identification of any kind on wind energy conversion systems is prohibited.
 - (2) Informational sign. Each wind energy system must have a sign, not to exceed two square feet in area, posted at the base of the tower providing the following information:
 - (A) Electrical shock hazard or high voltage warning;
 - (B) Manufacturer's name;
 - (C) Emergency phone number; and
 - (D) Emergency shutdown procedures.

(j) Wiring.

(1) Storage. All electrical wires associated with a freestanding wind energy conversion system must be located on or within the tower in a manner that minimizes their visibility, and must be installed in compliance with the city's electrical code.

(2) Installation. All transmission wires must be installed underground and comply with the city's electrical code.

(k) Lighting. Wind energy systems may not be artificially lighted, unless requested or required by the Federal Aviation Administration.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.435 Uses, lot size allowances, heights, setbacks, and required permits.

(a) Permitted use/by right or specific use permit for lots 2.0 acres or greater.

(1) All applications for wind energy systems as a permitted use/by right or specific use permit (SUP) are subject to permit review and the requirements of this division. All applications for wind energy systems under a specific use permit are subject to permit review and the requirements of sections **14.04.433**, **14.04.434**, 14.04.435(b)–(c), 14.04.437, 14.04.438, 14.04.439, and 14.04.440.

(A) All specific use permits issued for a wind energy system are for the life of the system and any replacement or alterations to the system require an amendment to the existing specific use permit.

(B) Wind energy systems are allowed as an accessory use to a building requiring energy on platted lots and as either a use permitted/by right or under a specific use permit if the applicant is able to meet the requirements outlined in table 14.04.435(a)(1)(B)(i):

Table 14.04.435(a)(1)(B)(i) Allowances as a permitted/by-right use or SUP

| Land use | Type of system | Min. lot size | Max. units allowed | Max. height by right or SUP | Fall radius setbacks notes 1, 2 & 3 below apply | Permits required | Additional requirements |
|---|----------------|----------------------|---|---|---|-------------------------|-----------------------------|
| Agricultural, single-family residential and commercial business | Pole mounted | 2.0 acres or greater | One small or medium freestanding system allowed as an accessory use, one (but not more than one) per 2.0 acres of platted lots. | By right up to 60' or 61' to 85' by SUP | The total height of the system plus 25%. The system must fall within the property lines and is subject to subsection (c). | Building and electrical | Development services review |
| Light industrial | Pole | 2.0 acres | One small or medium | By right up | The total height of | Building and | Development |

Table 14.04.435(a)(1)(B)(i) Allowances as a permitted/by-right use or SUP

| Land use | Type of system | Min. lot size | Max. units allowed | Max. height by right or SUP | Fall radius setbacks notes 1, 2 & 3 below apply | Permits required | Additional requirements |
|----------------------|----------------------------------|---------------|--|--|---|-------------------------|-----------------------------|
| "L1" | mounted | or greater | freestanding system allowed as an accessory use, one (but not more than one) per 2.0 acres on platted lots. | to 60' 61' to 85' by SUP | the system plus 25%. The system must fall within the property lines and is subject to subsection (c). | electrical | services review |
| All zoning districts | Building or structurally mounted | None | No more than 2 systems per structure requiring energy for operation, under any land use, as an accessory of use on platted lots. | 15' above highest point in structure, excluding chimneys, not to exceed the requirement of subsection (c). | Fall radius equals the total system height plus 25%, with a minimum setback of 5 feet from the property line, and is subject to subsection (c). | Building and electrical | Development services review |

¹If the entire system (including turbine and rotor blades) meets the Texas State Department of Insurance and city building code wind load requirements for the area that the system will be located.

²If an applicant is able to present evidence that the proposed wind energy system has been engineered with a break point along the tower, the city may determine that the measurement of the length of the longest segment following a break at the break point can be used in determining the fall radius and setback.

³All setbacks are measured from the property line or utility easement, if present and applicable, and subject to subsection (c).

(b) Permitted use/by right or specific use permit for lots less than 2.0 acres and Village Center zoning.

- (1) All applications for wind energy systems under a specific use permit are subject to permit review and the requirements of sections **14.04.433**, **14.04.434**, 14.04.435(b)– (c), 14.04.437, 14.04.438, 14.04.439, and 14.04.440.
- (A) All specific use permits issued for a wind energy system are for the life of the system and any replacement or alterations to the system require an amendment to the existing specific use permit.
- (B) Wind energy systems are allowed as an accessory use to a building requiring energy on platted lots and as either a use permitted/by right or under a specific use permit if the applicant is able to meet the requirements outlined in table 14.04.435(b)(1)(B)(i):

| Table 14.04.435(b)(1)(B)(i) Allowances as a special use permit | | | | | | |
|---|-----------------------|----------------------|---|--------------------|---|-------------------------|
| Land use | Type of system | Min. lot size | Max. units allowed | Max. height | Fall radius setbacks notes 1, 2 & 3 below apply | Permits required |
| Agricultural, single-family residential and commercial | Pole mounted | Less than 2.0 acres | One small or medium freestanding system allowed as an accessory use, one (but not more than one). | 60' | The total height of the system plus 25%. The system must fall within the property lines and is subject to subsection (c) | Building and electrical |
| Light industrial "L1" | Pole mounted | Less than 2.0 acres | One small or medium freestanding system allowed as an accessory use, one (but not more than one). | 85' | The total height of the system plus 25%. The system must fall within the property lines and is subject to subsection (c). | Building and electrical |
| Village Center | Pole mounted | None | One small or medium freestanding system allowed as an accessory use, one (but not more than one) | 85' | The total height of the system plus 25%. The system must fall within the property lines and is subject to subsection (c) | Building and electrical |

¹If the entire system (including turbine and rotor blades) meets the Texas State Department of Insurance and city building code wind load requirements for the area that the system will be located.

²If an applicant is able to present evidence that the proposed wind energy system has been engineered with a break point along the tower, the city may determine that the measurement of the length of the longest segment following a break at the break point can be used in determining the fall radius and setback.

³All setbacks are measured from the property line or utility easement, if present and applicable, and subject to

Table 14.04.435(b)(1)(B)(i) Allowances as a special use permit

| Land use | Type of system | Min. lot size | Max. units allowed | Max. height | Fall radius setbacks notes 1, 2 & 3 below apply | Permits required |
|----------|----------------|---------------|--------------------|-------------|---|------------------|
|----------|----------------|---------------|--------------------|-------------|---|------------------|

subsection (c).

- (c) Additional setbacks, clearance, and height requirements. All wind energy systems must be located under the following setback and clearance requirements, measured from the center of the turbine base:
 - (1) Yards. No wind energy system may be located in any required front yard, located between a principal building and a required front yard, or located in front of the front building line of the principal residential, commercial, agricultural, or industrial building on the lot served by the wind energy system.
 - (2) Vertical ground clearance. The blade tip of any wind energy system must, at its lowest point, have a ground clearance of no less than ~~twenty 20~~ feet (20'), as measured at the lowest point of the arc of the blades.
 - (3) Communication and electrical lines. Each wind energy system must be set back a minimum distance of ~~one hundred twenty-five percent~~ (125%) of the total system height from any right-of-way, or public or private easement where aboveground structures or utility lines exist, or are likely to exist, without proof of the lawful consent of the easement owners.
 - (4) Building-mounted heights. The maximum height of any building or structurally-mounted wind energy system will be dependent upon the results of the structural engineering plans, performed by a registered state engineer, for the building or structure that the system will be mounted on.
 - (5) Monopole heights. The height of a freestanding wind energy system must be measured as the distance from the existing grade, prior to any modifications to the grade, to the highest point on the system, including the vertical length of any extensions such as the rotor blade.
 - (6) All maximum heights. The height of any wind energy system may not exceed the manufacturer's recommendations for the system and the maximum height permitted under this division.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.436 Prohibitions and nuisance abatement.

- (a) Prohibited models. The following wind energy systems are prohibited in all zoning districts:
 - (1) Guyed or latticed towers for small, medium, or large wind energy systems;
 - (2) Experimental, homebuilt, and prototype models.
- (b) Shadow flicker. Plans submitted for review with the building permit application must disclose how the property owner and operator shall minimize shadow flicker to any occupied building on or off site, by limiting flicker effect to a maximum of two ~~(2) five (5)~~-minute periods in one day.
- (c) Signal interference.
 - (1) Prevention. The manufacturer or wind energy system representative must take into consideration the proposed location of the wind energy system and certify that the siting of the wind energy system will not interfere with any of the following;

- (A) Existing microwave communications links;
- (B) Existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, wireless phone, or other personal communication systems.
- (2) Mitigation. Operation of wind energy systems must be discontinued if such interference occurs after the construction, until such time as the interference is mitigated for or eliminated.
- (d) Sound emissions.
 - (1) Residential sound limits. The dbA and dbC sound levels emitted from any wind energy system operation within, or adjacent to, any zoning district that authorizes residential use, may not exceed the measured preconstruction ambient sound levels by more than three (3) dbA and fifteen (15) dbC at any time of the day or night, when measured at all the neighboring property lines allowing for residential use, even if the adjacent property is unoccupied at the time the wind energy system is established;
 - (2) Nonresidential sound limits. The dbA and dbC sound levels emitted from any wind energy system operation that is not located within, or adjacent to, any zoning district that authorizes residential use may not exceed the measured preconstruction ambient sound levels by more than five (5) dbA and twenty (20) dbC at any time of the day or night, when measured from all property lines, even if the adjacent property is unoccupied at the time the wind energy system is established;
 - (3) Except during short-term events including utility outages and severe wind events, a wind energy system shall be designed, installed, and operated so that the dbA and dbC sound levels determined above must not exceed the sound levels, or be in violation of, any of the standards established under this code;
 - (4) Measuring sound levels. An ambient dbA and dbC sound level survey must be performed on site prior to construction of any wind energy system on a property, and the results submitted to the city for review prior to receiving a permit to construct the system. The ambient sound level survey must be performed as follows:
 - (A) All instruments used for measuring sound levels must meet the American National Standards Institute (ANSI) or International Electrotechnical Commission (IEC) type 1 precision integrating sound level meter performance specifications;
 - (B) Sound level measurements must be taken at all of the property lines, and the site test location, date, time of day, wind speeds, and resultant dbA and dbC sound levels must be recorded for submittal to the city concurrent with a wind energy system application submittal;
 - (C) A minimum of two, continuous ten (10)-minute tests must be taken at each location, and for each time period, between the hours of 1:00 p.m. and 6:00 p.m., and between 12:00 a.m. to 6:00 a.m. for two (2) days;
 - (D) The highest and lowest dbA and dbC readings for each location and test must be recorded, and the high and low readings within a five-decibel spread that is observed for ninety percent (90%) of each of the ten (10)-minute survey time periods must be recorded and shall be accepted as the average ambient background sound level for that test period; and
 - (E) Ambient background sound levels include insect and other nearby sounds from birds, animals, people, and nearby transient events. However, the nearby, transient, nonnature, or occasional sounds, such as lawn mowers, airplanes flying over, or sounds from a park or playground, are not to be considered as part of the long-term ambient background sound levels used for surveying and recording purposes. If present, a different time or location must be selected for determining the ambient background sound levels, and multiple ten (10)-minute tests may be required for the tests to be considered reliable and

acceptable.

(5) Sound level complaints. The city will consider and process the following as noise nuisance complaints, which will require the owner of the wind energy system to cease operation of the system until the complaint has been resolved and the system has been brought into compliance. It shall be unlawful for the owner of a wind energy system to cause or permit the system to produce sounds that:

- (A) Exceed the limits set above in subsections (d)(1)–(3);
- (B) Are considered tonal, vibrational, mechanical, aerodynamic, frequent, or continuous and exceed the limits set above in subsections (d)(1)–(3);
- (C) Interfere with the peaceful enjoyment of an adjacent property owner;
- (D) Cause discomfort, distress, or disturb the quiet, comfort, or repose of a person of reasonable nervous sensibilities; or
- (E) Injure or endanger the safety or health of a human or other animal so as to interfere with the physical well-being of the human or other animal.

(6) Sound limit exceptions. In the event that proposed or resultant noise levels from a wind energy system exceed the criteria of this section, a waiver to said levels may be approved by the city manager, provided that the sound levels do not exceed the city's noise ordinance, and the following has been accomplished:

- (A) The owner of the wind energy system must submit to the city a copy of the written consent from all of the adjacent and affected property owner(s) stating that they are aware of the proposed or established wind energy system and the noise limitations imposed by this section, and consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and
- (B) The owner of the wind energy system must provide to the city a copy of the written consent described above for each succeeding property owner located adjacent to the property of the proposed or established wind energy system.

(e) Security.

(1) Ground clearance. The bottom of the tower, measured from ground level to ~~fifteen~~ 15 feet (15') aboveground level, must be designed in a manner to discourage unauthorized climbing.

(2) Access. All access doors to wind turbine towers and electrical equipment must be lockable.

(3) Fencing. Fencing of turbine areas may be required, at the discretion of the city manager, based upon site-specific safety concerns.

(f) Enforcement.

(1) Safety. Any wind energy system found to be unsafe by the city building official must be repaired by the owner within ~~sixty~~ (60) days of the building official's notice to meet federal, state, local and manufacturer safety standards, and the standards of this section.

(2) Notice. If any wind energy system is not operated for at least a continuous period of ~~six~~ (6) months due to operational difficulties or abandonment, the landowner shall provide the city the reasons for the operational difficulty or abandonment and provide a reasonable timetable for corrective action, or removal of the wind energy system as outlined under section **14.04.438**.

- (3) Resolution. If the city manager or designee deems the timetable for corrective action as unreasonable, the city manager or designee may notify the landowner or operator, who shall remove the wind energy system within six (6) months of receipt of notice from the [city.]

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.437 Agency cooperation, review, and compliance.

All proposed wind energy systems are subject to the following agency reviews during the siting, application, site plan review, and permitting processes:

- (1) Federal Aviation Administration (F.A.A.) requirements. All proposed wind energy systems are subject to the requirements listed under the F.A.A. Order JO 7400.2, "Procedures for Handling Airspace Matters Advisory Circular AC 70/7460-1K," and title 14 Code of Federal Regulations (14 CFR) part 77, "Obstruction Marking and Lighting, Obstruction Standards." The applicant shall file form 7460-1 with the F.A.A., if the proposed wind energy system extends more than two hundred 200 feet (200') aboveground or is closer than twenty thousand 20,000 feet (20,000') from a public use airport with a runway more than three thousand two hundred 3,200 feet (3,200') in length.
- (2) Utility notification. No wind energy system that has the ability to be connected to a power grid may be installed until the applicant has provided evidence of compliance with all state laws and provides a copy of the "Application for Interconnection and Parallel Operation of Distributed Generation," as may be amended or replaced in the future, that has been fully executed and approved by the electric utility company.
- (3) Permit issuance. The applicant must show consideration of, and proof of compliance with these agencies and other requirements prior to receiving a building permit, electrical permit, or specific use permit for the wind energy system from the city.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.438 Decommissioning.

- (a) Useful life. The wind energy system is presumed to be at the end of its useful life if no electricity is generated for a continuous period of six (6) months.
- (b) Responsibility. The property owner or operator shall, at their sole expense, complete decommissioning of the wind energy system within six (6) months from the time it is determined that the wind energy system has met the end of its useful life as outlined in this section.
- (c) Required action. Decommissioning must include removal of the entire wind energy system, including buildings, cabling, electrical components, and any other associated facilities.
- (d) Remediation. Disturbed earth must be graded and reseeded.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.439 Application requirements.

An application for approval of a wind energy system must include text and maps sufficient to show that the proposed wind energy system complies with the standards under this section. An application may not be deemed complete unless it includes the following items:

- (1) Permit application. Original signatures are required for the applicant and all co-applicants applying for the specific use permit, building permit and electrical permit. If the applicant or co-applicant is represented by an agent, the original signature of the property owner authorizing the agent to represent the applicant and/or co-applicant is required. The following information must be included on the

application under the project description:

- (A) The approximate generating capacity of the wind energy system;
 - (B) An estimate of the total on-site electrical demands;
 - (C) The name of the manufacturer and model being used;
 - (D) The height of the wind turbine to be constructed; and
 - (E) The phone number and name of a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
- (2) Site plan. Two twenty-four inch by thirty-six inch (24" X 36") sheet site plans and one digital copy. Two copies of a site plan submitted for a small wind energy system may be submitted on eight and one-half inch by fourteen inch (8-1/2" X 14") sheets, with the requirement that all of the submittal requirements listed under this section are included on additional site plan sheets. The site plan must include the following information:
- (A) Legal description, including lot and block, metes and bounds, and address of the project site;
 - (B) Adjacent land uses and zoning designations;
 - (C) The locations of all easements, rights-of-way, building, front, side, and rear zoning lot setback lines, and overhead utility lines on the property;
 - (D) The exact location and orientation of each wind energy system within the site and the direction of the prevailing winds;
 - (E) Locations of all existing buildings and fences; and
 - (F) The location of any on-site native vegetation or tree removal actions proposed in association with the construction or height of the system.
- (3) Maps. Several maps or a map overlaid with the following information:
- (A) The location and distance to neighboring residences, buildings, schools, churches, hospitals, or libraries to a distance of five hundred 500 feet (500'); and
 - (B) The location of water bodies, waterways, wetlands, drainage channels, creeks, and rivers within one mile of the proposed project site.
- (4) System design drawings. Certified and sealed engineered drawings prepared by a professional engineer registered with the state are required, and must include the following information:
- (A) Design specifications of the wind energy system, including the tower, base, footings, and system components;
 - (B) An engineering analysis and certification of each tower, showing compliance with the city's building code;
 - (C) Drawings that indicate the total finished wind energy system heights from the grade level prior to any modifications, including any engineered break points along the tower;
 - (D) The wind survival speed of the entire system, including turbine, rotor blades, covers, and other

components;

- (E) Data pertaining to the tower's safety and stability, including any safety results from test facilities; and
- (F) A copy of the manufacturer's installation instructions.
- (G) Building or structurally-mounted systems.
- (i) The certified and sealed engineering plans prepared by a professional engineer registered with the state must show how the wind energy system will be installed for the portions of the structure proposed for use in the mounting of the system.
- (ii) Engineering plans must state and show that the proposed wind energy system is compatible with the portions of the mounting structure proposed for use.
- (iii) The engineering plans must state that the wind energy system does not impose a safety hazard to the main structure, adjacent property, or their occupants.
- (5) Written statements and additional documentation. In addition to the site plan, applications for all wind energy systems must include proof of the following in the form of written statements:
 - (A) A statement verifying that the small, medium, or large wind energy conversion system will be used solely for on-site consumption of electricity, and any additional energy produced above the total on-site demand can only be sold to an electrical utility that normally provides electrical power to the property;
 - (B) A statement that the project site is, or is not, where air traffic may be a consideration affecting the installation of the system. (The applicant shall provide evidence of compliance with any applicable aviation regulatory requirements);
 - (C) Copies of all required applications for city, state, and federal permits and licenses;
 - (D) Copies of all biological/environmental assessments performed for the project site, which may have been required by a jurisdictional federal or state government agency;
 - (E) Copies of any city, state, and federal permits, licenses, biological opinions, records of decision, memoranda of understanding, exemption, variance, or other authorization or approval related to the proposed wind energy project; and
 - (F) Copy of the manufacturer's scheduled maintenance requirements for the proposed system.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.440 Review standards.

The applicant's submittal for a building permit, electrical permit, and specific use permit must demonstrate compliance with the following standards under this section, in addition to the specific use permit review standards under section **14.04.435(b)**.

- (1) Public safety. The proposed wind energy system must be designed and operated to protect public safety by measures that may include, but are not limited to, the following:
 - (A) The proposed wind energy system must be designed, constructed, and operated so the public cannot come within close proximity to turbine blades and electrical equipment; and
 - (B) The proposed wind energy system must be designed, sited, constructed, operated, and maintained to prevent the structural failure of the system or blades that could endanger the public's safety.

(Ordinance 2011-10-00687 adopted 10/6/11)

§ 14.04.441 through § 14.04.450. (Reserved)

Division 12

Residential Broadband Antenna Support Structures

§ 14.04.451 Purpose.

The provisions of this division apply only to broadband antenna support structures in residential and agricultural districts. These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety and general welfare of the city.
- (2) To enhance the ability of the providers of wireless broadband services to provide such services to the community safely, effectively, and efficiently.
- (3) To provide regulations for the safe and secure installation of broadband antenna support structures.
- (4) To minimize the number of broadband antenna support structures in a neighborhood and adjacent area:
 - (A) Broadband antenna support structure owners are encouraged and authorized to allow their wireless internet service provider (WISP) to use their broadband antenna support structure as a relay, hub, transmitter or micro pop location.
 - (B) Regarding other sections of the municipal code, the use described above shall not be considered a commercial usage.

(Ordinance 2020-12-00927 adopted 12/17/20)

§ 14.04.452 Definitions.

For the purpose of this division and notwithstanding any conflicting definition contained in this chapter:

Broadband antenna.

Any exterior transmitting or receiving device mounted on or within a support structure, building, or structure and used exclusively for transmitting, receiving or repeating broadband wireless signals.

Broadband antenna support structures.

A freestanding structure such as a tower or pole, built and designed to support the antenna and other equipment used to receive wireless broadband services.

Compelling communication needs.

A need for relief based on the inability of the applicant to obtain line of sight due to engineering, technical, or physical characteristics, such as trees, buildings, or structures located on the subject and adjacent properties that obstruct or significantly impede communications to and from the subject property.

Design review committee.

Group comprised of three (3) staff members including the city manager, city engineer and development services director responsible for review and approval for relief of certain regulations in this chapter. An alternate staff member may be appointed in the absence of one of the committee members to facilitate the review process.

(Ordinance 2020-12-00927 adopted 12/17/20)

§ 14.04.453 **General requirements.**

- (a) Broadband antennas and support structures shall be considered accessory uses.
- (b) Broadband antenna and broadband support structure installations shall comply with all other requirements of city ordinances and the zoning ordinance with the exception of those specified within this division.
- (c) All broadband antennas and broadband antenna support structures must meet or exceed current standards and regulations, and registration requirements of the Federal Aviation administration (FAA), the Federal Communications Commission (FCC), and any other state and federal agency with regulatory authority over support structures and antennas. If standards change, owners must comply as required by the regulating authority.
- (d) A building permit is required for all broadband antenna support structures. All broadband antenna support structure installations must comply with applicable state and local building codes and the standards published by the Electronic Industries Association as may be amended from time to time. Review of the building permit and any subsequent review by the design review committee must be conducted within reasonable time frame to prevent or delay installation, maintenance or use of broadband antennas in accordance with FCC regulations.
- (e) All broadband support structures and broadband antennas must be constructed and operated in a manner that does not create electromagnetic or other interference with the city's radio frequencies and public safety operations as required by the FCC.

(Ordinance 2020-12-00927 adopted 12/17/20)

§ 14.04.454 **Height.**

The maximum height for a broadband antenna support structure in any district shall be eighty (80) feet. Upon showing of a compelling communications need, the design review committee may administratively approve a height greater than eighty (80) feet.

(Ordinance 2020-12-00927 adopted 12/17/20)

§ 14.04.455 **Broadband antennas and broadband antenna support structure standards.**

- (a) Number and size. The number and size of broadband antennas placed upon a broadband antenna support structure used for broadband communications shall be limited by the wind load requirements contained in the current version of the city's building codes or by the manufacturer's specifications for wind loading, whichever is more restrictive.
- (b) Location. To the extent possible, broadband antenna support systems should be in areas to provide minimal impact on the community. Alternative or stealth designs are encouraged for all broadband antenna support structures.
- (c) Setbacks.
 - (1) Front yards. Broadband antenna support structures (including guy wires, foundations, anchors, and other components of the structure) shall not be permitted in required front yards.
 - (A) Exception: Upon showing of a compelling communications need, the design review committee may administratively approve a broadband antenna and broadband support structure placement in front yards.
 - (2) Rear yards. Guy wires and broadband antenna and broadband support structures shall not be permitted in required rear yard setbacks. Minimum setbacks for broadband antenna support structures shall be the same as those required for accessory buildings in the applicable residential or agricultural district.

- (A) Exception: Upon showing of a compelling communications need, the design review committee may administratively approve guy wires, broadband antenna and broadband support structures in rear yard setbacks.
- (3) Side yards. Guy wires and broadband antenna and broadband support structures shall not be permitted in required side yard setbacks. Minimum setbacks for broadband antenna support structures shall be the same as those required for accessory buildings in the applicable residential or agricultural district.
- (A) Exception: Upon showing of a compelling communications need, the design review committee may administratively approve guy wires, broadband antennas and broadband support structures in side yard setbacks.
- (d) Separation. There shall be no minimum or maximum separation requirements for broadband antenna support structures from other structures on the same lot of record.
- (e) Fall radius. The fall radius for broadband antenna support structures shall be equal to the total height of the structure.
- (1) If the applicant is able to present evidence that the proposed broadband antenna support structure has been engineered with a break point along the structure, the city may determine that the measurement of the length on the longest segment following a break at the break point can be used in determining the fall radius.
- (2) Broadband antenna support structures shall be sited in such a manner that the fall radius does not encompass the buildable area for habitable structures on adjoining property.
- (f) Lights. Lights other than lights required or recommended by the FAA mounted on antenna support structures shall comply with the city's dark sky ordinance.
- (g) Construction standards. Broadband antenna support structures shall be installed in accordance with the manufacturer's specifications. Modifications to the manufacturer's installation specifications shall bear the seal and signature of a state-licensed professional engineer.
- (h) Maintenance. Broadband antennas and broadband antenna support structures that have, due to damage, lack of repair, or other circumstances, become unstable, lean significantly out-of-plumb, or pose a danger of collapse shall be removed or brought into repair within ninety (90) days following notice given by the building official; provided that the building official may order immediate action to prevent an imminent threat to public safety or property.
- (i) Removal. If the broadband antenna support structure and broadband antennas are no longer being utilized, the owner of the property on which an antenna structure is located shall remove the structure from the property within ninety (90) days.

(Ordinance 2020-12-00927 adopted 12/17/20)