



City of Cleburne, Texas

Zoning Ordinance

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Section 155.1. General Provisions

1.01. Enacting Clause

The City Council, **by ordinance _____**, and by the authority of **Chapter 211.003** of the Texas Local Government Code, enacts and adopts these regulations as the official zoning ordinance for the City of Cleburne, Texas.

1.02. Purpose

A. Implementation of the Comprehensive Plan

The zoning regulations and districts established in this Zoning Ordinance have been made according to the Comprehensive Plan to promote the health, safety, and general welfare of the City. The City Council adopts these zoning regulations and districts to achieve the following purposes:

1. Lessen congestion in the streets;
2. Secure safety from fire, panic, and other dangers;
3. Promote health and general welfare;
4. Provide adequate light and air;
5. Prevent the overcrowding of land;
6. Avoid undue concentration of population; and
7. Plan for and provide adequate transportation, water, wastewater, schools, parks, and other public requirements.

B. Zoning Ordinance Considerations

This Zoning Ordinance creates regulations and districts with reasonable consideration for the following:

1. The character of the districts;
2. A district's suitability for the particular uses specified;
3. The conservation of the value of buildings; and
4. Identification of the most appropriate use of land throughout the City, consistent with the Comprehensive Plan.

C. Planning and Zoning Commission Review

1. The Planning and Zoning Commission shall periodically review potential amendments and updates to the Zoning Ordinance.
2. The Planning and Zoning Commission may, by a simple majority vote, initiate amendments to the Zoning Ordinance or, by a simple majority vote and following a public hearing, make recommendation concerning amendments initiated by City Council or the Zoning Administrator (see Section **5.05 Zoning Text and Map Amendments**).

1.03. Zoning District Map Regulation

A. Official Zoning District Map

1. The City will maintain the official Zoning District Map as a physical hard-copy file and an electronic file in a format easily viewed by the public using conventional computer software.
2. The Zoning District Map will display on its face the “Official Adoption Date” and the “Last Amended Date.”

B. Incorporating Updates to the Official Zoning District Map

The Zoning Administrator is responsible for the following:

1. Receiving and processing updates to the official Zoning District Map.
2. Maintaining the official copy of the Zoning District Map that the City will use for reference.
3. Incorporating all subsequent amendments to the Zoning District Map promptly following the City Council’s official adoption of each amendment.
4. Recording all amendments to the Zoning District Map in a log with appropriate references to the date and adopting instrument.
5. Using all reasonable means to protect the official Zoning District Map from damage and ensure the map file's accurate restoration if the file is damaged or destroyed.

C. Replacement of a Damaged, Destroyed or Lost Official Zoning District Map

1. If the Zoning District Map is partially or entirely damaged, destroyed, lost, suffers deterioration, or is otherwise unreadable, the City Council may adopt a new Zoning District Map by ordinance following a public hearing.
2. The new Zoning District Map that City Council adopts under this section replaces and supersedes any prior official Zoning District Map following adoption.

D. Error Correction

If the Zoning District Map includes a district that is misnamed or designated incorrectly, or depicts an incorrect zoning district or property boundary, or omits property, the Zoning District Map may be amended or supplemented according to the following process:

1. The property owner(s) of the affected land, the City Council, or the Planning and Zoning Commission may submit an Application to the Zoning Administrator to initiate the error correction process.
2. If the correction involves the redesignation of property or the relocation of a zoning district boundary, the Zoning Administrator will process the error correction as a zoning map amendment according to **Section 5.05. Zoning Text and Map Amendments.**
3. If the correction involves the correction of a typographical or scrivener’s error or updating the depiction of a property boundary that will not result in the redesignation of any property or the relocation of any zoning district boundary, the Zoning Administrator may update the Zoning District Map.
4. The updated Zoning District Map will replace the previous Zoning District Map.
5. The Zoning Administrator will record the change consistent with **Subsection 1.04.B.**
6. If after application of the correction process, uncertainty still exists with respect to the boundaries of the various districts as shown on the official Zoning District Map, the conflict shall be resolved by utilizing the appeal power of the Board of Adjustment. If, because of error or omission in the official Zoning District Map, any property in the city is not shown as being in a zoning district, such property shall be classified as SF-20, Single-Family Dwelling District.

1.04. Zoning District Boundaries

A. Boundary Delineations

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

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following the City limits shall be construed as following the City limits.
4. Boundaries indicated as following railroad lines shall be construed to follow the centerline of the railroad right of way.
5. Boundaries indicated as following the centerline of creeks, streams, or drainage ways shall be construed to follow such centerline as officially designated or recorded. If the centerline of the creek, stream, or drainage way is not designated or recorded and the centerline changes, the boundary shall be construed to move with such centerline.
6. Boundaries indicated as following the shorelines of lakes or ponds shall be construed as following the shoreline of the lake or pond depicted on the Zoning District Map.
7. Boundaries indicated as parallel to or extensions of features listed in subsection **1.04.A.1** through **1.04.A.6** shall be construed as following the extension of those features.
8. The scale of the Zoning District Map shall determine distances not indicated on the Zoning District Map.
9. Whenever City Council, by official action, vacates any street, alley, or public way, the zoning district line adjoining each side of the street, alley, or public way shall automatically extend to the centerline of the vacated street, alley, or public way. All areas within the abandoned street, alley, or public way are subject to all regulations of the extended districts.
10. The zoning classification applied to a tract of land or lot abutting a street extends automatically to the street centerline.
11. If physical features on the ground vary with information shown on the Zoning District Map, or a question arises regarding zoning boundary interpretation that the Zoning Administrator cannot resolve by applying the rules of this subsection **1.04.A**, the City Council shall classify the zoning designation and boundary following a public hearing and recommendation of the Planning and Zoning Commission.

B. Zoning Upon Annexation (Zoned vs. Interim)

1. All territory annexed to the city hereafter shall be temporarily designated as A, Agriculture district, until permanently zoned by City Council.
2. City Council shall establish zoning for any property it annexes into the city as soon as practicable after annexation to give the newly annexed territory a permanent zoning classification and the procedures to be followed shall be the same as provided by law for the amendment of the zoning ordinance.
3. The owner of land annexed into the City may request a zoning designation within six (6) months with no fee applied to the request. If the owner does not request a different zoning designation within six (6) months of the annexation action, the City will apply any fees typically associated with a zoning change under Section **5.05**.

4. In an annexed area temporarily classified as A, Agricultural District, no construction of a building other than those allowed in the A, Agricultural District shall be permitted unless such construction has been specifically authorized by council and a permit issued.
 - a. Construction of buildings other than those permitted in A, Agricultural District may be authorized in newly annexed areas prior to permanent zoning only in the following manner:
 - (1) An application for any use shall be made to the Zoning Administrator. The application shall show the use contemplated, a plat showing the size of the lot or tract of land proposed to be used, and the location, size, and type of buildings proposed to be constructed.
 - (2) Such application shall be referred by the Zoning Administrator to the Planning and Zoning Commission for consideration.
 - (3) The Planning and Zoning Commission shall make its recommendation to the City Council after giving due consideration to the land use plan for the area in which the application is located.
 - (4) Whenever such a recommendation is filed with the City Council, it shall be advisory only and the City Council may grant or deny the application as the facts may justify.
 - (5) If approved by the City Council, the applicant may apply for a building permit provided the building permit application is consistent with City Council authorization.

1.05. Compliance Required / Interpretation / Rules of Construction

A. Compliance Required

This Zoning Ordinance applies to all land, buildings, structures, or appurtenances located within the City of Cleburne that are in any way occupied, used, erected, altered, removed, placed, demolished, or converted from one form or use to another.

B. Interpretation

1. Restrictiveness

When the regulations in this Zoning Ordinance conflict with conditions of another applicable law, ordinance, resolution, rule, or regulation, the Zoning Administrator will apply the more restrictive regulation where authorized by law.

2. Abrogation of Private Agreement

These Zoning Ordinance regulations do not abrogate any easement, covenant, or other private agreement.

3. Cumulative Effect

These Zoning Ordinance regulations are cumulative. Where allowed by law, and where these regulations address the subject matter of a resolution or ordinance, these regulations may impose additional limitations upon existing resolutions and ordinances or those that City Council may adopt in the future.

C. Rules of Construction

The following rules of construction will determine the interpretation of these Zoning Ordinance regulations:

1. Person or Entity

'Person' includes any individual, developer, corporation, organization, trust, LLC, or other entity authorized under these Zoning Ordinance regulations to submit a development or zoning application.

2. Number

The singular number includes the plural and the plural the singular.

3. Tense

The present tense includes the past and future tenses, and the future the present.

4. Mandatory and Permissive Language

The words 'shall' and 'must' are mandatory, and the word 'may' is permissive.

5. Gender Terms

Where any term includes a gender-specific pronoun, the use of that term includes all gender.

6. Parentheses

Unless otherwise explicitly stated in the same section, any word, term, number, abbreviation, or acronym that appears in parentheses directly after a word, term, number, or phrase is intended to be construed in the same sense as the word, term, number, or phrase that appears immediately before the parenthetical. *(For example, in the phrase "three (3) feet," the written "three" and the parenthetical "(3)" are intended to communicate the same distance in both a written and numeric format and are not to be construed as separate units of distance.)*

7. Conflicts

If there is a conflict between one or more sections of this Zoning Ordinance, the Zoning Administrator will interpret the applicable regulation according to the following rules:

- a. The applicable written text in the body the Zoning Ordinance controls over any charts, graphics, or footnotes in the Zoning Ordinance; and
- b. If a conflict arises between **Section 155.2. Zoning Districts** and other sections in these Zoning Ordinance regulations, the other section will govern.

1.06. Decision-Maker Authority

City Council Responsibilities	
Section 5.05	Approving or Denying Zoning Text and Map Amendments
Section 5.08	Approving or Denying a Planned Development (PD)
Section 5.09	Approving or Denying Specific Use Permit (SUP)
Planning and Zoning Commission Responsibilities	
Section 5.05	Recommending Approval or Denial of Zoning Text and Map Amendments
Section 5.08	Recommending Approval or Denial of a Planned Development (PD)
Section 5.09	Recommending Approval or Denial of Specific Use Permit (SUP)
Board of Adjustment Responsibilities	
Section 5.10	Approving or Denying Amortization of Nonconforming Uses
Section 6.01	Approving or Denying Zoning Regulation Appeal
Section 6.02	Approving or Denying Zoning Variance
Section 6.03	Approving or Denying Zoning Special Exception
Zoning Administrator Responsibilities	
Section 1.03	Maintaining and Processing Updates to the Official Zoning District Map
Section 1.05	Interpretation of the Zoning Ordinance
Section 5.01	Overseeing General Application Processing
Section 5.01.C	Maintaining Application Forms
Section 5.01.E	Determining Completeness of Zoning Applications
Section 5.03	Approving or Denying Alternative Compliance Requests
Section 5.04	Issuing Required Public Notice
Section 5.07	Approving or Denying a Site Plan
Building Official Responsibilities	
Section 5.06	Issuance of Certificate of Occupancy

Section 155.2. Zoning Districts

2.01. Zoning Districts Established

A. Purpose

The purpose of this section is to create zoning districts, to specify the nature and components of the permitted development and uses within them, and to establish regulations regarding the physical character and intensity of development in order to protect the public health, safety and welfare.

B. Zoning Districts Established

All land within the corporate limits shall be classified into one of the zoning districts listed in **Table 1: Zoning Districts**.

Table 1: Zoning Districts

Residential Zoning Districts			
<u>2.02.A</u>	A, Agricultural District		
<u>2.02.B</u>	SF-6, Single-Family Dwelling District		
<u>2.02.C</u>	SF-7, Single-Family Dwelling District		
<u>2.02.D</u>	SF-10, Single-Family Dwelling District		
<u>2.02.E</u>	SF-20, Single-Family Dwelling District		
<u>2.02.F</u>	MF-1, Medium-Density Residential District		
<u>2.02.G</u>	MF-2, High-Density Residential District		
Nonresidential Zoning Districts			
<u>2.03.A</u>	NC, Neighborhood Commercial District		
<u>2.03.B</u>	LC, Local Commercial District		
<u>2.03.C</u>	RC, Regional Commercial District		
<u>2.03.D</u>	MU, Mixed Use District		
<u>2.03.E</u>	CI, Commercial/Industrial Flex District		
<u>2.03.F</u>	I, Industrial District		
Special Zoning Districts			
<u>2.04.A</u>	H, Historic Overlay	<u>2.04.F</u>	HS, Henderson Street Overlay
<u>2.04.B</u>	DTC, Downtown Core Overlay	<u>2.04.G</u>	CS, Cleburne Station Overlay
<u>2.04.C</u>	DTT, Downtown Transition Overlay	<u>2.04.H</u>	F, Freeway Overlay
<u>2.04.D</u>	NT, Neighborhood Transition Overlay	<u>2.04.I</u>	AP, Airport Overlay
<u>2.04.E</u>	MS, Main Street Overlay	<u>2.04.J</u>	PD, Planned Development District

C. Equivalency Table for Zoning Districts

Table 2: Zoning Districts Equivalency Table identifies zoning districts adopted in previous ordinances and the zoning district regulations that now apply in this Zoning Ordinance to those districts.

Table 2: Zoning Districts Equivalency Table

<u>Previous Designation</u>	<u>Applicable Zoning District</u>
Residential Zoning Districts	
A, Agricultural District	A, Agricultural District
	SF-6, Single-Family Dwelling District
SF-3, SF-4, MH/SF-4, MH District	SF-7, Single-Family Dwelling District
SF-2 District	SF-10, Single-Family Dwelling District
SF-1 District	SF-20, Single-Family Dwelling District
T, SF-A, D District	MF-1, Medium-Density Residential District
MF District	MF-2, High-Density Residential District
Nonresidential Zoning Districts	
-	MU, Mixed Use District
C0 District	NC, Neighborhood Commercial District
C1 District	LC, Local Commercial District
C2, C3 Districts	RC, Regional Commercial District
M1 District	CI, Commercial/Industrial Flex District
M2 District	I, Industrial District
Special Zoning Districts	
C4, Private Club Overlay (ODC)	-
SUP, Specific Use Permit	Underlying zoning district with SUP suffix
IH, Interim Holding District	IH, Interim Holding District
PD, Planned Development District	PD, Planned Development District
H, Historic District Overlay	H, Historic Overlay
ODC, Original Downtown Overlay	DTC, Downtown Core Overlay
	DTT, Downtown Transition Overlay
	NT, Neighborhood Transition Overlay
	CS, Cleburne Station Overlay
	HS, Henderson Street Overlay and MS, Main Street Overlay
	AP, Airport Overlay
Commercial/Industrial Overlay	F, Freeway Overlay

2.02. Residential Zoning Districts

A. A, Agricultural District

1. Purpose Statement

This district is intended to provide for agricultural uses such as crops and livestock and certain businesses related to agricultural uses.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

B. SF-6, Single-Family Dwelling District

1. Purpose Statement

This district is intended to provide for development of single-family detached units and accessory uses and buildings within a suburban neighborhood setting.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

C. SF-7, Single-Family Dwelling District

1. Purpose Statement

This district is intended to provide for development of single-family detached dwelling units and accessory uses and buildings within a suburban neighborhood setting.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

D. SF-10, Single-Family Dwelling District

1. Purpose Statement

This district is intended to provide for development of single-family detached dwelling units and accessory uses and buildings within a low-density neighborhood setting.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

E. SF-20, Single-Family Dwelling District

1. Purpose Statement

This district is intended to provide for development of single-family detached dwelling units and accessory uses and buildings on large lots within an estate or semi-rural neighborhood setting.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

F. MF-1, Medium-Density Residential District

1. Purpose Statement

This district is intended to provide for development of medium-density residential such as, Dwelling, Single-Family (Attached – Duplex), Dwelling, Single-Family (Attached – Townhouse), as well as Dwelling, Multi-Family that consists of no more than eight (8) units on a single lot. .

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

G. MF-2, High-Density Residential District

1. Purpose Statement

This district is intended to provide for development of attached residential units, such as multi-family developments with nine (9) or more units.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.A Dimensional Standards for Residential Districts** and all applicable regulations in **Section 155.4**

4. Development Standards

See the following sections:

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

2.03. Nonresidential Zoning Districts

A. NC, Neighborhood Commercial District

1. Purpose Statement

This district is intended to provide for small-scale commercial retail, service, and professional office development in a neighborhood context. Neighborhood commercial may share the same streets or street network as dwellings that are accessed from neighborhood streets.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.B** Dimensional Standards for Nonresidential Districts and all applicable regulations in **Section 155.4**.

4. Development Standards

See the following sections for development standards.

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

B. LC, Local Commercial District

1. Purpose Statement

This district is intended to provide for locations for various types of local retail trade and businesses primarily serving clusters of neighborhoods or a particular sector of Cleburne. Local commercial may be oriented along arterial or collector streets.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.B** Dimensional Standards for Nonresidential Districts and all applicable regulations in **Section 155.4**.

4. Development Standards

See the following sections for development standards.

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

C. RC, Regional Commercial District

1. Purpose Statement

This district is intended to provide locations for commercial, retail, and service uses that serve Cleburne and the surrounding area. Regional commercial is primarily oriented along arterial roadways and the frontage of limited access highways.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.B** Dimensional Standards for Nonresidential Districts and all applicable regulations in **Section 155.4**.

4. Development Standards

See the following sections for development standards.

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

D. MU, Mixed Use District

1. Purpose Statement

- a. Mixed Use refers to a development that combines residential and nonresidential zoning categories within one defined zoning district. For example, residential, restaurants, retail, office, and public uses may be allowed in the same building, lot, or block with a shared structure, walls, street access, and utilities.
- b. This district is intended to permit establishment of integrated residential and nonresidential activities where appropriate and desirable, under conditions that ensure an acceptable level of harmony among land uses.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.B Dimensional Standards for Nonresidential Districts** and all applicable regulations in **Section 155.4**.

4. Development Standards

See the following sections for development standards.

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

E. CI, Commercial/Industrial Flex District

1. Purpose Statement

- a. The CI, Commercial/Industrial Flex District is intended for heavier commercial or light industrial uses such as contractor businesses, auto-oriented businesses, production, and associated office uses ~~that involve the use of commercial equipment or commercial vehicles not including semi-trucks.~~
- b. The CI, Commercial/Industrial Flex District is intended to act as an intermediate district between retail-oriented districts such as LC, Local Commercial District and RC, Regional Commercial District and districts that are more oriented to manufacturing and the use of industrial processes. Uses in the CI District do not produce significant amounts of noise, vibration, dust, or odor beyond the property line. This district may act as a buffering district between more sensitive commercial and residential districts and the I, Industrial District where permitted uses tend to produce these effects.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.B Dimensional Standards for Nonresidential Districts** and all applicable regulations in **Section 155.4**.

4. Development Standards

See the following sections for development standards.

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

F. I, Industrial District

1. Purpose

- a. The I, Industrial District is intended for large-scale basic or primary industrial uses that involve extensive processing, manufacturing, and assembly of products or equipment, along with uses such as distribution, rail, and intermodal facilities.
- b. Uses within the I, Industrial District are presumed to utilize large equipment and semi-trucks and should be located along arterial or collector roadway corridors to maximize access and minimize truck traffic through existing or future residential and retail areas.
- c. Because of the nature of the products or character of activities, uses in the district may produce sound, dust, vibration, or odors beyond the boundaries of the property on which the use is located. These uses should be buffered by similar uses where possible and located away from areas that are primarily residential, retail, or mixed-use.

2. Permitted Uses and Use Regulations

See the Use Chart and all applicable regulations.

3. Dimensional Standards

See Section **2.05.B Dimensional Standards for Nonresidential Districts** and all applicable regulations in **Section 155.4**.

4. Development Standards

See the following sections for development standards.

- a. See **4.01 Landscaping Requirements**
- b. See **4.02 Screening Standards**
- c. See **4.03 Parking Standards**
- d. See **4.04 Lighting Standards**
- e. See **4.05 Design Standards**

2.04. Special Districts

A. H, Historic Overlay

1. Purpose

The purpose of the H, Historic Overlay is to protect, enhance, and preserve areas of Cleburne that the community recognizes as historic landmarks due to their contribution to the culture, prosperity, education and welfare of the community.

2. Boundaries and Applicability

- a. The Historic Overlay boundaries are those indicated on the Official Zoning District Map.
- b. Within the boundaries indicated on the Official Zoning District Map, the H, Historic Overlay applies to any building or property of historical, architectural, archaeological, or cultural importance or value that merit protection, enhancement, and preservation.
- c. The City Council may designate certain buildings, properties, or districts as historic landmarks and, in doing so, extend the boundaries of the H, Historic Overlay through the process outlined in section **5.05** and based on an affirmative finding that the building, property, or district contribute to the following:
 - (1) Character, interest, or value as part of the development, heritage or cultural characteristics of the city, state, or the United States.
 - (2) Identification with a person or persons who significantly contributed to the culture and development of Cleburne.
 - (3) Location as the site of a significant historic event or public pride.
 - (4) Exemplification of the cultural, economic, social, or historical heritage of Cleburne.
 - (5) Relationship to other contributing buildings, sites, or areas that are eligible for preservation based on historical, cultural, or architectural significance.
 - (6) Unique physical or aesthetic features not commonly found elsewhere in the city.

3. New Development, Redevelopment, and Allowed Uses

- a. New development and redevelopment in the H, Historic Overlay is governed by section **4.05**.
- b. Use of property in the H, Historic Overlay is governed by the underlying zoning district (see section **3.03**).

B. DTC, Downtown Core Overlay

1. Purpose

The purpose of the DTC, Downtown Core Overlay is to further the vision and recommendations of the Downtown Master Plan and to protect, enhance, and preserve the character of Cleburne's historic downtown by ensuring that new development and uses in this district are compatible with the character and uses that define the original downtown.

2. Boundaries and Applicability

- The DTC, Downtown Core Overlay boundaries are shown in Figure 1.
- Within the boundaries shown below, the DTC, Downtown Core Overlay applies to any building or property.
- The City Council may extend or modify the boundaries of the DTC, Downtown Core Overlay through the process outlined in section **5.05** and affirmative finding that the property proposed for inclusion in the overlay contributes to the character of the original downtown.

3. New Development, Redevelopment, and Allowed Uses

- New development and redevelopment in the DTC, Downtown Core Overlay is governed by subsection **4.06.D**.
- Use of property in the DTC, Downtown Core Overlay is governed by the underlying zoning district (see section **3.03**).

4. Standards Not Applicable

Development in the DTC, Downtown Core Overlay is exempt from certain parking, landscaping, and dimensional requirements as specified in subsection **4.06.D.2.d**.

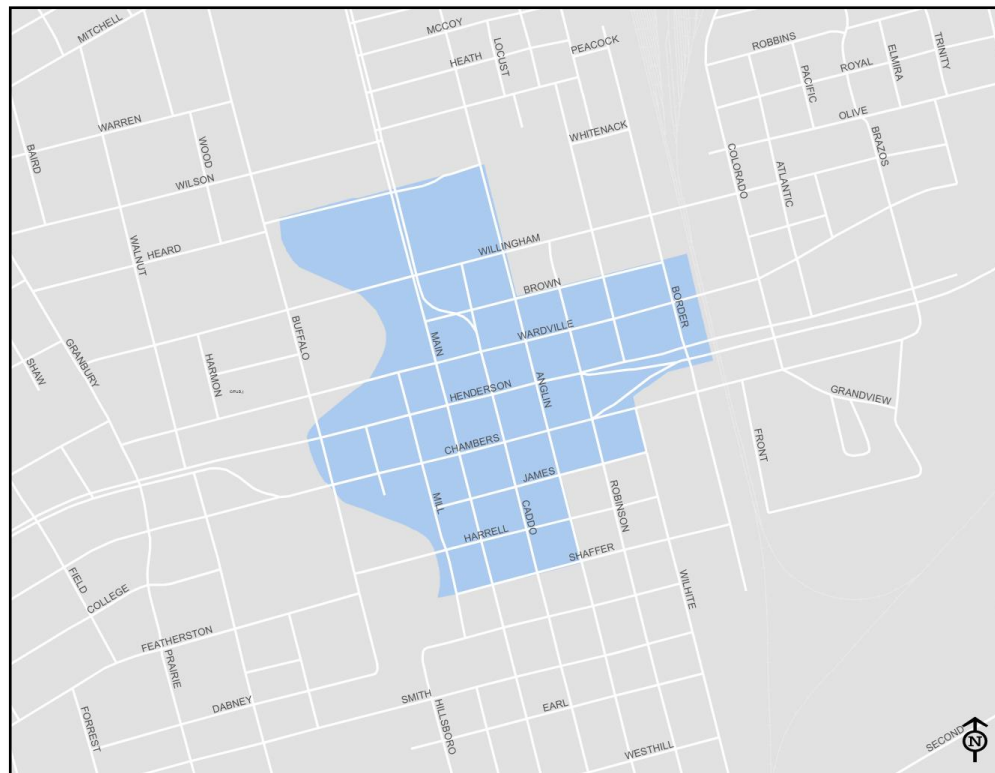


Figure 1: Downtown Core Overlay

C. DTT, Downtown Transition Overlay

1. Purpose

The purpose of the DTT, Downtown Transition Overlay is to preserve the look and feel of historic Downtown Cleburne and abutting areas and encourage the development of mixed commercial and residential uses while ensuring that new development or modifications to existing development conform to the historic pattern and style established in Downtown.

2. Boundaries and Applicability

- a. The DTT, Downtown Transition Overlay boundaries are shown in Figure 2.
- b. Within the boundaries shown below, the DTT, Downtown Transition Overlay applies to any building or property.
- c. The City Council may extend or modify the boundaries of the DTT, Downtown Transition Overlay through the process outlined in section **5.05** and affirmative finding that the property proposed for inclusion in the overlay contributes to the character of the original downtown.

3. New Development, Redevelopment, and Allowed Uses

- a. New development and redevelopment in the DTT, Downtown Transition Overlay is governed by subsection **4.06.E**.
- b. Use of property in the DTT, Downtown Transition Overlay is governed by the underlying zoning district (see section **3.03**).

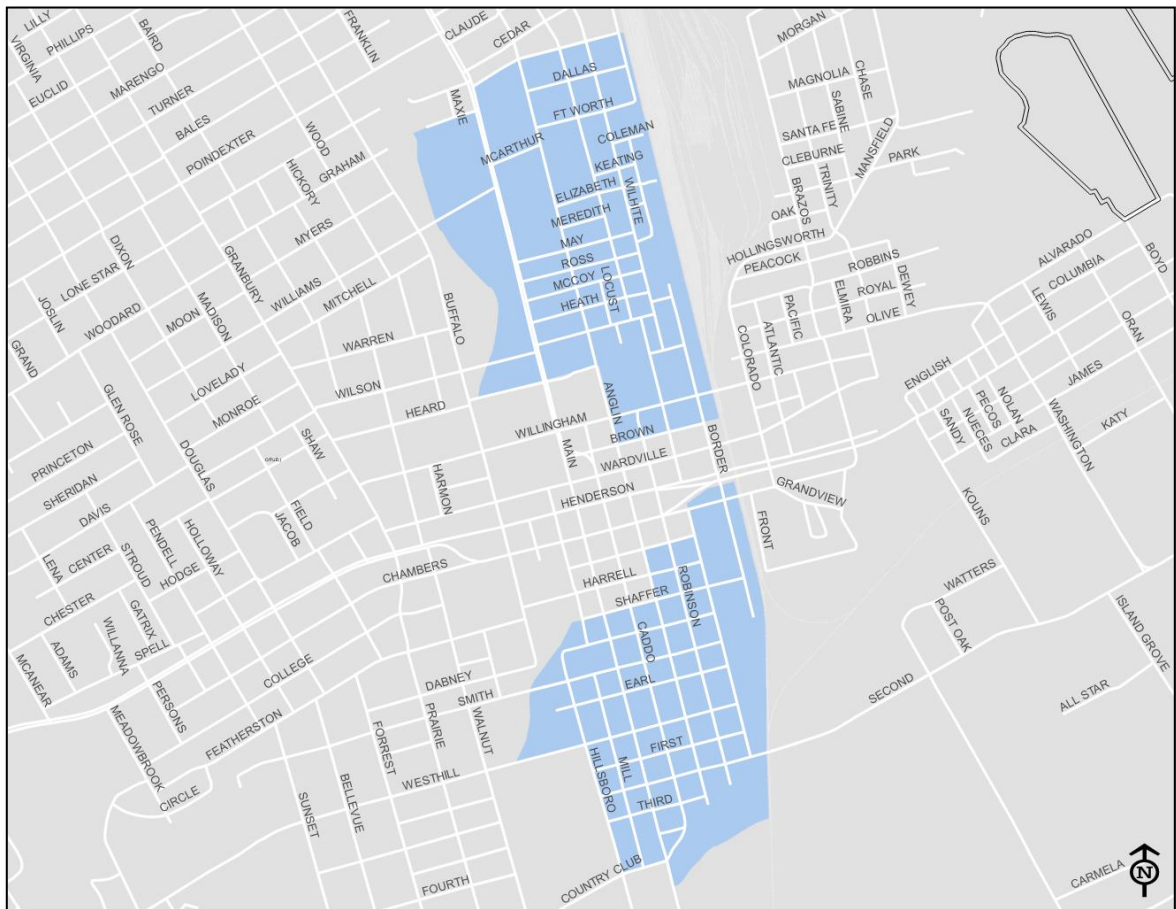


Figure 2: Downtown Transition Overlay

D. NT, Neighborhood Transition Overlay

1. Purpose

The purpose of the NT, Neighborhood Transition Overlay is to provide for appropriate development and redevelopment in neighborhoods that offer a mixture of residential housing types and provide for a gradual transition from more intense non-residential uses in the I, Industrial District, MS, Main Street Overlay, and HS, Henderson Street Overlay.

2. Boundaries and Applicability

- a. The NT, Neighborhood Transition Overlay boundaries are depicted below.
- b. Within the boundaries of the NT, Neighborhood Transition Overlay, the standards of the NT, Neighborhood Transition Overlay apply to any building or property.
- c. The City Council may extend or modify the boundaries of the NT, Neighborhood Transition Overlay through the process outlined in section **5.05**.

3. New Development, Redevelopment, and Allowed Uses

- a. Uses in the NT, Neighborhood Transition Overlay is governed by the underlying zoning district (see section **3.03**) with the following exceptions:

- (1) On any block, Single-Family Detached Residential uses are allowed and Duplex is allowed by Specific Use Permit (SUP) where not allowed by right in the underlying zoning.
- (2) On any corner lot zoned SF and bounded by at least two (2) public streets, Townhome and Nonresidential Uses may be allowed by SUP.

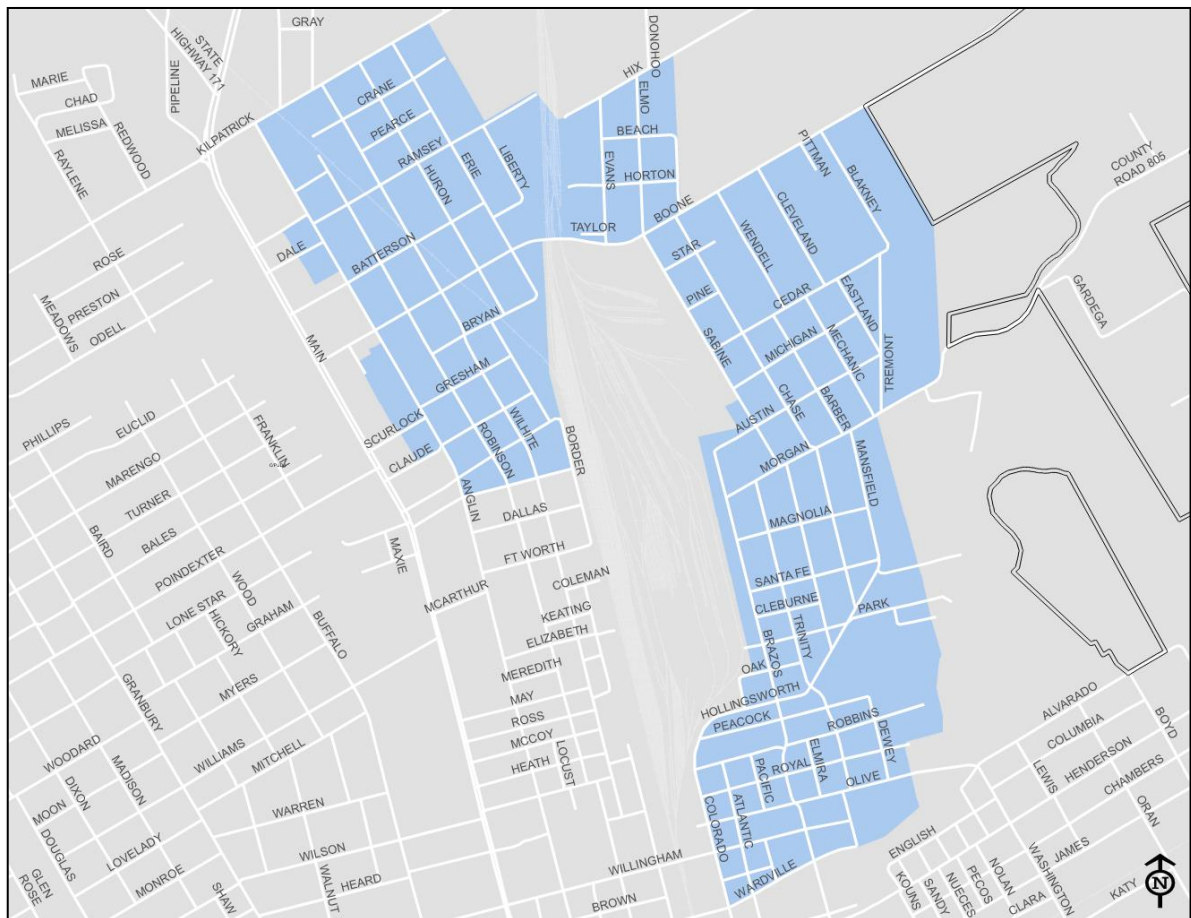


Figure 3: Neighborhood Transition Overlay

E. MS, Main Street Overlay

1. Purpose

The purpose of the MS, Main Street Overlay is to provide land development standards along Main Street that enhance the corridor along the primary thoroughfare in the City of Cleburne.

2. Boundaries:

- a. All parcels and lots with frontage or access to Main Street between the LP, Loop Overlay to the north and the south junction with Highway 171 and as shown in Figure 4.
- b. Within the boundaries described in a. above, the MS, Main Street Overlay applies to any building or property.
- c. The MS, Main Street Overlay does not apply to lots or parcels within H, Historic Overlay, the DTC, Downtown Core Overlay or the F, Freeway Overlay

3. New Development, Redevelopment, and Allowed Uses

- a. New development and redevelopment in the MS, Main Street Overlay is governed by 4.05 Design Standards.

4. Use of property in the MS, Main Street Overlay is governed by the underlying zoning district (see section **3.03**).

Figure 4: Main Street Overlay South (left) and North (right)

F. HS, Henderson Street Overlay

1. Purpose

The purpose of the HS, Henderson Street Overlay is to provide land development standards along Henderson Street that maintain and enhance the corridor as a major thoroughfare in the City of Cleburne.

2. Boundaries:

- All parcels and lots with frontage or access to Henderson Street between the east and west junction with Highway 67 and as shown in Figure 5.
- Within the boundaries described in a. above, the HS, Henderson Street Overlay applies to any building or property.
- The HS, Henderson Street Overlay does not apply to lots or parcels within the H, Historic Overlay, the DTC, Downtown Core Overlay, or the F, Freeway Overlay.

3. New Development, Redevelopment, and Allowed Uses

- New development and redevelopment in the HS, Henderson Street Overlay is governed by 4.05. Design Standards.
- Use of property in the HS, Henderson Street Overlay is governed by the underlying zoning district (see section 3.03).



Figure 5: Henderson Street Overlay West (top) and East (right)

G. CS, Cleburne Station Overlay

1. Purpose

The purpose of the CS, Cleburne Station Overlay is to ensure the commercial viability of the Depot by establishing and maintaining a mixed-use form and character with a strategic balance of commercial, retail, entertainment, and residential uses.

2. Boundaries:

- a. All parcels and lots within the boundaries shown in Figure 6.
- b. Within the boundaries described in a. above, the CS, Cleburne Station Overlay applies to any building or property.
- c. The F, Freeway Overlay does not apply within the CS, Cleburne Station Overlay.

3. New Development, Redevelopment, and Allowed Uses

- a. New development and redevelopment in the CS, Cleburne Station Overlay is governed by section **4.05 Design Standards**
- b. Use of property in the CS, Cleburne Station Overlay is governed by the underlying zoning district (see section **3.03**) with the following additions:
 - (1) Mixed-Use buildings are allowed in the CS, Cleburne Station Overlay.

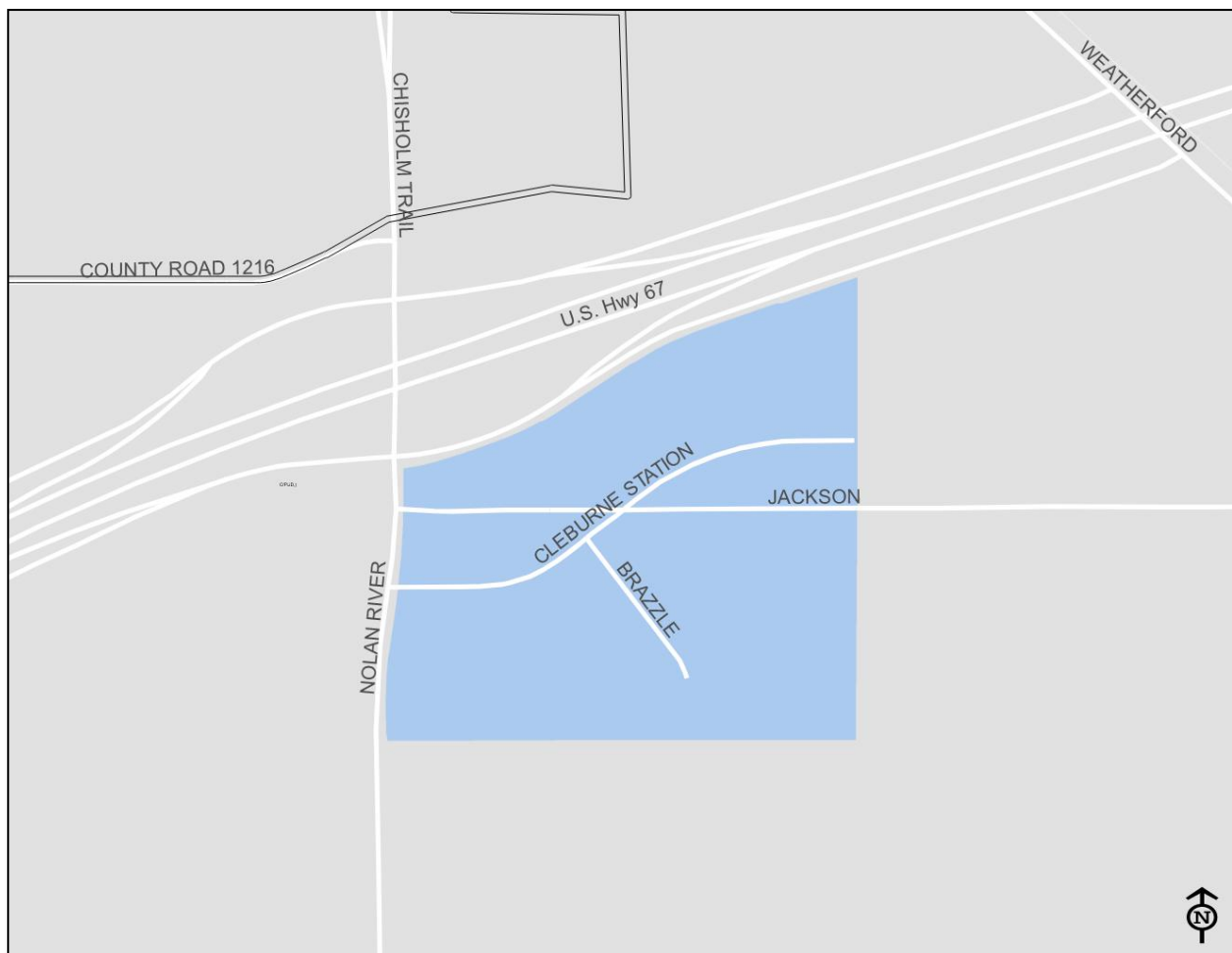


Figure 6: Cleburne Station Overlay

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H. F, Freeway Overlay

1. Purpose

The purpose of the F, Freeway Overlay is to provide land development standards along the US Highway 67 loop and Chisholm Trail Parkway that maintain and enhance the corridor as a principal freeway corridor and gateway to the City of Cleburne.

2. Boundaries:

- a. All parcels and lots within five hundred (500) feet of the US Highway 67 and Chisholm Trail Parkway right-of-way or that have frontage or access to US Highway 67 within the city limits and as shown in Figure 7 and Figure 8.
- b. Within the boundaries described in a., the F, Freeway Overlay applies to any building or property.
- c. The F, Freeway Overlay does not apply to lots or parcels within the CS, Cleburne Station Overlay or lots or parcels in the A, Agricultural District or any Residential Zoning Districts.
- d. As part of the initial zoning action (see subsection **1.04.B**) City Council may apply or extend the boundaries of the F, Freeway Overlay to additional territory when that territory is annexed into the City.

3. New Development, Redevelopment, and Allowed Uses

- a. New development and redevelopment in the F, Freeway Overlay is governed by section **4.05 Design Standards**
- b. Use of property in the F, Freeway Overlay is governed by the underlying zoning district (see section **3.03**).

Figure 7: Freeway Overlay (Chisholm Trail Parkway)

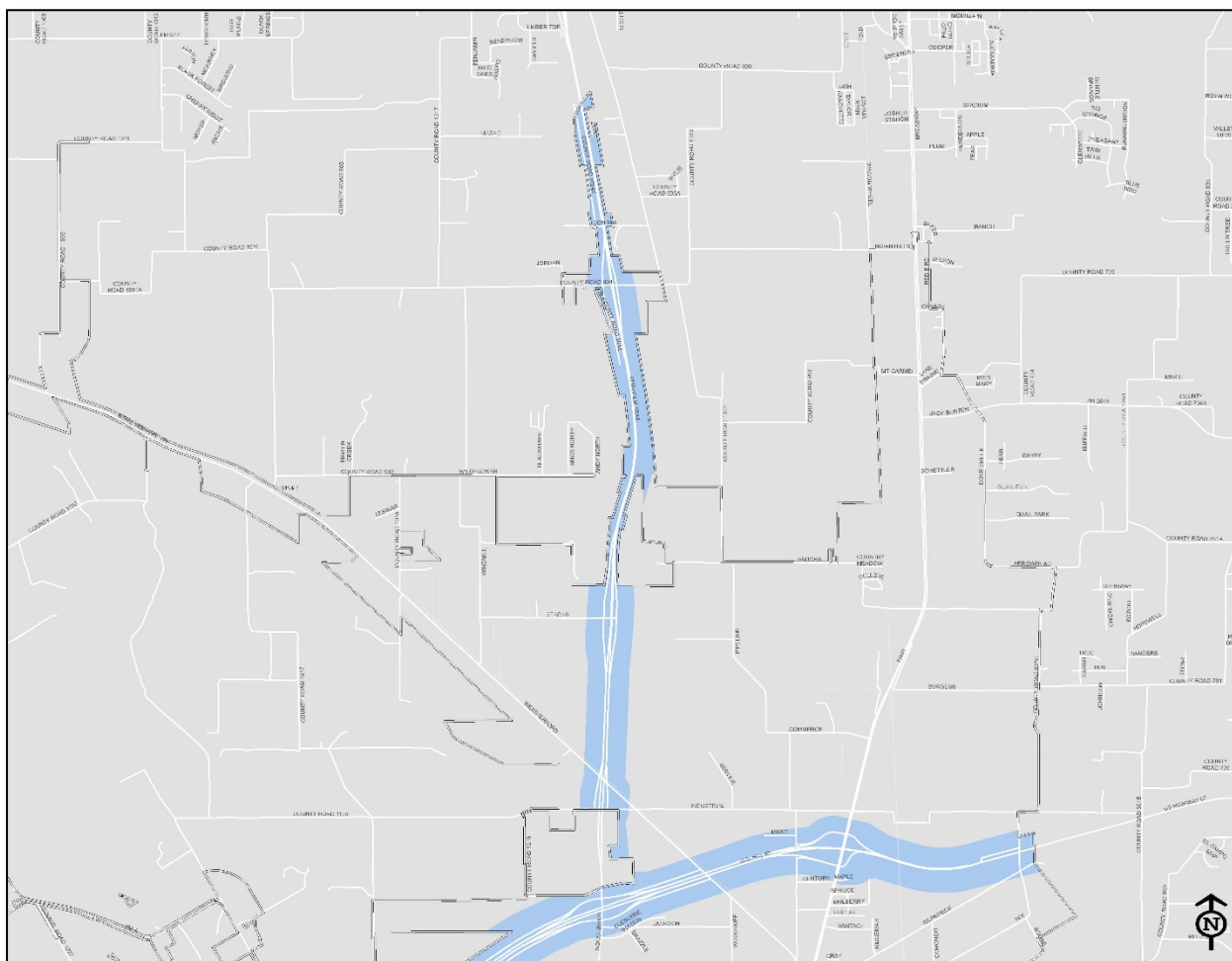


Figure 8: Freeway Overlay (U.S. 67)



I. AP, Airport Overlay

1. Purpose

The purpose of the AP, Airport Overlay is to regulate uses in the areas surrounding Cleburne Regional Airport, particularly within those areas that the City and the Federal Aviation Administration (FAA) considers crucial to the continued operation of the airport.

2. FAA Approval Required

For property located within the AP, Airport Overlay, the City may require that an Applicant demonstrate that the FAA has reviewed and commented on the Application and that the Applicant has addressed changes requested by the FAA before approving any variance from the standards of this Zoning Ordinance.

J. PD, Planned Development District

1. Purpose

The purpose of the PD, Planned Development District is to allow for creative and exceptional design within a unique physical, natural, or market context where the standards provided in the PD create a balance that compensates for any deviations from or reductions in the standards required in this Zoning Ordinance. A PD, Planned Development District may designate a planned development that existed before adoption of this Zoning Ordinance, or it may designate a new planned development that establishes new or innovative concepts in design, mixture or uses, or land preservation that are not envisioned or not provided for by this Zoning Ordinance.

2. Applicability

a. The PD designation shall not be used solely to obtain zoning variances from development standards. In deciding whether to approve a PD, the Applicant should address, and the Planning and Zoning Commission and City Council should consider, the following:

- (1) The complexity of the proposed Development, and whether the Development will require master planning over several years from initiation to completion;
 - (a) develop property across multiple phases;
 - (b) or involve multiple developers with different areas of expertise such as commercial, residential, entertainment, or healthcare facilities;
- (2) Whether the proposed Development conforms to specific goals of the Comprehensive Plan , Section 1.01, and the purpose statements of proposed base districts as found in this **Section 155.2**; and
- (3) Whether the proposed Development preserve natural features, open space, and other topographical features of the land; or
- (4) Whether the property in question is inherently difficult to develop due to irregular shape, size, or topography.

b. City Council is not obligated to approve a requested PD, Planned Development District.

3. Base Zoning District

- a. A PD may contain at least one base zoning district listed in this **Section 155.2**, other than a Special District listed in section **2.04**, to regulate all uses and development regulations not modified by the PD ordinance.
- b. City Council may approve any combination of uses listed in section **3.03** by approval of the PD ordinance.

4. Dimensional Regulations

See subsection **2.05** and **Section 155.4**.

5. Application Processing

See subsection **5.08**.

K. IH, Interim Holding District

1. Purpose

The IH, Interim Holding District applies only to properties annexed and zoned IH, Interim Holding District prior to adoption of this Zoning Ordinance that did not thereafter have a permanent zoning district applied.

2. Applicability and Restrictions

- a. The procedure for establishing zoning on annexed territory shall conform to the requirements and provisions of Section 1.04.B for property zoned at the time of annexation and Section 5.05 for property zoned after annexation.
- b. No person shall erect or construct a building or structure or expand an existing building or structure in any newly annexed territory without first obtaining a Building Permit and Certificate of Occupancy.
- c. The Building Official shall not issue a Building Permit or Certificate of Occupancy to allow construction other than a use permitted in the SF-20, Single-Family Dwelling District or an Agricultural Use.

2.05. Dimensional Standards Table

A. Dimensional Standards for Residential Districts

Regulation	SF-6, Single-Family Dwelling District	SF-7, Single-Family Dwelling District	SF-10, Single-Family Dwelling District	SF-20, Single-Family Dwelling District	MF-1, Medium-Density Residential District	MF-2, High-Density Residential District	A, Agricultural District
Lot Dimensions							
Minimum Lot Area	6,000 SF (Average) 5,000 (up to 10% of total lots)	7,000 SF	10,000 SF	20,000 SF	10,000 SF	10,000 SF	2 Acres (87,120 SF)
Minimum Lot Width: Interior Lot	50 feet	60 feet	80 feet	120 feet	25 feet	25 feet	150 feet
Corner Lot	55 feet	65 feet	75 feet	120 feet	30 feet	30 feet	150 feet
Minimum Lot Depth	110 feet	110 feet	125 feet	150 feet	100 feet	100 feet	100 feet
Maximum Density	N/A	N/A	N/A	N/A	16 dwelling units per acre	28 dwelling units per acre	N/A
Yard Setback Dimensions							
Minimum Front Yard Setback	25 feet	30 feet or Established Build Line	30 feet	30 feet	10 feet	5 feet (0 foot build-to line in Downtown Overlay and Cleburne Depot Overlay)	40 feet
Minimum Front Yard Setback – If lot is served by a paved alley and no front entry is provided or allowed (i.e., no driveway may be in the front yard and access must be from the alley.)	15 feet	20 feet	20 feet	20 feet	5 feet	0 feet (0 foot build-to line in Downtown Overlay and Cleburne Depot Overlay)	40 feet
Minimum Side Yard Setback: Interior Lot	5 feet	7 feet	7 feet	15 feet	0 feet between attached units or one side of zero lot line unit 7 feet minimum on end units or one size of zero lot line unit	0 feet between attached units 10 feet between end units	40 feet
Corner Lot – Exterior (Street) Yard	10 feet	12 feet	12 feet	15 feet	12 feet	15 feet	40 feet
Minimum Rear Yard Setback: Where an alley adjoins the rear lot line	20 feet	20 feet	1 story dwelling = 10 feet 2 story dwelling = 15 feet	1 story dwelling = 15 feet 2 story dwelling = 20 feet	1 story dwelling = 5 feet 2 story dwelling = 10 feet 3 story dwelling = 10 feet (15 feet adjacent to SF district)	10 feet, plus 1 foot for each additional foot in height above 25 feet when adjacent to an SF district.	1 story structure = 15 feet (20 feet when property abuts SF district) 2 or 3 story structure = 20 feet
Where no alley adjoins the rear lot line	20 feet	20 feet	20 feet	20 feet	20 feet (15 feet per building story when property abuts SF district)	20 feet (15 feet per building story when property abuts SF district)	1 story structure = 20 feet (25 feet when property abuts SF district) 2 story structure = 30 feet
Floor Area							
Minimum Floor Area	1000 SF	1350 SF	1750 SF	1750 SF	500 SF per 1 Bedroom unit, loft, or studio 950 SF per 2 Bedroom unit. 150 SF per each add'l room.	500 SF per 1 Bedroom unit, loft, or studio 950 SF per 2 Bedroom unit. 150 SF per each add'l room.	N/A
Structure Height							
Maximum Height (feet/stories)	40 feet / 2.5 Stories	40 feet / 2.5 Stories	40 feet / 2.5 Stories	40 feet / 2.5 Stories	45 feet / 3 Stories	60 feet / 4 Stories	40 feet / 2.5 Stories
Building Area Coverage							
Maximum Lot Area allowed to be Covered by Buildings (percentage includes all buildings and areas under roof)	60%	50%	50%	65%	65%	80%	60%

B. Dimensional Standards for Nonresidential Districts

Regulation	NC, Neighborhood Commercial District	LC, Local Commercial District	RC, Regional Commercial District	CI, Commercial/Industrial Flex District	I, Industrial District	MU, Mixed Use District	PD, Planned Development District
Lot Dimensions							
Minimum Lot Area ⁽¹⁾	7,800 SF None within Downtown Overlay	8,500 SF None within Downtown Overlay	8,500 SF	10,000 SF	43,560 (1 acre)	N/A	N/A
Minimum Lot Width	65 feet 25 feet within Downtown Overlay	70 feet 25 feet within Downtown Overlay	70 feet	100 feet	100 feet	100 feet 25 feet within Downtown Overlay	According to the PD ordinance
Minimum Lot Depth	120 feet 80 feet within Downtown Overlay	120 feet 80 feet within Downtown Overlay	120 feet	120’	N/A	120 feet 80 feet within Downtown Overlay	
Yard Setback Dimensions							
Minimum Front Yard Setback	5 feet None within Downtown Overlay	10 feet None within Downtown Overlay	15 feet None within Cleburne Depot Overlay	15 feet	25 feet	None	According to the PD ordinance
Minimum Side Yard Setback	When not adjacent to SF district: 5 feet When adjacent to SF district: 15 feet In Downtown Overlay: 0 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 15 feet In Downtown Overlay: 0 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 25 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 25 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 50 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 15 feet In Downtown Overlay: 0 feet	
Minimum Rear Yard Setback	When not adjacent to SF district: 5 feet When adjacent to SF district: 10 feet In Downtown Overlay: 0 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 15 feet In Downtown Overlay: 0 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 25 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 25 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 50 feet	When not adjacent to SF district: 5 feet When adjacent to SF district: 10 feet In Downtown Overlay: 0 feet	
Structure Height							
Maximum Height (feet/stories)	40 feet / 3 Stories	40 feet / 3 Stories	50 feet / 4 Stories	70 feet / 5 Stories	No Maximum / 5 Stories	70 feet / 5 Stories 40 feet / 3 stories if property abuts SF district	According to the PD ordinance
Building Area Coverage							
Maximum Building Area Coverage (all buildings)	80% 100% within Downtown Overlay	80% 100% within Downtown Overlay	65%	65%	60%	85% 100% within Downtown Overlay	According to the PD ordinance

Section 155.3. Zoning Land Use Regulations

3.01. Uses Permitted by District

A person may use land and buildings in each of the zoning districts listed in Section 155.2 for any uses specified in Section **3.03 Use Chart**. No person shall use land or erect, alter, or convert a building or structure for any use other than those specified as a permitted use in the district where the property is located.

Legend for Use Chart	
P	Use permitted in the district
	Use prohibited in the district
S	Use permitted in the district upon approval of a Specific Use Permit (SUP)
P-#	Use permitted in the district if the use complies with conditional development standards or limitations in the corresponding numeric endnote reference to Section 3.04 Conditional Development Standards.
S-#	Use permitted in the district after approval of a Specific Use Permit (SUP) under Section 7.10 and if the use complies with conditional development standards or limitations in the corresponding numeric endnote reference to Section 3.04 Conditional Development Standards.

3.02. Classification of New and Unlisted Uses

A. Existence of New and Unlisted Uses

Any use not listed in Section **3.03 Use Chart** or that operates in conflict with the definition of the use in **Section 155.7** is prohibited.

B. Zoning Administrator Interpretation of a New and Unlisted Use

1. If the Zoning Administrator cannot classify a proposed use under an existing listed use, the Zoning Administrator may initiate a zoning text amendment (see Section **5.05**).
2. Any person requesting a use not listed in Section **3.03** may submit an Application to the Zoning Administrator to amend the Use Chart (see Section **5.05**).

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3.03. Use Chart

Legend for Use Chart		SF-6 Single-Family Dwelling Districts	SF-7 Single-Family Dwelling District	SF-10, Single-Family Dwelling District	SF-20, Single-Family Dwelling District	MF-1, Medium Density Residential District	MF-2, High-Density Residential District	NC, Neighborhood Commercial District	LC, Local Commercial District	RC, Regional Commercial District	CI, Commercial/Industrial Flex District	I, Industrial District	MU, Mixed-Use District	A, Agricultural District	Parking Requirements
P	Permitted in district indicated														
	Prohibited in district indicated														
S	Permitted in district upon approval of a Specific Use Permit (SUP)														
P-#	Permitted if compliant with the corresponding numeric end note in Conditional Development Standards														
S-#	Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards														
Residential Uses															
<u>Boarding House</u>						P	P						P		1: room
<u>Community Home I</u>		P	P	P	P	P	P						P		2
<u>Community Home II</u>						S	S	S	P	P	P		S		1:4 rooms
<u>Dwelling, Single-Family (Detached)</u>		P	P	P	P									P	2
<u>Dwelling, Single-Family (Attached – Duplex)</u>						P									2: unit
<u>Dwelling, Single-Family (Attached – Townhouse)</u>						P	P								2: unit
<u>Dwelling, Multi-Family 3-8 Units</u>						P	P						P		1.5: unit
<u>Dwelling, Multi-Family 9 or more Units</u>						S	P						P		1.75: unit
<u>Guest House/In-Law Quarters</u>		P-11	P-11	P-11	P-11									P-11	1
<u>Industrialized Housing</u>		P-16	P-16	P-16	P-16								P-16		2
<u>Live Work Unit</u>								S					P		2: unit
<u>Manufactured Home</u>		S	S	S	S									S	2
<u>Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions</u>		S-17	S-17			S-17								P	2: unit
<u>On-Premise Residence</u>								P	P	P	P	P	P		1
<u>Retirement Housing</u>						P	P						P		1.5: unit

Legend for Use Chart		SF-6 Single-Family Dwelling Districts	SF-7 Single-Family Dwelling District	SF-10, Single-Family Dwelling District	SF-20, Single-Family Dwelling District	MF-1, Medium Density Residential District	MF-2, High-Density Residential District	NC, Neighborhood Commercial District	LC, Local Commercial District	RC, Regional Commercial District	CI, Commercial/Industrial Flex District	I, Industrial District	MU, Mixed-Use District	A, Agricultural District	Parking Requirements
P	Permitted in district indicated														
	Prohibited in district indicated														
S	Permitted in district upon approval of a Specific Use Permit (SUP)														
P-#	Permitted if compliant with the corresponding numeric end note in Conditional Development Standards														
S-#	Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards														
Nonresidential Uses															
<u>Accessory Building (see subsection 3.08)</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Adult Day-Care Services</u>								P	P	S			P		1:400 + 1: employee
<u>Agricultural Use</u>														P-1	N/A
<u>Airport or Airport Facility</u>											S	S			1:1000 sf
<u>Alcoholic Beverage Sales and Service (on-site consumption)</u>									S-2	S-2			S-2		1:100 sf
<u>Alcohol Sales (off-premises consumption)</u>									P-3	P-3			P-3		1:250 sf
<u>Alternative Financial Establishment</u>									P-4	P-4			P-4		1:250 sf
<u>Ambulance Service</u>									S	P	P		S		1:400 sf
<u>Amusement, Commercial (Indoors)</u>									P	P	P		P		1:400 sf
<u>Amusement, Commercial (Outdoors)</u>										S-5	P-5			S-5	1:400 sf
<u>Animal Shelter or Pet Boarding (with Outside Yard/Kennels)</u>										P	P	P		S	1:1000 sf
<u>Animal Shelter or Pet Boarding (without Outside Yard/Kennels)</u>								P	P	P	P	P	P	P	1:1000 sf
<u>Antique Shop</u>								P	P	P			P		1:400 sf
<u>Art Gallery or Museum</u>								P	P	P			P		1:400 sf
<u>Artisan's Workshop</u>								P	P	P	P		P	P	1:1000 sf
<u>Auction House</u>											S	S			1:400 sf
<u>Automobile Body Shop</u>									S-6	S-6	S-6				1:400 sf
<u>Automobile or Other Motorized Vehicle Sales and Service</u>									S-6	P-6	P-6				1:400 sf

Legend for Use Chart		SF-6 Single-Family Dwelling Districts	SF-7 Single-Family Dwelling District	SF-10, Single-Family Dwelling District	SF-20, Single-Family Dwelling District	MF-1, Medium Density Residential District	MF-2, High-Density Residential District	NC, Neighborhood Commercial District	LC, Local Commercial District	RC, Regional Commercial District	CI, Commercial/Industrial Flex District	I, Industrial District	MU, Mixed-Use District	A, Agricultural District	Parking Requirements
P	Permitted in district indicated														
	Prohibited in district indicated														
S	Permitted in district upon approval of a Specific Use Permit (SUP)														
P-#	Permitted if compliant with the corresponding numeric end note in Conditional Development Standards														
S-#	Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards														
<u>Automobile Parts Store</u>									P	P	P				1:250 sf
<u>Automobile Rental</u>								S-6	S-6	P-6	P-6		S-6		1:400 sf
<u>Automobile Salvage</u>												S-6			1:1000 sf
<u>Automobile Service Garage (Major)</u>										S-6	S-6				1:bay and 1:400 sf office
<u>Automobile Service Garage (Minor)</u>									P-6	P-6	P-6				1:bay or 1:400 sf
<u>Automobile Wrecker and Impound Lot</u>											S-6	P-6			1:400 sf
<u>Bail Bond Services</u>									S	S	P		S		1:400 sf
<u>Bakery (Retail)</u>									P	P			P		1:250 sf
<u>Bank or Financial Institution</u>								P	P	P			P		1:400 sf
<u>Banquet Hall</u>									S-7	S-7			S-7		1:3 seats
<u>Bed and Breakfast Inn</u>		S				S		S	S				S	S	1:room + 2
<u>Book Store</u>								P	P	P			P		1:400 sf
<u>Bowling Alley</u>									S	P			S		3:lane + 1:1000 sf
<u>Brewery or Distillery</u>									P-8	P-8	P-8	P-8	P-8		1:1000 sf + 1:250 sf taproom
<u>Brewpub</u>									P-8	P-8	P-8	P-8	P-8		1:200 sf
<u>Car Wash, Full Service</u>									P-6	P-6			S-6		1:400 sf waiting area

Legend for Use Chart		SF-6 Single-Family Dwelling Districts	SF-7 Single-Family Dwelling District	SF-10, Single-Family Dwelling District	SF-20, Single-Family Dwelling District	MF-1, Medium Density Residential District	MF-2, High-Density Residential District	NC, Neighborhood Commercial District	LC, Local Commercial District	RC, Regional Commercial District	CI, Commercial/Industrial Flex District	I, Industrial District	MU, Mixed-Use District	A, Agricultural District	Parking Requirements
P	Permitted in district indicated														
	Prohibited in district indicated														
S	Permitted in district upon approval of a Specific Use Permit (SUP)														
P-#	Permitted if compliant with the corresponding numeric end note in Conditional Development Standards														
S-#	Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards														
<u>Car Wash, Self Service</u>									P-6	P-6			S-6		1:1bay
<u>Carpentry Shop</u>								S	P	P	P	P	S	P	1:1000 sf
<u>Catering Service</u>								P	P	P	S	S	P	S	1:400 sf
<u>Cement Storage</u>											S	S			1:250 sf office
<u>Cemetery or Mausoleum</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Ceramic and Pottery Manufacturer</u>								S	S	S	P		S	P	1:400 sf
<u>Child Care Home (Up to 6 Children)</u>		P	P	P	P	S	S						S	P	2 additional
<u>Child Care Home (7 or More Children)</u>		S	S	S	S	S	S							P	2 additional
<u>Child Care Facility (Children's Home)</u>		S	S	S	S	S	S	S	S	S			S	S	1:250 sf
<u>Child Care Facility (Day-Care Center)</u>		S	S	S	S	S	S	P	P	P	P		P	S	1:400 sf + 1:empl
<u>Civic/Convention Center</u>									P	P	P		P		1:400 sf
<u>Community Center, Private or Clubhouse</u>		P	P	P	P	P	P	P	P	P	P		P		1:400 sf
<u>Concrete or Asphalt Batching Plant, Permanent</u>												S			1:250 sf office
<u>Concrete or Asphalt Batching Plant, Temporary</u>		P-9	P-9	P-9	P-9	P-9	P-9	P-9	P-9	P-9	P-9	P-9	P-9	P-9	N/A
<u>Consignment Store</u>									P	P	P		P		1:250 sf
<u>Contractor's Shop or Storage Yard</u>										S-19	P-19	P-19			1:400 sf office
<u>Convenience Store</u>								P	P	P	P		P		1:250 sf
<u>Country Club</u>		S	S	S	S	S	S						S	S	1:250 sf

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P	Permitted in district indicated														
	Prohibited in district indicated														
S	Permitted in district upon approval of a Specific Use Permit (SUP)														
P-#	Permitted if compliant with the corresponding numeric end note in Conditional Development Standards														
S-#	Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards														
<u>Dance, Music, or Drama Studio</u>								P	P	P	P		P	P	1:4 pupils
<u>Donation or Recycling Collection Point</u>								P	P	P	P		P		N/A
<u>Drive-Thru or Drive-In Uses other than Restaurant or Cafeteria, with Drive-Thru</u>								S	P	P	P		S		Per use
<u>Electrical Energy Generating Plant</u>												S		S	N/A
<u>Electrical Power Substations</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Electrical Transmission</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Equestrian Center</u>					S									P	1:400 sf office
<u>Equipment Rental (Heavy)</u>										S	P				1:400 sf office
<u>Equipment Repair Shop</u>									S	S	P				1:400 sf
<u>Exterminator</u>										P-19	P-19	P-19			1:400 sf office
<u>Fabrication, Metal or Plastic</u>											P	P			1:1000 sf or 1:3 employees
<u>Farmer's Market</u>								S	S	S	S		S	S	By SUP
<u>Feed Store</u>										P	P			S	1:400 sf
<u>Flea Market</u>										S	S			S	By permit
<u>Florist</u>								P	P	P	P		P		1:400 sf
<u>Food Processing Plant</u>											S	P			1:1000 sf or 1:3 employees

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<u>Fraternal Organization</u>								P	P	P	P		P		1:400 sf
<u>Funeral Home or Mortuary</u>								S	S	S	S	S	S		1:3 seats
<u>Furniture Repair and Upholstering Shop</u>								S	S	P	P			S	1:400 sf
<u>Gasoline or Diesel Passenger Vehicle Filling or Service Station</u>								S-10	P-10	P-10	P-10		S-10		1:250 sf Indoors
<u>Gasoline or Diesel Truck Filling or Service Station</u>										S-10	P-10	P-10			1:250 sf Indoors
<u>Gasoline or Diesel Truck Filling or Service Station with Overnight Parking</u>											S-10	P-10			1:250 sf Indoors
<u>Gasoline or Diesel Passenger Vehicle Self-Service Pumps Only</u>											S	P			N/A
<u>Golf Course</u>		S	S	S	S	S	S	S	S	S			S	S	5:hole
<u>Greenhouse (Commercial Non-Hobby)</u>										P	P	P		P	1:1000 sf
<u>Grocery Store (<20,000 square feet)</u>								P	P	P	P		P		1:250 sf
<u>Grocery Store (≥20,000 square feet)</u>									P	P			P		1:250 sf
<u>Gun Club, Skeet or Target Range (Indoor)</u>									P	P	P			P	1:lane
<u>Gun Club, Skeet or Target Range (Outdoor)</u>											S			S	1:400 sf Indoor
<u>Gym or Health/Fitness Center</u>								P	P	P			P		1:400 sf
<u>Gymnastic Studio</u>								P	P	P	P		P		1:400 sf
<u>Halfway House</u>										S	S			S	1:2 employees
<u>Handicraft Shop</u>								P	P		P		P	P	1:400 sf
<u>Hazardous Waste Disposal (see subsection 3.06)</u>												S			1:1000 sf

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<u>Heavy Load Vehicle Sales and Service</u>										P-6	P-6				1:400 sf Indoor
<u>Heavy Load Vehicle Service Garage</u>											S-6	P-6			1:1000 sf
<u>Heliport or Helistop</u>										S-12	S-12	S-12		P	N/A
<u>Hobby Shop</u>								P	P	P	P		P		1:400 sf
<u>Home-Based Business</u>		P-13	P-13	P-13	P-13	P-13	P-13						P-13		N/A
<u>Hospital, Acute Care</u>								S	P	P	P		P		2: exam room
<u>Hospital, Chronic Care</u>									P	P	P		P		3:bed
<u>Hotel</u>								S-14	S-14	P-14			P-14		1:400 sf
<u>Hotel, Extended Stay</u>									S-15	S-15			S-15		1:room + 5
<u>Institution for the Care of Alcoholic, Psychiatric or Narcotic Patients</u>										P	P	P			3:bed
<u>Jewelry Manufacturing or Assembly</u>											P	P			1:400 sf
<u>Landfill</u>												S			N/A
<u>Laundry, Commercial</u>											P	P			1:1000 sf
<u>Laundry, Dry Cleaning Drop-Off/Pick-Up</u>								P	P	P	P		P		1:400 sf
<u>Laundry, Self-Service</u>								P	P	P	P				1:400 sf
<u>Leather Product and Saddle Manufacturing</u>											P	P		P	1:1000 sf
<u>Library</u>								P	P	P	P		P		1:250 sf
<u>Light Assembly and Manufacturing Processes</u>											P	P			1:1000 sf
<u>Manufacturing or Industrial Operations</u>											P	P			1:1000 sf
<u>Meat Processing Plant</u>												S			1:1000 sf

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P	Permitted in district indicated														
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P-#	Permitted if compliant with the corresponding numeric end note in Conditional Development Standards														
S-#	Permitted by Specific Use Permit (SUP) if compliant with the corresponding numeric end note in Conditional Development Standards														
<u>Medical Clinic</u>								P	P	P	P		P		1:400 sf
<u>Movie Theatre</u>									S	P			S		1:4 seats
<u>Movie Theatre, Drive In</u>										S	S		S	S	N/A
<u>Newspaper Printing</u>											P	P			1:1000 sf
<u>Nursery, Non-Retail</u>										S	P			P	1:400 sf Indoor
<u>Nursery, Retail</u>										P	P			S	1:400 sf
<u>Office, Professional, Medical, or Business</u>								P	P	P	P		P		1:400 sf
<u>Outside Display</u>									P-18	P-18	P-18		P-18		N/A
<u>Outside Sales</u>									S	S	S				1:400 sf Indoor or 2:empl
<u>Outside Storage</u>									S-19	S-19	S-19	P-19			N/A
<u>Park, Playground, or Community Center, Public</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Parking Garage</u>							P		P	P	P	P	P		N/A
<u>Parking (Heavy Load Vehicles)</u>											S-6	S-6			N/A
<u>Parking (Principal Use)</u>		S-6	S-6	S-6	S-6	S-6	S-6	P-6	P-6	P-6	P-6	P-6	S-6	S-6	N/A
<u>Pawn Shop</u>									P	P	P				1:400 sf
<u>Penal and Correctional Institutions</u>											S	S		S	N/A
<u>Personal Service Shop</u>								P	P	P	P		P		1:400 sf
<u>Pet Store</u>									P	P			P		1:400 sf
<u>Petroleum and Gas Storage and Collection Facilities</u>												S			N/A
<u>Pharmacy</u>								P	P	P	P		P		1:400 sf

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<u>Photographer's or Artist's Studio/Film Processing</u>								P	P	P	P		P	P	1:1000 sf
<u>Plastic Products Manufacturing</u>												S			1:1000 sf
<u>Play Field or Stadium (no nighttime illumination)</u>		S	S	S	S	P	P	P	P	P	P	P	P	P	1:4 seats
<u>Play Field or Stadium (with nighttime illumination)</u>									S	S	S		S		1:4 seats
<u>Plumbing/Electrical/Air Conditioning Store (Retail Sales Only)</u>									P	P	P				1:400 sf
<u>Police or Fire Station</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Printing/Duplication Shop or Mailing Center</u>									P	P	P		P		1:400 sf
<u>Private Club</u>									S	S	S		S		1:250 sf
<u>Professional Services</u>								P	P	P	P	P	P	P	1:400 sf
<u>Public Use or Building</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	By Use
<u>Radio or TV Station (no tower)</u>								S	P	P	P	P	P		1:400 sf
<u>Rail Station or Bus Station, Passenger</u>								S	P	P	P	S	P		1:400 sf
<u>Railroad Facility</u>											S	P			1:400 sf
<u>Railway and Railway Right-of-Way</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Recycling Center</u>											S-20	S-20			1:400 sf
<u>Recycling Facility</u>												S-20			1:400 sf
<u>Religious Use</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	1:4 seats
<u>Research or Scientific Laboratory</u>										P	P	S	S		1:400 sf
<u>Resource Extraction (Oil and Gas)</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Restaurant or Cafeteria, with Drive-Thru</u>									P	P			S		1:200 sf
<u>Restaurant or Cafeteria, without Drive-Thru</u>								P	P	P			P		1:200 sf
<u>Retail Stores and Shops</u>								P	P	P			P		1:400 sf

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<u>RV Park</u>											S-22	S-22			1: bay
<u>School, Career</u>								P	P	P	P	P	P		1: 3 seats
<u>School, College or University</u>								S	S	S	S		S		Per SUP
<u>School, K-12</u>		P	P	P	P	P	P	P	P	P	P		P		1: class-room (K-8) 2.5: class-room (9-12)
<u>Seamstress or Tailor Shop</u>									P	P	P		P		1: 400 sf
<u>Secondhand Store</u>								P	P	P	P		P		1: 400 sf
<u>Self-Storage (Mini Warehouse Facilities)</u>										S	S		S		1: 400 sf Office
<u>Sexually Oriented Business (see Code of Ordinances Section 155.571)</u>												S			1: 250 sf
<u>Shoe Repair Shop</u>								P	P	P	P		P		1: 400 sf
<u>Slaughterhouse</u>												S			1: 1000 sf
<u>Small Engine Repair Shop</u>								P	P	P	P				1: 400 sf
<u>Smelter, Refinery, or Chemical Plant</u>												S			1: 3 employees
<u>Solar Panel or Array (mounted on building or structure)</u>		P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	N/A
<u>Solar Panel or Array (ground installation)</u>										P-21	P-21	P-21		P-21	N/A
<u>Stable (Commercial or Boarding)</u>														S	N/A
<u>Stable (Private)</u>													P		N/A
<u>Sundry Store</u>									P-23	P-23	P-23		P-23		1: 250 sf

Legend for Use Chart		SF-6 Single-Family Dwelling Districts	SF-7 Single-Family Dwelling District	SF-10, Single-Family Dwelling District	SF-20, Single-Family Dwelling District	MF-1, Medium Density Residential District	MF-2, High-Density Residential District	NC, Neighborhood Commercial District	LC, Local Commercial District	RC, Regional Commercial District	CI, Commercial/Industrial Flex District	I, Industrial District	MU, Mixed-Use District	A, Agricultural District	Parking Requirements
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<u>Swimming Pool</u>		P	P	P	P	P	P	P	P	P	P		P	P	N/A
<u>Tattoo or Piercing Studio</u>									S-24	S-24	S-24		S-24		1.5:seat
<u>Taxi Garage or Dispatch</u>										P	P				1:400 sf Office
<u>Taxidermist</u>									P	P	P			P	1:1000 sf
<u>Temporary Building for New Construction</u>		S	S	S	S	S	S	S	S	S	S	S	S	S	By Permit
<u>Temporary On-Site Storage Unit or Container</u>		P-25	P-25	P-25	P-25	P-25	P-25	P-25	P-25	P-25	P-25	P-25	P-25	P-25	N/A
<u>Textile Manufacturing</u>											S	P			1:1000 sf
<u>Theater, Live Performance (indoor)</u>								P	P	P	P		P		1:4 seats
<u>Theater, Live Performance (outdoor)</u>								S	P	P	P		P		1:4 seats
<u>Thrift Store</u>								P	P	P	P		P		1:400 sf
<u>Tobacco, Vapor, e-Cigarette Store</u>										S-26	S-26				1:250 sf
<u>Truck Terminal</u>											S	P			1:1000 sf
<u>Utility Distribution/Transmission Line, Franchise</u>		P	P	P	P	P	P	P	P	P	P	P	P	P	N/A
<u>Veterinarian Clinic (no outdoor kennels)</u>								P	P	P	P		P	P	1: exam room
<u>Veterinarian Clinic (with outdoor kennels)</u>										S	P				1: exam room
<u>Warehouse/Distribution</u>											P	P			1:1000 sf
<u>Water Storage</u>		S	S	S	S	S	S	S	S	S	S	S	S	S	N/A
<u>Water or Wastewater Treatment Facility</u>		S	S	S	S	S	S	S	S	S	S	S	S	S	N/A
<u>Wholesale Center (no outside sales or storage)</u>										P	P	P			1:400 sf
<u>Wind Turbine</u>		P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	P-21	N/A

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<u>Wireless Communication System</u>		S-27	S-27	S-27	S-27	S-27	S-27	S-27	S-27	S-27	S-27	S-27	S-27	S-27	N/A
<u>Woodworking and Planing Mill</u>											P	P			1:1000 sf

3.04. Conditional Development Standards

A. The following conditional development standards shall apply to the uses specified in each subsection:

1. Agricultural Use Standards for Select Zoning Districts

a. Approval is subject to the following conditions:

Farming, Stable, or Nursery, on a tract of five (5) acres or more are permitted provided no retail sales are conducted from the premises without approval of a Specific Use Permit (SUP) unless otherwise specified.

2. Alcoholic Beverage Sales and Service (on-site consumption) Standards

Approval is subject to the following conditions:

(1) The bar is operated within the same premises as a restaurant and the gross receipts from the sale of alcoholic beverages does not exceed the permitted threshold as established by the Texas Alcoholic Beverage Commission (TABC) rules and regulations, as amended.

(2) Shall only be permissible when the location complies with all of the distance requisites as required by section **120.04** of the Code of Ordinances.

3. Alcohol Sales (off-premises consumption) Standards

a. Approval is subject to the following conditions:

(1) Shall only be permissible when the Alcohol Sales (off-premises consumption) is not within 300 feet of any Religious Use, School, K-12, or Public Hospital, Chronic Care.

(2) The measurement of the distance between the Alcohol Sales (off-premises consumption) and any Religious Use, School, K-12, or Public Hospital, Chronic Care must conform to the TABC definition.

4. Alternative Financial Establishment Standards

a. Approval is subject to the following conditions:

(1) Shall only be permissible where the place of business containing the alternative financial establishment is not within 1,000 feet of any lot containing another financial establishment as measured from property line to property line.

(2) Shall not be located within 300 feet from a lot in a residential district, measured from property line to property line.

(3) Shall only operate within a freestanding building and may not operate in the same structure as any other use.

(4) Shall also include vehicle storage area excluding required off-street parking for vehicles stored or held for collateral from Alternative Financial Establishment transaction.

5. **Amusement, Commercial (Outdoors)** Standards

a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart.

b. Approval is subject to the following conditions:

(1) All exterior light sources shall be of a down-light type, indirect, diffused, or shielded type luminaries and so installed as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets.

(2) No intermittent or flashing lights shall be permitted that are visible beyond the property line of the Amusement, Commercial (Outdoors).

- (3) Luminaries shall be mounted at a height not to exceed thirty (30) feet as measured vertically from the horizontal surface of the nearest parking pavement.
 - (4) No exterior auditory devices shall be permitted.
 - (5) Shall not be located within two-hundred (200) feet of a property zoned SF or developed with Dwelling, Single-Family (Detached)uses.
6. Automobile or Other Motorized Vehicle Sales and Service
 - a. Purpose and Applicability
 - (1) The purpose of this subsection is to provide consistent standards for uses that primarily involve and are oriented toward the sale, re-sale, service, repair, rebuilding, or salvage of automobiles.
 - (2) This section applies to the following uses: Automobile Body Shop; Automobile or Other Motorized Vehicle Sales and Service; Automobile Rental; Automobile Salvage; Automobile Service Garage (Major); Automobile Service Garage (Minor); Car Wash, Full Service; Car Wash, Self Service; Parking (Principal Use); Parking (Heavy Load Vehicles); Automobile Wrecker and Impound Lot.
 - b. A Specific Use Permit (SUP) may be required according to the permitted Use Chart.
 - c. Lighting and Noise
 - (1) All exterior light sources shall be of a down-light type, indirect, diffused, or shielded type luminaries and so installed as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets.
 - (2) No intermittent or flashing lights shall be permitted.
 - (3) Luminaries shall be mounted at a height not to exceed thirty (30) feet as measured vertically from the horizontal surface of the nearest parking pavement.
 - (4) No exterior auditory devices shall be permitted.
 - d. Parking and Storage of Vehicles
 - (1) An approved paved surface is required beneath all vehicles that are offered for sale, are parked, staged, stored, or are in the process of being serviced, repaired, or washed along with a method of capturing any runoff of fluids, oils, or wash generated by the use and preventing the runoff from entering the stormwater or sanitary sewer system.
 - (2) Existing unpaved or gravel surfaces that have been utilized for a use listed in **a(2) above** may continue but are considered non-conforming under subsection **3.07.F Nonconforming Regarding Parking or Landscaping.**
 - (3) No vehicle may be parked or stored within a public Right-of-Way.
 - (4) Part storage, including wheels and tires, is allowed only within an enclosed building.
 - (5) Parking of vehicles must allow for emergency access to the building and to the vehicles themselves in case of fire or other emergency according to minimum adopted standards and is subject to approval by the Fire Marshal.
 - (6) Vehicles may not be parked between a building and public street when inoperable due to being mechanically disabled and missing one or more of the following components: bumper, door, hood, window glass, headlight or taillight housings, or wheels or tires.
 - (a) For the purposes of this subsection **3.04.A.6**, “disabled” means that the vehicle cannot safely or legally operate or move under its own power on a public street.

e. Movement of Vehicles to and From a Location

No disabled vehicle that is brought to or taken from a site listed under this subsection may be left in the public right of way or loaded or unloaded within the public right of way.

f. Repair of Vehicles

(1) Repair or servicing of vehicles is allowed only within a building that is fully enclosed.

(2) Tire changes and minor changing of parts such as windshield wipers or light bulbs are exempt from this restriction.

7. Banquet Hall Standards

a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart.

b. The Banquet Hall must have frontage on and access to a thoroughfare with an existing or planned right-of-way of at least 100 feet.

8. Brewpub, Brewery or Distillery Standards

Approval is subject to the following conditions:

a. A Brewpub, Brewery or Distillery shall only be permissible when the location complies with all of the distance requisites as required by section 120.04 of the Code of Ordinances

b. A Specific Use Permit is required in the following circumstances:

(1) The physical size of all operations within a single building exceeds 20,000 square feet;

(2) Live outdoor entertainment or a Banquet Hall operate as an integral business with the microbrewery or microdistillery.

(a) Integral business means any of the following: sharing of demised spaces, common areas, or having access to each other from an area other than a public street or alley.

(3) On-site production exceeds 10,000 barrels per year.

9. Concrete or Asphalt Batching Plant, Temporary

The Director of Public Works shall approve a permit for a temporary asphalt or concrete batch plant to provide construction materials for the site on which the temporary batch plant is located during the construction phase of a permanent building, new residential subdivision or other project as authorized by the City Manager or his/her designee, provided such temporary use comply with the following requirements:

a. The temporary batch plant shall receive an approved air quality permit from the State of Texas, and evidence must be presented at the time of application for the temporary use permit.

b. The temporary batch plant shall follow all State of Texas storm water run-off requirements. A copy of any required State documents must be on the site of the temporary batch plant at all times.

c. A location map and site plan, drawn to scale, shall be provided and indicate the following: the location of the temporary batch plant on the subject property along with a defined plant boundary and the location of all related equipment, including but not limited to the batching equipment and containers, storage areas, hazardous materials storage, if applicable.

d. A site plan, drawn to scale, shall be provided showing the closest habitable residences, schools and religious institutions. The minimum distances shall be three-hundred feet (300') measured in a direct line from the boundary of the temporary batch plant, as indicated on the Application, to the property boundary of the protected use.

e. The material delivery route shall be provided, indicating routes for raw material delivery with details on the type and numbers of trucks per day. Said route shall require final approval by the City Manager or his/her designee.

- f. The hours of operation shall follow the construction hours of operation as required by the Code of Ordinances.
 - g. A letter of permission shall be provided by the property owner stating that the temporary batch plant will be used to provide concrete/asphalt for the same site where it is located and no other project(s). The letter must also state that the site will be left in good or better condition.
 - h. The Application must state the amount of time that the temporary batch plant will be in operation. The permit duration shall not exceed sixty (60) days from the date of issuance. Only one permit may be issued for a given parcel of property within a twelve (12)-month period.
 - i. The Director of Public Works shall determine if additional materials testing is required and may determine the testing personnel required. Any cost of testing shall be paid by the Applicant.
 - j. The batch plant shall not be used as a batching facility for any other site other than the site on which it is located and no concrete, asphalt and any raw materials may be sold from said plant.
 - k. The temporary batch plant and all equipment and materials used in the operation of the plant shall be removed from the property on which the plant is located within fourteen (14) days after completion of the project.
 - l. Any appeal or waiver from the requirements of this section shall require final approval of a Specific Use Permit (SUP) by the City Council.
10. Gasoline or Diesel Passenger Vehicle Filling or Service Station Standards
- a. Approval is subject to the following conditions:
 - (1) Gasoline pumps, pump islands, canopies, or car washes, where adjacent to property zoned SF and MF-1 shall maintain a minimum setback of at least fifty feet (50') from any property line shared with property zoned SF or MF-1.
 - (2) Pump islands must be located at least twenty feet (20') of any property line.
 - (3) The outer edge of the canopy must be located at least ten feet (10') from all public rights-of-way.
11. Guest House/In-Law Quarters Standards
- See Section **3.08 Accessory Buildings and Uses** for standards.
12. Heliport or Helistop Standards
- a. Approval is subject to the following conditions:
 - (1) No heliport or helistop shall be located within one thousand feet (1,000') of any Religious Use, School, K-12, Public Hospital, Chronic Care, Library, Park, Playground, or Community Center, Public or within 1,000 feet of any dwelling unless:
 - (a) Noise attenuation methods are implemented to achieve noise levels no greater than if the heliport or helistop were located one thousand feet (1,000') from any such property in an unprotected state;
 - (b) The Federal Aviation Administration has approved approach and departure paths for the proposed heliport or helistop which require all departures to be made at an angle of more than 90 degrees from any boundary or any such property which is less than one thousand feet (1,000') from the proposed heliport or helistop; and
 - (c) No substantial adverse impact exists on residence or businesses within the one thousand feet (1,000') requirement.
 - (2) A Heliport or Helistop that is an Accessory Use to an Airport or Airport Facility or Hospital, Chronic Care is exempt from this subsection **3.04.A.12.**

13. Home-Based Business Standards**a. Approval is subject to the following conditions:**

- (1) Employment of persons by the business owner is limited to permanent residents of the household;
- (2) The use is operated entirely within the dwelling unit or an Accessory Building that is permissible under Section **3.08**;
- (3) The use of the dwelling unit for the home-based business is clearly incidental and subordinate to its use for residential purposes by the occupant;
- (4) The dwelling and property have not been altered to accommodate the Home-Based Business, other than alterations customary to a dwelling or residential property and that are allowed under this Zoning Ordinance;
- (5) No sign advertising a home-based business shall be placed on property where a home-based business is conducted;
- (6) Merchandise shall not be offered or displayed for sale on the premises and no sale may be conducted at the dwelling without prior arrangement or appointment. Sales incidental to a service and orders previously made by electronic means or by mail order are permissible;
- (7) No traffic shall be generated by a home-based business in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home-based business shall be met off the street and other than in a required front yard;
- (8) Vehicles, including trucks and trailers, used by the business must be legally parked when not in use and not exceed 16,000 pounds gross vehicle weight rating or have more than two (2) axles;
- (9) Commercial deliveries are limited to vehicles with two (2) axles;
- (10) No equipment, process or work shall be used or conducted in such home-based business that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment, process or work shall be used or conducted which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises;
- (11) The home-based business shall not utilize a separate public entrance from the dwelling; and
- (12) No Outside Storage or Outside Display of any type shall be permitted with any home-based business.

14. Hotel Standards**a. Approval is subject to the following conditions:**

- (1) Shall provide staff on-site 24 hours a day
- (2) Shall locate all room doors, stairwells, and access corridors within the exterior walls
- (3) Shall provide at least five (5) amenities from the list below:
 - (a) Entrance lobby with at least 1,500 square feet of floor area
 - (b) Indoor/outdoor pool of at least 800 square feet of surface area
 - (c) Spa/sauna
 - (d) Weight room/fitness center
 - (e) Playground

- (f) Plaza/atrium
- (g) Rooftop Deck
- (h) Game Room
- (i) Full-service restaurant (minimum seating capacity of 35)
- (j) A minimum of 100 guest room units
- (k) A meeting/conference room (1,000 square feet minimum)

15. Hotel, Extended Stay Standards

- a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart.
- b. Approval is subject to the following conditions:
 - (1) Shall provide staff on-site 24 hours a day
 - (2) Shall provide at least six (6) amenities from the list below:
 - (a) Entrance lobby with at least 1,500 square feet of floor area
 - (b) Indoor/outdoor pool of at least 800 square feet of surface area
 - (c) Spa/sauna
 - (d) Weight room/fitness center
 - (e) Playground
 - (f) Plaza/atrium
 - (g) Game Room
 - (h) Jogging Trail
 - (i) Conference room (1,000 square feet minimum)
 - (j) Full-service restaurant (minimum seating capacity of 35)
 - (k) Rooftop deck
 - (l) Outdoor living or lounge area with two (2) or more recreational amenities such as games, firepits, barbeque grills, picnic tables, or sports courts
 - (3) Shall have a setback of a minimum of 100 feet from the boundary of any residential district.
 - (4) A minimum of fifty percent (50%) of the room units shall contain kitchen facilities.
 - (5) Hotel, Extended Stay must provide a minimum of 75 guest room units.

16. Industrialized Housing Standards

Industrialized Housing is permitted in the same districts as a site-built dwelling as shown in the Use Chart subject to the following conditions:

- a. Dwellings constructed as Industrialized Housing must meet or exceed all building code requirements that apply to other dwelling units concerning on-site construction;
- b. The dwelling must conform to all applicable zoning standards for the respective zoning district;
- c. The dwelling must be constructed on an approved platted Lot; and
- d. The dwelling must be securely affixed to a permanent foundation.

17. Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions Standards

- a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart.
- b. Approval is subject to the following conditions:
 - (1) The minimum size of a lot proposed for any Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions is ten (10) acres.

18. Outside Display Standards

- a. Approval is subject to the following conditions:
 - (1) Areas shall not be placed or located more than thirty feet (30') from the main building and shall not exceed fifty percent (50%) of the linear frontage of the building;
 - (2) Areas are permitted year-round but items must be rotated so that no item is left on display for longer than thirty (30) consecutive days or suffers decay or damage from weather or sun exposure;
 - (3) Areas shall not occupy any of the parking spaces that are required by this Zoning Ordinance for the Principal Use(s) of the property, except on a temporary basis only, which is a maximum of forty-five (45) days per display and a maximum of two (2) displays per calendar year;
 - (4) Areas shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way;
 - (5) Areas shall not extend into public Right-of-Way or onto adjacent property;
 - (6) Items must be displayed in a neat, orderly manner, and the display area must be maintained in a clean, litter-free manner; and
 - (7) Outside Display Is permitted only as an Accessory Use and is not a permitted Principal Use, unless otherwise provided within this Zoning Ordinance.

19. Outside Storage Standards

Approval is subject to the following conditions:

- a. Outside Storage is prohibited in the front yard.
- b. Screening shall consist of a minimum six foot (6') opaque screen surrounding the Outside Storage at the property line or street Right-of-Way abutting the area to be screened by one or a combination of the following methods:
 - (1) Opaque wall consisting of brick, stone, or painted CMU block with a split-faced finish;
 - (2) Wrought iron or tubular steel combined with evergreen trees planted a minimum of ten feet (10') on center and growing to a mature height of at least six feet (6');
 - (3) Wood or wood vinyl combined with evergreen trees planted a minimum of ten feet (10') on center and growing to a mature height of at least six feet (6'); or
 - (4) An equivalent alternative screening method approved by the Zoning Ordinance.
 - (5) No Outside Storage may exceed the height of the screening device unless set back two (2) feet for each one (1) foot the stored items or materials exceed the height of the screening device or the stored items or materials are effectively screened by evergreen vegetation that forms a solid screen, such as conifer trees or live oaks
 - (6) The standards of this subsection **3.04.A.19** do not apply to a Nursery, Non-Retail if the Principal Use of the storage area is the storage of plants. Other objects such as pallets and bags or piles of material such as mulch must be screened in accordance with this subsection **3.04.A.19**.

20. Recycling Center and Recycling Facility Standards

Approval is subject to the following conditions:

- a. The Recycling Center or Recycling Facility is only be permissible where the place of business containing the recycling facility is not within one thousand feet (1,000') of any districts or MF district as measured from property line to property line of the recycling facility.
- b. The Recycling Center or Recycling Facility must include separate parking area for loading and unloading of materials.

21. Renewable Energy System Standards**a. Solar Panel or Array****(1) Building or Structure Mounted**

A Solar Panel or Array mounted on a building or structure is subject to the following:

- (a) A Solar Panel or Array shall not exceed the overall height of the building or structure to which it is mounted.
- (b) A Solar Panel or Array shall meet all wind load and structural requirements of the current adopted Building Code.

(2) Ground Installation

A Solar Panel or Array installed on the ground is subject to the following:

- (a) The Solar Panel or Array shall not exceed the maximum height for an accessory building or structure in the same zoning district (see Section **3.08. Accessory Buildings and Uses**).
- (b) The Solar Panel or Array is subject to lot coverage limitations for the underlying zoning district (see Section **2.05. Dimensional Standards Table**).

b. Wind Turbine

A Wind Turbine is subject to the following:

- (1) A Wind Turbine installed in a SF or MF district shall not exceed the maximum height for a building or structure in the district (see Section **2.05. Dimensional Standards Table**).
- (2) No more than one (1) Wind Turbine shall be installed on each property zoned SF or MF.
- (3) In the front yard, ll Wind Turbines shall be set back a minimum of one and a half (1 ½) feet for every one (1) foot of overall height in all districts and one foot (1') for every one foot (1') in overall height in all other yards.

22. RV Park Standards

- a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart.
- b. Approval is subject to the following conditions:
 - (1) No property shall be used as an RV Park unless it is a minimum of two (2) acres in area.
 - (2) Driveways and parking pads for RVs must be paved with an Improved Surface.
 - (3) Each parking pad must include an electrical hookup.
 - (4) The maximum length of occupancy in the RV Park is thirty (30) days.

23. Sundry Store Standards

Approval is subject to the following conditions:

- a. The property line of a Sundry Store shall not be located within one thousand feet (1,000') of the property line of another Sundry Store.
- b. A Sundry Store may only be located within a standalone building.

24. Tattoo or Piercing Studio

- a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart

- b. Approval is subject to the following conditions:

- (1) A studio shall operate only with a valid license issued by the Texas Department of State Health Services and subject to inspection by the State Department or its affiliates or assigns, including the City.
- (2) A studio shall not locate within feet (300') of a church, school, residential zoning district, or another studio, as measured along the property lines of street front and from property line to property line.
- (3) Hours of operation shall not extend beyond midnight.

25. Temporary On-Site Storage Unit or Container Standards

Approval is subject to the following conditions:

- a. Temporary On-Site Storage Unit or Container Used for moving

- b. The owner of the property on which the Temporary On-Site Storage Unit or Container is to be placed shall obtain a permit before placing the Temporary On-Site Storage Unit or Container on the property.

- (1) The general location of the Temporary On-Site Storage Unit or Container shall be shown on the permit or supporting documents.
- (2) The Temporary On-Site Storage Unit or Container shall be placed on the driveway at the farthest point from the street. Temporary On-Site Storage Unit or Containers are prohibited upon any public right-of-way or unpaved surface within the property such as a yard.
- (3) On a lot or property zoned SF or MF-1, use of Temporary On-Site Storage Unit or Container(s) are subject to the following restrictions:
 - (a) No property shall have more than two (2) Temporary On-Site Storage Unit or Containers at the same time; and
 - (b) No more than two (2) times within a calendar year; and
 - (c) No more than ten (10) consecutive days.

- c. Temporary On-Site Storage Unit or Container Used for Remodeling

The owner the property on which the Temporary On-Site Storage Unit or Container is to be placed shall obtain a permit with any Building Permit required for the remodeling before placing the Temporary On-Site Storage Unit or Container on the property.

- (1) The general location of the Temporary On-Site Storage Unit or Container shall be shown on the permit or supporting documents.
- (2) The Temporary On-Site Storage Unit or Container must be removed within seven (7) days of the final inspection of the work associated with the Temporary On-Site Storage Unit or Container or one hundred fifty (150) days after the permit is issued, whichever is soonest.

- (3) The general location of the Temporary On-Site Storage Unit or Container shall be shown on the permit or supporting documents.
- (4) The Temporary On-Site Storage Unit or Container shall be placed on the driveway at the farthest point from the street.
- (5) Temporary On-Site Storage Unit or Containers are prohibited upon any public right-of-way or un paved surface within the property such as a yard.

26. Tobacco, Vapor, e-Cigarette Store Standards

- a. A Specific Use Permit (SUP) may be required according to the permitted Use Chart
- b. Approval is subject to the following conditions:
 - (1) Shall not be within 1,000 feet of a church, public or private school or day care, or hospital. The measurement of the distance between the places of business of tobacco stores shall be from the nearest property line of a church, public or private school or day care, or hospital to the nearest doorway by which the public may enter the place of business, along street lines and in a direct line across intersections.

27. Wireless Communications Facilities Standards

a. Purpose

Wireless telecommunication facilities used in transmitting and receiving signal energy are essential and promote the health, safety, and general welfare of the citizens of the city. The purpose of this section is to govern the placement of these facilities to:

- (1) Regulate wireless telecommunications as an essential utility necessary to maintain the economy and quality of life in Cleburne.
- (2) Promote the aesthetic quality of the city as a significant aspect of the health, safety, and general welfare of the community and minimize impacts and potential impacts of wireless communications facilities with respect to community aesthetics.
- (3) Encourage operators of antenna facilities and antennas to locate facilities in areas where the adverse impact on the community is minimal.
- (4) Encourage co-location on both new and existing antenna facilities.
- (5) Encourage operators of antenna facilities and antennas to configure facilities in a way that minimizes the adverse visual impact through careful design, landscape screening, and innovative stealth techniques.
- (6) Enhance the ability of antenna facilities and antennas to provide services to the community effectively and efficiently.

b. Standards and Applicability

The following regulations apply to all antenna facilities, including towers, and antennas located within any district:

- (1) Accessory Building
 - (a) An accessory building associated with a facility or an antenna must be screened and landscaped in accordance with this subsection and maintained according to Section **4.01**.
 - (b) If the building is accessory to an antenna attached to an existing building, the accessory building must be finished in materials that are consistent with the existing building to which the antenna is attached.

(2) Driveway Surfaces

All driveways accessing any facility site or equipment enclosure must be paved with asphalt or concrete pavement meeting the same specifications as a commercial driveway.

(3) Screening and Landscaping

Yards or enclosures incorporating ground-mounted equipment associated with an antenna support structure such as a tower must be screened from view of public right-of-way and abutting property by one or both of the following methods:

- (a) A masonry wall a minimum of six (6) feet in height constructed of brick, stone, cement fiber panel, or CMU; or
- (b) Painted or rustproof wrought iron or tubular steel surrounded by a row of evergreens planted a maximum of ten (10) feet on center and growing to a minimum height of six (6) feet at maturity.

(4) Lights

No outdoor lighting is allowed on antennas located with property zoned residential with the exception of official lighting required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC).

(5) Construction Standards

- (a) Before an Applicant begins construction of a tower, antenna support structure, antenna installation, or mast, the Building Official must review and issue a permit for the installation.
- (b) The tower, antenna support structure, antenna installation, or mast must be installed according to the manufacturer's recommendations or under the seal of an engineer licensed in the State of Texas to approve construction plans for wireless facilities.

(6) Limitation on Structure Type

- (a) The Building Official may permit a new antenna support structure as a stealth facility or a self-supported monopole.
- (b) Existing permitted antenna support structures that are not stealth or monopole, including lattice and guyed towers, may be maintained and continue in use but shall not be relocated or increased in height and are considered nonconforming structures (see Section 3.07).

(7) Antenna Capacity

An antenna support structure or facility is limited to the number and size of antennas allowed under any of the following:

- (a) The antenna facility manufacturer's designs and specifications for maximum wind load requirements;
- (b) Specifications approved by an engineer licensed in the State of Texas to approve construction plans for wireless facilities; or
- (c) Applicable regulations adopted by the City under the International Building Code.

(8) Prohibition on Construction in Easements

No antenna support facility may be placed within an existing easement except in accordance with adopted City Code.

(9) Abandoned or Damaged Wireless Facility

- (a) The Building Official is authorized to issue notice ordering the repair or removal of an antenna, antenna support structure including a tower, or accessory building that is damaged, abandoned, or not in use for a period of thirty (30) consecutive days.
- (b) The owner of the antenna, antenna support structure, or accessory facility must remove the facility within thirty (30) calendar days following notice by the Building Official.
- (c) The Building Official is further authorized to immediately remove any antenna, antenna support structure, or accessory building that constitutes a threat to public safety or health due to damage, disrepair, or neglect.

(10) Construction on Platted Lot

- (a) The Building Official may only issue a permit for construction of an antenna support structure or accessory building on a platted lot.
- (b) No part of an antenna, antenna support structure, or other accessory building may extend beyond the property lines of the lot on which the facility is located.

c. Facility Types and Location

(1) Amateur Radio and TV Antennas

Amateur radio and TV antennas are permitted as an accessory use in any zoning district. In compliance with the following regulations:

(a) Permitted Antenna Support Structures

An amateur radio or TV antenna may be attached to a building, monopole tower, or lattice tower.

(b) Antenna Height

(i) Monopole or Lattice Tower Height

The maximum height of an antenna or antenna support structure is thirty-five (35) feet unless the Board of Adjustment approves a special exception to allow a greater height (see Section 6.03).

(ii) Attached Antenna Height

The maximum height of an antenna mounted to a building is eight (8) feet above the highest point of the building to which the antenna is attached.

(c) Setbacks

The following minimum setbacks apply to amateur radio and TV antennas and antenna support structures:

- (i) Antennas and antenna facilities are prohibited in the front and side yard.
- (ii) Guy wires are prohibited in front yards but permitted in the side and rear yard.
- (iii) Setbacks for antennas and antenna support structures are the same as setbacks required for accessory buildings in the same district.

(d) Separation

There is no minimum or maximum separation requirement for antennas or antenna support structures from other structures on the same lot.

- (e) Lighting
 - (i) Luminaires that rise higher than twenty (20) feet from the ground are prohibited on antennas or antenna support structures located in or abutting a property developed as residential or Mixed-Use.
 - (ii) Lighting must comply with Section 4.04, except lights or lighting that is required by the Federal Aviation Administration or the Federal Communications Commission.
- (2) Satellite Receive-Only Antenna
 - (a) Size Limits in Residential and Nonresidential Districts

A satellite receive-only antenna is permitted as an accessory use in any zoning district under the following conditions:

 - (i) A satellite receive-only antenna is not permitted in the front yard of any property.
 - (ii) A satellite receive-only antenna shall not exceed one (1) meter in diameter on a property zoned SF-6, SF-7, SF-10, or SF-20.
 - (iii) A satellite receive-only antenna shall not exceed two (2) meters in diameter in all other zoning districts.
 - (b) Limitation on Number of Antennas

Each lot property is limited to one (1) freestanding satellite receive-only antenna and two (2) roof-mounted receive-only antenna.
 - (c) Maximum Height

The maximum height of a satellite receive-only antenna from the base to the highest point is ten (10) feet.
 - (d) Separation

There is no minimum or maximum separation requirement for satellite receive-only antennas or antenna support structures from other structures on the same lot.
 - (e) Required Screening

Ground-mounted satellite receive-only antennas must be screened from view from abutting properties by at least one of the following methods:

 - (i) An opaque fence; or
 - (ii) A row of evergreen plants rising to a height of at least six (6) feet at maturity.
- (3) Other Wireless Facilities
 - (a) Location Classification

For the purpose of determining the appropriate locations for the placement of antennas and antenna support structures other than amateur radio, TV, and satellite receive-only antennas, the city is classified into land use areas based on the sensitivity of uses to these facilities:

 - (i) Interior Industrial (I-I) describes any property within the CI or I zoning districts that is located more than one thousand feet (1,000') from any district other than CI or I.
 - (ii) Exterior Industrial (E-I) describes any property within the CI or I zoning districts that is located 1,000 feet or less from any district other than CI or I.

- (iii) Full Commercial (F-C) describes property within the NC, LC, RC, or MU zoning districts that is located more than 600 feet from a, SF-6, SF-7, SF-10, SF-20, MF-1, MF-2, or IH district.
- (iv) Edge Commercial (E-C) describes property within the NC, LC, RC, or MU zoning districts that is located 600 feet or less from a, SF-6, SF-7, SF-10, SF-20, MF-1 MF-2, MF, or IH district.
- (v) Wireless Corridor (WC) describes property within 75 feet of the right-of-way of a freeway or a principal or minor arterial roadway, as indicated on the city's Thoroughfare Plan.
- (vi) Developed Residential (DR) describes property within the A, SF-6, SF-7, SF-10, SF-20, MF-1 or MF-2 districts, which:
 - i. Is a recorded subdivision or final plat that has had at least one Building Permit for a residential dwelling; or
 - ii. Is within the exterior walls of an existing Principal Building used as a residential dwelling, including garages and enclosed porches; or
 - iii. Is within feet (600') of areas described in i or ii above.
- (vii) Undeveloped Residential (UR) describes property within the A, SF-6, SF-7, SF-10, SF-20, MF-1 or MF-2 districts, that:
 - i. Does not have a recorded subdivision or final plat; or
 - ii. Is a recorded subdivision but has not had a Building Permit issued for a residential dwelling; and
 - iii. Is not located within the area described as DR above.
- (viii) Overlay (O) describes property listed as an overlay in Section **2.04**.
- (ix) In the event of a conflict between one or more locations listed in this subsection iii(a), the strictest requirement prevails.

(b) Facility Classifications

For the purpose of determining the appropriate locations for the placement of antennas and antenna support structures other than amateur radio, TV, and satellite receive-only antennas, facilities are classified into types based on their impact:

- (i) 130 Foot Monopole
 - i. This classification describes a monopole tower that is more than ninety feet (90') but not more than one hundred thirty feet (130') in height.
 - ii. 130 foot monopole towers must be designed to accommodate antenna colocations by two (2) or more additional operators. The Applicant must design the tower to reserve space within the tower structure and the equipment yard for multiple operators.
- (ii) 90 Foot Monopole
 - i. This classification describes a monopole tower that is more than sixty feet (60') but not more than ninety feet (90') in height. Antennas may extend up to five feet (5') above the highest point of the monopole.
 - ii. 90 foot monopole towers must be designed to accommodate at least one (1) other antenna colocation. The Applicant must design the tower to reserve space within the tower structure and the equipment yard for at least one (1) additional operator.

(iii) 60 Foot Monopole

This classification describes a monopole tower that is not more than sixty feet (60') in height.

- i. Antennas may extend up to five feet (5') above the height of the monopole.

(iv) Level 4 Stealth Facility describes an antenna mounted on an existing structure such as a building, water tower, clock tower, steeple, sign, high-voltage tower, or light pole.

- i. A facility is a Level 4 if the antenna and support structure are not screened or hidden.

(v) Level 3 Stealth Facility describes an antenna mounted on an existing structure such as a building, water tower, clock tower, steeple, sign, or light pole.

- i. A facility is a Level 3 if the antenna, support structure, and ancillary equipment such as conduit are disguised with paint or permanent finishes that match the colors or exterior materials of the building or structure to which the antenna is mounted.

(vi) Level 2 Stealth Facility describes an antenna mounted to a monopole or an existing structure such as a building, water tower, clock tower, steeple, sign, or light pole.

- i. A facility is a Level 2 if the antenna, support structure, and ancillary equipment such as conduit are disguised as a manmade or natural object such as a tree, light standard, symbol, or art.

(vii) Level 1 Stealth Facility describes an antenna mounted to a monopole integrated into an existing structure such as a building, clock tower, steeple, sign, flagpole, or light pole.

- i. A facility is a Level 1 if the antenna, support structure, and ancillary equipment such as conduit are completely invisible.

(c) Permitted Locations

Antenna facilities described in (b) above are allowed in accordance with **Table 3: Allowed Facilities by Zoning District**.

Table 3: Allowed Facilities by Zoning District

	I-I, Interior Industrial	E-I, Exterior Industrial	F-C, Full Comm.	E-C, Comm Edge	WC, Wireless Corridor	UR, Undev. Res.	DR, Dev. Res.	O, Overlay
Monopole								
130 Foot	P	S	S	X	X	X	X	X
90 Foot	P	P	P	S	S	X	X	X
60 Foot	P	P	P	P	P	S	X	X
Monopole								
Level 4	P	P	P	P	P	S	X	X
Level 3	P	P	P	P	P	P	S	S
Level 2	P	P	P	P	P	P	S	S
Level 1	P	P	P	P	P	P	S	S
P = facility is administratively permitted; S = facility is permitted by Special Exception; X = Facility is not permitted								

d. Application and Review

(1) Information required for all wireless communications facilities.

The Applicant for a new wireless communications facility, including free-standing towers and those attached to an existing structure, must provide the following information:

- Written description of the facility and the building or property on which the facility is proposed.
- Drawings of all equipment, structures, and antennas, including photo simulations of the facility after it is installed.
- Analysis of coverage provided by existing facilities within a three (3) mile radius that demonstrates the gaps in coverage that the proposed facility will address.
- Names(s) of the telecommunications providers or other users of the facility.
- Information on whether the facility will connect to other existing facilities and the identity of the backhaul provider.

(2) Review and Approval

- For Applications listed as "P" in **Table 3: Allowed Facilities by Zoning District**, the Building Official will review the Application in accordance with the procedures listed in **Chapter 150 of the Cleburne Code of Ordinances**.
- Following approval, the permit to construct the facility will remain valid for a period of ninety (90) days. If the Applicant has not begun construction of the facility after ninety (90) days, the permit approval is void.

(c)

e. Additional Information Required for Specific Use Permit

In addition to the information required in Section 5.09, the Zoning Administrator may require the following during the review of the Specific Use Permit:

- (1) Analysis of potential co-location on existing facilities and the location of these existing facilities. The analysis must include a written description of efforts made to collocate on these facilities and an explanation of why existing facilities are infeasible for collocation, including any reports, studies, or correspondence between the Applicant and the owner or operator of the existing facility.
- (2) A written statement addressing co-location or use of the proposed facility by other telecommunications providers.
- (3) A written description and documentation of any efforts made to locate the facility in alternate locations not within the boundaries of an area that requires an Specific Use Permit.

f. Consideration of Specific Use Permit

In considering the request, the City Council may consider the following:

- (1) The effect the wireless facility may have on the value of the surrounding property.
- (2) The potential for interference with the enjoyment of the use surrounding properties.
- (3) The aesthetics of the proposed facility, including the effectiveness of stealth techniques in shielding antennas and other equipment from view and the need for ongoing maintenance of stealth devices.
- (4) The proposed height of the antenna facility.
- (5) The zoning district and the adjoining zoning districts of the property for which the Specific Use Permit is sought.
- (6) The unique conditions of the subject property or location.

g. Approval of Specific Use Permit

The City Council, by simple majority, may vote to approve a requested application subject to the finding that co-location of this facility with a nearby existing antenna facility is technically not feasible and that the Application for Specific Use Permit complies with the following conditions:

- (1) The wireless facility will permit co-location of other operators on the facility and will proactively notify other potential providers of the ability to co-locate on the facility;
- (2) The wireless facility will accommodate other providers on the facility;
- (3) The Applicant has identified its backhaul provider connecting antenna sites; and
- (4) The Applicant will give notice to the city identifying any provider who co-locates on the facility and identify its backhaul provider.

3.05. Location and Arrangement of Buildings

A. Location and Arrangement of Buildings

1. Residential Buildings on Lots for Single-Family

- a. Each lot zoned SF-6, SF-7, SF-10, or SF-20 shall contain no more than one (1) Principal Building for use as a single-family dwelling or other approved use (see Section **3.03 Use Chart**.)
- b. Principal Buildings must have direct access to and from a public street, approved access easement, or as provided in Section **5.03 Alternative Compliance**.

2. Buildings on Lots for Multi-Family, Mixed-Use, and Nonresidential Uses

- a. Each lot zoned to a district other than those listed in subsection **3.05.A.1.a** may contain one (1) or more Principal Buildings for any approved use (see Section **3.03 Use Chart**) provided all buildings conform to applicable requirements for open space, access, circulation, parking, and density.
- b. Principal Buildings must have access to and from a public street, approved access easement, or as provided in Section **5.03 Alternative Compliance**.
- c. Areas used for required parking spaces and required open space are intended to benefit buildings and uses on the same lot. No abutting or neighboring building or lot may claim that the use of a parking area or open space on another lot fulfills the requirements of this Zoning Ordinance unless authorized under a shared parking agreement as provided in Section **4.01 Landscaping Requirements** or Section **4.03 Parking Standards**.

3.06. Uses with Flammable, Toxic, and Hazardous Materials

- A. A use that involves the storage, manufacture, utilization, or dispensing of substances that may cause danger to public health, safety, or welfare must operate within the limits and conditions specified in the latest edition of both the International Fire Code and International Building Code that is adopted by the City.
- B. The emission of toxic or explosive vapors, dust, or aerosols into the atmosphere shall not exceed, at the boundary of the property where the emission occurs, either of the following:
 1. Twenty-five percent (25%) of the lower explosive limit (LEL) sometimes also referred to as the lower flammable limit (LFL); and
 2. Fifty percent (50%) of the established Permissible Exposure Limit (PEL) or Threshold Limit Value (TLV).
- C. No flammable, toxic, or other hazardous material shall be released into or upon any utility line, holding area, pit, dump, open ground, stream, or drainage way without proper treatment under all adopted city, state, and federal guidelines.
- D. No container, storage tank, building, or facility for any flammable, toxic, or other hazardous material is authorized for construction until the fire marshal approves the container size, location, design, and construction as a part of the Building Permit application. The Fire Marshal has the authority to deny any application that does not conform to the International Fire Code and International Building Code requirements.
- E. The fire marshal is the official responsible for interpreting and enforcing this Section **3.06**.

3.07. Nonconformities

A. Intent of Provisions

1. Existence of Nonconformities

- a. Nonconformities are uses, buildings, structures, lots, or additions that do not conform to the standards of this Zoning Ordinance.
- b. This section establishes the process for bringing Nonconformities into compliance with this Zoning Ordinance while respecting the property owner's rights and investment-backed expectations.
- c. This section does not attempt to distinguish “legally nonconforming” from “illegally nonconforming.”
 - (1) Nonconformities are considered qualified under this Section **3.07** if the City issued a permit or otherwise allowed for their initiation or construction under regulations existing at the time the permit was issued or allowance was made.
 - (2) Nonconformities that are permissible under this Zoning Ordinance but were initiated or constructed without a permit must cease operation until the City issues a permit.
 - (3) Nonconformities that are not permissible are a violation of this Zoning Ordinance and must be removed or cease operation immediately.
- d. The property owner is responsible for demonstrating that the use, building, structure, lot, or addition in question complied with the standards in place at the time of its inception or construction and became nonconforming due to the adoption of new standards after its inception or construction.
- e. In adopting this section, the City Council has determined that Nonconformities should cease or come into conformance with the Zoning Ordinance.
- f. If the City Council believes that a Nonconforming Use is harmful to the health, safety, or welfare of neighboring properties or the general public and will not comply in a timely manner with the regulations of this Zoning Ordinance, the Council may initiate the Amortization of Nonconforming Uses process as outlined in Section **5.10**.

2. Categories of Nonconformities

Nonconformities occur in three (3) general categories, or combination thereof.

(1) Nonconforming Uses

A nonconforming use can occur when an existing use is no longer allowed in a zoning district.

(2) Nonconforming Structures

A nonconforming building or structure can have a lesser setback, yard, or height lot area or dimension requirement than required by the Zoning Ordinance.

(3) Nonconforming Lots

A nonconforming lot can be nonconforming as to lot area or dimension requirement.

3. Continuation of Nonconformities

- a. Nonconformities are hereby declared incompatible with the uses, structures, and lots authorized under this Zoning Ordinance.
- b. It is the declared intent of this section that Nonconforming Uses and Nonconforming Structures eventually be eliminated and be required to comply with the regulations of the Zoning Ordinance, having due regard for the property rights of the person affected, the public welfare, and the character of the surrounding area.

- c. The owner of a Nonconforming Use, Nonconforming Structure, or Nonconforming Lot is only allowed to maintain, repair, or alter the use, building, structure, or lot in conformity with the provisions of this Section **3.07**.

B. Summary of Nonconforming Regulations

Action		Regulation
Nonconforming Lot	Existing platted lots	Any legally conforming existing lot platted prior to March 22, 1996 is a conforming lot (subsection <u>3.07.C</u>)
	Residential lot exemption	Minimum lot area is determined by the respective district, except that a lot, parcel, or tract having less area than required that was created prior to March 22, 1996 may be used for a single-family dwelling (subsection <u>3.07.C</u>)
Nonconforming Structure	Conforming use in a nonconforming structure	A conforming or nonconforming use located in a nonconforming structure may be changed to another use that is a conforming use (subsection <u>3.07.D</u>)
	Prohibited expansion	A nonconforming structure shall not be expanded or increased as of the effective date of this Ordinance except as provided in (subsection <u>3.07.E.1</u>)
	Nonconforming use Expansion	A nonconforming use may expand inside an existing building (subsection <u>3.07.E.3</u>)
	Structure is removed from the premises	The nonconforming structure shall be considered to have been discontinued, regardless of intent (subsection <u>3.07.E.6</u>)
	Parking or landscaping is nonconforming	Expansion or new use must provide additional parking or landscaping, or both (subsection <u>3.07.F</u>)
	Total destruction	If destroyed 51% or more of previous appraised value, the structure is subject to the standards of the zoning ordinance (subsection <u>3.07.G.1.a</u>)
	Partial destruction	If destroyed less than 51% of previous appraised value, the owner may rebuild the structure to its previous condition (subsection <u>3.07.G.1.b</u>)
	Relocation	May be relocated within the same platted lot and must comply with all screening and setback requirements (subsection <u>3.07.H</u>)
Nonconforming Use	Nonconforming Use expansions and changes	The owner may not expand a nonconforming use except within an existing building. A nonconforming use may not change to another nonconforming use but may change to a conforming use (subsection <u>3.07.D</u> ; subsection <u>3.07.E.3</u>)
	Expansion located outdoors	The owner may expand a nonconforming use located outdoors subject to restrictions (subsection <u>3.07.E.3.b</u>)
	Parking or landscaping is nonconforming	Expansion or new use must provide additional parking or landscaping, or both (subsection <u>3.07.F</u>)
	Nonconforming Use Abandonment	The nonconforming use is permanently discontinued after six months (subsection <u>3.07.J</u>)
	Reinstatement of Nonconforming Use	The Board of Adjustment may allow the reinstatement of a nonconforming use if the owner demonstrates it was not abandoned (subsection <u>3.07.K</u>)

C. Existing Platted Lots Are Conforming Lots

Any existing vacant lot platted prior to the Zoning Ordinance effective date that was conforming at the time it was platted or replatted is considered a conforming lot for the purposes of constructing a single-family residence.

D. Changing Uses

1. Changing Nonconforming Use to a Conforming Use

Any Nonconforming Use may be changed to a conforming use. Once a conforming use is established and the Nonconforming Use ceases, the use shall not change back to a Nonconforming Use.

2. Changing Nonconforming Use to Another Nonconforming Use

A Nonconforming Use shall not be changed to another Nonconforming Use.

3. Establishing a Conforming Use in a Nonconforming Structure

Where a conforming use is located in a Nonconforming Structure, the use may be changed to another conforming use by the process outlined in subsection **3.07.E Expansion of Nonconforming Uses and Structures**.

E. Expansion of Nonconforming Uses and Structures

An expansion of a Nonconforming Use or Nonconforming Structure is allowed in accordance with the following provisions.

1. Prohibited Expansion or Reoccupation

A Nonconforming Use or Nonconforming Structure shall not be expanded or increased on or after the effective date of this Zoning Ordinance, except as provided in subsection **3.07.E Expansion of Nonconforming Uses and Structures**.

2. Nonconforming Use Expansion in Existing Building

A Nonconforming Use may be enlarged, increased, or extended within an existing building provided:

- a. No structural alteration may be made on or in the existing building except those required by law to preserve the building in a structurally sound condition.
- b. Work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding fifty percent (50%) of the current replacement value of the building.
- c. The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time the use became a Nonconforming Use.

3. Nonconforming Use Prohibited from Expansion beyond Existing Building

- a. A Nonconforming Use established within any building shall not be extended to occupy any land outside the building.
- b. A Nonconforming Use established outdoors on a platted lot may expand within the platted lot if the expansion does not increase the degree of nonconformity to applicable sections of this Zoning Ordinance or City Code regarding nuisances; emission of sound, vibration, glare, or particulate matter; height; setbacks; or outside storage located in a front yard.

4. Substandard Lot, Parcel, or Tract Exemption

a. Substandard Lots

The minimum lot requirements for the various zoning districts listed in Section 155.2 shall be in accordance with their respective districts, except that the owner of a lot having less area than required by the Zoning Ordinance may construct an authorized use if the lot was an official Lot of Record prior to March 22, 1996.

b. Substandard Parcels or Tracts

A substandard parcel or tract is an unplatted piece of property that was created by a deed or other conveyance, and cannot comply with the minimum lot area and width requirements for the zoning district in which the property is located, and does not qualify as a lot of record under this Zoning Ordinance.

- (1) To be entitled to the rights afforded by this subsection b, a substandard parcel or tract must be recorded in the County real property records before March 22, 1996 and must:
 - (a) Have an area of not less than four thousand square feet (4,000 sq ft);
 - (b) Be not less than forty feet (40') wide, or twenty-five feet (25') wide for a parcel or tract in the DTC, Downtown Core Overlay, measured at the street or at the building line; and
 - (c) Have frontage on an existing street.
- (2) A substandard parcel or tract may be used for a detached single-family residential use if the use is permitted in the zoning district in which the property is located and the parcel or tract complies with the requirements of this subsection **3.07.E.4.b.**
- (3) Building Setback Requirements
 - (a) Front yard setbacks shall comply with regulations established in subsection **2.05.A** or the Established Build Line, as applicable.
 - (b) Rear yard setbacks shall be ten percent (10%) of the lot depth or ten feet (10'), whichever is greater.
 - (i) No rear yard shall be less than ten feet (10').
 - (ii) No rear yard shall be required to be more than twenty feet (20').
 - (c) Side yard setbacks shall be a minimum of ten percent (10%) of the lot width, and may not be less than five (5) feet.
 - (d) Corner lots with a side yard setback adjacent to a street shall be a minimum of (10) feet or twenty percent (20%) of the lot width, whichever is less.
- (4) Development of a substandard parcel or tract shall comply with all additional provisions of this Zoning Ordinance.
- (5) The Building Official may issue a Building Permit for a substandard parcel or tract, and no plat shall be required.
- (6) This subsection **b** does not apply if a substandard parcel or tract is used with one or more contiguous parcels, tracts, or lots for a single use or development, and the requirements of this Zoning Ordinance apply to the aggregation of the property as if the aggregation were a single parcel, tract, or lot.
- (7) A substandard parcel or tract that is aggregated with other property to form a site may not be disaggregated after December 10, 2019, to form a site that is smaller than the minimum lot area requirement under subsection **2.05.A**.

5. Expansion of Nonconforming Structures with Conforming Uses

Buildings or structures that do not conform to the regulations or development standards in the Zoning Ordinance may only increase or expand the nonconforming structure in compliance with this Zoning Ordinance. A Nonconforming Structure shall not increase in extent or degree of nonconformity.

6. Removal of Nonconforming Structure

Removal of all or a portion of a Nonconforming Structure, regardless of intent, forfeits the portion of the structure that was removed. The owner may not reconstruct the portion of the structure that was removed except in conformance with this Zoning Ordinance.

F. Nonconforming Regarding Parking or Landscaping

1. Nonconforming Regarding Parking Requirements

This subsection 3.07.F.1 applies:

- a. Whenever a Nonconforming Use is replaced by a conforming use;
- b. A Nonconforming Structure is occupied by a conforming use; or
- c. An existing parking facility becomes nonconforming by the adoption of this Zoning Ordinance.
 - (1) Whenever a building or use is enlarged in area, number of units, seating capacity, or in any other way that increases required parking, and the parking required by the new use exceeds available parking by twenty five percent (25%) or less, the building or use shall meet the applicable parking and fire lane requirements of Section **4.03** and all newly installed parking surfaces shall meet the pavement requirements of Section **4.03**.
 - (2) Whenever a building or use is enlarged in area, number of units, seating capacity, or in any other way that increases required parking, and the parking required by the new use exceeds available parking by more than twenty five percent (25%) but equal to or less than fifty percent (50%), the building or use shall meet the applicable parking and fire lane requirements of Section **4.03** and the entire parking area, new and existing, shall meet the requirements of Section **4.03**.
 - (3) Whenever a building or use is enlarged in area, number of units, seating capacity, or in any other way that increases required parking, and the parking required by the new use exceeds existing parking by more than fifty percent (50%), subsections **3.07.F.1.c(1)** and **3.07.F.1.c(2)** apply.
 - (4) If the expansion increases the required parking to more than ten (10) spaces, the entire parking area must be fully landscaped with islands and perimeter buffers as required in Section **4.01**.

2. Nonconforming Regarding Landscaping Requirements

This subsection 3.07.F.2 applies:

- a. Whenever a Nonconforming Use is replaced by a conforming use that requires additional landscaping;
- b. A Nonconforming Structure is occupied by a conforming use that requires additional landscaping;
- c. Existing landscaping becomes nonconforming by the adoption of this Zoning Ordinance; or
- d. A conforming structure or use is expanded
 - (1) Whenever a building or use is enlarged and does not have adequate landscaping, and the enlargement is less than or equal to fifty percent (50%) by area, the building or use shall meet the applicable landscaping requirements of Section 4.01 for the enlarged area only.

- (2) Whenever a building or use is enlarged and does not have adequate landscaping, and the enlargement is greater than fifty percent (50%) by area, the entire building and site shall meet the applicable landscaping requirements of Section 4.01.

G. Restoration of Nonconforming Structures

1. Total or Partial Destruction

a. Total Destruction

If a Nonconforming Structure is damaged or destroyed and the damage is greater than fifty percent (50%) of its total appraised value according to the most recent county appraisal prior to the damage occurring, the Nonconforming Structure cannot be rebuilt except in conformance with the Zoning Ordinance.

b. Partial Destruction

If a Nonconforming Structure is damaged by fire, explosion, rioting, or natural disaster, or catastrophic event and the damage is fifty percent (50%) or less of its total appraised value according to the most recent county appraisal prior to the damage occurring, the Nonconforming Structure may be rebuilt to its previous condition, including dimensions and setbacks.

- (1) The construction must comply with all current building codes and zoning regulations in effect at the time the structure received a Building Permit for initial construction and for any subsequent changes, additions, or expansions to the structure that occurred following the initial construction of the structure.
- (2) Reconstruction must commence within twelve (12) months of the date the damage occurred (see c. below).
- (3) If the Zoning Administrator cannot determine the applicable regulations, the Board of Adjustment shall hold a hearing and shall take evidence such as previously adopted ordinances, photographs, and tax records to determine the standards that apply to the reconstruction.
- (4) Any change to a dimension or a setback of the Nonconforming Structure may be approved by a Zoning Variance.

c. Reconstruction of Nonconforming Structure with a Nonconforming Use

- (1) If the Nonconforming Structure contained a Nonconforming Use, the Building Official may authorize the Nonconforming Use to continue during reconstruction of the Nonconforming Structure, if the Nonconforming Use is conducted according to all applicable City codes.
- (2) If the Building Official orders the Nonconforming Use to cease during reconstruction of the Nonconforming Structure, the Nonconforming Use may continue after a Certificate of Occupancy is granted for the reconstruction, subject to d. below.

d. Failure to Begin Reconstruction

If the owner of a Nonconforming Structure fails to begin reconstruction of the destroyed structure within twelve (12) months of the date of destruction under the provisions of subsection **3.07.G.1.b**, the Nonconforming Structure and any Nonconforming Use that existed within the structure is automatically discontinued and abandoned.

H. Movement of Nonconforming Structure

The property owner may relocate a Nonconforming Structure within the same platted lot, if the relocated structure complies with all other applicable requirements.

I. Completion of Structures

Nothing in the Zoning Ordinance shall require any change in the plans, construction, or designated use of the following:

1. Approved Building Permit

A building or structure for which a Building Permit has been issued or a Site Plan approved prior to the effective date, provided that the permit or Site Plan shall expire in accordance with the time periods set forth in this Zoning Ordinance.

2. Building in the Approval Process

A building or structure for which a complete Application for a Building Permit was accepted by the Building Official on or before the effective date if the plans authorized by the Building Permit comply with all applicable ordinances in effect on the date the Applicant filed for the Building Permit.

J. Abandonment of Nonconforming Uses

1. A Certificate of Occupancy may be issued for the continuance of a Nonconforming Use, or to a new owner or operator of the same use, so long as the Nonconforming Use was legal at the time of the adoption of this Zoning Ordinance and has not been abandoned as defined in this subsection **3.07.J.**

2. A Nonconforming Use is considered abandoned when the Nonconforming Use ceases for a period of six (6) consecutive calendar months.

3. For purposes of calculating the six (6) month period, a use becomes abandoned upon the occurrence of the first of any of the following events:

- a. On the date when the use of land is physically vacated;
- b. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
- c. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
- d. On the date a final reading of water or power meters is made by the applicable utility provider(s).

4. Once a Nonconforming Use, including a residential use has been abandoned, the Nonconforming Use shall not be allowed to be reintroduced within the applicable zoning district. This prohibition of the reoccupation or reintroduction of an abandoned Nonconforming Use shall be enforced by the denial of Building Permit or Certificate of Occupancy Applications.

5. A Nonconforming Use, once abandoned, shall not be resumed and any further use shall be in conformity with the provisions of this Zoning Ordinance.

6. Any Nonconforming Use that does not involve a permanent Building or Structure that is moved from the premises shall be considered abandoned if a similar Building or Structure is not reestablished within six (6) months.

7. Unless the nonconforming use status is reinstated pursuant to subsection **3.07.K Loss of and Reinstatement of Nonconforming Use Status**, an abandoned use shall not be instituted on that parcel or other parcel in any district which does not permit the abandoned use.

K. Loss of and Reinstatement of Nonconforming Use Status

1. Loss of Nonconforming Use Status

If the Zoning Administrator determines that a Nonconforming Use has met the definition of abandonment under subsection **3.07.J.2 above**, the use shall not be instituted on that parcel or other parcel in any district that does not permit the discontinued use.

2. Application for Nonconforming Use Status Reinstatement

- a. The owner or operator of the abandoned Nonconforming Use may submit a written application to the Board of Adjustment to have the nonconforming rights reinstated.
 - b. Written application for reinstatement of nonconforming rights must be made within thirty (30) calendar days after the denial of Building Permit or Certificate of Occupancy Application for the Nonconforming Use.
 3. Board of Adjustment Hearing
 - a. The Board of Adjustment shall hold a hearing on the requested reinstatement of a Nonconforming Use status within thirty (30) calendar days of the request or the next scheduled Board of Adjustment meeting, whichever is sooner.
 - b. The Zoning Administrator will prepare a report with written findings. The applicant and the Zoning Administrator are jointly responsible for providing evidence in support of any findings to the Board of Adjustment.
 - c. Evidence in support of reinstatement may include invoices, water, sewer, or electricity usage records, or photographs or receipts demonstrating the owner's investment in maintaining the use. The failure of the owner or operator to remove on premise signs may not be used as the sole evidence of a continuing use.
 - d. The Board of Adjustment shall use the above abandonment criteria in deliberating the case.
 4. Board of Adjustment Decision

After opening the public hearing and receiving testimony from the Applicant and any member of the public, the Board of Adjustment may act to approve or deny reinstatement of the Nonconforming Use.
 5. Effect of Approval
 - a. Approval by the Board of Adjustment immediately reinstates the Nonconforming Use status and allows the Applicant to obtain a Building Permit or Certificate of Occupancy if the Board of Adjustment finds that the Applicant has provided sufficient evidence that the use was not discontinued for longer than six (6) months.
 - b. Denial by the Board of Adjustment is final.
- L. Nonconformity Created by Acquisition of Right-of-Way
 1. Lawful Conforming Structure
 - a. If a property is occupied by a lawful structure and the acquisition of Right-of-Way by eminent domain proceedings, dedication, or purchase by the City, county, state, or a federal agency creates a Nonconforming Structure, lot, or setback, the structure remains a lawful conforming structure to the extent the nonconformity results from the acquisition of Right-of-Way.
 - b. If a structure described in subsection 3.07.L.1.a is damaged or destroyed by natural causes the structure may be rebuilt.
 2. When Owner Receives Compensation for Screening or Landscaping
 - a. If a property owner receives compensation for screening or landscaping due to Right-of-Way acquisition, the owner must relocate fencing or landscaping originally located on the acquired property in accordance with Section 4.01 and Section 4.02.
 - b. If the property owner contends that the Right-of-Way acquisition makes relocating the fencing or landscaping impractical due to insufficient room on the property, the owner may apply to the Board of Adjustment for a waiver from the requirements of subsection 3.07.L.2.a or propose to the Board that an alternative location be accepted.
 3. When Owner Receives Compensation for Demolition

- a. The Building Official will not issue a Certificate of Occupancy for a structure if the owner has received compensation for the demolition of the structure or other curative measures until the structure meets all applicable ordinances, or the curative measures for which the owner received compensation have been completed.
- b. For purposes of this section, “curative measures” are those actions, corrections, repairs or improvements identified in an appraisal or similar valuation analysis prepared in the context of considering damages to the remainder suffered as a result of the acquisition of a portion of property.

3.08. Accessory Buildings and Uses

A. Residential Accessory Buildings and Uses

1. The following regulations apply to Accessory Buildings that are one hundred twenty square feet (120 sq ft) or greater on a Lot zoned SF.

Table 4: Residential Accessory Building Requirements

Standard	Lots less than 10,000 S.F.	Lots 10,000 S.F. or greater but less than 21,780 S.F.	Lots 21,780 S.F. or greater
Maximum Square Footage of All Accessory Buildings (Combined Area)	400 S.F.	1,000 S.F.	10% of the lot or property
Maximum Height of Accessory Buildings	Buildings 400 square feet or less = 12 feet; Buildings greater than 400 square feet = 16 feet		
Maximum Number of Accessory Buildings	2	Unlimited	Unlimited
Maximum Allowed Accessory Building Area Coverage	Principal Buildings and Accessory Buildings shall not exceed the allowable coverage percentage of the zoning district in which they are located.		
Minimum Front Setback	Behind Principal Building		
Minimum Side Setback	5 feet		
Minimum Rear Setback	5 feet		
Minimum Setbacks for Corner Lots	10 feet*	15 feet*	15 feet*
Prohibited Locations	Accessory Buildings in Easements are prohibited		
Barns and other Types Livestock Housing	Accessory Buildings used for sheltering livestock (e.g., chickens, hogs, horses) require a minimum of five (5) acres and a minimum setback of one hundred (100) feet from the nearest property line and two hundred (200) feet from any dwelling on a separate lot or property.		
* No Accessory Building may extend beyond the front plane of the main building.			

2. Accessory Buildings and uses incidental to other permitted uses are permitted within residential zoning districts and include private garages, carports, tool house, greenhouse, home workshop, private stables (no rental), barns, or coops (no rental), pool house associated with private swimming pool, and garden shelter.
 3. Structures with roofs or coverings partially open to the sky, such as pergolas, count toward square footage and number limitations for Accessory Buildings but do not count towards lot coverage limitations. Accessory Buildings must be fully detached from the Principal Building. An Accessory Building that is connected to the Principal Building is considered part of the Principal Building.
 4. The following regulations apply to a Guest House/In-Law Quarters within an Accessory Building or as a use attached to the Principal Building.
 - a. The minimum size for a Guest House/In-Law Quarters is three hundred fifty (350) square feet when built over a garage, and four hundred fifty (450) square feet when built as a free-standing structure.
 - b. The maximum size of a Guest House/In-Law Quarters is one thousand (1,000) square feet or fifty percent (50%) of the floor area of the Principal Building, not including the garage, whichever is less.
 - c. A Guest House/In-Law Quarters may exceed the height maximum for an accessory structure in subsection **3.08.A.1 above** but shall not exceed the height of the Principal Building.
 - d. The Guest House/In-Law Quarters must be connected to the same water, electricity, and gas meter as the Principal Building.
 - e. The Guest House/In-Law Quarters may not be constructed before the Principal Building has been completed.
 - f. Only one (1) Guest House/In-Law Quarters is allowed on a lot.
 - g. At least one (1) additional parking space is required for a Guest House/In-Law Quarters (see section **4.03**).
 5. Architectural Elements for Residential Accessory Buildings
 - a. All Accessory Buildings 240 square feet and larger are required to have a roof pitch, surface materials, and color that resembles the pitch, materials, and color of the roof of the Principal Building.
 - b. Accessory Buildings that are less than 240 square feet are not required to match the roof of the Principal Building but must, at a minimum, maintain a roof surface that is protected from damage and deterioration by asphalt or composition shingles or other common roofing material finished in a painted, treated, or non-reflective and rust-proof surface.
- B. Residential Fencing Standards
1. Fences constructed within the front yard are required to leave at least fifty percent (50%) transparency regardless of materials.
 2. Fences that abut or face the front yard of a lot must be set back at least ten feet (10') from the right of way.
 3. Prohibited Materials

No fencing used on a lot with a residential use may be constructed of the following material:

 - a. Metal, including architectural or painted metal product;
 - b. Plastic, not including vinyl properly treated or maintained to be free of mold;
 - c. Any material that presents a danger to neighboring property owners or the public, including loose nails, broken slats or exposed nails, broken glass, or razor wire.

4. Location and Height Standards

a. Minimum Required Separation

- (1) No fence may be constructed parallel to an existing fence unless a minimum of ten feet (10') of separation is provided for maintenance.
- (2) If the minimum separation cannot be provided, the fence may be placed on the mutual property boundary.

b. Height Standards

- (1) Any fence greater than six feet (6') in height requires a Building Permit.
- (2) Fences within the front yard are limited to three feet (3') at the property line.
- (3) A front yard fence may be constructed up to four feet (4') in height if every portion of the fence that exceeds three feet (3') in height is located outside of the Sight Visibility Triangle shown below.

Figure 9: Sight Visibility Triangle



C. Nonresidential Accessory Buildings**1. Building Façade Finish**

The exterior façade of all Accessory Buildings must match the Principal Building with respect to exterior materials and roof pitch.

2. Accessory Building Height

- a. The maximum height of a nonresidential Accessory Building is the same as the height of the nearest Principal Building on the same Lot, regardless of the maximum allowable height under the zoning district.
- b. The maximum floor area of a nonresidential Accessory Building is fifty percent (50%) of the floor area of the Principal Building.
- c. The use of a nonresidential Accessory Building is limited to those uses shown in Section **3.03**.

D. Nonresidential Fencing Standards**1. Fencing Materials**

- a. Fencing used on a lot with a nonresidential use must be uniform in appearance and material.
- b. Upon written notice by the City, the owner of a dilapidated nonresidential fences, including fences with missing or broken panels or that deflect more than three (3) degrees off of center must be repair the fence within thirty (30) days or as specified in the notice.

2. Location and Height Standards**a. Minimum Required Separation**

- (1) No fence may be constructed parallel to an existing fence unless a minimum of ten feet (10') of separation is provided for maintenance.
- (2) If the minimum separation cannot be provided, the fence may be placed on the mutual property boundary.

b. Height Standards

- (1) Any fence greater than six feet (6') in height requires a Building Permit.
- (2) In the I, Industrial District, a fence may be constructed in the front yard of a nonresidential use if the fence is located entirely outside of the Sight Visibility Triangle.

Section 155.4. Site Development Requirements

4.01. Landscaping Requirements

A. Purpose

This section **4.01** is established for the following purposes:

1. Provide requirements and guidelines for Residential Use and Nonresidential Use landscaping;
2. Encourage a variety of species including trees, shrubs, and other vegetation;
3. Encourage creativity and diversity using a variety of landscaping methods;
4. Ensure the aesthetic appeal of properties in Cleburne and improve resistance to drought and disease; and
5. Minimize adverse impacts of light, noise, movement, and surface heat gain throughout the City.

B. Applicability

1. This section **4.01** applies to all new Development at the time an Application for a Building Permit or Site Plan is submitted for Approval.
2. Existing uses that do not comply with this section **4.01** and are expanded must conform under the conditions of subsection **3.07.F.2**.
3. To promote variety and creativity and to prevent plantings in easements or other unsuitable areas, the Zoning Administrator may approve an administrative variance of ten percent (10%) from any numerical standard in this section **4.01**.
4. Properties in the Downtown Core district are exempt from the standards of this section.
5. Unless otherwise specified, at time of planting all trees must be a minimum of three inches (3") caliper as measured six inches (6") above the ground and all shrubs must be a minimum of five (5) gallons.
 - a. Multi-trunk trees may be used to fulfill the caliper requirements at planting if the diameter of the largest trunk plus the average diameter of all other trunks are equal to three inches (3").
6. All plant material must be selected from **Table 7: Approved Plant Material List** except as provided in subsection 4.01.C.4.
7. Any surface not occupied by buildings, sidewalks, parking lots, trees, shrubs, planting beds, signs or other permitted fixtures shall be planted with sod, turf, or other living ground cover with the following exceptions:
 - a. Up to fifty percent (50%) of the areas described in subsection **4.01.B.7** may be planted using river rock, crushed or decomposed granite, volcanic rock, or similar non-living and weed-resistant ground cover subject to the maintenance requirements of subsection **4.01.C.3**.
 - b. Artificial turf may be utilized in a rear yard subject to the maintenance requirements of this subsection **4.01.C.3**.

C. General Landscaping Requirements

1. Nonresidential Use Landscaping Requirements

- a. Landscaping in any district not zoned SF, MF, or A shall be required according to this subsection **4.01.C.1.**

Table 5: Nonresidential Landscaping Requirements (Section References)	
Subsection Number	Section Title
4.01.C.1.b	<u>Landscaped Edge Along Street Right-of-Way</u>
4.01.C.1.c	<u>Parking Lot Landscaping</u>
4.01.C.1.d	<u>Landscaping for Corner Lots</u>
4.01.C.1.e	<u>Landscaping and Screening for Parking Lots Adjacent to Residential Areas</u>
4.01.C.1.f	<u>Building Perimeter Plantings for Buildings 50,000 Square Feet or Larger</u>
4.01.C.1.g	<u>Landscaping Standards for Industrial Development</u>

- b. Landscaped Edge Along Street Right-of-Way

All Nonresidential Uses in districts other than SF, MF, and A shall comply with the following requirements (development in the I district must conform with subsection **4.01.C.1.g**):

(1) Landscaped Edge

A landscaped edge shall be provided adjacent to all streets according to the designation of the street on the adopted Master Thoroughfare Plan.



Figure 10: Example of Parking Lot Headlight Screening

- (a) The landscaped edge shall be the following minimum widths, exclusive of street Right-of-Way.
- (i) Landscaped edge width adjacent to a Freeway: twenty feet (20')
 - (ii) Landscaped edge width adjacent to an Arterial Street: fifteen feet (15')
 - (iii) Landscaped edge width adjacent to a Collector Street: ten feet (10')
 - (iv) Landscaped edge width adjacent to a Local Street: ten feet (10')
- (b) Within the landscaped edge, one (1) tree shall be planted per thirty (30) linear feet of street frontage.
- (i) The Zoning Administrator may approve the grouping or clustering of trees to accommodate driveway spacing, utilities, drainage facilities, or similar site features.
- (2) Vehicle Headlight Screening Abutting the Landscaped Edge

Where parking lots, drives, and Common Access Easements abut the landscaped edge, shrubs shall be planted to form a continuous buffer adjacent to the landscape edge (see **Figure 10: Example of Parking Lot Headlight Screening**).

- (a) The number of required shrubs shall be calculated solely on the area of the required landscaped edge.
 - (b) A berm may be placed within the landscaped edge in lieu of the required shrubs unless needed for a headlight screen (see subsection **4.01.C.1.e**).
 - (c) The berm must be eighteen to forty inches (18" to 40") above the average grade of the street and parking lot curbs.
 - (d) The slope of the berm shall not exceed a thirty-three percent (33%) grade.
- c. Parking Lot Landscaping

Any Nonresidential Use parking area that contains more than ten (10) parking spaces shall provide the following landscaping in addition to the Landscaped Edge required by subsection **4.01.C.1.b(1)**:

- (1) Each row of parking must terminate with a planting bed equivalent in size to one (1) parking space on a single row of parking and two (2) parking spaces on a double row of parking as shown in **Figure 11: Parking Buffer Requirement for 90-Degree Parking**.
 - (a) Each parking island must be planted with a minimum of one (1) shade tree or two (2) ornamental trees;
 - (b) Areas of parking islands that do not contain trees must be planted with sod or living plant material at the time the City issues a Certificate of Occupancy;
- (2) Each parking space must be no more than one hundred feet (100') from a parking island. The Zoning Administrator may require additional parking islands in the middle of rows to meet this requirement.
- (3) In parking lots with more than fifty (50) spaces, three feet (3') of parking buffer shall be provided for ninety (90) degree parking with two (2) rows facing each other as shown in **Figure 11: Parking Buffer Requirement for 90-Degree Parking**.
 - (a) Parking buffers must be required a minimum of every third row of parking.
 - (b) The parking buffer must run the entire length of the row.

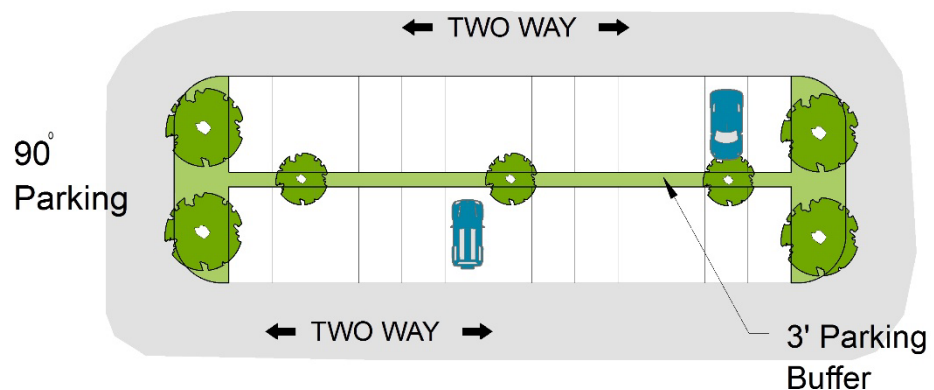


Figure 11: Parking Buffer Requirement for 90-Degree Parking

- (4) All landscaped areas shall be protected by either a raised six inch (6") concrete curb or wheel stops permanently fixed in the ground.
- (5) The requirements listed above do not apply to structured parking garages.

(6) Expansion of Existing Parking Areas

When an existing parking area that is nonconforming with this subsection **4.01.C.1.c** is altered or expanded by more than fifty percent (50%) and the expansion increases the number of spaces to more than ten (10), Parking Lot Landscaping shall be provided in accordance with the above standards (see subsection **3.07.F.1**).

d. Landscaping for Corner Lots

Corner lots at the intersection of two or more Arterial Streets shall comply with the following landscaping requirements in addition to the required plantings for the Landscaped Edge and Parking Lot Landscaping:

- (1) A minimum landscaped area of five hundred (500) square feet shall be located at the intersection corner of the lot.
- (2) Within the landscaped area, the developer must plant an additional three (3) shade trees, or substitute two (2) ornamental trees for one (1) shade tree, or fifty (50) square feet of shrubs or flowering plants per one (1) shade tree.
- (3) This landscaped area shall be provided within an area measured a minimum distance of forty (40) feet from the projected corner of the intersection on both sides of the lot.
- (4) The Zoning Administrator may authorize minor adjustments to this requirement, such as splitting the planting area into two (2) or more smaller areas, if the minimum required size is provided in close proximity to the intersection.

e. Landscaping and Screening for Parking Lots Adjacent to Residential Areas

- (1) Where more than three (3) parking spaces are constructed within fifty feet (50') of property zoned as an SF or MF district and there is no existing opaque fence, wall, berm, or landscaped screen between the new parking and the SF or MF property, one of the following must be placed adjacent to the parking spaces for sound and headlight attenuation:
 - (a) A continuous screen of shrubs growing to at least thirty-six inches (36") in height and meeting the watering and maintenance requirements of this section; or
 - (b) a buffer of twenty feet (20') must be provided between the parking area and the property line with the SF or MF zoned property.
- (2) Landscaping buffers are not required for developments smaller than two (2) acres.

Figure 12: Continuous Shrub Buffer



f. Building Perimeter Plantings for Buildings 50,000 Square Feet or Larger

- (1) Perimeter plantings are required for any single building or group of buildings in a single unified development that equal or exceed fifty thousand (50,000) square feet in gross Floor Area.
- (2) These plantings are intended to provide pedestrian areas while breaking up the large areas of impervious surface.
- (3) One (1) shade tree or two (2) ornamental trees are required for every ten thousand (10,000) square feet of gross building area.
- (4) Trees planted to fulfill the requirements of this subsection **4.01.C.1.f** must be planted within thirty feet (30') of the Front Façade.
- (5) The Developer may decide how to distribute the required plantings as long the plantings meet the standards specified in this subsection **4.01.C.1.f**.
- (6) Administrative Adjustments
 - (a) The Zoning Administrator may reduce the requirements of this subsection **4.01.C.1.f** when additional pedestrian features such as plazas, seating areas, fountains and outdoor recreation facilities are provided.
 - (b) These facilities must occupy an area equal to or greater than five percent (5%) of the building's total gross Floor Area.

Figure 13: Example of Building Perimeter Plantings



Figure 14: Example of Building without Perimeter Plantings



g. Landscaping Standards for Industrial Development

- (1) Development in the I, Industrial District must provide a Landscaped Edge as described in **4.01.C.1.b(1)** along any public street or right of way that is of a collector classification or higher.
- (2) A buffer must be installed between development in the I, Industrial District and any SF or MF district, unless the conditions of subsection 4.02.C.1.c are present at the time the first Certificate of Occupancy is issued on the property.
 - (a) Within a buffer that is at least fifty feet (50') wide, a single row of shade trees from Table 7: Approved Plant Material List must be planted at thirty feet (30') on center.
 - (b) Within a buffer that is less than fifty feet (50') wide, a double row of alternating shade trees from Table 7: Approved Plant Material List must be planted at thirty feet (30') on center.

2. Residential Landscaping Requirements

Residential Landscaping shall be required in all SF and MF zoning districts according to the following sections.

Table 6: Residential Landscaping Requirements	
Subsection Number	Section Title
<u>4.01.C.2.a</u>	<u>Multi-Family and Townhome Landscaping Requirements</u>
<u>4.01.C.2.b</u>	<u>Landscaping Requirements for Single-Family Detached Residential and Duplex</u>

a. Multi-Family and Townhome Landscaping Requirements

(1) Landscaped Edge

Except in the DTC, Downtown Core Overlay, and the CS, Cleburne Station Overlay, a landscaped edge shall be provided adjacent to all streets.

- (a) The landscaped edge shall be a minimum width of fifteen feet (15'), exclusive of street Right-of-Way.
- (b) Within the landscaped edge, one (1) tree shall be planted per forty feet (40') of Street frontage.
- (c) The Zoning Administrator may approve the grouping or clustering of trees within the landscaped edge to accommodate driveway spacing, utilities, drainage facilities or similar site features.

(2) Shrub Buffer for Multi-Family Parking Lots and Drives

Where parking lots and driveways abut the landscaped edge, shrubs shall be planted to form a continuous buffer along the boundary line between the parking lot and landscaped edge.

- (a) The number of shrubs required is calculated based on the area of the required landscaped edge.
- (b) A berm may be placed within the landscaped edge in lieu of the required shrubs unless needed for a headlight screen.
- (c) The berm must be eighteen to forty inches (18" to 40") above the average grade of the street and parking lot curbs.
- (d) The slope of berm shall not exceed a thirty-three percent (33%) grade.
- (3) No more than fifty percent (50%) of the required plant materials shall be of the same species.
- (4) Any permeable surface not occupied by trees, shrubs, planting beds, signs or other permitted fixtures, or established vegetative cover shall be planted with sod or other living ground cover.
- (5) Parking areas shall be landscaped in addition to the required landscaped edge.
 - (a) Twenty (20) square feet of landscaping for each parking space shall be provided along the boundary of the parking area including one (1) shade tree or two (2) ornamental trees per ten (10) parking spaces.
- (6) All landscaped areas shall be protected by a raised six inch (6") concrete curb or wheel stop.
- (7) One (1) shade trees or two (2) ornamental trees per one thousand (1,000) square feet of required landscaped area and required yards shall be provided.

- b. Landscaping Requirements for Single-Family Detached Residential and Duplex
 - (1) Two (2) shade trees or four (4) ornamental trees must be provided for each dwelling.
 - (2) At least one (1) tree must be planted in the front yard.
 - (3) Areas not used for buildings, for tree plantings, as planting beds, or for driveways or patios must be fully sodded if sod is not already established.
 - (4) All required trees and sod must be planted or installed prior to request for final building inspection of the Single-Family Detached Residential or Duplex Dwelling Unit.
- 3. Landscape Maintenance Requirements
 - a. This subsection **4.01.C.3** does not apply to Single-Family Detached Residential Dwelling Units and Duplex.
 - b. All plant material shall be maintained in a healthy and growing condition and must be replaced with plant material of similar variety and size if damaged, destroyed, or removed.
 - c. Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not a part of the landscaping.
 - d. All landscaped areas not within one hundred feet (100') of a hose bibb must be watered with an automatic irrigation system with rain and freeze sensors.
 - e. All areas not used for buildings, planting areas, parking, or driveway areas must remain sodded for erosion control.
 - f. Any Developer desiring to install and maintain landscaping materials and irrigation facilities within the City Right-of-Way must first receive written approval from the City.
 - g. Landscaping must be in a live condition prior to issuance of a Certificate of Occupancy.
- 4. Approved Plant Materials
 - a. The use of artificial turf is limited to the rear yard of buildings and is subject to the same maintenance requirement as living ground cover.
 - b. Use of any invasive or disease-prone species is prohibited.
 - c. **Table 7: Approved Plant Material List** is the list of pre-approved plant material for planting required in this section **4.01**.
 - (1) An Applicant may use an alternative plant species if its use is approved in writing by any of the following persons:
 - (a) A landscape architect registered in the State of Texas;
 - (b) A nursery professional certified by the Texas Nursery and Landscape Association; or
 - (c) A master gardener certified by the American Horticultural Society.

Table 7: Approved Plant Material List		
Type of Planting	Common Name	Botanical Name
Shade Tree	Caddo Maple	<i>Acer barbatum</i> "Caddo"
	Shantung Maple	<i>Acer truncatum</i>
	Pecan	<i>Carya illinoensis</i>
	Shagbark Hickory	<i>Carya ovata</i>
	Deodar Cedar	<i>Cedrus deodara</i>
	Texas Persimmon	<i>Diospyros virginiana</i>
	Russian Olive	<i>Eleagnus anigustifolia</i>
	Honey Locust	<i>Gleditsia triacanthos</i>
	Black Walnut	<i>Juglans nigra</i>
	Eastern Black Walnut	<i>Juglans nigra</i>
	Eldarica Pine (Afghan Pine)	<i>Pinus eldarica</i>
	Eastern Red Cedar	<i>Juniperus virginiana</i>
	Red Cedar	<i>Juniperus virginiana</i>
	Sweetgum	<i>Liquidambar styraciflua</i>
	Southern Magnolia	<i>Magnolia grandfolia</i>
	Chinese Pistachio	<i>Pistacia chinensi</i>
	Texas Pistache	<i>Pistacia texana</i>
	Bur Oak	<i>Quercus macrocarpa</i>
	Chinquapin Oak	<i>Quercus muhlenbergii</i>
	Shumard Oak	<i>Quercus shumardi</i>
	Texas Red Oak	<i>Quercus shumardi</i> "Texana"
	Live Oak	<i>Quercus virginiana</i>
	Western Soapberry	<i>Sapindus drummondii</i>
	Bald Cypress	<i>Taxodium distichum</i>
	Winged Elm	<i>Ulmus alata</i>
	American Elm	<i>Ulmus americana</i>
	Cedar Elm	<i>Ulmus crassifolia</i>
	Chinese Elm	<i>Ulmus parvifolia</i>
	Lacebark Elm	<i>Ulmus parvifolia</i>
	Siberian Elm	<i>Ulmus pumila</i>
Type of Planting	Common Name	Botanical Name
Ornamental Tree	River Birch	<i>Betula nigra</i>
	Red Buckeye	<i>Aesculus pavia</i> var. <i>pavia</i>
	Smoketree	<i>Cotinus coggygria</i>
	Wichita Blue Juniper	<i>Juniperus scopulorum</i> "Wichita Blue"
	Deciduous Magnolia	
	Eve's Necklace	<i>Sophora affinis</i>
	Texas Mountain Laurel	<i>Sophora secundiflora</i>
	Vitex (Chastetree)	<i>Vitex agnus-castus</i>
	Eastern Redbud	<i>Cercis canadensis</i>
	Redbud	<i>Cercis canadensis</i>
	Desert Willow	<i>Chilopsis linearis</i>
	Dogwood	<i>Cornus florida</i>
	Possumhaw Holly	<i>Ilex decidua</i>
	Eastern Platka Holly	<i>Ilex opaca</i>
	Foster Holly	<i>Ilex opaca</i> #1 - #5
	Yaupon Holly	<i>Ilex vomitoria</i>
	Golden Raintree	<i>Koelrutaria paniculata</i>
	Crepe Myrtle	<i>Lagerstroemia indica</i>
	Flowering Crabapple	<i>Malis Spp.</i>
	Wax Myrtle	<i>Myrica cerifera</i>
	Afghan (Eldarica) Pine	<i>Pinus eldarica</i>
	Ornamental Plum	<i>Prunus blireiana</i>
	Cherry Laurel	<i>Prunus caroliniana</i>
	Purple Plum	<i>Prunus cerasifera</i>
	Mexican Plum	<i>Prunus mexicana</i>
	Callery Pear	<i>Purus calleryana</i>
	Flowering Pear	<i>Purus calleryana</i>
	Texas Sophora	<i>Sophora affinis</i>
	Chaste Tree	<i>Vitex agnus-castus</i>

Table 7: Approved Plant Material List		
Type of Planting	Common Name	Botanical Name
Living Screen	Atlas Cedar	<i>Cedrus atlantica</i> "Manetti"
	Cross Vine	<i>Bignonia capreolata</i>
	Coral Honeysuckle	<i>Lonicera sempervirens</i>
	Chinese Wisteria	<i>Wisteria sinensis</i>
	Deordar cedar	<i>Cedrus deodara</i>
	Cryptomeria	<i>Cryptomeria japonica</i>
	Leyland Cypress	<i>Cupressocyparis leylandi</i>
	NRS Holly	<i>Ilex aquifolium</i>
	Burford Holly	<i>Ilex cornuta</i> "burfordii"
	Tree Form Holly	<i>Ilex opaca</i> AIT / <i>Ilex perny</i>
	Yaupon Holly	<i>Ilex vomitoria</i>
	Wax Myrtle	<i>Myrica cerifera</i>
	Mock Orange	<i>Philadelphus</i> sp.
	Fraser Photinia	<i>Photinia xfraseri</i>
	Afghan (Eldarica) Pine	<i>Pinus eldarica</i>
	Cherry Laurel	<i>Prunus caroliniana</i>
	Vitex	<i>Vitex angus-castus</i>
Type of Planting	Common Name	Botanical Name
Shrubs	Abelia	<i>Abelia</i> sp.
	Butterfly Bush	<i>Buddleia davidii</i>
	Beauty Berry	<i>Callicarpa americana</i>
	False Aralia	<i>Dizygotheca elegantissima</i>
	Althea/Rose of Sharon	<i>Hibiscus syriacus</i>
	Oakleaf Hydrangea	<i>Hydrangea quercifolia</i>
	St. John's Wort	<i>Hypericum</i> spp.
	Dwarf Wax Myrtle	<i>Myrica cerifera</i> var. <i>pumila</i> (<i>Myrica pusilla</i>)
	Rosemary	<i>Salvia rosmarinus</i>
	Bridal Wreath Spirea	<i>Spiraea prunifolia</i>
	Anthony Waterer Spirea	<i>Spiraea japonica</i> 'Anthony Waterer'
	Limemound Spirea	<i>Spiraea japonica</i> 'Limemound'
	Bush Germander	<i>Teucrium fruticans</i>
	Eastern Snowball Viburnum	<i>Viburnum opulus</i> 'Sterile'
	Rusty Blackhaw Viburnum	<i>Viburnum rufidulum</i>
	Barberry	<i>Berberis</i> sp.
	Japanese Boxwood	<i>Buxus</i> sp.
	Elaeagnus	<i>Elaeagnus</i> sp.
	Dwarf Yaupon	<i>Ilex vomitoria</i> 'nana'
	Chinese Holly	<i>Ilex cornuta</i>
	Dwarf Burford Holly	<i>Ilex cornuta</i> "burfordii"
	Autumn Sage	<i>Salvia greggii</i>
	Texas Sage	<i>Leucophyllum frutescens</i>
	Nandina	<i>Nandina domestica</i>
	Fraser Photinia	<i>Photinia xfraseri</i>

4.02. Screening Standards

A. Purpose

Standards set forth in this section **4.02** establish the screening requirements for the various land uses and zoning districts.

B. Applicability

1. This section **4.02** applies to the following:
 - a. All new Nonresidential Use Development or Outside Storage at the time an Application for a Building Permit or Site Plan is submitted for Approval.
 - b. All Residential Use Development listed in subsection **4.02(C.2 below)** at the time of Plat approval.
2. Properties in the Downtown Core district and Downtown Transition district are exempt from the standards of this section **4.02**.

Figure 15: Example of Solid Masonry Wall



C. General Requirements

Table 8: Screening Requirements (Section Reference)	
Subsection Number	Section Title
4.02.C.1	Screening Required Between Nonresidential Uses and Residential Uses
4.02.C.2	Screening Required Along Perimeter of Residential Uses
4.02.C.3	Screening Required Between Outside Storage Areas and Other Uses
4.02.C.4	Responsibility for Constructing the Screening Wall
4.02.C.5	Screening Walls for Loading Docks
4.02.C.6	Screening Wall Required Materials and Maintenance
4.02.C.7	Mechanical Equipment Screening Requirements for Nonresidential Properties
4.02.C.8	Screening of Outdoor Waste Storage

1. Screening Required Between Nonresidential Uses and Residential Uses
 - a. A masonry screening wall is required for all new Nonresidential Use Developments that abut or share a property line with any SF or MF zoning district.
 - b. The required masonry screening wall must be six feet (6') to eight feet (8') in height unless otherwise specified in this section **4.02** or unless approved by a Planned Development or Specific Use Permit.
 - c. In lieu of screening required in this section **4.02**, the Zoning Administrator may waive the requirement for screening between a Nonresidential Use Development and a SF or MF zoning district if any of the following conditions are present:
 - (1) An existing natural or manmade screen effectively provides the same level of screening as an opaque wall;
 - (2) The nonresidential and residential property are separated by an alley; or

- (3) If the screen is unbroken and generally parallel to a creek, railroad or high-tension power line easement, or right of way.
- 2. Screening Required Along Perimeter of Residential Uses
 - a. A masonry screening wall is required for all Single-Family Detached Residential, Duplex, and Townhome Developments where the rear yard of two or more lots abuts a roadway with a classification of Collector, Arterial, or Freeway.
 - b. Each section of required screening wall required in a above must be six feet (6') to eight feet (8') in height and utilize a horizontal offset of at least eighteen inches (18") every one hundred to two hundred linear feet (100' to 200') to allow for a meandering sidewalk and to avoid a monolithic appearance.
 - c. The wall must be placed within a maintenance easement or separate lot sufficient to contain the wall footings and provide at least four feet (4') of access room on both sides.
- 3. Screening Required Between Outside Storage Areas and Other Uses

A masonry screening wall is required around the perimeter of all new Outside Storage areas in accordance with subsection **3.04.A.19.b.**
- 4. Responsibility for Constructing the Screening Wall
 - a. When a new Nonresidential Use Development or Outside Storage abuts the property line of an existing development and screening is required by this Section **4.02**, the Developer of the new construction is responsible for erecting any required screening wall adjacent to the common property line with the existing development.
 - b. When a Residential Use is constructed and screening is required, the screening must be in place before any infrastructure is accepted by the City or before the Final Plat is recorded with the County.
 - c. The screening wall must be constructed along the entire shared portion of the common property line or right of way line, as applicable.
 - d. The design and construction material of the screening wall must be as specified in subsection **4.02.C.6.**

5. Screening Walls for Loading Docks

- a. Nonresidential Uses with loading docks or delivery entrances that front a Collector or Arterial Street shall be screened by a masonry screening wall that is a minimum six feet (6') in height to obscure views of loading docks and loading spaces.
- b. Loading docks and delivery entrances within the CI, Commercial/Industrial Flex District are exempt from the requirements of subsection **4.02.C.5.a**.
- c. The following standards apply if service or loading dock areas are adjacent to Residential Uses:
 - (1) Loading docks shall be screened with a masonry screening wall that is a minimum of eight feet (8') in height along the property line shared with the Residential Use.
 - (2) The wall must screen the entire loading dock or space from the Residential Use.
 - (3) Screening materials for walls attached to a building shall utilize similar materials to the building's façades. Freestanding walls must follow subsection **4.02.C.6**.

Figure 16: Example of Screened Loading Area



6. Screening Wall Required Materials and Maintenance

- a. Any screening wall installed pursuant to this Section **4.02** must be constructed of one or more of the following materials:
 - (1) Brick, stone, or split-face concrete masonry unit; or
 - (2) Pre-cast concrete wall or poured-in-place concrete wall or split-face concrete masonry unit (CMU) with a similar appearance as brick or natural stone.
- b. All screening wall construction materials must match the Principal Building on the same Lot or be finished in coordinated earth-tones, which may include red brick.
- c. Screening walls attached to buildings must match the material, pattern, and color of the building.
- d. Natural or decorative variations in color or pattern are permitted such as mottled brick or variations resulting from the use or imitation of natural materials such as granite or limestone.
- e. Screening walls abutting a Residential Use Development, whether utilized as screening between uses or screening from the right of way, must be constructed with a continuous concrete footing with mow strip and utilize a galvanized steel support hanger under each panel to prevent panel failure or buckling.
- f. Any wall that experiences subsidence, buckling, or other damage resulting in the wall deflecting more than three degrees off of center must be repaired or replaced by the owner of the property containing the wall or the owner responsible for its construction.

7. Mechanical Equipment Screening Requirements for Nonresidential Properties

Figure 17: Example of Screened Rooftop Equipment



Figure 18: Example of Screened Ground-Mounted Utility Equipment



a. General

- (1) In all new Nonresidential Use and Multi-Family Development, all mechanical equipment mounted on the ground or the roof and exceeding three feet (3') in height must be screened from view of any right of way or property zoned SF.
- (2) The location, construction, and screening of all mechanical equipment must be shown on the Site Plan or design drawings submitted for Building Permit review.

b. Ground-Mounted Mechanical Equipment

- (1) Ground-mounted mechanical equipment exceeding three feet (3') in height must be placed behind a screening wall, vegetative screen, or combination equal to or greater than the height of the tallest unit up to a maximum of eight feet (8').
- (2) A screening wall must be constructed of masonry materials conforming to subsection **4.02.C.6.**

c. Roof-Mounted Mechanical Equipment

- (1) Roof-mounted mechanical equipment must be screened from view with a parapet wall, mansard roof or alternative architectural element.
- (2) The height of the screening element must be equal to or greater than the height of the mechanical unit(s).
- (3) If the mechanical unit exceeds six feet (6') in height, an additional roof setback for the unit shall be required at a ratio of two horizontal feet (2') for each additional one foot (1') of vertical height above the maximum six feet (6').
- (4) Screening for mechanical equipment applies to new building construction or an expansion of an existing building.

8. Screening of Outdoor Waste Storage

a. General

- (1) Waste storage areas housing refuse containers, dumpsters, compactors, and similar facilities must be constructed in the side or rear of a Lot.
- (2) Waste storage areas are prohibited within required side or rear yard setbacks.
- (3) Waste storage areas are prohibited within required landscape buffers (see subsection **4.01.C.1.e**).
- (4) The location, construction and screening of all waste storage areas must be shown on the Site Plan.

Figure 19. Example of Refuse Area Screening



b. Screening Required

- (1) Refuse containers, trash dumpsters, trash compactors, box compactors, and other similar facilities must be screened on three (3) sides with a masonry screening wall a minimum of one foot (1') in height above the container height, but not exceeding eight feet (8') in height.
- (2) If the side of the enclosure used for access is visible from a public right of way or is associated with a restaurant, it must be screened with a rust-resistant metal gate that screens the interior of the enclosure from view when the contents of the enclosure are not being accessed.
- (3) The screening wall must meet the materials requirements of subsection **4.02.C.6**.

D. Screening Standards For Manufactured Housing

The requirements of this subsection **4.02.D** apply to all new or expanded Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions or Manufactured Housing.

1. Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions are required to be screened along any public street with a designation of Freeway, Arterial, or Collector by an opaque screening wall at least six feet (6') in height and constructed of brick, stone, or concrete panel with decorative reveals.
2. Individual Manufactured Housing units must have skirting or screening around the entire perimeter of the unit that obscures any piers, wheels, or other structural supporting elements as well as any plumbing components.
 - a. Unit screening shall match the exterior material, finish, and color of the body of the unit so that the unit appears to be flush with the ground.

4.03. Parking Standards

A. Parking Dimensions and Surfaces

1. Purpose

The purpose of this Section **4.03** is to ensure that all Development provides off street parking that is adequate to prevent congestion in the streets or adverse impacts to neighboring properties.

2. Applicability

Table 9: Parking Regulations (Section Reference)

Subsection Number	Section
<u>4.03.A</u>	Parking Dimensions and Surfaces
<u>4.03.B</u>	Loading Spaces
<u>4.03.C</u>	Maximum Parking Surface Area in SF Districts
<u>4.03.D</u>	Heavy Load Vehicle Parking
<u>4.03.E</u>	RV Parking in SF Districts

- a. This Section **4.03** applies to all new Development at the time an Application for a Building Permit or Site Plan is submitted for Approval.
 - b. All Residential Uses and Nonresidential Uses must provide parking at the rate appearing beside the use in the Use Chart (see Section **3.03**).
 - c. Properties within the Downtown Core district (see Section **4.06.D**) are exempt from minimum off-street parking standards.
 - d. Properties within the Downtown Transition district (see Section **4.06.E**) are required to park at one-half (1/2) the rate of the minimum parking requirements shown in the Use Chart.
 - e. Parking voluntarily provided and not required by this Zoning Ordinance must still comply with all regulations applicable to required parking.
- #### 3. Computation of Parking Space Requirements
- a. Parking calculations are based on the Net Floor Area of the Principal Use.
 - b. If there is more than one Principal Use on the same Lot, parking is calculated based on the combined Net Floor Area of all Principal Uses.
- #### 4. Shared Parking
- a. Shared parking under this subsection **4.03.A.4** must meet the intent of this Section **4.03** by providing adequate parking for all authorized uses within each Development subject to the shared parking agreement.
 - b. Shared parking is intended to allow uses with different peak demands for parking to share parking spaces for the purpose of conserving land and reducing stormwater runoff and heat island effect.
 - c. Shared parking is allowed for the following uses:
 - (1) Retail Stores and Shops;
 - (2) Restaurant or Cafeteria, without Drive-Thru;
 - (3) Restaurant or Cafeteria, with Drive-Thru;
 - (4) Office, Professional, Medical, or Business;

- (5) Hotel (other than Hotel, Extended Stay);
- (6) Civic/Convention Center.
- d. Table 10: Shared Parking Use Matrix describes the adjustment multipliers for shared parking of uses listed in subsection 4.03.A.4.c.

Table 10: Shared Parking Use Matrix

Time of Day	Office	Retail	Restaurant	Theater	Hotel/ Convention
6 am to noon	1.0	0.97	0.5	0.3	1.0
Noon to 1 pm	0.9	1.0	0.7	0.7	1.0
1 pm to 4 pm	0.97	0.97	0.6	0.7	1.0
4 pm to 6 pm	0.47	0.82	0.9	0.8	1.0
6 pm to 8 pm	0.07	0.89	1.0	1.0	1.0
8 pm to midnight	0.03	0.61	1.0	1.0	1.0

- e. Shared Parking Example

- (1) A development that includes 50,000 square feet of office, 20,000 square feet of retail, and 10,000 square feet of restaurant uses is subject to the following parking requirements:

Office: 125 spaces (1 space per 400 square feet)

Retail: 50 spaces (1 space per 400 square feet)

Restaurant: 50 spaces (1 space per 200 square feet)

Total: 225 spaces

- (2) The uses listed in subsection 4.03.A.4.e(1) would then be multiplied according to the example in Table 11: Shared Parking Matrix Example.

Table 11: Shared Parking Matrix Example

Time of Day	Office Spaces	Retail Spaces	Restaurant Spaces	Total Spaces
6 am to noon	$1.0 * 125 = 125$	$0.97 * 50 = 49$	$0.5 * 50 = 25$	199
Noon to 1 pm	$0.9 * 125 = 113$	$1.0 * 50 = 50$	$0.7 * 50 = 35$	198
1 pm to 4 pm	$0.97 * 125 = 122$	$0.97 * 50 = 49$	$0.6 * 50 = 30$	201
4 pm to 6 pm	$0.47 * 125 = 59$	$0.82 * 50 = 41$	$0.9 * 50 = 45$	145
6pm to 8 pm	$0.07 * 125 = 9$	$0.89 * 50 = 45$	$1.0 * 50 = 50$	104
8 pm to midnight	$0.03 * 125 = 4$	$0.61 * 50 = 31$	$1.0 * 50 = 50$	85

- (a) The required parking is reduced from 225 spaces to 201 spaces (the highest of all combined uses).
- f. The Zoning Administrator may approve a shared parking plan that provides for the following:
 - (1) The shared spaces will be available as long as each use is in operation;
 - (2) Parking spaces used under a shared parking plan must be within five hundred feet (500') of the nearest public entrance for each use.
 - (3) The agreement must be memorialized on an instrument filed in Johnson County Records with a copy of the filed agreement provided to the City before issuance of a Certificate of Occupancy.

- g. Uses Not Listed

- (1) The Planning and Zoning Commission may approve a shared parking plan involving one or more uses not listed in subsection **4.03.A.4.c** if the Applicant provides the following:
 - (a) Written justification prepared by a qualified professional;
 - (b) Parking is provided to account for the highest combined parking demand of all uses consistent with the methodology used in **Table 11: Shared Parking Matrix Example**; and
 - (c) The plan meets the requirements of subsection **4.03.A.4.f**.
5. Parking Dimensions
 - a. Parking spaces that allow for a vehicle to overhang a curb must measure at least nine feet (9') wide by eighteen feet (18') deep.
 - b. Curbs and wheel stops must be designed to allow no more than eighteen inches (18") of overhang onto sidewalks and landscape buffers and islands.
 - c. Parking spaces that do not allow for a vehicle to overhang a curb (such as spaces that abut walls or fences or two spaces that face each other) must measure at least nine feet (9') by twenty feet (20') deep.
 - d. Accessible parking spaces must meet Americans with Disabilities Act (ADA) standards for accessible spaces as amended).
 - e. Sidewalks and access aisles must maintain ADA required minimum widths at all times, regardless of whether the sidewalk or access aisle is adjacent to an accessible parking space.
6. Approved parking configurations are shown in **Figure 20: Standard Parking Configurations**.

Figure 20: Standard Parking Configurations

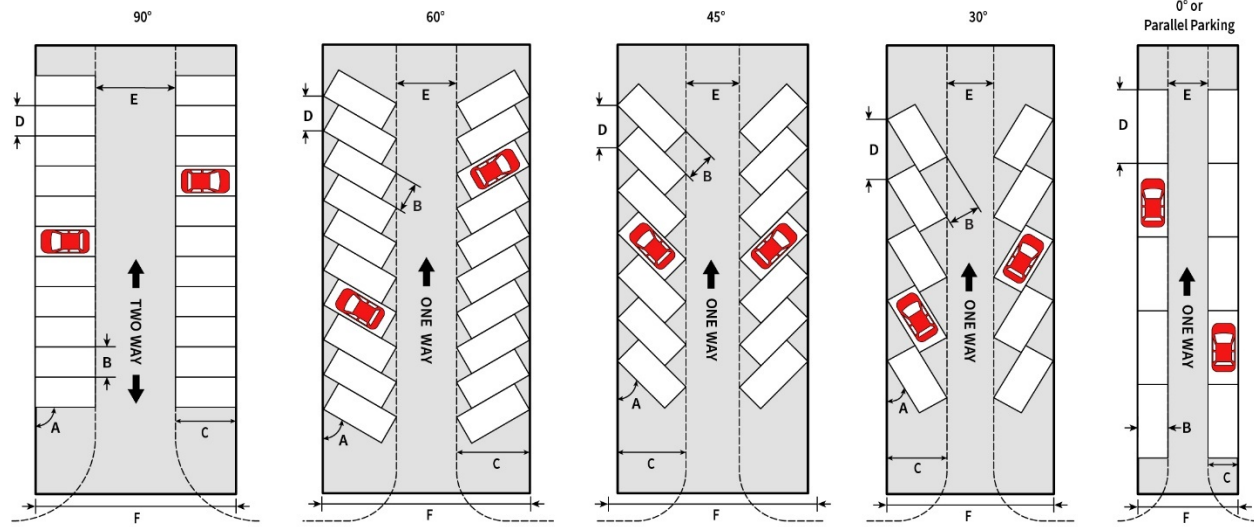


Table 12: Minimum Dimensions by Parking Configuration

A. Angle	B. Stall Width	C. Stall to Curb	D. Stall Curb Width	E. Aisle Width		Curb Overhang
In degrees	In feet			1 way	2 way	In feet
0°/Parallel	10'	10'	22'	12'	18'	0
30°	9'	17.5'	18'	12'	18'	1'
45°	9'	20'	12.5'	12'	20'	1.4'
60°	9'	20.5'	10.5'	18'	20'	1.7'
90°	9'	18'	9'	22'	24'	2'

- a. The dimensions listed in **Table 12: Minimum Dimensions by Parking Configuration** are the minimum required dimensions. Drive aisles that function as fire lanes may require greater dimensions.

7. Stacking Spaces

- Stacking spaces provide room for vehicles to queue before receiving a service, such as services rendered by Drive-Thru or Drive-In Uses, or a Child Care Facility (Day-Care Center).
- Stacking spaces are required for all new uses listed in **Table 13: Required Stacking Spaces by Use**, including the conversion of an existing building that does not require stacking space to one of the uses listed in **Table 13**.
- The Zoning Administrator may approve a reduction in stacking spaces for a Child Care Facility (Day-Care Center) if the reduction will not cause stacking in the public right of way.
- All required stacking spaces must be situated entirely outside the right of way and any designated fire lane or driveway.
- Stacking spaces must not overhang any sidewalk or pedestrian path.
- The minimum dimensions of a stacking space are nine feet (9') by eighteen feet (18') and have a vertical clearance of at least ten feet (10').

Table 13: Required Stacking Spaces by Use

Approved Land Use	Minimum Required Stacking Spaces
Bank or Financial Institution	2 spaces per lane
Restaurant or Cafeteria, with Drive-Thru	6 spaces from pick up window (min. 4 from order point if different from pick up window)
Drive-Thru or Drive-In Uses	3 spaces per window
Car Wash, Full Service	3 spaces per wash bay
School, K-12	1 space per 10 students
Child Care Facility (Day-Care Center)	1 space per 20 students

8. Surface Material

- a. All areas within the City that are used for the parking of motor vehicles, including access driveways and stacking spaces, shall be paved with impervious surface materials and shall be constructed with reinforced concrete or asphalt.
- b. Areas used for emergency access, as fire lanes, or as loading spaces must be capable of supporting seventy-five thousand (75,000) pounds or the minimum specified in the City's adopted fire code.

9. Parking Lot Maintenance

- a. Each owner of property developed as Nonresidential Use or Residential Use, including property used as Parking (Principal Use), is responsible for maintaining the condition of all parking areas on the property, regardless of whether the parking areas are accessible to the public.
- b. Maintenance includes repairing of potholes and pavement failures, repairs to prevent ponding or standing water, sealing cracks and joint failures, and removal of trash and weeds.
- c. Parking areas other than those used for Single-Family Detached Residential and Duplex must maintain contrasting striping marking the boundaries of each parking space.

10. Parking for New and Unlisted Uses

The Zoning Administrator will determine the parking rate that applies to any use not listed in the Use Chart (see Section **3.02 Classification of New and Unlisted Uses**).

11. Relief from Parking Requirements

The City Council may approve up to a twenty percent (20%) reduction in parking requirements if the Council finds that the reduction will not cause or increase congestion in the public right of way or negatively impact adjacent property owners.

B. Loading Spaces

- Each loading space must be a minimum of ten feet (10') wide by twenty-five feet (25') long and must have a vertical clearance of at least fourteen feet (14').
- Loading spaces are required according to **Table 14: Required Loading Spaces by Floor Area**.

Table 14: Required Loading Spaces by Floor Area

Building Floor Area	Required Loading Spaces
0-10,000 square feet	0
Over 10,000-50,000 square feet	1
Over 50,000 square feet	2, plus 1 space per additional 100,000 square feet of Floor Area

- Loading spaces may not be located within twenty feet (20') of any property zoned SF or MF.
- No loading space shall be situated within a fire lane.
- Nonconforming Uses permitted to continue must provide off-street loading spaces with access and maneuvering space adequate to prevent loading and unloading within the Street.

C. Maximum Parking Surface Area in SF Districts

- Any property with a garage must have a paved driveway leading from the street to the garage that is equivalent in width to the garage openings. The driveway may be reduced in width to eight feet (8') at the right of way line.
- The total paved area of a driveway providing access to a property zoned SF may not consume more than fifty percent (50%) of the Front Yard.
- In addition to driveway width required in subsection **4.03.C**, properties zoned SF are allowed one additional parking space measuring no more than eight feet (8') in width. The additional space must utilize the same surface as the existing driveway.
- The Zoning Administrator may approve a continuous circular driveway if it meets the following conditions:
 - The driveway connects directly to a Street in two locations, and covers no more than sixty-five percent (65%) of the Front Yard; and
 - The width of the circular driveway does not exceed fifty percent (50%) of the minimum Front Yard setback.
- If a deed restriction or private covenant imposes different standards for driveway layout or coverage than those established in this section, the stricter standard is deemed controlling.

D. Heavy Load Vehicle Parking

- Other than the parking of Recreation Vehicles on SF lots over ten thousand (10,000) square feet (see subsection **4.03.E**), Heavy Load Vehicles are prohibited from parking in any district zoned SF, MF, MU, NC, LC, RC, or any PD with the same or similar underlying districts.
- This restriction does not apply to Heavy Load Vehicles that are conducting a delivery of products or goods to a property zoned MU or C or utilizing loadings spaces in accordance with section **4.03.B**.

- a. Loading and unloading is prohibited within the public right of way.
 3. Heavy Load Vehicles are prohibited within SF and MF districts except when used for moving or delivery of household items, such as moving trucks and vans and appliance delivery.
- E. RV Parking in SF Districts
 1. Purpose

The purpose of this subsection is to recognize that recreational vehicles (RVs) are generally incompatible with the scale and use of properties in the SF district and, if not properly screened from view and maintained, have the potential to cause adverse impacts on adjacent properties, including but not limited to the following:

 - a. By reducing area that can be used for parking personal automobiles and light trucks, thereby forcing those vehicles to encroach over the sidewalk or park in the street;
 - b. By damaging ground surfaces and causing standing water during rain events; and
 - c. By creating a visual nuisance that diminishes property values when the RV is not properly stored, maintained, and protected from the elements.
 2. Conditions for Parking or Storing RVs in SF Districts

Parking or storage of any RV, whether a trailer or self-propelled that qualifies as a Heavy Load Vehicle or exceeds twenty-six feet (26') or sixteen thousand (16,000) pounds gross vehicle weight rating (GVWR) is prohibited in an SF district unless the RV is parked or stored in conformance with this subsection **4.03.E**.

 - a. The property on which the RV is stored must be a minimum of ten thousand (10,000) square feet in size.
 - b. No more than one RV is allowed on a lot.
 - c. When not being prepared for use or storage, the RV must remain parked on a concrete or asphalt pad capable of withstanding both the static and live load of the RV.
 - d. The parking pad and the RV must be located according to the following:
 - (1) At least thirty-five feet (35') from the front right of way line or behind the rearmost portion of the front-facing façade of the house;
 - (2) At least twenty feet (20') from the side right of way line on a corner lot;
 - (3) At least seven feet (7') from any abutting side or rear lot line shared with a property zoned SF;
 - (4) Trees and overhead powerlines must be maintained to avoid touching the top of the RV.
 - e. Any carport or structure used to cover or enclose the RV must maintain the same setbacks listed for a parking pad and may not exceed the maximum height allowed for an Accessory Building.
 - (1) A carport or structure used to cover or enclose an RV is considered an Accessory Building for the purpose of calculating lot coverage and maximum square footage of Accessory Buildings under section **3.08**.

4.04. Lighting Standards

A. Purpose

The purpose of this subsection is to:

1. Reduce the problems created by improperly designed and installed outdoor lighting;
2. Reduce problems of glare on operators of motor vehicles, pedestrians and land uses;
3. Minimize light trespass;
4. Reduce the energy and financial costs of outdoor lighting by establishing regulations limiting the area that certain kinds of outdoor lighting fixtures can illuminate; and
5. Preserve the night sky as a natural resource.

B. Applicability

1. This Section **4.04** to all new lighting fixtures or replacement of existing lighting fixtures except those exempted in section **4.04.D**.
2. The Building Official may require than an applicant submit evidence that lighting installed per an approved Building Permit complies with this subsection.
3. Upon receiving a complaint related to lighting performance under this subsection, the Building Official or other authorized agent of the City may use any lawful means to measure light output from the source of the fixture or fixtures that are the subject of the complaint. If light output is found to exceed that authorized in this subsection, the Building Official or other authorized agent of the City may issue notice to abate to the owner of the property containing the fixture in question.

C. General Requirements

The following standards shall apply to all exterior lighting except public street lighting and other lighting that is specifically exempted by this Section **4.04**.

1. Buffer Areas and Required Setback Areas

Light sources or luminaires within buffer areas (see subsection **4.01.C.1.b** and subsection **4.01.C.1.e**), within required setback yard areas (see section **2.05 Dimensional Standards Table**), and on pedestrian walkways and hike and bike trails must be full-cutoff type fixtures (see **Figure 21: Lighting Fixture Types**).

2. Shielded Light Source Required

- a. All luminaires located on properties that are Nonresidential Use must be designed to completely shield bulbs from direct view of at a point three feet (3') above grade on the lot line abutting a Residential Use property.
- b. See **Figure 21: Lighting Fixture Types** for examples.

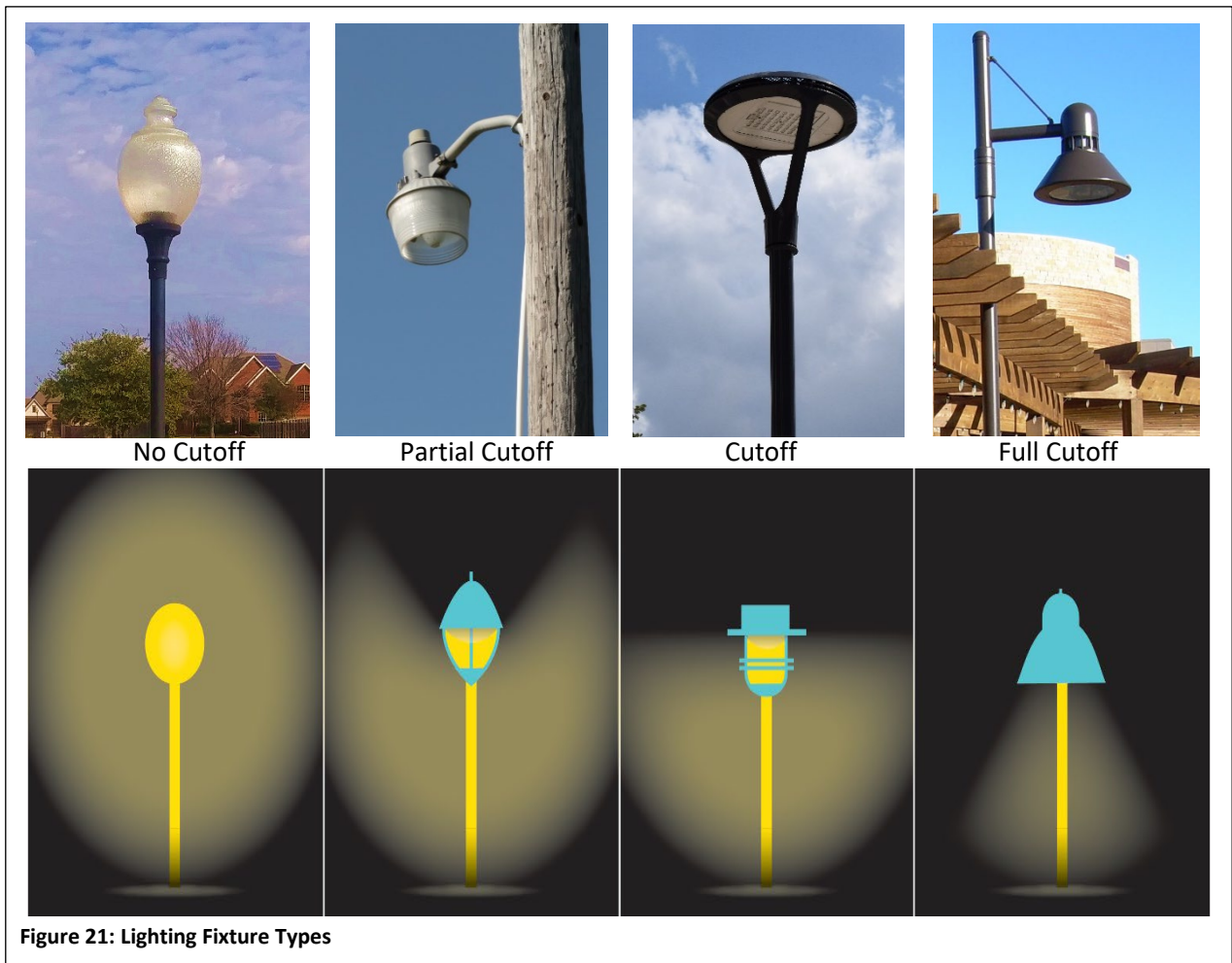
3. Light Trespass Limitation

All luminaires located on private property must be designed or positioned to achieve the following:

- a. The maximum illumination at any common property line with an SF zoned-property does not exceed one-quarter ($\frac{1}{4}$) foot-candle; and
- b. The maximum illumination does not exceed one-half ($\frac{1}{2}$) foot-candle adjacent to a Street Right-of-Way.

4. Canopy Lighting
 - a. Lighting recessed for canopies covering Gasoline or Diesel Passenger Vehicle Filling or Service Stations, Gasoline or Diesel Truck Filling or Service Station, and Drive-Thru or Drive-In Uses must be directed so that it does not illuminate abutting properties.
 - b. Luminaires and bulbs used in canopies that are accessory to the uses in subsection **4.04.C.4** must be completely shielded from direct view at a point five feet (5') above the ground as measured at the property line or a Street Right-of-Way.
5. Wall or Roof Lighting
 - a. Wall or roof lighting in districts other than SF may be used to illuminate pedestrian walkways, entrance areas and yard areas within thirty feet (30') of the building envelope.
 - b. wall lighting must be angled to avoid glare as seen from abutting properties or the public right of way.
 - c. For lighting in SF districts, see subsection **4.04.D.2**.
6. Open Area Used for Motor Vehicle Parking, Storage or Access
 - a. Any open area used for motor vehicle parking, storage or access may be illuminated with freestanding luminaires.
 - b. Freestanding luminaires are permitted to be a maximum of thirty feet (30') in height.
 - c. When a luminary is located within one hundred feet (100') of a property zoned SF or MF the maximum permitted luminaires height shall be twenty feet (20').
 - d. All luminaires must have a cutoff angle equal to or less than ninety (90) degrees (see **Figure 21: Lighting Fixture Types**).
 - e. The use of exterior lighting with a cutoff angle greater than ninety (90) degrees is permitted only when the Building Official finds the following:
 - (1) That the proposed lighting is not in conflict with the stated purpose;
 - (2) That the proposed lighting will not unreasonably harm or restrict public health, safety and welfare or create a nuisance; and
 - (3) The proposed lighting will not result in an impairment of vision creating a hazard for vehicular or pedestrian traffic.

(4)



7. Signs

Externally illuminated signs, advertising displays, building identification, and monument signs must comply with **Section 156.35** of the Code of Ordinances.

8. Buildings, Architectural Features, Flags, and Monuments

Building façades, architectural features of buildings, flags, and monuments may be illuminated under the following conditions:

- a. Fixtures are equipped with shields and are located in a way that limits the fixture's direct light distribution to the façade or feature being illuminated;
- b. The configuration of the light installation blocks all direct light from the fixture as viewed from any other property; and
- c. The maximum luminance of any surface does not exceed the foot-candles specified in **Table 15: Maximum Illumination between Properties**.

9. Prohibited Fixtures

- a. "Cobra head" type lighting fixtures having dished or "drop" lenses or refractors shall be prohibited.
- b. Flickering or flashing lights shall be prohibited.

10. Illumination

a. Intensity of Illumination

- (1) The intensity of illumination projected from one property across an abutting property line shall not exceed the intensity shown for the zoning district of the abutting property in **Table 15: Maximum Illumination between Properties**.
- (2) Any overlay district shown in **Table 15: Maximum Illumination between Properties** determines the maximum allowable intensity of illumination at the property line for all properties within the overlay. If an overlay is not listed, the underlying zoning district determines the allowable intensity.

Table 15: Maximum Illumination between Properties		
Underlying Zoning of Adjacent Property	Foot-Candles Horizontal	Foot-Candles Vertical
A, Agricultural District SF-6, Single-Family Dwelling District SF-7, Single-Family Dwelling District SF-10, Single-Family Dwelling District SF-20, Single-Family Dwelling District	0.2	0.5
MF-1, Medium-Density Residential District MF-2, High-Density Residential District	0.5	0.5
NC, Neighborhood Commercial District LC, Local Commercial District RC, Regional Commercial District MU, Mixed Use District CI, Commercial/Industrial Flex District At the boundary of Right-of-Way or Streets	3.0	3.0
CS, Cleburne Station Overlay DTC, Downtown Core Overlay I, Industrial District	5.0	5.0

b. Maximum Outdoor Illumination Level

The maximum computed or measured outdoor illumination level on a property shall not exceed twenty (20) foot-candles outdoors at any point, except that lighting under canopies (such as for service stations) shall not exceed thirty (30) foot-candles.

c. Measurement of Illumination

(1) Meter required

- (a) Lighting levels of outdoor lighting shall be measured in foot-candles with a direct-reading portable light meter with a cosine corrected sensor with multiple scales.
- (b) Reading accuracy should be within plus or minus five percent (5%).
- (c) The meter shall be tested and calibrated by an independent commercial photometric laboratory or manufacturer within one (1) year of date of use as attested to by a certificate issued by such laboratory.

(2) Horizontal Method of Measurement

- (a) The meter sensor shall be mounted not more than six inches (6") above ground level in a horizontal position.
 - (b) Readings shall be taken only after the cell has been exposed to provide a constant reading.
 - (c) Measurements shall be made when the meteorological optical range is six (6) miles or further so that measurements will not be adversely affected by atmospheric scatter.
 - (d) Measurements shall be made after dark with the existing questioned light sources on, then with the same sources off.
 - (e) This procedure eliminates the effects of moonlight and other ambient light.
 - (f) The difference between the two readings shall be compared to the foot-candle ratings listed in subsection **4.04.C.10**.
- (3) Vertical Method of Measurement
- (a) The meter sensor shall be mounted at five feet (5') above ground level in a vertical position, perpendicular to the property line and facing the outdoor lighting in question.
 - (b) Readings shall be taken only after the cell has been exposed to provide a constant reading. Measurements shall be made after dark with the existing questioned light sources on, then with the same sources off.
 - (c) This procedure eliminates the effects of moonlight and other ambient light.
 - (d) The difference between the two readings shall be compared to the foot-candle ratings listed in subsection **4.04.C.10**.

D. Exemptions

The following are exempt from the standards contained in this **Section 4.04**:

1. Decorative Seasonal Lighting
2. Residential Use Dwellings

a. Decorative or Entryway lighting

The maximum lighting level at the property line may exceed the maximum shown in **Table 15** if the luminaire meets one (1) or both of the following:

- (1) Individual lamps have a luminosity of less than three hundred (300) lumens; or
- (2) A cutoff component is incorporated into the design of the luminaire that prevents the bulb from being viewed from the property line or the Right-of-Way.

b. Security Lighting or Floodlighting

The maximum lighting level at the property line may exceed the maximum shown in **Table 15** if the luminaire meets all of the following:

- (a) The lamp is automatically activated and deactivated by a motion sensor;
- (b) The lamp is not on for a continuous period of more than ten (10) minutes before automatically deactivating; and
- (c) Lighting produced by the luminaire does not exceed two thousand five hundred (2,500) lumens.

3. Temporary Emergency Lighting

Temporary emergency lighting used by police, fire fighters, or other emergency services, as well as all vehicular luminaires.

4. Hazard Warnings

Hazard warning luminaires pursuant to exercise of federal and state regulatory authority.

5. Recreational Uses

- a. Because of its unique requirement for nighttime visibility and their limited hours of operations, a Play Field or Stadium is exempted from the general standards of this Section **4.04**.
- b. Lighting for a Play Field or Stadium must be shielded to minimize light and glare from visible from a property zoned SF or MF.
- c. If the illuminance caused by the Play Field or Stadium will exceed the maximum allowed in **Table 15: Maximum Illumination between Properties** at the property line shared with the property zoned SF or MF, the Applicant for the Play Field or Stadium must plant a continuous living screen reaching ten feet (10') in height at maturity along any property line shared with a property zoned SF or MF.

6. Public Street or Sidewalk Projects

The City may vary from the requirements of this Section **4.04** as part of the approval of public street or sidewalk projects.

4.05. Design Standards

A. Exterior Building Features, Finishes, and Design

1. Purpose and Intent

- a. The purpose of establishing standards for building appearance and design is to protect the value of existing properties by ensuring that all new or reconstructed buildings are designed and built to minimum standards of quality and appearance.
- b. This Section **4.05** is not intended to dictate the design or architectural style of any building or to unreasonably or capriciously add to the cost of construction.
- c. Where questions of interpretation of this Section **4.05** arise, the Zoning Administrator will interpret this section in a manner consistent with state statute.

2. Applicability

- a. This subsection **4.05.A** applies to all Principal Buildings or Principal Uses located outside of an overlay listed in this subsection **4.05.A**.
- b. If the use is exempted from the overlay standards, this Section **4.05.A** applies.
- c. The City may require execution of a Development Agreement between the Developer and the City if the Developer requests exceptions to the requirements of this subsection **4.05.A**.

3. Definition of Materials

As used in this subsection **4.05.A**, the following terms have the meaning assigned below:

a. Class 1 Building Materials

- (1) Brick or stone stacked and mortared in place (stone means granite, limestone, marble, or other naturally-occurring stone)
- (2) Glazed ceramic or porcelain tile
- (3) Stucco consisting of exterior Portland cement, hand-applied in three coats to a minimum thickness of three-quarters of an inch ($\frac{3}{4}$ ")

b. Class 2 Building Materials

- (1) Synthetic Stucco or EIFS (Exterior Insulation and Finish Systems)
- (2) Concrete Masonry Unit (CMU) with split-faced finish and embedded or natural color derived from exposed aggregate
- (3) Treated and weatherproofed architectural metal siding or panel including painted steel, aluminum, cast iron, bronze, and copper
- (4) Treated and weatherproofed wood siding or panel
- (5) Applied brick or stone
- (6) Structural curtain wall or storefront glass system
- (7) Fiber cement panel or board (such as "Hardee" board)

c. Materials Not Included

Any material not explicitly listed above is not considered a Class 1 or Class 2 Building Material including, but not limited to, the following:

- (1) Masonite siding
- (2) Unfinished or unsealed wood siding or panel
- (3) Unfinished or bare galvanized metal siding or panel

- (4) Smooth-faced or painted CMU block
- (5) Standard roof covering materials or roof shingles, except as used in a mansard roof
- d. Standard Windows and Doors

The percentage of building material coverage applied in this Section **4.05** excludes doors and standard, non-structural windows (e.g., windows that are not curtain wall or storefront windows).

B. Residential Use Design Requirements

1. Single-Family Detached Residential and Duplex Required Building Materials

- a. All Single-Family Detached Residential and Duplex dwellings shall consist of at least seventy percent (70%) Class 1 Building Materials based on the total exterior surface of all facades.
- b. The remainder of the exterior surface shall consist of Class 2 Building Materials.
- c. The minimum required roof pitch above any garage or conditioned space is 2:12.
- d. Repeated or reversed elevations within any cluster of four (4) or fewer houses (i.e., “cookie cutter” approach) are prohibited.

2. Allowance for Development in Existing Non-Conforming Single-Family Detached Residential or Duplex Areas

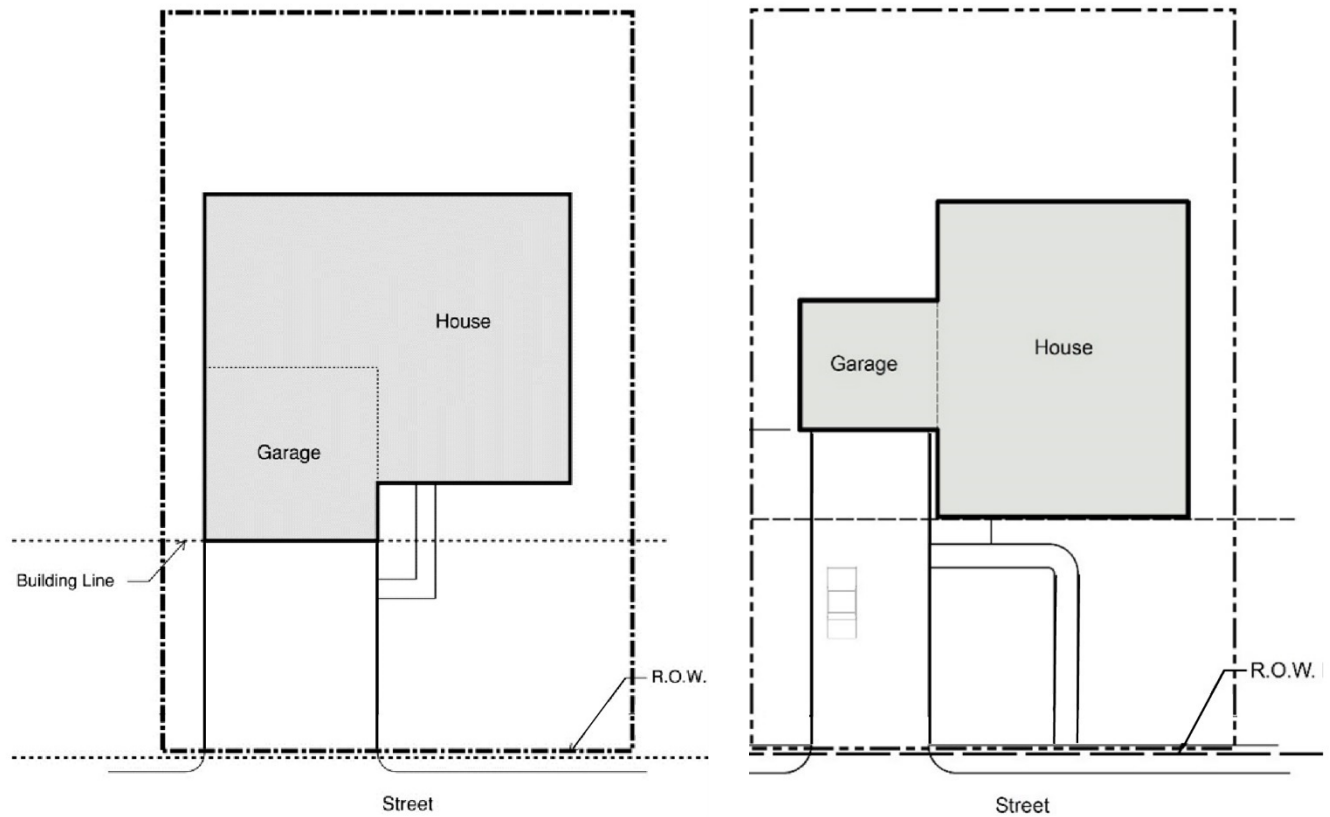
A Developer of property zoned SF-6, Single-Family Dwelling District and SF-7, Single-Family Dwelling District may utilize fiber cement board or panel to fulfill the requirement of subsection **4.05.B.1** if each dwelling provides at least seventy percent (70%) fiber cement board or panel and the remainder of all facades consists of other Class 1 Building Materials and Class 2 Building Materials, and the Development meets at least one (1) of the following conditions:

- a. Fifty percent (50%) of the Single-Family Detached Residential or Duplex dwellings within the development are within one-quarter (1/4) mile of property zoned NC, Neighborhood Commercial District or LC, Local Commercial District or a School, K-12; or
- b. One (1) or more blocks that connect to the Development are developed with Residential Uses and at least fifty percent (50%) of the developed lots along a connecting block have building facades constructed primarily of materials that are not Class 1 Building Materials.

3. Garage Orientation Options

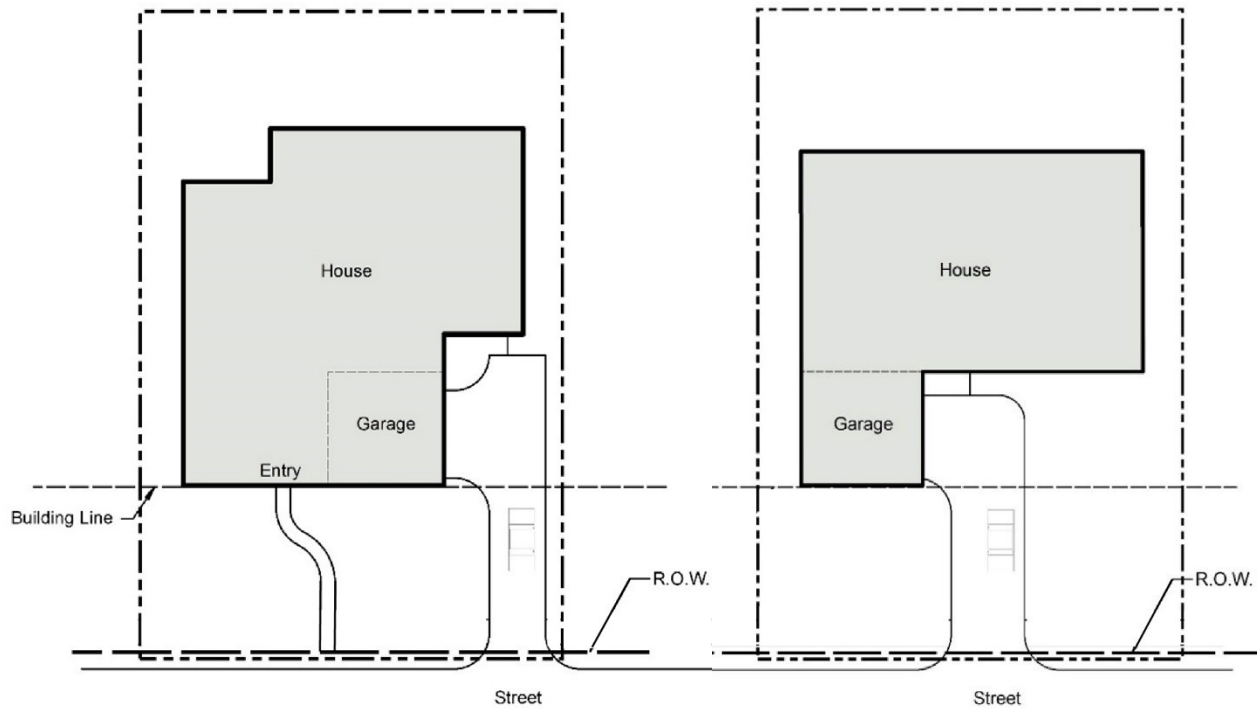
- a. All Single-Family Detached Residential and Duplex are required to provide at least two (2) fully enclosed garage spaces per unit that generally conform to one of the following configurations:

(1) Front Entry Orientation

Figure 22: Front Entry Garage Types

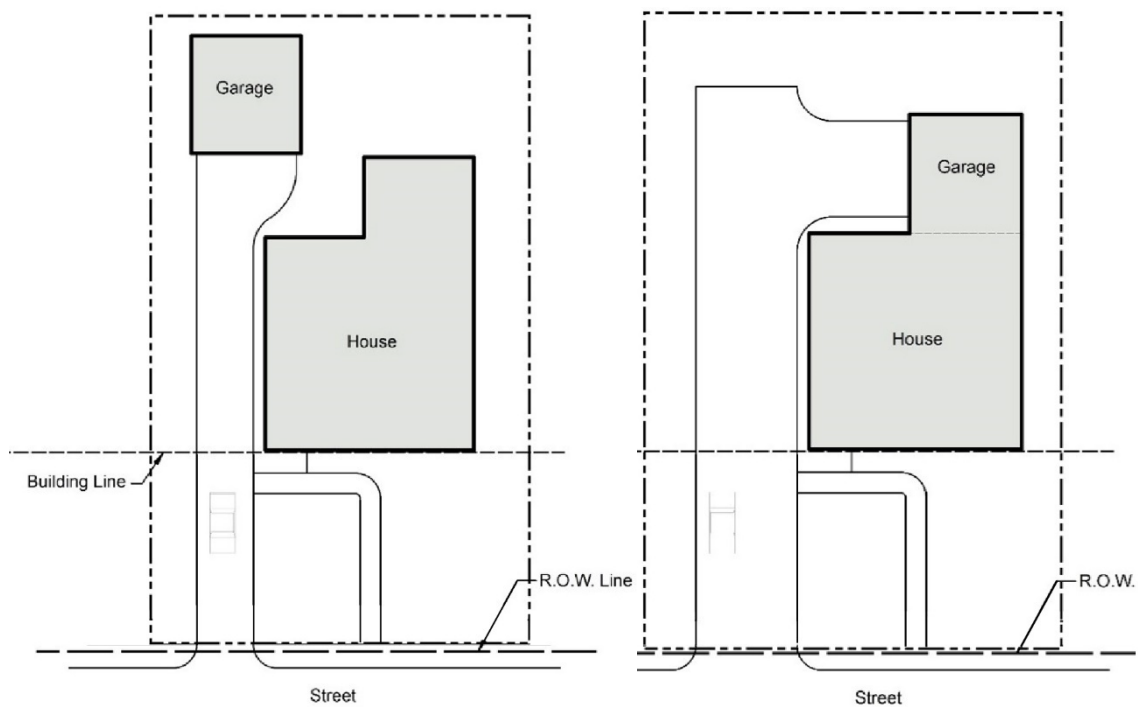
(2) Side Entry Configuration

Figure 23: Side Entry Garage Types



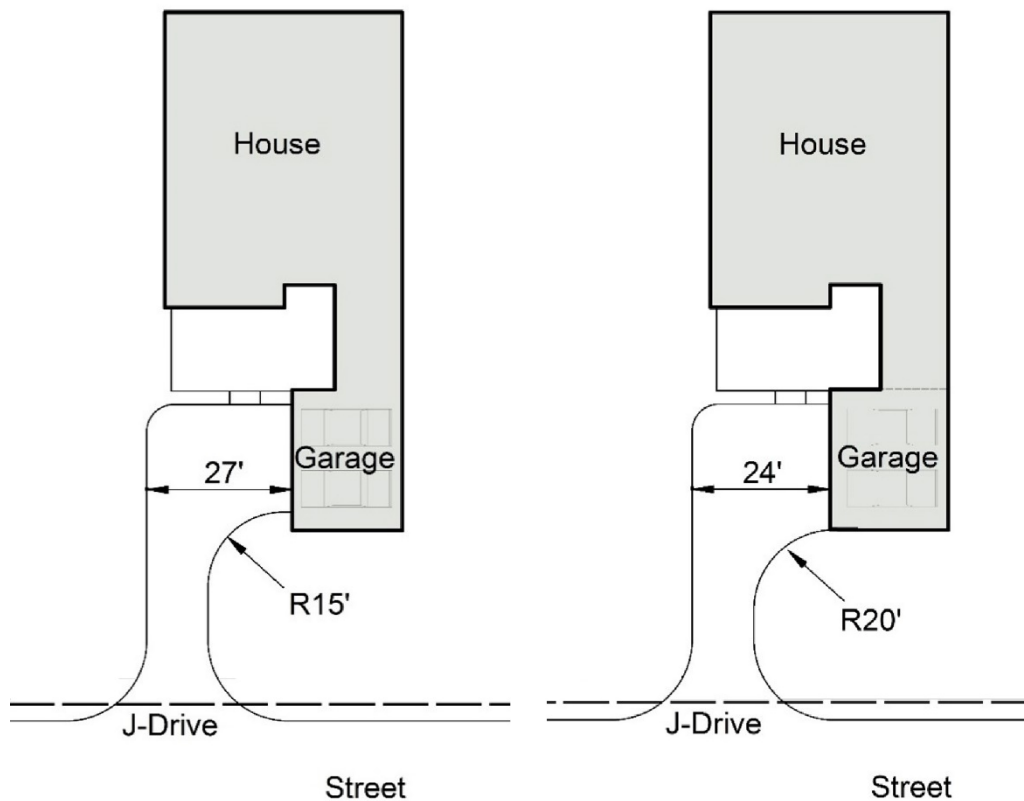
(3) Rear or Detached Configuration

Figure 24: Rear Garage Types



b. Additional Garage Design Standards

- (1) Garages that face or are visible from the street must provide a row of windows along the upper half of the door or a stained or painted finish that complements the colors, materials, and trim used on the house.
- (2) Front-facing garages such as those shown in Figure 22: Front Entry Garage Types must provide a minimum of twenty-four linear feet (24') of driveway between the face of the garage and the right of way line to prevent vehicles from overhanging an existing or future sidewalk.
- (3) The minimum width of driveway leading to a front entry garage must equal the width of the garage opening.
- (4) A driveway leading to garage types other than front entry garages must provide a minimum of ten feet (10') of width between the right of way line and where the driveway curves toward the garage as shown in Figure 25: Required Vehicle Maneuvering Area.
- (5) Garages that are oriented perpendicular to the street must conform to the dimensions shown in Figure 25: Required Vehicle Maneuvering Area.

Figure 25: Required Vehicle Maneuvering Area

4. Allowance for Carports in Single-Family Detached Residential or Duplex Areas

A Single-Family Detached Residential or Duplex dwelling is exempt from the requirement to provide enclosed parking spaces and may construct a carport of equivalent size to cover up to two (2) vehicles on a 12' by 24' concrete or asphalt parking pad under the following conditions:

- a. More than fifty percent (50%) of Single-Family Detached Residential or Duplex houses on the same block do not have enclosed garages;
- b. The parking pad is connected to the street by a paved driveway;
- c. The entire carport is at least five feet (5') from any right of way line, other than eave projection of up to twelve inches (12");
- d. The carport is no more than fourteen feet (14') in maximum height;
- e. The carport is either:
 - (1) Sited completely behind the front face of the Principal Building; or
 - (2) Finished in materials and colors that match the Principal Building.

5. Single-Family Detached Residential and Duplex Design Feature Requirements

- a. A Single-Family Detached Residential and Duplex dwelling unit must provide at least five (5) of the following features on each Primary Façade or any Front Façade as specified:
- (1) Front wall articulation providing an offset of at least ten percent (10%) of the wall height every fifteen linear feet (15').
 - (2) One hundred percent (100%) Class 1 Building Materials on any side of the dwelling visible from a public or private street.
 - (3) Use of decorative window features such as raised muntins or colored glass (not painted or laminated) on at least fifty percent (50%) of Front Façade windows.
 - (4) Upgraded driveway surface (i.e., salt finish, exposed aggregate, brick or stone paver, concrete with stain mixed in [not applied], permeable concrete or pavers, or similar.)
 - (5) Architectural focal point such as a chimney, tower, window pattern (must utilize windows covering ten percent [10%] or more of the front or side elevation.)
 - (6) Supportive or structural columns (not pilasters) measuring at least six inches (6") in width and extending at least fifty percent (50%) of the height of the dwelling along the same elevation.
 - (7) One or more bay windows measuring at least forty (40) square feet each in total window surface.
 - (8) Stone accent covering at least twenty percent (20%) of one or more elevations.
 - (9) Covered front or side porch at least eight (8) feet in depth and extending at least twenty-five percent (25%) of the length of the Front Façade.
 - (10) Full-width window shutters on two or more windows, provided shutters are made of treated or painted cedar or cementitious fiber.
 - (11) Eight foot (8') height front door.
 - (12) Double front doors.
 - (13) Arched entryway with molded accent in a contrasting color.
 - (14) Two (2) or more dormer windows on a second floor.
 - (15) Three (3) or more decorative brackets on one elevation.
 - (16) Decorative banding or molding along seventy-five percent (75%) or more of the front and sides of a dwelling.
 - (17) Soldier course or row lock along all windows and garage doors on one or more elevations.

(18) Side or rear entry garage where the face of the garage is located entirely behind the front plane of the house.

(19) Decorative brick pattern (i.e., herringbone, basketweave) covering fifteen percent (15%) or more of the Front Façade.

(20) Corner features, projections, or contrasting quoins on all street-facing elevations.

(21) Transom window over front entryway extending the width of the front door.

6. Multi-Family Required Building Materials

- a. All Multi-Family buildings shall consist of at least eighty percent (80%) Class 1 Building Materials based on the total exterior surface of all façades.
- b. The remainder of the exterior surface shall consist of Class 2 Building Materials.

7. Multi-Family Required Design Elements

- a. All Multi-Family buildings are required to conceal stairwells and corridors internally within the exterior building façade.
- b. At least twenty-five percent (25%) of required parking for Multi-Family buildings must be covered by an enclosed garage or carport constructed of materials similar to the Principal Building.
- c. All Multi-Family buildings must provide at least three (3) of the following features for buildings with eight (8) or fewer dwellings and five (5) of the following features for buildings with more than eight (8) units:

(1) Balconies with at least four feet (4') of depth on all units.

(2) Covered parking located behind the building.

(3) Additional landscaping covering at least five percent (5%) of the gross lot acreage.

(4) Twenty percent (20%) stone accent.

(5) Primary Façade articulation providing an offset of at least ten percent (10%) of the wall height every fifteen linear feet (15').

(6) Roof cornice projections of at least three feet (3') on all Primary Façades.

(7) Private yards measuring at least fifty (50) square feet on all ground floor units.

(8) Corner elements such as towers, rounded edges, contrasting materials or colors on at least two building corners.

(9) First floor walkouts providing direct access to units from the street.

8. Residential Open Space Requirements

- a. A Residential Use that consists of one hundred (100) or more units must dedicate one (1) acre of open space per sixty (60) units and must create Homeowners' or Property Owners' Association to maintain the open space prior to recording the Final Plat.
- b. The calculation of open space is prorated to the number of lots (e.g., if a development contains 100 lots, the required open space is $100 \times .0167 = 1.67$ acres; if a development contains 175 lots, the required open space is $175 \times .0167 = 2.92$ acres).
- c. If privately-owned open space is not proposed for the residential development, the Developer may request to dedicate parkland or pay a fee-in-lieu of parkland as outlined in subsection **4.05.B.8.f.**
- d. Privately-owned open space must contain at least five (5) features from the following list, including at least one (1) feature from each category and make all features available to every unit in the Development or Subdivision:

(1) Passive Recreation Features

- (a) A minimum of one (1) linear mile of trail six feet (6') or greater in width that does not loop, provided each end is accessible to a street, or a minimum of one half (1/2) mile of trail that does loop and consists of a concrete or decomposed granite surface with at least one (1) seating area and trash receptacle every one thousand (1,000) feet (see **Figure 26**);

Figure 26: Example of Trail as Passive Recreation Feature

- (b) A permanent water feature or amenity consisting of a retention pond, lake, lagoon, fishing pier, boat dock, or similar feature;
- (c) Open lawn consisting of generally flat and uninterrupted terrain;
- (d) Preservation of at least twenty five percent (25%) of the existing tree canopy;

(2) Active Recreation Features

- (a) A swimming pool with a minimum depth of four feet (4');
- (b) A clubhouse providing an indoor workout and fitness facility or lounge area;
- (c) Outdoor recreation features such as golf, frisbee golf, volleyball court, basketball court, grills, and picnic areas;
- (d) Playground with equipment accessible to children of all abilities;
- (e) Large and small dog parks with pet watering stations.

e. Criteria for Amenity Construction

- (1) Areas reserved for common amenities must be shown on the Preliminary and Final Plat for each phase of a Subdivision as a common area lot.
- (2) At a minimum, one (1) acre of amenities must be constructed with the first residential phase (e.g., if a Development or Subdivision consists of 250 lots at ultimate buildout according to the Preliminary Plat, and phase one consists of 75 lots, phase one requires one (1) acre of amenities; all remaining phases may provide open space prorated to one (1) acre per sixty (60) units.)
- (3) The first phase must contain at least three (3) of the five (5) amenities required per subsection **4.05.B.8.d**. Remaining phases are required only to supply the remaining amenities but may also provide additional amenities from those provided in the first phase.
- (4) If open space amenities are constructed in an area that is not contiguous with the associated residential area, the recreational area must be directly connected to the residential area by a paved street.
- (5) All facilities must be completed or bonded for completion for each phase before acceptance of the Subdivision. The City is not responsible for constructing or completing construction of any amenities required in this section except as provided by an ordinance of the City or by a Development Agreement approved by City Council.

f. Parkland or Fee-in-Lieu of Parkland Dedication

(1) Property Already Zoned or Subject to Zoning Request Other Than PD

- (a) The City may, at the discretion of the City Council and upon recommendation by the Parks Board, credit fee-in-lieu of privately-owned open space required by subsection **4.05.B.8.a** to the Subdivider in accordance with the following:
 - (i) The fee-in-lieu is consistent with the amount adopted by the City Council and required by the Parks and Open Space Design Features and Dedication Requirements Ordinance or its successor ordinances; and
 - (ii) The Subdivision will be adequately served by a publicly-owned park in a manner consistent with the intent of this subsection **4.05.B.8**.
 - (iii) The Applicant for approval of a Subdivision in a property not zoned PD may not request a waiver from the requirement to provide open space, to establish a Homeowners' or Property Owners' Association to maintain private open space, or to pay fee-in-lieu of privately-owned open space.

(2) PD-Zoned Property

- (a) The City may, at the discretion of the City Council and upon recommendation by the Parks Board, credit fee-in-lieu of privately-owned open space required by subsection **4.05.B.8.a** to the Subdivider in accordance with the following:
 - (i) The fee-in-lieu is consistent with the amount adopted by the City Council and required by the Parks and Open Space Design Features and Dedication Requirements Ordinance or its successor ordinances; and
 - (ii) The Subdivision will be adequately served by a publicly-owned park in a manner consistent with the intent of this subsection **4.05.B.8**.
 - (iii) The Applicant for approval of a Subdivision in a property zoned PD or proposed for PD zoning may request, and the City Council may grant at its sole discretion upon recommendation by the Parks Board, a waiver from the requirement to provide open space, to establish a Homeowners' or Property Owners' Association to maintain private open space, or to pay fee-in-lieu of privately-owned open space.

C. Nonresidential Use Design Requirements

1. Applicability

This subsection **4.05.B.8.f(2)(a)** applies to every façade of a Nonresidential Use building with the following exceptions:

- a. A building façade that directly faces a Railway and Railway Right-of-Way;
- b. A building façade that directly faces an area that is not accessible to the public or visible from any abutting property from a point measured six feet (6') from the ground at the property line; and
- c. Existing buildings unless they are reconstructed or expanded, in which case the area of the reconstruction or expansion is required to conform to this subsection **4.05.B.8.f(2)(a)**.

2. Nonresidential Building Materials

- a. Nonresidential Use building facades shall consist of at least eighty percent (80%) Class 1 Building Materials based on the total exterior surface of all facades except those listed in 1 above.
- b. The remainder of all building facades, except those listed in **4.05.C.1**, shall consist of Class 2 Building Materials.

3. Nonresidential Building Orientation

Any building visible from a public Right-of-Way shall either face the Right-of-Way or design any facade that faces a Right-of-Way with the same quality of design and level of detail as the Primary Façade or building entrance.

4. Properties Zoned I, Industrial District

- a. Buildings constructed in the I district are required to meet this subsection **B.8.f(2)(a)** on the Primary Façade only.
- b. Buildings in the I district that are outside of an overlay are not subject to window requirements in subsection **4.05.C.5**.
- c. For the purposes of complying with subsection 4.05.C.6, buildings in the I district may deduct one item from Table 16: Menu of Nonresidential Design Elements based on the building size as indicated in **Table 17: Required Minimum Number of Design Elements**.

5. Required Windows

- a. Primary Façades must have windows or doors containing glass that cover a minimum of twenty percent (20%) and a maximum of eighty percent (80%) of the façade.
- b. Secondary Façades must have windows or doors containing glass that cover a minimum of ten percent (10%) and a maximum of eighty percent (80%) of the façade.
- c. Of the required glass area, at least fifty percent (50%) must be transparent (not opaque or spandrel glazing).
- d. No façade shall exceed eighty percent (80%) glass coverage.
- e. For Drive-Thru or Drive-In Uses the pick-up window is not included as fulfilling this requirement.

6. Nonresidential Design Elements Requirements

- a. **Table 16: Menu of Nonresidential Design Elements** includes a list of design elements that, based upon the size of a building (see **Table 17: Required Minimum Number of Design Element**), must be incorporated into a building's design on any building façade visible from a Right-of-Way, public parking lot, or abutting property:

Table 16: Menu of Nonresidential Design Elements

Canopies, awnings, or porticos	Outdoor patios
Overhangs	Display windows
Recesses or projections	Architectural details, such as tile work or moldings, integrated into the building façade
Arcades or colonnades	Integrated planters or wing walls that incorporate landscape and sitting areas
Peaked roof forms	Offsets, reveals or projecting ribs used to express articulation
Arches	Cornices projecting from the building face

- b. A building's floor area determines the minimum number of required design elements (See **Table 17**):

Table 17: Required Minimum Number of Design Elements

Building Square Footage	Minimum Number of Design Elements
0 – 20,000 sq. ft.	2
20,001 – 50,000 sq. ft.	3
50,001 – 100,000 sq. ft.	5
Over 100,001 sq. ft.	7

7. Nonresidential Front Façade Entry Requirements

- a. A front building entry must utilize a distinctive entry presence, emphasizing the building's entry point along the façade with the use of materials, towers, arches, articulation, or accent windows.
- b. Each building entry accessible by the public must be sheltered from the elements using recesses or awnings.

4.06. Overlay Regulations

A. CS, Cleburne Station Overlay Standards

1. Purpose

- a. Cleburne Station is envisioned as a regional center incorporating a mix of uses such as Retail Stores and Shops, Restaurant or Cafeteria, without Drive-Thru, Hotel, Office, Professional, Medical, or Business, Professional Services, and similar Nonresidential Uses, and Residential Uses as a secondary use around The Depot baseball park.
- b. The boundaries of the CS, Cleburne Station Overlay can be found in subsection 2.04.G.

2. Minimum Elements

The elements listed below are applicable to all buildings within the CS, Cleburne Station Overlay and must be addressed along with Site Plan Requirements for each building constructed within the CS, Cleburne Station Overlay:

a. Building Massing and Design

- (1) The heights of buildings shall vary and provide visual variety in the massing of the buildings.
- (2) Variations in building height should be accomplished in such a manner that buildings complement each other and are not in visual conflict.
- (3) Buildings shall vary in their levels of detail, richness of material, and overall complexity of design.
- (4) Buildings located on more significant sites, such as street intersections or at the termination of a street or vista, shall utilize more intricate massing, richer materials, and finer detailing and shall provide all items listed in subsection 4.06.A.3.

b. Building Entrances

- (1) The design and location of building entrances shall easily identify primary points of access.
- (2) Building entrances shall be defined by massing, and articulated with other architectural elements and signage that draw attention to the entry.
- (3) Building entrance elements shall be compatible with the overall architectural character of the building.
- (4) Along a street, entrances to shops shall be distinguished from lobby entrances that provide access to upper floor uses.

c. Retail Storefronts

- (1) Retail storefronts shall be characterized by higher percentages of window area.
- (2) Variation in storefront design between each tenant space is encouraged and may include traditionally based design and well as contemporary design.
- (3) Storefronts shall be designed to be compatible with the buildings' architectural expression.
- (4) To promote variety, storefronts reflecting a high quality of design and use of materials may be applied to buildings of different character provided they do not detract from the building's overall design (see **Figure 27: Use of Different Architectural Styles on a Single Block**).



Figure 27: Use of Different Architectural Styles on a Single Block

3. Menu of Additional Elements

a. Building Design

All buildings up to twenty thousand (20,000) square feet of gross floor area shall provide at least two (2) of the following items and all buildings over twenty thousand (20,000) square feet of gross floor area shall provide at least three (3) of the following items:

- (1) Variation in overall building height of at least two feet (2') across a width spanning at least twenty-five percent (25%) of the length of the wall measured between the corners of the facade;
- (2) Transparent windows on at least thirty percent (30%) of all facades visible from a right of way or public courtyard.
- (3) Bay projections, show windows, porches, balconies (25 square feet minimum), canopies, awnings, setbacks measuring at least fifteen percent (15%) of the wall height, and loggia within an area comprising at least fifty percent (50%) of all facades visible from a right of way or public courtyard;
- (4) Architectural details such as base courses and water tables, pilasters, sills, lintels, band courses, spandrel panels, and cornices;
- (5) Use of Class 1 Building Materials on at least ninety percent (90%) of all facades facing a street right of way or public courtyard and use of Class 2 Building Materials on the remaining percentage and use of Class 1 Building Materials or Class 2 Building Materials on at least ninety percent (90%) all facades that do not face a street Right-of-Way or public courtyard.

b. Landscaping and Sidewalks

Buildings located at the intersection of two (2) streets and buildings greater than twenty thousand (20,000) square feet in gross floor area shall provide at least one (1) of the following:

- (1) Sidewalk treatments such as stamped patterns and integral color stain;
- (2) Decorative plantings such as perennial flowers and other foliage in clay-fired pots, living walls, or formal raised planters near public building entrances and street corners;

- (3) Outdoor dining and gathering spaces accessible directly from the public sidewalk and providing shaded seating areas and trash receptacles.

c. Additional Standards Applicable to Multi-Family, Townhome, and Mixed-Use buildings

Within the CS, Cleburne Station Overlay, all buildings constructed for Multi-Family, Townhome, or Mixed-Use with residential shall conform to the following additional standards:

- (1) Ground floor residential is limited to seventy-five percent (75%) of each block face.
- (2) On corner lots, the twenty-five percent (25%) of the block face that is closest to the corner must be reserved for Nonresidential Uses.
- (3) Garages and carports must be located behind the Principal Building.
- (4) Balconies must measure a minimum of thirty-five (35) square feet per bedroom.
- (5) Ground floor units within Multi-Family or Townhome buildings must provide the following:
 - (a) Direct door access along a street right of way by means of a public sidewalk; or
 - (b) An outdoor courtyard screened by a combination of fencing with at least fifty percent (50%) transparency and continuous landscaping consisting of shrubs or perennials reaching a maximum height of three feet (3') at maturity.

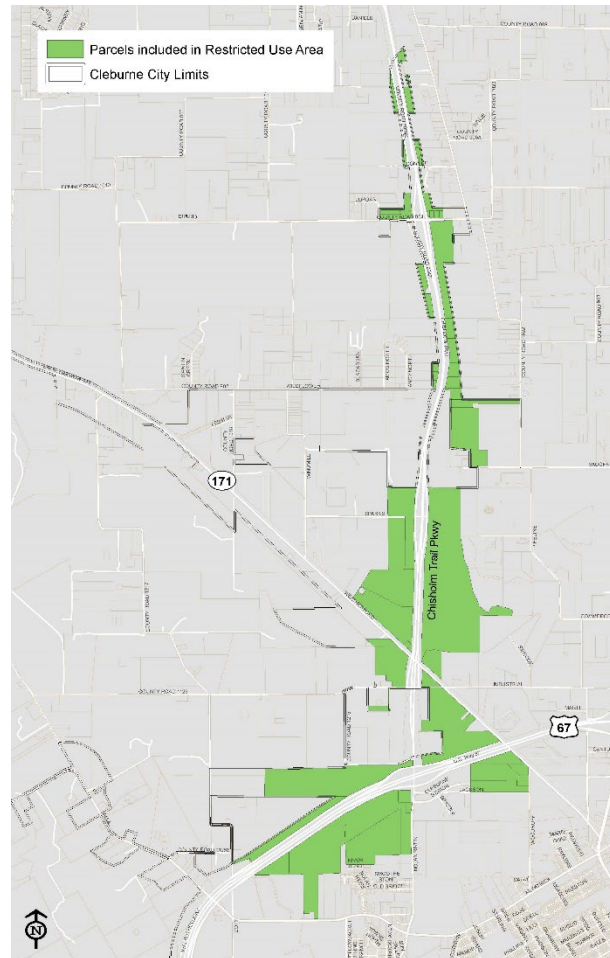
B. F, Freeway Overlay Standards

1. Land Use Restrictions

- a. In the F, Freeway Overlay along the portion of the Overlay fronting the Chisholm Trail Parkway and the interchange of Chisholm Trail Parkway and U.S. 67, the following uses are prohibited (see **Figure 28**):

- (1) Heavy Load Vehicle Sales and Service;
- (2) Sexually Oriented Business;
- (3) Gasoline or Diesel Truck Filling or Service Station with Overnight Parking;
- (4) Parking (Heavy Load Vehicles);
- (5) Donation or Recycling Collection Point;
- (6) Recycling Center;
- (7) Recycling Facility;
- (8) Self-Storage (Mini Warehouse Facilities);
- (9) Outside Sales and Outside Storage;
- (10) Tattoo or Piercing Studio;
- (11) Petroleum and Gas Storage and Collection Facilities;
- (12) Concrete or Asphalt Batching Plant, Permanent;
- (13) Automobile Salvage; and
- (14) Manufacturing or Industrial Operations

Figure 28: Restricted Land Use Areas



- b. In the remainder of the F, Freeway Overlay, the above uses require a Specific Use Permit (SUP).
- c. As part of the initial zoning action (see subsection **1.04.B**) City Council may apply or extend the area of land use restriction within the boundaries of the F, Freeway Overlay to additional territory when that territory is annexed into the City.

2. Overlay Boundaries

- a. The boundaries of the F, Freeway Overlay shown in subsection **2.04.H** depict areas subject to the development regulations of this subsection **4.06.B**.
- b. Properties within the area of land use restriction shown in subsection **4.06.B.1** but not within the overlay boundaries shown in subsection **2.04.H** are only required to comply with the land use restrictions listed in subsection **4.06.B.1**.

3. Nonresidential Building Material Requirements

All buildings constructed for Nonresidential Use must comply with the following minimum standards:

- a. Primary Façades must be constructed of one hundred percent (100%) Class 1 Building Materials or Class 2 Building Materials, excluding areas used for doors or windows.

- b. At least ninety percent (90%) of the Primary Façade must be constructed of Class 1 Building Materials.
 - c. Secondary Façades must be constructed of at least sixty-five percent (65%) Class 1 Building Materials or Class 2 Building Materials, excluding areas used for doors or windows.
4. Nonresidential Building Articulation
- Façade depth and height articulation is required on any façade of a building that faces a right-of-way, courtyard, plaza, or park in accordance with the following:
- a. Depth articulation of at least three (3) feet shall be required for every thirty feet (30') of building façade length. Depth articulation applies only below the roofline.
 - b. Height articulation for flat roofs of at least five (5) feet shall be required for every fifty feet (50') of building façade length. Pitched roofs do not require height articulation.
5. Tripartite Building Design and Composition
- Tripartite design is required on any façade of a building that faces a right-of-way, courtyard, plaza, or park in accordance with the following:
- a. Tripartite building composition consists of three distinct elements (base, middle, and top) separated by one (1) or a combination of the following:
 - (1) Material variation by type, size, finish, or color separated by a decorative transitional element such as contrasting banding;
 - (2) Change in horizontal plane such that the higher element is set back from the element below it or projects out from the element below it, such as a cornice;
 - (3) Change in pattern such as brick patterns, columns, canopies, awnings, entablatures, windows such as transom or clerestory;
 - b. The tripartite shall be proportioned to the other elements of the tripartite and the overall structure, with no element comprising more than fifty percent (50%) of the building height without a change in element as defined in subsection 4.06.B.4.a.



Figure 29: Tripartite Building Design/Composition**6. Roof Design Standards**

- a. All structures shall be constructed with a pitched roof or flat roof with a parapet.
- b. All flat roof surfaces shall be screened from ground level views so that such roof surfaces are not visible.
- c. Parking structure decks shall not be considered roofs.
- d. Roofs of stairwells and elevator machine rooms and other similar spaces shall be exempt from roofing design standards so long as they are not visible from ground level.
- e. For the purpose of this paragraph, “visible” shall be defined as capable of being seen at a height of six feet (6’) while standing at ground level.

7. Alternative Compliance for Design Standards

A request for Alternative Compliance may be submitted and acted upon in accordance with Section **5.03 Alternative Compliance**. The Zoning Administrator may approve the following, based upon a finding that the proposed alternative is, at a minimum, equivalent to and meets the spirit and intent of this section **4.05 Design Standards**.

a. Nonresidential Design Elements

- (1) Alternatives to the nonresidential design elements listed in **Table 16: Menu of Nonresidential Design Elements**.
- (2) Alternatives shall, in the determination of the Zoning Administrator, produce a similar or greater level of architectural design than the elements listed in **Table 16: Menu of Nonresidential Design Elements**.

b. Nonresidential Building Articulation

- (1) Alternative articulation standards which differ from the requirement found in subsection **4.06.B.1.c** may be approved.
- (2) Alternative articulation standards shall, in the determination of the Zoning Administrator, produce a same or greater level of articulation than the requirement found in subsection **4.06.B.1.c**.

8. Building facades located adjacent to property zoned I, Industrial District or Railway and Railway Right-of-Way

The Zoning Administrator may approve a waiver to building materials requirements found in subsections **4.06.B.1.c** and **4.06.B.5** for a building façade that directly faces and abuts a property zoned I, Industrial District or used as Railway and Railway Right-of-Way.

C. MS, Main Street Overlay and HS, Henderson Street Overlay Standards

1. Purpose and Applicability

- a. The MS, Main Street Overlay and HS, Henderson Street Overlay do not apply to property zoned for Residential Use, zoned I, Industrial District, or developed as a Public Use or Building or Play Field or Stadium.
- b. The requirements of this section are in addition to all other requirements of **Section 155.4**. If there is a conflict between this section and another requirement or provision of **Section 155.4**, the requirements of this section will govern.
- c. The boundaries of the MS, Main Street Overlay are shown in subsection **2.04.E** and the boundaries of the HS, Henderson Street Overlay are shown in subsection **2.04.F**.

2. Building Design and Layout

a. Design Requirements

- (1) New buildings must be constructed so that parking is located to the side or rear of the building and not between the building and the street.
 - (a) For platted lots that are less than two (2) acres or less than sixty-five feet (65') in width, the Zoning Administrator may approve one (1) row of parking between the building and the street.
- (2) Buildings at the corners of intersections must utilize corner features that are a minimum of fifteen percent (15%) higher than the remainder of the façade and finished with a decorative cap or cornice that projects at least twelve inches (12") from the building face. The corner feature must extend between fifteen and twenty-five percent (15-25%) of the length of the façade.
- (3) Buildings must provide window coverage according to the following:
 - (a) A minimum of thirty-five percent (35%) windows on the Front Façade (defined as the façade containing the primary building entrance);
 - (b) A minimum of thirty percent (30%) windows on all Primary Façades (defined as all facades that face a public street or right of way); and
 - (c) A minimum of twenty percent (20%) windows on all Secondary Façades.
- (4) Of the window coverage required at least sixty percent (60%) must be transparent.
- (5) No more than eighty percent (80%) glass coverage is allowed on any façade.
- (6) A landscaped edge equal to twenty feet (20') shall be provided along Main Street and Henderson Street and equal to fifteen feet (15') along intersecting streets that abut any lot or development with frontage along Main Street and Henderson Street.
- (7) The landscaped edge may include any portion of the right of way behind the curb if it meets the planting requirements below:
 - (a) One (1) shade tree or two (2) ornamental trees per thirty feet (30'), which may be staggered and;
 - (b) Sidewalks a minimum of six feet (6') in width.

b. Building Layout

- (1) Development or redevelopment involving three (3) or more buildings must configure all buildings in the following manner:
 - (a) Buildings must be laid out in blocks separated by internal streets, driveways, or pedestrian pathways to provide internal circulation;

- (b) Buildings must be designed to frame or enclose parking areas, open space, and amenities so that such areas are not predominantly situated along the public right of way and are equally accessible and enjoyed by users of each building;
 - (c) Building entrances must face the street or an internal common area such as a courtyard or park.
- (2) Development or redevelopment involving one (1) or two (2) buildings where the developed area is more than one (1) acre, such as a shopping center, must design parking lots, drive aisles, drainage facilities, and underground utilities, to allow for future redevelopment of parking areas into buildings that can be designed in a way that meets subsection **4.06.C.2.b(1)**.
- c. Administrative Setback Reduction

The Zoning Administrator may reduce landscaping requirements by fifty percent (50%) for properties within the MS, Main Street Overlay that directly abut Main Street between Kilpatrick Avenue and Poindexter Avenue.

 - (1) The reduction may apply both to required plantings and required depth of landscaping buffers.
- d. The Zoning Administrator may approve a reduction in minimum setback depth for properties in the MS, Main Street Overlay and HS, Henderson Street Overlay if fifty percent (50%) or more of the buildings along both sides of the same block have setbacks that are less than the minimum required setback on the lot where the building is proposed.
 - (a) In granting a setback reduction, the Zoning Administrator may not reduce the required landscape edge more than fifty percent (50%) and may not approve a building setback closer to the right of way than the median setback of all buildings along both sides of the same block.
- e. Certain Uses Restricted
 - (1) Within the MS, Main Street Overlay and HS, Henderson Street Overlay, a Certificate of Occupancy will not be issued for any of the following:
 - (a) Automobile Body Shop
 - (b) Automobile or Other Motorized Vehicle Sales and Service
 - (c) Automobile Salvage
 - (d) Automobile Service Garage (Major)
 - (e) Automobile Wrecker and Impound Lot
 - (2) Existing uses listed in subsection 4.06.C.2.e(1) will be treated as nonconforming uses subject to Section 3.07.

D. DTC, Downtown Core Overlay

1. Downtown Core Purpose

- a. The purpose of the DTC, Downtown Core Overlay is to preserve the look and feel of historic Downtown Cleburne and abutting areas and encourage the development of mixed commercial and residential uses while ensuring that new development or modifications to existing development conform to the historic pattern and style established in Downtown.
- b. The DTC, Downtown Core Overlay is intended to accommodate the historic core of Cleburne centered around the courthouse square while allowing for compatible infill development.
- c. The DTC, Downtown Core Overlay is an area possessing buildings with attributes that are unique within Cleburne, such as narrow lots, zero setbacks, parking in the rear or the side of the lot, and buildings with multiple stories and high levels of architectural detailing and form.
- d. To preserve this pattern of development, the standards in this subsection **4.06.D** require that new construction or redevelopment or refurbishment of existing buildings match the pattern and style of existing buildings in the DTC, Downtown Core Overlay, including setback lines, lot buildout (e.g., the percentage of the lot frontage that is covered by a building), and architectural style.

2. Downtown Core Design Standards and Applicability

- a. The boundaries of the DTC, Downtown Core Overlay are as shown in **Figure30: Downtown Overlay Boundaries**.
- b. The standards in this subsection **4.06.D** apply to all new construction within the boundaries of the DTC, Downtown Core Overlay, and additions to and remodeling of structures within the boundaries of the DTC, Downtown Core Overlay.
- c. Within the DTC, Downtown Core Overlay, secondary residential uses are allowed provided that no less than thirty percent (30%) of the bottom floor of any building is used for commercial purposes.
- d. Development within the DTC, Downtown Core Overlay is exempt from the following regulations:
 - (1) Off-street parking requirements (parking provided voluntarily is subject to applicable requirements of subsection **4.03.A** but is exempt from landscaping requirements);
 - (2) Landscaped Edge and Landscaping for Corner Lots;
 - (3) Landscaping and Screening for Parking Lots Adjacent to Residential Areas if an alley or street separates a nonresidential use within the Downtown Core from a residential use;
 - (4) Building Perimeter Plantings for Buildings 50,000 Square Feet or Larger for any portion of a building that abuts the street right of way; and
 - (5) Minimum lot dimensions, provided that a building may not be constructed on a lot that is less than twenty feet (20') in width.

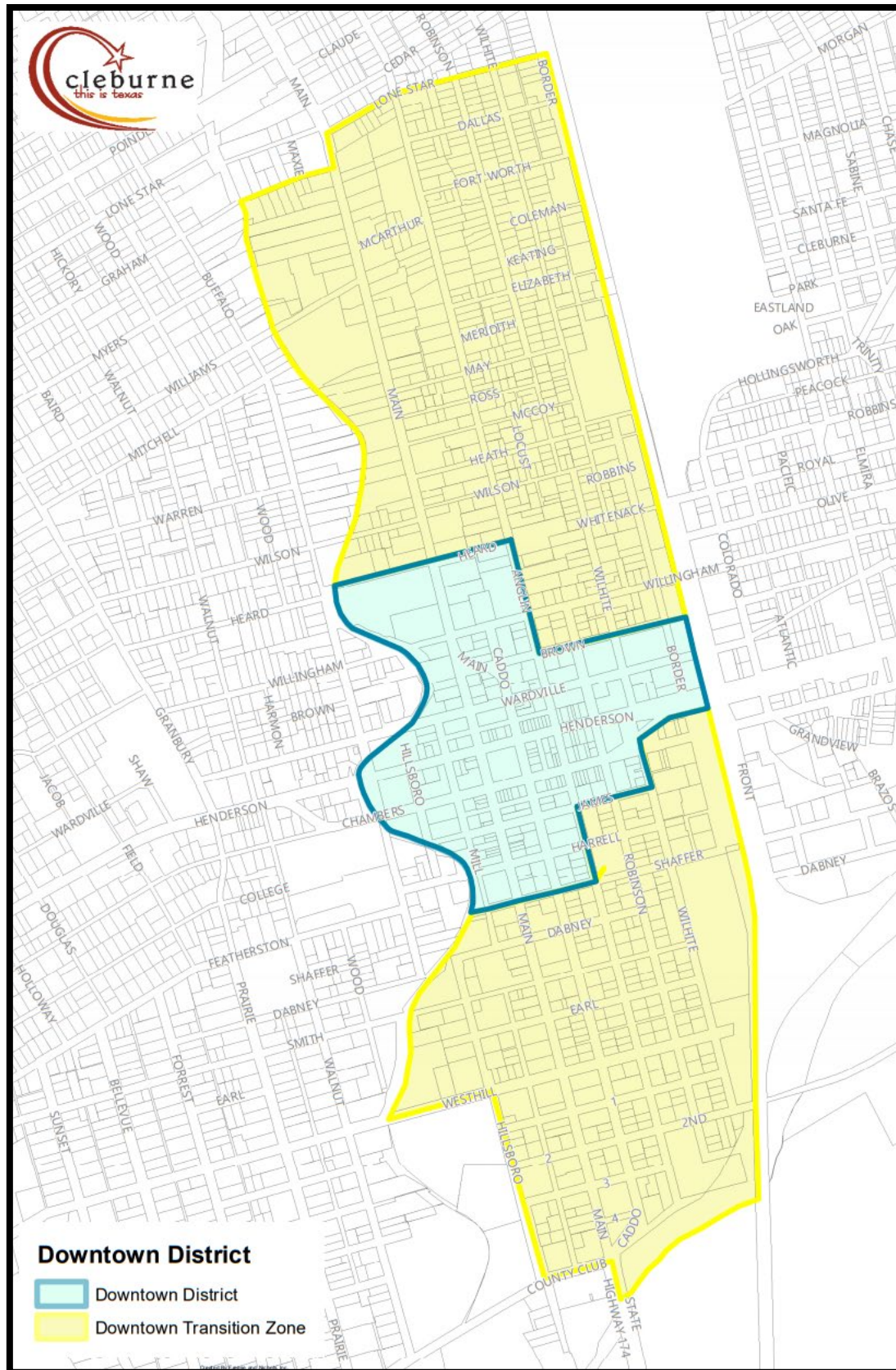


Figure30: Downtown Overlay Boundaries

e. Existing Buildings

- (1) Existing buildings in the Downtown Core that do not conform to this subsection **4.06.D** may be allowed to continue and to be repaired and maintained provided that the building is not damaged or removed (as defined in section **3.07**) to an extent greater than fifty percent (50%) of its appraised value.
- (2) If an existing building in the Downtown Core is damaged or removed (as defined in section **3.07**) to an extent greater than fifty percent (50%) of its appraised value, the replacement or reconstruction must conform to this subsection **4.06.D**.
- (3) If the ground floor square footage of a building is expanded to fifty percent (50%) or less of its current ground floor square footage, only the expanded area must conform to this subsection **4.06.D**.
- (4) If the ground floor square footage of a building is expanded to more than fifty percent (50%) of its current ground floor square footage, the entire building must conform to this subsection **4.06.D**.

f. Building Design

- (1) Parking must be placed to the side or the rear of the building and comprise no more than twenty (20%) of the lot frontage where the Front Façade is located and no more than fifty percent (50%) of any other frontage.
- (2) Primary Façades must be constructed of ninety percent (90%) Class 1 Building Materials with the remainder constructed of Class 2 Building Materials, excluding areas used for doors or windows.
- (3) Secondary Façades must be constructed of sixty-five percent (65%) Class 1 Building Materials with the remainder consisting of or Class 2 Building Materials, excluding areas used for doors or windows.
- (4) All buildings within the Downtown Core must include the following:

Figure 31: Tripartite Design (Multi-Floor Building)

(a) A distinctive base, middle, and top with each segment distinguished by a change in materials, brick pattern, window pattern or style, awnings, and cornice patterns or projections (see **Figure 31: Tripartite Design (Multi-Floor Building)** and **Figure 32: Tripartite Design (Single-Floor Building)**);

Figure 32: Tripartite Design (Single-Floor Building)

- (b) A covering over each public entry consisting of an awning, recess, or combination as shown in **Figure 33: Public Entry Covering**;



Figure 33: Public Entry Covering

- (5) All buildings in the Downtown Core must utilize two (2) of the following features:
- (a) Canopies, awnings, or porticos extending beyond the public entryway;
 - (b) Outdoor patios
 - (c) Vertical or horizontal recesses or projections, provided a horizontal projection does not extend more than three inches (3") beyond the right of way line;
 - (d) Decorative window framing such as cornices, roundels, arches, soldier course or similar;
 - (e) Cornices projecting from the roof edge a distance of six to twelve inches (6" to 12") from the building face.
- (6) Buildings must provide window coverage according to the following:
- (a) A minimum of thirty-five percent (35%) window coverage on the bottom floor of the Front Façade with individual panes being divided by a strip of masonry material matching the primary building, and having a minimum six inch (6") separation between the sidewalk and the bottom of the window finished in brick consistent with the examples shown in **Figure 34: Example of Window Separation and Framing**;
 - (b) All public entrances on the Front Façade must include doors that are at least sixty percent (60%) transparent;
 - (c) A minimum of twenty-five percent (25%) window coverage on the bottom floor of Primary Façades other than the Front Façade; and
 - (d) A minimum of ten percent (10%) window coverage on the bottom floor of all other facades.
 - (e) Of the window coverage required at least eighty percent (80%) of the bottom floor windows must be transparent on the Front Façade and Primary Façades and sixty percent (60%) on all other facades.
 - (f) No more than sixty-five percent (65%) glass coverage is allowed on any façade.

Figure 34: Example of Window Separation and Framing



3. Downtown Core Dimensional Standards

BUILDING PLACEMENT		
PRINCIPAL BUILDING SETBACKS		
FS1	Front Setback (min.)	0'
FS2	Front Setback (max.)	10'
SS1	Side Setback (min.) (secondary street)	0'
SS2	Side Setback (max.) (secondary street)	15'*
	*Must meet FB1	
SS3	Side Setback (min.) (interior)	0'*
	* Fire Separation Standards apply	
RS	Rear Setback (min.)	5'
PARKING SETBACKS		
PS1	Primary Street Setback (min.)	5'
	OR behind the Principal Building	
PS2	Secondary Street Setback (min.)	5'
	OR behind the Principal Building	
PS3	Side Setback (min.)	0'
PS4	Rear Setback (min.)	0'**
BUILDING HEIGHT		
	Maximum Height	50'

4. Other Requirements and Allowances
 - a. The base (bottom level) of parking garages must be finished in Class 1 Building Materials or Class 2 Building Materials on all sides abutting a primary or secondary public street and utilize architectural detailing similar to buildings on the abutting blocks.
 - b. Within the DTC, Downtown Core Overlay, the following are minimum unit sizes for residential units:
 - (1) Multi-Family and Mixed Use:
 - (a) Efficiency: 350 square feet
 - (b) One bedroom, studio, or loft: 450 square feet;
 - (c) Two bedroom: 650 square feet;
 - (d) Additional bedrooms: 150 square feet.

E. DTT, Downtown Transition Overlay

1. Downtown Transition Purpose

- a. The purpose of the Downtown Overlay is to preserve the look and feel of historic Downtown Cleburne and abutting areas and encourage the development of mixed commercial and residential uses while ensuring that new development or modifications to existing development conform to the historic pattern and style established in Downtown.
- b. The Downtown Transition is intended to accommodate a wide range of development and redevelopment within the blocks immediately surrounding the historic core of Cleburne
- c. The Downtown Transition is an area distinguished by a mix of residential and nonresidential uses, setbacks, and architectural styles with a high degree of vehicle and pedestrian integration with the Downtown Core.
- d. New construction or reconstruction in the Downtown Transition must be designed to complement existing buildings and possess a high degree of character through the use of compatible materials and design features.

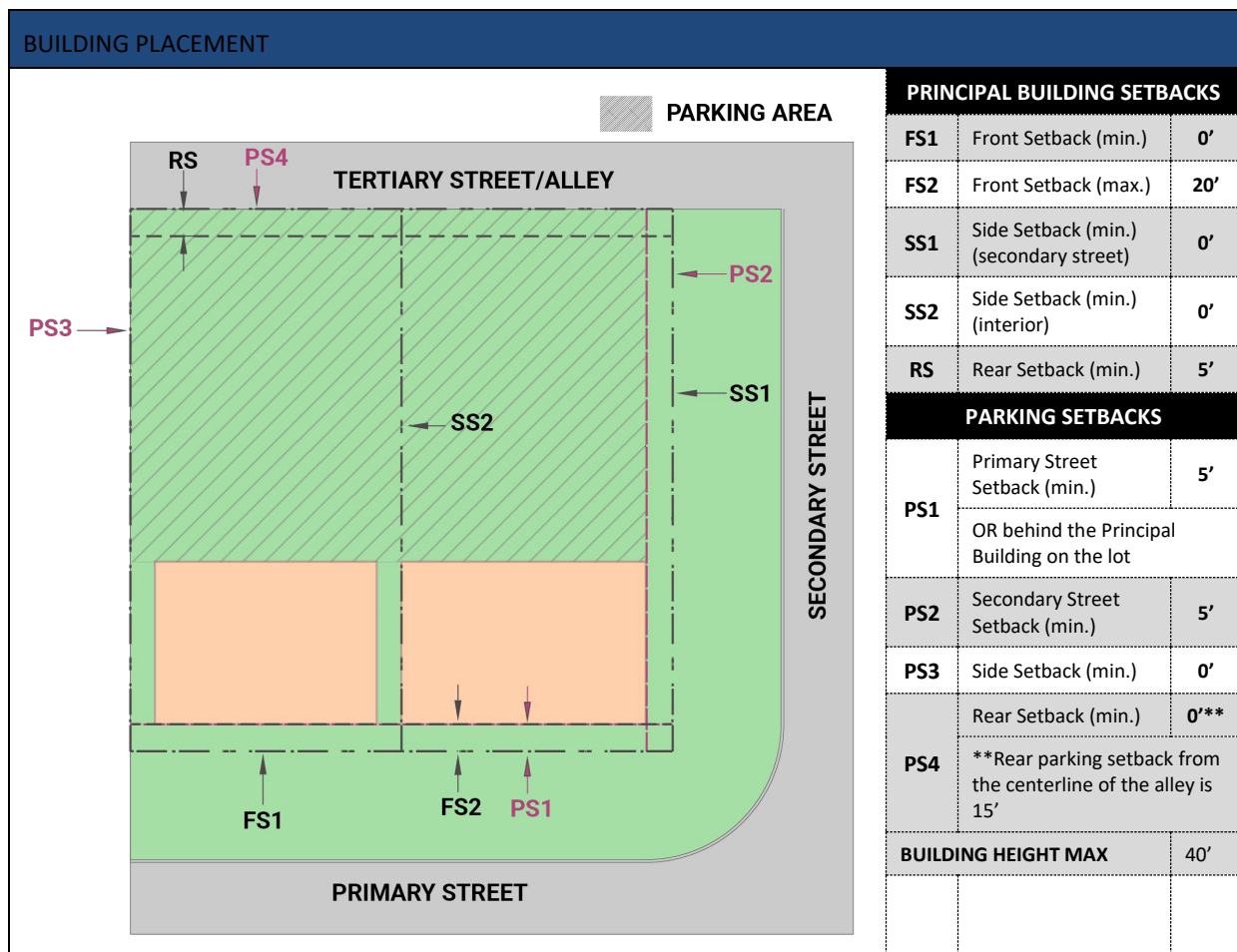
2. Downtown Transition Design Standards and Applicability

- a. The Downtown Transition boundaries are as shown in Figure30: Downtown Overlay Boundaries.
- b. A Single-Family Detached Residential dwelling may be constructed anywhere within the Downtown Transition Zone subject to the standards of subsection 3 below.
- c. Development within the Downtown Transition is subject to the following regulations:
 - (1) Required off-street parking is reduced by fifty percent (50%) (see section **3.03 Use Chart**)(parking provided voluntarily is subject to all applicable requirements of **Section 155.4**);
 - (2) The requirement to plant a Landscaped Edge and Landscaping for Corner Lots is waived;
 - (3) Landscaping and Screening for Parking Lots Adjacent to Residential Areas is waived if an alley or street separates a nonresidential use within the Downtown Core from a residential use;
 - (4) Building Perimeter Plantings for Buildings 50,000 Square Feet or Larger is waived for any portion of a building that abuts the street right of way;
 - (5) Building materials and design requirements must conform to subsection **4.06.E.2.e**.
 - (6) Buildings are subject to the minimum lot width requirements in subsection **4.06.E.3**.
- d. Existing Buildings
 - (1) Existing buildings in the Downtown Transition that do not conform to this subsection **E** may be allowed to continue and to be repaired and maintained provided that the building is not damaged or removed (as defined in section **3.07**) to an extent greater than fifty percent (50%) of its appraised value.
 - (2) If an existing building in the Downtown Transition is damaged or removed (as defined in section **3.07**) to an extent greater than fifty percent (50%) of its appraised value, the replacement or reconstruction must conform to this subsection **4.06.E**.
 - (3) If the ground floor square footage of a building is expanded to fifty percent (50%) or less of its current ground floor square footage, only the expanded area must conform to this subsection **4.06.E**.
 - (4) If the ground floor square footage of a building is expanded to more than fifty percent (50%) of its current ground floor square footage, the entire building must conform to this subsection **4.06.E**.

- e. Single-Family and Duplex Building Design
 - (1) Primary Façades must be constructed of one (1) or more of the following materials:
 - (a) Treated or painted wood siding or fiber cement panel that mimics the grain and texture of wood;
 - (b) Stacked and mortar-bonded brick;
 - (c) Stone with a natural color and finish.
 - (2) Brick or stone shall comprise no more than twenty percent (20%) of the Primary Façade.
 - (3) Secondary Façades must be constructed of at least eighty percent (80%) treated or painted wood siding or fiber cement panel that mimics the grain and texture of wood, with the remainder consisting of any Class 1 Building Materials or Class 2 Building Materials.
 - (4) Each Single-Family Detached Residential and Duplex dwelling must have a covered porch integrated with the design of the dwelling. The porch must be at least five feet (5') deep and extend at least twenty percent (20%) of the width of the Front Façade.
 - (5) Garages must be rear or side loaded or alley-fed.
 - (6) The minimum eave depth is six inches (6") on all facades.
 - (7) Roof covering must consist of architectural shingle or standing seam metal.
 - (8) In addition to the design requirements of this subsection **4.06.E.2.e**, each dwelling must provide a minimum of two (2) of the following features:
 - (a) Roof pitch between 4:12 and 12:12;
 - (b) Decorative treatments or techniques employed on columns supporting the front porch including tapering, turning, or contrasting trim;
 - (c) Arched entryway trimmed in wood or stone;
 - (d) Decorative window treatments such as muntins, cornices, roundels, arches, soldier course, or similar features;
 - (e) One or more dormers or bay windows on the Front Façade;
 - (f) One or more eave brackets or rafter tails on each eave parallel to the Front Façade;
 - (g) Contrasting siding color, material, or technique on one or more gables along the Front Façade including natural or stained wood, board and batten, shake shingle, scallops, or other contrasting technique that employs a recognized style of architecture.
 - (9) Dwellings that exceed two thousand (2,000) square feet must provide one (1) additional feature under **4.06.E.2.e(8)**.
 - (10) The standards of this subsection **4.06.E.2.e** apply to Single-Family Detached Residential and Duplex buildings regardless of actual building use.
- f. Nonresidential Building Design
 - (1) Nonresidential buildings that do not conform to subsection **4.06.E.2.e** must conform to the standards of this subsection **4.06.E.2.f**.
 - (2) Primary Façades must be constructed of seventy-five percent (75%) Class 1 Building Materials with the remainder constructed of Class 2 Building Materials, excluding areas used for doors or windows.
 - (3) Secondary Façades must be constructed of sixty-five percent (65%) Class 1 Building Materials with the remainder constructed of Class 2 Building Materials, excluding areas used for doors or windows.

- (4) Treated or painted wood siding or fiber cement panel that mimics the grain and texture of wood may be substituted for up to twenty percent (20%) of a Primary Façade and up to fifty percent (50%) of a Secondary Façade.
- (5) Buildings that are ten thousand (10,000) square feet or less must provide a distinct entry feature using arches, columns, towers or other roof articulation and provide at least one (1) feature listed in subsection **4.06.D.2.f(5)**.
- (6) Buildings that are greater than ten thousand (10,000) square feet must provide a distinct entry feature using arches, columns, towers or other roof articulation and provide at least two (2) features listed in subsection **4.06.D.2.f(5)**.
- (7) Parking is required to be to the side or rear of the Principal Building and comprise no more than fifty percent (50%) of the lot frontage.

3. Downtown Transition Dimensional Standards



DENSITY AND DIMENSIONS	
MAXIMUM NUMBER OF DWELLING UNITS PER ACRE (NET DENSITY)	32
MINIMUM SETBACK FOR BUILDING ABUTTING A SINGLE-FAMILY DETACHED OR DUPLEX DWELLING	Front Setback: 10' Side Setback: 5' (Single-Family or Duplex 20' in height or less) 10' (Single-Family or Duplex over 20' in height) 20' (Building types other than Single-Family or Duplex)
MAXIMUM BUILDING HEIGHT	40 Feet
PERMISSIBLE BUILDING TYPES	LOT STANDARDS, AND CONDITIONS
SINGLE-FAMILY DETACHED OR DUPLEX	Min. Lot Width = 40'
TOWNHOUSE	Min. Lot Width = 20' (per unit)
MULTI-FAMILY	Min. Lot Width = 100'
MIXED USE BUILDING	Min. Lot Width = 20'
NON-RESIDENTIAL USE	Min. Lot Width = 20'

4. Other Requirements and Allowances
 - a. The base (bottom level) of parking garages must be finished in Class 1 Building Materials or Class 2 Building Materials on all sides abutting a primary or secondary public street and utilize architectural detailing similar to buildings on the abutting blocks.
 - b. Within the DTT, Downtown Transition, the following are minimum unit sizes for residential units:
 - (1) Single-Family Detached Residential, Duplex, and Townhome: 1,000 square feet
 - (2) Mixed Use:
 - (a) One bedroom, efficiency, studio, or loft: 450 square feet;
 - (b) Two bedroom: 650 square feet;
 - (c) Additional bedrooms: 150 square feet.

F. AP, Airport Overlay Standards

1. Purpose and Applicability

- a. The purpose of the AP, Airport Overlay District is to ensure development near the airport is compatible with airport operations, that land uses surrounding the airport are developed according to the recommendations of the Airport Master Plan, to limit the adverse impacts of airport operations on adjacent properties by accounting for those impacts in the development and use of property near the airport, and to protect the airport from incompatible encroachments.
- b. The AP, Airport Overlay is applicable to each property within the district in addition to the regulations of the base district classification in which such property is located. If regulations are found to be in conflict, the most restrictive regulation will govern if it does not conflict with the intent and purpose of the AP, Airport Overlay.
- c. For the purposes of regulating building height, construction in the AP, Airport Overlay is regulated within nine (9) zones indicated in subsection **4.06.F.3**.
- d. For the purposes of regulating noise reduction for certain land uses, the AP, Airport Overlay is divided into three (3) zones indicated in subsection **4.06.F.4**.
 - (1) The zoning classification of each property is designated by the base district classification plus the AP, Airport Overlay designation. For example, a property in a CI, Commercial/Industrial Flex District within the AP district will carry a CI (AP-1, 2, or 3) designation.
- e. Within the AP district, the regulations of each respective base district shall continue to apply to property located in that district, except as supplemented or modified in this section **F**.

2. Definitions

Within this section **F**, the following terms will have the meaning ascribed to them:

- a. Airport
The Cleburne Regional Airport.
- b. Airport Elevation
Eight hundred fifty-four feet (854') above mean sea level.
- c. Approach Surface
A surface longitudinally centered on the extended Runway center line, extending outward and upward from the end of the Primary Surface and at the same slope as the approach zone height limitation slope set forth in **3.c below**. In plan the perimeter of the Approach Surface coincides with the perimeter of the approach zone.
- d. Compatible Land Use
The use of land adjacent to the Airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or because of the risk of personal injury or property damage created by the operations of the Airport, including take-off and landing of aircraft.
- e. Conical Surface
A surface extending outward and upward from the periphery of the Horizontal Surface at a slope of twenty over one (20:1) for a horizontal distance of four thousand feet (4,000').
- f. Controlled Compatible Land Use Area
The area within which Airport land use compatibility controls may be instituted, as defined by **TLGC Section 241.003**. The controlled area is located outside the Airport boundaries and within

an area measured no farther than one-half (1½) miles from the centerline of the Airport runways and lines located no farther than five (5) miles from each end of the paved surface of the runways.

g. Hazard

An Obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

h. Height

For the purpose of determining the height limits of buildings within the AP, Airport Overlay, the datum shall be measured with reference to mean sea level elevation unless otherwise specified.

i. Horizontal Surface

A horizontal plane one hundred fifty feet (150') above the established Airport elevation, the perimeter of which in plan coincides with the perimeter of the Horizontal Zone.

j. Larger than Utility Runway

A Runway that is constructed for and intended to be used by propeller drive aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

k. Ldn (Yearly Day-Night Average Sound Level)

The 24-hour average sound level, in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the periods between midnight and 7:00 a.m. and between 10:00 p.m. and midnight and averaged over a span of one year. A mathematical definition of Ldn can be found in Federal Aviation Regulation Part 150, Section A150.201.

l. Noise Level Reduction

The amount of noise level reduction achieved through incorporation of noise attenuation measures in the design and construction of a Structure.

m. Nonconforming

Any preexisting structure, object of natural growth, or use of land that is inconsistent with the provisions of the AP, Airport Overlay.

n. Obstruction

Any structure, growth, or other object, including a mobile object, that exceeds the height limits of **3.c below**.

o. Person

An individual, firm, partnership, corporation, company, association, joint stock association or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

p. Precision Instrument Runway

A Runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). Also a Runway for which a precision approach system is planned and is so indicated on an approved Airport layout plan or any other planning document.

q. Primary Surface

A surface longitudinally centered on a Runway. When the Runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that Runway; The width of the Primary Surface is set forth in subsection **4.06.F.3.b Establishment of Height Limitation Zones**. The elevation of any point on the Primary Surface is the same as the elevation of the nearest point on the Runway centerline.

- r. Runway

The defined area of the Airport used for landing and take-off of aircraft along its length.
 - s. Structure

An object, including a mobile object, that is artificially constructed or installed, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
 - t. Transitional Surfaces

Surfaces extending outward at ninety degree (90°) angles to the Runway centerline and the Runway centerline extended at a slope of seven feet (7') horizontally for each one foot (1') vertically from the sides of the Primary Surface and Approach Surface to where they intersect the Horizontal Surface and Conical Surface. Transitional Surfaces for those portions of the precision Approach Surfaces, which project through and beyond the limits of the Conical Surface, extend a distance of five thousand feet (5,000') measured horizontally from the edge of the Approach Surface and at ninety degree (90°) angles to the extended Runway centerline.
 - u. Tree

Any object growing naturally above the ground.
 - v. Utility Runway

A Runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.
 - w. Visual Runway

A Runway intended solely for the operation of aircraft using visual approach procedures.
3. Height Limitation Zones
- a. Purpose and Applicability
 - (1) For the purpose of carrying out the provisions of this subsection **4.06.F**, the AP, Airport Overlay is divided into the zones listed in this subsection **4.06.F.3**.
 - (2) These zones include all of the land lying beneath the approach, transitional, horizontal, and conical surfaces as they apply to the Airport.
 - b. Establishment of Height Limitation Zones
 - (1) Such zones are shown on Cleburne Regional Airport Zoning Map consisting of two sheets, prepared by Lockwood, Andrews & Newnam, Inc., dated May, 1980, which is made a part of this section **4.06.F** by reference.
 - (2) An area located in more than one of the zones listed in this subsection **4.06.F.3** is considered to be only in the zone with the more restrictive height limitation.
 - (3) Any Structure constructed within one or more Height Limitation Zones must comply with subsection **4.06.F.3.c(2)**.
 - (4) Height Limitation Zones Defined
 - (a) Utility Runway Visual Approach Zone

The inner edge of this approach zone coincides with the width of the Primary Surface and is two hundred fifty feet (250') wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty feet (1,250') at a horizontal distance of five thousand feet (5,000') from the Primary Surface. Its center line is the continuation of the center line of the Runway.

(b) Utility Runway Non Precision Instrument Approach Zone

The inner edge of this approach zone coincides with the width of the Primary Surface and is five hundred feet (500') wide. The approach zone expands outward uniformly to a width of two thousand feet (2,000') at a horizontal distance of five thousand feet (5,000') from the Primary Surface. Its centerline is the continuation of the centerline of the Runway.

(c) Runway Larger than Utility Visual Approach Zone

The inner edge of this approach zone coincides with the width of the Primary Surface and is five hundred feet (500') wide. The approach zone expands outward uniformly to a width of one thousand five hundred feet (1,500') at a horizontal distance of five thousand feet (5,000') from the Primary Surface. Its centerline is the continuation of the center line of the Runway.

(d) Runway Larger than Utility (Visibility Minimum Greater than Three-Fourths Mile Non-Precision Instrument Approach Zone)

The inner edge of this approach zone coincides with the width of the Primary Surface and is five hundred feet (500') wide. The approach zone expands outward uniformly to a width of three thousand five hundred feet (3,500') at a horizontal distance of ten thousand feet (10,000') from the Primary Surface. Its centerline is the continuation of the centerline of the Runway.

(e) Runway Larger than Utility (Visibility Minimum as low as Three-Fourths Mile Non-Precision Instrument Approach Zone)

The inner edge of this approach zone coincides with the width of the Primary Surface and is one thousand feet (1,000') wide. The approach zone expands outward uniformly to a width of four thousand feet (4,000') at a horizontal distance of ten thousand feet (10,000') from the Primary Surface. Its centerline is the continuation of the centerline of the Runway.

(f) Precision Instrument Runway Approach Zone

The inner edge of this approach zone coincides with the width of the Primary Surface and is one thousand feet (1,000') wide. The approach zone expands outward uniformly to a width of sixteen thousand feet (16,000') at a horizontal distance of fifty thousand feet (50,000') from the Primary Surface. Its centerline is the continuation of the centerline of the Runway.

(g) Transitional Zones

The transitional zones are the areas beneath the Transitional Surfaces.

(h) Horizontal Zone

The horizontal zone is established by swinging arcs of five thousand feet (5,000') radii for a Utility Runway or Visual Runway and ten thousand feet (10,000') for all others from the center of each end of the Primary Surface of the Runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

(i) Conical Zone

The conical zone is established as the area that commences at the periphery of the Horizontal Zone and extends outward therefrom a horizontal distance of four thousand feet (4,000').

c. Height Limitations

- (1) The City will not issue a Building Permit for a Structure to be constructed, altered, or maintained to a height exceeding the maximum listed in this subsection c.
- (2) No property owner shall construct or alter any Structure or allow a Tree to exceed the maximum height within a height limitation zone as listed below:

(a) Utility Runway Visual Approach Zone

Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of five thousand feet (5,000') along the extended Runway centerline.

(b) Utility Runway Non Precision Instrument Approach Zone

Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of five thousand feet (5,000') along the extended Runway centerline.

(c) Runway Larger than Utility Visual Approach Zone

Slopes twenty feet (20') outward for each foot upward beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of five thousand feet (5,000') along the extended Runway centerline.

(d) Runway Larger than Utility (Visibility Minimum Greater than Three-Fourths Mile Non-Precision Instrument Approach Zone)

Slopes thirty-four feet (34') outward for each foot upward beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of ten thousand feet (10,000') along the extended Runway centerline.

(e) Runway Larger than Utility (Visibility Minimum as low as Three-Fourths Mile Non-Precision Instrument Approach Zone)

Slopes thirty-four feet (34') outward for each foot upward beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of ten thousand feet (10,000') along the extended Runway centerline.

(f) Precision Instrument Runway Approach Zone

Slopes fifty feet (50') outward for each foot upward beginning at the end of and at the same elevation as the Primary Surface and extending to a horizontal distance of ten thousand feet (10,000') along the extended runway centerline then slopes upward forty feet (40') horizontally for each foot vertically to an additional horizontal distance of forty thousand feet (40,000') along the extended Runway centerline.

(g) Transitional Zones

Slopes seven feet (7') outward for each foot upward beginning at the sides of and at the same elevation as the Primary Surface and the approach surface and extending to a height of one hundred fifty feet (150') above the Airport Elevation.

- (i) In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and the same elevation as the Approach Surface, and extending to where they intersect the Conical Surface.

- (ii) Where the Precision Instrument Runway Approach Zone projects beyond the Conical Zone, there are established height limits sloping seven feet (7') outward for each foot upward beginning at the sides of and the same elevation as the Approach Surface,

and extending a horizontal distance of five thousand feet (5,000') measured at ninety degree (90°) angles to the extended Runway centerline.

(h) Horizontal Zone

Established at one hundred fifty feet (150') above the Airport Elevation or at a height of one thousand one hundred and five feet (1,105') above mean sea level.

(i) Conical Zone

Slopes twenty feet (20') outward for each foot upward beginning at the periphery of the Horizontal Zone and at one hundred fifty feet (150') above the Airport Elevation and extending to a height of three hundred fifty feet (350') above the Airport Elevation.

(3) Exceptions

Nothing in this subsection **3** prohibits the construction or maintenance of any Structure, or growth of any Tree to a height up to fifty feet (50') above the surface of the land.

4. Airport Noise Zones

- a. Airport noise zones are established within the Controlled Compatible Land Use Area for the purpose of regulating the development of noise sensitive land uses, to promote compatibility between the airport and surrounding land uses, and to protect the airport from incompatible encroachments.
- b. Zones. The boundaries of the airport noise zones correspond to the Ldn noise contours shown on the most recently-adopted noise exposure map for the Airport and are identified as follows:
 - (1) *Airport Overlay—1 (AP-1)* is that area within the Controlled Compatible Land Use Area with a noise contour that is between 65 Ldn (Yearly Day-Night Average Sound Level) and 70 Ldn (Yearly Day-Night Average Sound Level).
 - (2) *Airport Overlay—2 (AP-2)* is that area within the Controlled Compatible Land Use Area with a noise contour that is between 70 Ldn (Yearly Day-Night Average Sound Level) and 75 Ldn (Yearly Day-Night Average Sound Level).
 - (3) *Airport Overlay—3 (AP-3)* is that area within the Controlled Compatible Land Use Area beyond the 75 Ldn (Yearly Day-Night Average Sound Level) noise contour.
- c. Compatible uses permitted within the airport noise zones are shown in **Table 18: Compatible Land Uses**.

5. Compatible Land Uses Table

a. How to Use the Table

- (1) A cell with a “Y” indicates that the land use and related structures are compatible without restrictions.
- (2) A cell with a “N” indicates that the land use and related structures are not compatible and are prohibited.
- (3) A cell with a number (“25” or “30”) indicates that measures to achieve Noise Level Reduction (NLR) from outdoor to indoor must be incorporated into the design and construction of the entire structure.
- (4) Where “N” is indicated for a residential use followed by “25” or “30”, it means that residential use is not compatible but if the property is zoned for residential, measures to achieve outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB or 30 dB must be achieved, as indicated. Normal single family construction can be expected to provide a Noise Level Reduction of 20 dB, meaning that Noise Level Reduction measures in this area require a reduction of 5 to 10 dB over standard construction and generally assume mechanical ventilation and closed windows year-round. However, the use of NLR criteria will not eliminate outdoor noise problems.
- (5) Where “Y” is indicated for a use followed by a “25”, it means that the use is compatible where measures to achieve a Noise Level Reduction of 25 dB are incorporated into the design and construction of portions of buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.
- (6) Where “Y” is indicated for a use followed by a “30”, it means that the use is compatible where measures to achieve Noise Level Reduction of 30 dB are incorporated into the design and construction of portions of buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.
- (7) Where (“R25”) is indicated, only the use listed is compatible. Any residential buildings associated with the use require an Noise Level Reduction of 25 dB to be compatible.
- (8) Where (“R30”) is indicated, only the use listed is compatible. Any residential buildings associated with the use require an Noise Level Reduction of 30 dB to be compatible.

Table 18: Compatible Land Uses

Land Use	Noise Zone		
	O-A 1 65-70 dB	O-A 2 >70-75 dB	O-A 2 >75 dB
Residential Use (other than Manufactured Housing)	N(25)	N(30)	N
Manufactured Housing, Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions	N	N	N
Mixed-Use with Residential	N(25)	N(30)	N
Hospital, Chronic Care	N	N	N
Hospital, Acute Care and Medical Clinic	Y	Y(25)	Y(30)
Park, Playground, or Community Center, Public	Y	N	N
Play Field or Stadium	Y	Y	Y
Public Use or Building	Y	25	30
Animal Shelter or Pet Boarding (with Outside Yard/Kennels) or Stable	Y	N	N
Any use with "Automobile" in the description	Y	Y(25)	Y(30)
Country Club or Golf Course	Y	25	30
Gym or Health/Fitness Center	Y	25	30
Office, Professional, Medical, or Business, Radio or TV Station (No Tower)	Y	25	30
Professional Services	Y	25	30
Personal Service Shop	Y	25	30
Research or Scientific Laboratory	Y	25	30
Restaurant, Cafeteria, Brewery or Distillery	Y	25	30
Boarding House, Hotel, Hotel, Extended Stay, Motel	N(25)	N(30)	N
Nonresidential Uses not listed	Y	Y	Y
Religious Use	Y	Y(25)	Y(30)
Convenience Store, Retail Stores and Shops, Theater, Live Performance (outdoor) An outdoor or open-air facility or establishment where theater, recitals, orchestra, or similar productions are performed live for patrons or attendees.	Y	25	30
Thrift Store, Tobacco, Vapor, e-Cigarette Store			
School, K-12, School, Career, School, College or University	N	N	N
Banquet Hall, Wedding Chapel, Reception Facility, or Special Events Center	Y	Y(25)	Y(30)
Tattoo or Piercing Studio	Y	Y(25)	Y(30)
Contractor's Shop or Storage Yard (temporary buildings exempted)	Y	Y(25)	Y(30)
Manufacturing or Industrial Operations	Y	Y	Y
Warehouse/Distribution	Y	Y	Y
Wholesale Center	Y	Y(25)	Y(30)

6. Interference With Airport Operations
 - a. No use within the AP, Airport Overlay shall be conducted in such a way that creates any of the following effects:
 - (1) Creation of electrical interference with navigational signals or radio communication between the Airport and aircraft;
 - (2) Utilizing lighting in a way that creates difficulty in distinguishing between Airport lights and lights employed by the use within the AP, Airport Overlay;
 - (3) Creation of glare in the eyes of pilots using the airport or impairing visibility in the vicinity of the Airport;
 - (4) Creation of bird strike hazards; or
 - (5) Otherwise endangering or interfering with the safe landing, taking off, or maneuvering of aircraft intending to use the Airport.
7. Existing Buildings and Lots Within the AP, Airport Overlay
 - a. Regulations Not Retroactive
 - (1) The regulations prescribed by this division shall not be construed to require changes in land use or the removal or other change or alteration of any structure not conforming to the regulations as of the effective date of this division or otherwise interfere with the continuance of any nonconforming use.
 - (2) Nothing herein contained shall require any change in construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this section and whose completion is diligently pursued.
 - (3) For purposes of this division, permitted nonconforming structures shall include all phases or elements of a multi-phase structure, whether or not actual construction has commenced, which has received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulation (14 Code of Federal Regulations, Part 77).
 - b. Exceptions for residential uses.
 - (1) Existing residences

Notwithstanding any other provisions of this section, all residential uses located within the Airport noise zones that were lawfully existing on the effective day of this Zoning Ordinance may be repaired and enlarged provided the number of dwelling units is not increased.
 - (2) Vacant lots

Vacant platted lots which are zoned for single-family residential uses may be used for single-family residences providing they conform to all other applicable requirements of this division. Such lots may not be subdivided into more than one additional lot for single-family residential use.
 - (3) New Residences

New residential structures within the AP-1 district must achieve an outdoor to indoor noise level reduction of at least 25 dB.
 - (4) Reconstruction

The provisions of Section **3.07 Nonconformities** apply to all nonconforming uses and structures within the AP, Airport Overlay.

8. Variance and Appeal

a. Variances

The Board of Zoning Adjustment is the board responsible for hearing and deciding requests for variances under this section (see Section **6.02 Zoning Variance**).

b. Appeals

- (1) The Building Official is responsible for determining compliance with this section.
- (2) Any person aggrieved by any decision of the building official made in administration of this section may appeal to the Board of Zoning Adjustment (see Section **6.01 Zoning Regulation Appeal**).

Section 155.5. Zoning Application Submittal and Processing Procedures

5.01. General Application Processing

A. Purpose and Applicability

1. To promote efficiency in processing Applications for Development, the City may from time to time create standardized Development Application Forms and a consolidated list of required documents and information that must be provided prior to Development approval.
2. Any Applicant seeking approval of an Application governed by this **Section 155.5** must submit a complete Application and comply with all requirements of this section.

B. Pre-Application Meeting

All Applicants must attend an informal and nonbinding pre-application meeting prior to submitting an Application, unless the requirement to attend a pre-application meeting is waived by the Zoning Administrator.

C. Application Materials

1. The City will furnish a standardized Application Form pertaining to each Application type listed in this section.
2. The City will include with the Application Form a complete list of submittal requirements for the Application to be considered complete. The list may include, but may not be limited to, the following submittal requirements:
 - a. List of persons, such as the property owner, an agent, or other entity who are required to sign or acknowledge the Application;
 - b. Documents that constitute proof of ownership;
 - c. Property description and legal boundaries;
 - d. Requirements for plan scale and level of plan detail;
 - e. Information regarding property outside the boundaries of the subject property; and
 - f. Number and type of supporting technical documents and plans including:
 - (1) Legal surveys;
 - (2) Line drawings;
 - (3) Schematics;
 - (4) Architectural elevations;
 - (5) Topographical surveys;
 - (6) Hydrologic studies; and
 - (7) Other information directly related to determining whether the Application complies with the requirements of this Zoning Ordinance.
3. The City may set fees associated with each Application in a published Fee Schedule for the purpose of recovering costs related to reviewing the Application or as listed below:
 - a. Board of Zoning Adjustment Appeal (see subsection **6.01 below**): \$400

4. The City may require a property owner who uses an agent, such as an engineer, architect, land planner, surveyor, or real estate professional, to submit an Application to provide written and signed or acknowledged authorization for the agent to submit the Application on the property owner's behalf.
- D. Payment of Indebtedness
1. The Applicant is responsible for providing proof that no delinquent taxes or fees are associated with property that is the subject of an Application.
 2. At any point in the Application process, the Zoning Administrator may require that the Applicant submit necessary documentation or proof that no taxes or fees are delinquent or outstanding on property that is the subject of an Application. The Zoning Administrator may choose to accept an Application without such documentation or proof if the Applicant agrees to provide documentation or proof that no taxes or fees are owed prior to approval of the Application.
- E. Application Determination of Completeness
1. No Application shall be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this subsection 5.01.
 2. For a determination of completeness to be issued, an Application must include the following:
 - a. A completed Application form;
 - b. Every item, study, and document required by this subsection 5.01 for the type of Application being submitted, or required for the plan for development;
 - c. Applicable fee(s), as specified in the fee schedule or any applicable ordinance; and
 - d. Evidence that the requirements of this Zoning Ordinance and other ordinances of the City are satisfied.
 3. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this subsection 5.01.
 4. Not later than the tenth (10th) business day after the date an Application is submitted, the Zoning Administrator shall make a written determination whether the Application constitutes a complete Application.
 - a. The written determination shall include a determination of whether all information and documents required by this subsection 5.01 have been submitted.
 - b. The determination shall be provided to the applicant within such time period by electronic mail, United States Certified Mail, or regular mail at the address listed on the application, or by personal delivery to the applicant or the applicant's agent.
 - c. A determination that an Application is incomplete shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information is not submitted within 45 calendar days after the date the application was submitted.
 5. An Application filed on or after the effective date of this subsection 5.01 shall be deemed complete on the eleventh (11th) business day after the Application has been received, if the Applicant has not otherwise been notified that the Application is incomplete.
 6. For purposes of this section, the Applicant shall be deemed to have been notified if the City has mailed or delivered a copy of the determination as provided in subsection 5.01.E.4.
 7. The processing of an Application by any City employee prior to the time the Application is determined to be complete shall not be binding on the City as the official date of acceptance of the application for filing. The date of filing shall be the date the Zoning Administrator determines that the Application meets the requirements of this subsection 5.01.

8. The incompleteness of the Application shall be grounds for denial regardless of whether a determination of incompleteness was provided to the applicant.
 9. A development Application shall expire on the forty-fifth (45th) calendar day after the application is submitted to the Zoning Administrator for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this section **5.01** as specified in the determination provided to the applicant. Upon expiration, the Application will be returned to the applicant together with any accompanying documents. Thereafter, a new application for approval of the development application must be submitted.
 - a. The Zoning Administrator may approve an extension of up to thirty (30) days at the written request of the Applicant.
 10. No vested rights accrue solely from the filing of an Application that has expired pursuant to this subsection **5.01**, or from the filing of a complete or incomplete Application that is subsequently denied.
- F. Action by Zoning Administrator
1. The date that the Applicant furnishes a signed Application to the Zoning Administrator is considered the official date that Application was received. The Zoning Administrator will process the Application, including any required submittal dates and applicable requirements of this Zoning Ordinance in a manner consistent with **TLGC Chapter 245**.
 2. Once the Zoning Administrator accepts the Application as a complete Application, the Zoning Administrator or a designee will coordinate review of the submitted materials for conformance with the requirements of this Zoning Ordinance.
 3. Following review of the Application by all applicable departments, the Zoning Administrator or a designee will respond in writing to the Applicant with a coordinated set of comments that list and describe any deficiencies the Applicant must address in order for the Application to be considered.
 4. If approval by the Planning and Zoning Commission and/or City Council is required for an Application to be approved, the Zoning Administrator will schedule the Application on the next available agenda of the applicable body once all comments and deficiencies (see subsection **5.01.F.3**) are addressed or as consistent with State Law.

5.02. Vested Rights Petition and Dormant Projects

A. Vested Rights

1. Purpose and Applicability

- a. This subsection **5.02** establishes requirements for determining whether a project is entitled to vested rights under **TLGC Chapter 245** or **Section 43.002**. To the extent a project is entitled to vested rights, as determined under this section, a permit necessary to initiate, continue, or complete the project may be exempt from some requirements of this code.
- b. The purpose of this subsection 5.02 is to:
 - (1) Establish a clear and consistent process for evaluating vested rights claims;
 - (2) Ensure that vested rights determinations are based on accurate and complete information, including the nature and scope of the original project for which vested rights are asserted, as well as any actual development that has occurred over time; and
 - (3) Recognize legitimate claims of vested rights under state law, while ensuring that new development complies to the greatest extent possible with current regulations.
- c. The requirements of this code apply within the corporate limits of the city and shall further apply to any and all legal annexations of land or additions made to the city subsequent to the effective date of this section.

2. Fair Notice Application

- a. A Fair Notice Application shall be used to establish a vesting date for any new project that is filed for review under currently effective regulations, and for which no prior permits have been sought.
- b. The Applicant shall obtain the Fair Notice Application checklist from the City.
- c. A Fair Notice Application shall include a conceptual development plan for the property, including the scope and intensity of development, as well as the nature of the land use. Construction-level detail shall not be required.
- d. A Fair Notice Application may be used in lieu of a permit Application to establish vested rights for a new project.
- e. The Zoning Administrator shall accept a Fair Notice Application, if complete, to establish a vesting date for a new project.
- f. Acceptance of a Fair Notice Application does not authorize construction or have any effect other than that prescribed by this subsection **5.02**.

3. Vested Rights Petition Required

- a. A petition for vested rights shall be submitted by a landowner or a landowner's agent in order to request that an application for a permit be reviewed under ordinances, regulations, or rules other than those in effect on the date the Application is filed.
- b. The petition shall conform to the requirements of subsection **5.02.A.4**.

4. Contents of Vested Rights Petition

- a. A petition for vested rights shall be submitted on a form approved by the Zoning Administrator and must include, at a minimum, the following information:
 - (1) A permit Application for development of the property, which must be submitted concurrent with the vested rights petition;
 - (2) A conceptual development plan for the property, including the scope and intensity of development, as well as the nature of the land use. Construction-level detail shall not be required;
 - (3) A summary of the basis on which the Applicant claims vested rights;
 - (4) The date on which the Applicant claims that vested rights accrued;
 - (5) Any permit or Fair Notice Application that was submitted on the claimed date; and
 - (6) A complete chronological history of the project for which vested rights are claimed, including:
 - (a) A list of permits for development of the property, along with supporting documents, that were issued or applied for after the date the Application claims that vested rights accrued;
 - (b) A description of any permitted or unpermitted development that occurred on the property after the date the Application claims that vested rights accrued;
 - (c) A description of existing development on the property, regardless of whether the development is permitted or unpermitted;
 - (d) A list of all annexations and zoning changes affecting the property, if any;
 - (e) Any covenants, conditions, or restrictions recorded in the deed records for the property; and
 - (f) Evidence of progress towards completion of the project (see subsection **5.02.B.3**).
 - (7) The Zoning Administrator may allow an Applicant to omit information required under this section if, in the sole judgment of the Zoning Administrator, an Application is associated with

a project for which vested rights have been conclusively established by a court order, or by a settlement agreement approved by the City Council.

5. Completeness Review for Vested Rights Petition

A vested rights petition and associated permit or a Fair Notice Application are treated as a single Application for purposes of completeness review and expiration.

6. Vested Rights Determination

- a. Not later than ten (10) business days after acceptance of a complete vested rights petition, the Zoning Administrator shall review the petition under subsection **5.02.A.7** and render a determination consistent with the requirements of this subsection **5.02**.
- b. In acting on a petition, the Zoning Administrator may:
 - (1) Approve the petition and require the development applications necessary to initiate, continue, or complete the project to be reviewed in accordance with regulations in effect on the vesting date, except for those regulations exempt from vesting under state law;
 - (2) Deny the petition and require the development application associated with the project to be reviewed under current regulations of this Zoning Ordinance; or
 - (3) Approve the petition in part, according to the provisions of this subsection **5.02**.
- c. The Zoning Administrator may approve a petition in part if a project is legally entitled to some, but not all, of the rights asserted in the petition, or if a change in the scale or intensity of development is necessary to maintain conformity with the original project.
- d. A vested rights determination may not waive or modify applicable regulations or provide relief not required by **TLGC Chapter 245** or **Section 43.002**.
- e. The Zoning Administrator shall provide a written determination to the Applicant, which must state:
 - (1) Whether the petition is approved or denied, in whole or in part, and the basis for the decision;
 - (2) Findings of fact in support of the decision and information sufficient to identify the permit or Fair Notice Application on which the petition is based; and
 - (3) If the petition is approved:
 - (a) A description of the project for which vested rights are recognized; and
 - (b) A vesting date.

7. Criteria for Approval

A vested rights determination under this section does not affect the availability of a variance or other administrative remedy authorized in **Section 155.6 Zoning Relief Procedures**.

a. Chapter 245 Petition

(1) General Standard

A permit Application is entitled to development rights under **TLGC Chapter 245** if the permit is required to initiate, continue, or complete a project for which a prior Application was submitted to the city. An Application is not entitled to development rights if it is unrelated to or inconsistent with the original project, or if the original project has been completed, changed, or expired.

(2) Review Criteria

In determining whether a petition meets the standard for approval under this section, the Zoning Administrator shall consider the following factors:

- (a) The nature and extent of proposed development shown on the prior permit or other application that initiated the project for which vested rights are claimed;
 - (b) Whether the permit application submitted in connection with the vested rights petition is related to and consistent with the original project;
 - (c) The nature and extent of prior development of the property, including any permitting or construction activity that occurred subsequent to the vesting date requested by the applicant;
 - (d) Any prior vested rights determinations made for development of the property; and
 - (e) Whether the project has become dormant in accordance with the provisions of this subsection **5.02**.
 - (3) The criteria in this subsection **5.02.A.7.a** are intended to assist the Zoning Administrator in reviewing **TLGC Chapter 245** petitions, but do not limit the Zoning Administrator from considering other factors relevant to the determination of rights for a particular project.
- b. Continuing Use Petition
 - (1) General Standard

A permit application is entitled to use rights under **TLGC Section 43.002** to the extent that current regulations would prohibit:

 - (a) Continued use of the land in the manner in which it was being used on the date that annexation proceedings were instituted, if the use was legal at that time; or
 - (b) Beginning to use land in the manner that was planned before the ninetieth (90th) day before the effective date of the annexation if:
 - (i) One or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for the planned land use; and
 - (ii) A completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted.
 - (2) Review Criteria
 - (a) In determining whether a petition meets the standard for approval under this section, the Zoning Administrator shall consider the nature and extent of development that:
 - (i) Occurred on the property prior to initiation of annexation proceedings, including photographs or other evidence substantiating the use; or
 - (ii) Was proposed in one or more required applications that have been approved by a governmental entity.
 - (b) The criteria in subsection **5.02.A.7.b** are intended to assist the Zoning Administrator in reviewing continuing use petitions, but do not limit the Zoning Administrator from considering other factors relevant to the determination of rights for a particular project.
- 8. Effect of Vested Rights Determination

If the Zoning Administrator approves a vested rights petition, any permit required to initiate, continue, or complete the project shall be entitled to the development or continuing use rights recognized by the vested rights determination, unless the project becomes dormant under this subsection **5.02** or other applicable regulations.

9. Administrative Guidelines.

- a. The Zoning Administrator may adopt guidelines to assist in reviewing Applications.
- b. Guidelines adopted under this subsection 7.b for review of vested rights petitions may be used to help address common questions that arise in determining vested rights, including but not limited to:
 - (1) Whether a permit application is required to continue, complete, or initiate the project for which vested rights are claimed;
 - (2) Whether the project for which vested rights are claimed has been completed, changed, or expired; and
 - (3) Whether progress towards completion of a project has been made under **5.02.B.3.**
 - (4) Guidelines adopted under this subsection **5.02.A.9.b** shall be posted on the City's website and made available to the public, but need not be adopted by administrative rule.

10. Appeal of Vested Rights Determination

(1) Right to Appeal

An applicant may appeal the Zoning Administrator's decision on the application for vested rights determination to the City Council. An appeal under this subsection **10** stays acceptance by filing of any related development Applications.

(2) Process

The Application for appeal shall be made in writing to the City Secretary and shall state the basis for requesting the appeal. The appeal shall be made within ten (10) business days of the date of the letter. The City Secretary shall schedule a hearing before the City Council within thirty (30) calendar days of the date the appeal is submitted.

(3) Appeal of Council Decision

A person dissatisfied with the decision of the City Council may appeal the decision to a court within Johnson County. The person shall file the appeal with the court within thirty (30) days of the decision of the City Council. If no appeal is filed, the decision of the Council shall be final.

B. Dormant Projects

1. This subsection **5.02** is adopted under **TLGC Chapter 245** to provide expiration dates for permits that lack an expiration date under applicable regulations. This subsection does not apply to a permit that is subject to an expiration date under the regulations applicable to the permit. For purposes of this subsection, a permit that is not subject to an expiration date is an "unexpired permit."
2. If an unexpired permit was approved prior the effective date of this Zoning Ordinance, it shall expire five (5) years after the date of its approval, unless the applicant submits evidence sufficient to show that progress towards completion of the project was made prior to expiration.
3. For purposes of this section, progress towards completion of a project includes any one of the following:
 - a. An Application for a final plat or plan has been submitted and deemed complete;
 - b. A good-faith attempt has been made to file with the City or other regulatory agency an Application for a permit necessary to begin or continue towards completion of the project;
 - c. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent (5%) of the most recent appraised market value of the real property on which the project is located;

- d. Fiscal security has been posted with the City or other regulatory agency to ensure performance of an obligation required by that regulatory agency; or
 - e. Utility connection fees or impact fees for the project have been paid and account is in good standing.
- 4. If the first permit in a series of permits for a project expires based on dormancy of the project, then that permit cannot form the basis of a vested rights petition.

5.03. Alternative Compliance

A. Purpose and Applicability

1. Purpose

- a. This subsection **5.03** establishes a provision for alternative compliance associated with the review and approval of a Development, including improvements to existing structures or site features, as required in subsection **5.03.A.2**.
- b. The purpose of the alternative compliance process is to ensure that:
 - (1) A proposed Development complies with the purpose and intent of this Zoning Ordinance as stated in subsection **1.02**;
 - (2) A proposed project meets requirements that are appropriate for lots or sites and site-specific Development challenges by applying a flexible approval procedure (a Development may be interpreted under this subsection **5.03** to include redevelopment of lots or sites with existing improvements and encumbrances that may pose unique challenges to complying with the requirements of this Zoning Ordinance); and
 - (3) To allow for different standards that are in agreement with the City's Comprehensive Plan and that produce a substantially equivalent effect as the requirements of this Zoning Ordinance.

2. Applicability

- a. A request for alternative compliance, as specifically cited within this Zoning Ordinance, may be submitted for review and approval along with the Site Plan for a project, or along with the project's initial development Application (as applicable for the project).
- b. Alternative compliance requests must be clearly delineated graphically or in narrative format, as appropriate, on the Site Plan (or on the project's initial Development Application), including a reference to the specific section within this Zoning Ordinance that allows consideration of an alternative standard (see **Table 19: Approval for Alternative Compliance**).
- c. The applicable zoning district standards for a project shall not be reduced or varied using the alternative compliance process unless the standard is specifically cited as qualifying for alternative compliance in this Zoning Ordinance.
- d. Review and Approval

Using the criteria listed in subsection **5.03.B**, the Zoning Administrator will decide a request for alternative compliance submitted for the following:

Table 19: Approval for Alternative Compliance	
Section #	Section Title
<u>3.05.A</u>	<u>Location and Arrangement of Buildings</u>
<u>4.01.C</u>	<u>General Landscaping Requirements</u>
<u>4.06.B.6</u>	<u>Alternative Compliance for Design Standards</u>

B. Alternative Compliance Evaluation Criteria

1. The requested alternative compliance standard is consistent with the recommendations and policies of the City's Comprehensive Plan.
2. The proposed alternative standard does not reduce a standard unless it is, to the greatest extent practical, equally mitigated or improved by increasing the standards of other requirements.
3. The proposed standard does not attempt to modify the land uses allowed in the zoning district in which the subject property is located, or to add a land use not normally allowed in the zoning district.

C. Alternative Compliance Appeal

1. The Applicant may appeal the Zoning Administrator's decision within thirty (30) calendar days of the Zoning Administrator providing a written decision to the Applicant.
2. The appeal will be placed on the next available agenda of the City Council. The City Council may either affirm, reverse, or modify the Zoning Administrator's decision.

5.04. Public Hearings and Notification Requirements for Zoning-Related Applications

A. Applications Requiring Public Hearing and Notification for Zoning-Related Applications

1. Request to change the zoning designation of a property or district (rezoning or zoning change) see Section 5.05;
2. An amendment to the text of this Zoning Ordinance, see Section 5.05;
3. Request for a Planned Development district, see Section 5.08;
4. Request for a Specific Use Permit, see Section 5.09;
5. Amortization of Nonconforming Uses, see Section 5.10;
6. Appeal of zoning-related decisions, see Section 6.01;
7. Variance from a zoning regulation, see Section 6.02; and
8. Special exception from a zoning regulation, see Section 6.03.

B. Review Bodies and the Associated Public Hearings per Zoning Application Type

Public hearings shall be conducted for each review body per plan or Application type according to the following table.

Table 20: Review Bodies and the Associated Public Hearings per Zoning Application Type			
Application Type	City Council	Planning and Zoning Commission	Board of Adjustment
<u>Rezoning</u>	Hearing	Hearing	
<u>Zoning Text Amendment</u>	Hearing	Hearing	
<u>Planned Development District</u>	Hearing	Hearing	
<u>Specific Use Permit</u>	Hearing	Hearing	
<u>Amortization of Nonconforming Uses</u>			Hearing
<u>Appeal of Zoning-Related Decision</u>			Hearing
<u>Variance from Zoning Regulation</u>			Hearing
<u>Special Exception from Zoning Regulation</u>			Hearing

C. Required Public Notice for Zoning-Related Plans and Applications

Public notices shall be required according to the following table.

Table 21: Type of Notice Required		
Application Type	Published Notice	Mailed Notice
<u>Rezoning</u>	Required	Required
<u>Zoning Text Amendment</u>	Required	
<u>Planned Development District</u>	Required	Required
<u>Specific Use Permit</u>	Required	Required
<u>Amortization of Nonconforming Uses</u>	Required	Required
<u>Appeal of Zoning-Related Decision</u>	Required	Required
<u>Variance from Zoning Regulation</u>	Required	Required
<u>Special Exception from Zoning Regulation</u>	Required	Required

D. Types of Notice

1. Published Notice and Mailed Notice of Public Hearings for Zoning Changes Involving Real Property

a. Published Notice

- (1) Notice of a public hearing to occur before the Planning & Zoning Commission and City Council will include the purpose, time, and place of the public hearing and will be published in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing in accordance with **TLGC Section 211.006**.
- (2) The notice must include a brief description of the request, identification of the property that is subject to the request, and the date, time, and location of the public hearing.

b. Mailed Notice (also referred to as "Written Notice")

- (1) Written notice of a public hearing to occur before the Planning & Zoning Commission shall be sent to all owners of property, as indicated by the most recently approved City tax roll, that is located within the area of application and within two hundred feet (200') of the boundaries of the area subject to the rezoning or SUP request.
- (2) The written notice must be sent before the tenth (10th) calendar day prior to the date of the public hearing and include a brief description of the request, identification of the property that is subject to the request, and the date, time, and location of the public hearing.
- (3) Said written notice must be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, postage paid, in the regular United States mail.
- (4) If written notice as required is not sent before the tenth (10th) calendar day prior to the date of the public hearing, then the public hearing must be delayed until this notice requirement is met.

2. "Published Notice" of Public Hearing for Text Amendments
 - a. For requests involving proposed changes to the text of the zoning regulations, notice of the Planning & Zoning Commission and City Council public hearing shall be accomplished by publishing the purpose, time, and place of the public hearing in the official newspaper of the City before the fifteenth (15th) calendar day prior to the date of the public hearing.
 - b. Changes in the zoning text that do not change zoning district boundaries (i.e., that do not involve specific real property) do not require mailed/written notification to individual property owners.
3. "Published Notice" and "Mailed Notice" of Board of Adjustment hearings
 - a. For an Appeal of a City Administrative or Interpretative Decision, consideration of a variance request, or consideration of a special exception, the Board of Adjustment shall fix a reasonable time for the hearing, give the public notice by written notice in the mail addressed to all owners of real property located within two hundred feet (200') of the affected property, and by publication of notice of such hearing in the City's official newspaper.
 - b. Both the written/mailed and published notice shall be given at least ten (10) days prior to the date for the hearing.
 - c. At the hearing, any party may appear in person or by attorney or by agent.
4. Special Notice

Pursuant to **TLGC Section 211.007(d)**, the City Council may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the City Council and the Planning and Zoning Commission.

5.05. Zoning Text and Map Amendments

A. Two Types of Zoning Amendments

1. Zoning Map Amendment (Rezoning)

- a. A rezoning is a change or modification to the boundaries of any zoning district shown on the City's Official Zoning District Map.
- b. A zoning map amendment shall not zone any single lot into two (2) or more zoning districts.

2. Zoning Text Amendment

A text amendment changes the text of this Zoning Ordinance and does not include changing or modification to the boundary of any zoning district.

B. Approval Authority and Report Requirement for Zoning Amendments

1. City Council Approval Required

The City Council may, from time to time, amend, supplement or change by ordinance the boundaries of zoning districts or the text of this Zoning Ordinance.

2. Planning and Zoning Commission Report Required

Before taking action on any proposed rezoning or text amendment, the City Council must receive a report and a recommendation from the Planning and Zoning Commission concerning the proposed rezoning or text amendment.

C. Planning and Zoning Commission Report and Public Hearing

1. Pursuant to **TLGC Section 211.007**, the Planning and Zoning Commission shall make a preliminary report and hold a public hearing on that report before submitting a final report to the City Council.
2. The Planning and Zoning Commission shall not hold a public hearing until notice has been given consistent with Section **5.04**.

D. City Council Public Hearing Required

1. The City Council must hold a public hearing before approving or adopting any proposed rezoning or text amendment.
2. The City Council shall not hold a public hearing until notice has been given consistent with Section **5.04**.
3. Three-Fourths City Council Vote Required

A rezoning request shall not become effective except by a three-fourths (3/4) vote of the full membership of the City Council if either of the following are true:

- a. The Planning and Zoning Commission votes to recommend denial of the rezoning.
- b. A written and signed protest against a proposed rezoning has been filed before the date of the public hearing with the City Secretary for any one of the following types of protesters:

(1) Interior Protesters:

The property owners, duly signed and acknowledged, of twenty percent (20%) or more of the lots or land area included within a proposed amendment boundary.

(2) Exterior Protesters:

The property owners, duly signed and acknowledged, of twenty percent (20%) or more of the lots or land area within the public hearing notification area.

5.06. Certificate of Occupancy

A. Certificate of Occupancy Required

1. Certificate of Occupancy shall be required for any of the following:

- a. Occupancy and use of land without a Building consistent with the Use Chart, except for agricultural uses;
- b. Occupancy and use of a Building hereafter erected or structurally altered;
- c. Change in use of an existing Building to a use of a different classification;
- d. Change in use of land to a use of a different classification;
- e. Change in ownership of a business;
- f. Any change in the use of a Nonconforming Use; and
- g. Any use in existence with an annexation request.

2. Certificate of Occupancy Required from Building Official

No such use, or change of use, shall take place until a Certificate of Occupancy has been issued by the Building Official.

B. Procedure for New or Altered Buildings

1. Written Application

Written application for a Certificate of Occupancy for a new Building or for an existing Building which is to be altered may be made at the same time as the application for the Building Permit for such building.

2. Timing of Certificate Issuance

A final Certificate of Occupancy will not be issued prior to final inspection of the Building.

5.07. Site Plan Requirements

A. Purpose

1. Through Site Plan review, the standards of this Zoning Ordinance, Subdivision Regulations, other applicable sections of the City's Code of Ordinances, and technical requirements such as building code, fire code, and engineering design standards can be uniformly implemented by the City for Townhome, Multi-Family, and Nonresidential Uses.

2. The purpose of the Site Plan process is to:

- a. Ensure compliance with adopted City development regulations and other applicable regulations that apply to the property for which the City has enforcement responsibility;
- b. Promote safe, efficient and harmonious use of land through application of City-adopted design standards and guidelines;
- c. Promote the vision established by the Comprehensive Plan;
- d. Ensure adequate public facilities to serve development;
- e. Coordinate and document the design of public and private improvements to be constructed;
- f. Prevent or mitigate adverse development impacts, including overcrowding and congestion;
- g. Aid evaluation and coordination of land subdivision, including the granting of easements, Right-of-Way, development agreements and provision of surety;
- h. Identify and address environmental concerns (floodplain, drainage, trees, topography, etc.); and

- i. Promote the public health, safety and welfare.
- B. Applicability
- 1. Processing and Timing
 - a. A site plan is required for an Application for:
 - (1) Townhome and Duplex development consisting of five (5) or more connected units;
 - (2) Multi-Family development consisting of five (5) or more units;
 - (3) Development in conjunction with a Specific Use Permit (SUP), unless the Zoning Administrator waives the requirement for a Site Plan;
 - (4) Any Nonresidential Use.
 - b. Site Plans Related to Building Permit Applications

No Building Permit shall be issued for any applicable developments or any construction or development activity shall occur unless a Site Plan is first approved by the Zoning Administrator or City Council (in the case of a Specific Use Permit (SUP)).
 - c. Exempted Development

The following types of development are exempted from the requirements of this section **5.07 Site Plan Requirements**.

 - (1) Agricultural buildings;
 - (2) Single-Family Detached Residential; and
 - (3) Temporary buildings as permitted by section 3.03 Use Chart.
 - 2. Public Hearings

A public hearing on a Site Plan is not required unless a site plan is prepared in conjunction with a Specific Use Permit (SUP) Application.
 - 3. Effect of Approval
 - a. No Building Permit or Certificate of Occupancy will be issued unless all construction and development conforms to the Site Plan as approved by the City.
 - (1) While the Site Plan remains valid (see subsection **5.07.B.3.b**), the City shall not apply any additional requirements concerning building placement, streets, drives, parking, landscaping or screening.
 - (2) Except where authorized by ordinance, a Site Plan may not be used to approve a variance to development regulations.
 - (3) Where an approved plan conflicts with an adopted regulation and no zoning variance or zoning special exception is expressly approved, the regulation shall apply.
 - b. Site Plan Lapse
 - (1) The approval of a Site Plan is effective for a period of two (2) years from the date of approval (see subsection **5.01.F**).
 - (2) Expired Site Plans
 - (a) Upon expiration of a Site Plan, the Applicant must submit a new Site Plan subject to the then existing regulations.
 - (b) Site Plan approval shall expire upon completion of the improvements shown on the plan. Permits must remain valid during the construction process.

- (c) Subsequent additional development, site modifications and redevelopment shall be considered a new project subject to the ordinances, laws, and regulations in effect at the time additional development or modifications are proposed.

C. Site Plan Required Supporting Documents

1. The following plans may be required with a Site Plan Application as determined by the Zoning Administrator:
 - a. Dimensional Control Plan;
 - b. Façade Plan or Elevation Drawings (see section 4.05 Design Standards or section 4.06 Overlay Regulations);
 - c. Landscape Plan (see section 4.01 Landscaping Requirements);
 - d. Final Plat or Replat;
 - e. Engineering Plans or Construction Plans;
 - f. Traffic Impact Analysis;
 - g. Flood Study; or
 - h. Other approvals as required by ordinance or resolution (see checklist provided by the Zoning Administrator).

D. Approval Process

The Zoning Administrator will review an Application for a Site Plan consistent with section **5.01 above**, including the following specific procedures:

1. Upon receiving a completed Application for a Site Plan (see subsection 5.01.E Application Determination of Completeness), the Zoning Administrator will distribute the Site Plan to the relevant City departments and officials (as well as outside agencies, as appropriate); and
2. The Zoning Administrator will:
 - a. Approve the Application for a Site Plan;
 - b. Consolidate all comments received into a single itemized list and return the comments to the Applicant with instructions for revising the Site Plan; or
 - c. Deny the Application consistent with State Law, with a written list of all items that are not in compliance with the regulations listed in Section **5.07**.
3. The Zoning Administrator will process the resubmittal of an Application consistent with subsection **5.07.D.2** or, if there is a conflict between subsection **5.07.D.2** and State Law, as consistent with State Law.
4. If an Application or resubmittal satisfies all requirements of regulations listed in Section **5.07**, the Zoning Administrator will issue written approval of the Application (see subsection **5.07.B.3 Effect of Approval**).

E. Revocation of Site Plan Approval

The City Council may revoke approval of a Site Plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information or if it is determined that it was obtained using fraud or deceit.

5.08. Planned Development (PD) Process

A. Planned Development (PD) Steps for Creation and Development

1. Pre-Application Conference

- a. Before submitting an Application for a Planned Development (PD) district, the Applicant must provide the Zoning Administrator with an informal PD Design Statement and PD Concept Plan drawn to approximate scale, showing streets, lots, public areas, and other significant features.
- b. The Zoning Administrator may require a pre-application conference with the Applicant to review the proposed PD Design Statement and PD Concept Plan with other City departments.

2. PD Application for Rezoning

a. Procedures and Requirements

- (1) Unless modified by the Zoning Administrator in a manner consistent with State Law and the ordinance of the City, the Zoning Administrator will process a PD Application in accordance with the following sections:

(a) **5.01 General Application Processing;**

(b) **5.04 Public Hearings and Notification Requirements for Zoning-Related Applications;**
and

(c) **5.05 Zoning Text and Map Amendments**

- (2) The PD Application shall consist of a PD Design Statement and a PD Concept Plan.
- (3) The Zoning Administrator may also require that the Applicant provide other supporting documents as necessary to meet the submission requirements of this Zoning Ordinance.
- (4) The PD designation shall not be used solely to obtain zoning variances from development standards.

b. PD Design Statement

The PD Design Statement shall be a written report consisting of at least the following elements:

- (1) Title of PD or development;
- (2) List of property owners and developers, including proposed developers that may be involved in later phases of the PD;
- (3) Statement of the general location and relationship to adjoining land uses, both existing and proposed;
- (4) Selection of one (1) conventional zoning district as a base zoning district to regulate all uses and development regulations not identified as being modified (multiple base zoning districts may be selected to accommodate a mixture of land uses in different geographic areas);
- (5) A description of the proposed sequence of development.
- (6) Documents, tables, maps, or other description of the PD Concept Plan, including the following:
 - (a) Description of land use zones, including open space areas and density of proposed residential areas;
 - (b) Approximate allocation or proportion of land uses proposed;
 - (c) Proposed transportation network including typical street sections, medians, sidewalks, trails, and paths and their relationship to adopted City transportation plans;
 - (d) Proposed connections to existing City transportation corridors;

- (e) Proposed stormwater management areas, including number of acres in the drainage area and delineation of applicable flood levels;
 - (f) General description of building types and architectural and design requirements;
 - (g) Any proposed regulations or restrictions not found in this Zoning Ordinance for the proposed base zoning district as well as any requested variances or waivers;
 - (h) A conceptual scaled layout of lots and buildings;
 - (i) The following physical characteristics: elevation, slope analysis, soil characteristics, tree cover, and drainage information;
 - (j) A topographic map with minimum five (5) foot contour intervals; and
 - (k) A statement of utility lines and services to be installed, including lines to be dedicated to the City and which will remain private.
 - (7) The Zoning Administrator may require that the Applicant prepare a Traffic Impact Analysis (TIA) report in order to assist the City in determining whether the PD will be supported with adequate levels of roadways and intersections concurrent with the demand created by the PD, and provide recommendations for addressing any roadways that are currently inadequate to support the impacts of the PD.
- c. PD Concept Plan
 - (1) The PD Concept Plan is a graphic representation of the development plan for the PD.
 - (2) In addition to the items listed in subsection **5.08.A.2.b(6)**, the PD Concept Plan should depict the entire PD at build-out and depict the integration of the proposed phases of the PD, as applicable, with surrounding development, including relationship between land uses, open space, transportation connections, schools and other public facilities, employment centers, retail, and other services.
 - (3) The Zoning Administrator may create a checklist of all items required for a complete PD Concept Plan and may waive or require any additional items based on the nature and scale of the proposed PD.
- d. Effect of Approval
 - (1) The City Council may approve the PD on the condition that the Applicant execute a Development Agreement or other mechanism approved by the City Attorney to upgrade or extend public facilities such as water, wastewater, stormwater, roadway, parks and trails, or other facilities directly impacted by development of the PD.
 - (2) Upon final approval by the City Council, the PD will become a part of the Official Zoning District Map.
 - (3) The ordinance shall adopt the PD Design Statement, PD Concept Plan, and other relevant supporting materials, and these materials will become a part of the official records of the City.
 - (4) The ordinance adopting the PD shall control the use and development of the property, and all Building Permits and development requests shall be in accordance with the plan unless the PD is modified by City Council (see subsection **5.08.C**).
 - (5) City Council approval of the PD district, PD Design Statement, and PD Concept Plan is required prior to approval of any Plat, Site Plan, or other development permit within the PD.
- B. Expiration and Extension of PD
 - 1. If, after two (2) years from the date of approval of a PD, no progress towards completion has been made within the PD consistent with one or more actions listed in subsection **5.02.B.3**, the PD Design Statement and PD Concept Plan will expire.

2. The property will remain zoned as PD on the Official Zoning District Map, but the PD Design Statement and PD Concept Plan will no longer be valid.
3. If the PD expires, a new PD Design Statement and PD Concept Plan must be submitted and approved by City Council prior to approval of any Plat or Site Plan on the property.
4. The Zoning Administrator may grant a two (2) year extension of validity for the PD Design Statement and PD Concept Plan. At the end of the two (2) year extension, a second extension may be granted by the Zoning Administrator for up to one (1) year.
5. An extension shall be granted if a development Application for the PD has been submitted and is undergoing the development review process or if the Zoning Administrator determines that the project has demonstrated progress towards completion consistent with or more actions listed in subsection **5.02.B.3.**

C. PD Modifications

1. Minor PD Amendment and Adjustment

The Zoning Administrator may approve or defer a minor amendment to City Council provided all of the following conditions are satisfied:

- a. The project boundaries are not altered.
- b. Uses are not being modified or removed from the PD.
- c. The allocation of land to particular uses is not modified by more than ten percent (10%) and the relationship of uses within the project are not substantially altered.
- d. The density of housing is not increased more than ten percent (10%).
- e. Gross Floor Area is not increased or decreased by more than ten percent (10%).
- f. The number and quality of amenities are not reduced.
- g. The amount of open space and trails is not reduced by more than five percent (5%) and access to open space and trails is not reduced, either through creation of physical access barriers, removing linkages or physical access points, or by modifying the placement of uses and buildings relative to the open space.

2. Zoning Administrator Approval

- a. Upon receiving a request to modify an approved PD, the Zoning Administrator will determine if proposed amendments to an approved PD satisfy the above criteria listed in subsection **5.08.C.1.**
- b. If Zoning Administrator determines that the criteria listed in subsection **5.08.C.1** are not satisfied, an Application for an amended PD shall be submitted for full review and approval according to the procedures set forth in this section **5.08.**

5.09. Specific Use Permit (SUP)

A. General Description and Authorization

1. The uses listed under the various districts as “S” in the Use Chart require approval of a Specific Use Permit (SUP) prior to approval of a Certificate of Occupancy.
2. With consideration given to setting, physical features, compatibility with surrounding land uses, traffic, and aesthetics, the City Council may authorize an SUP for a use indicated by “S” in the Use Chart if the Council finds that the use as approved is compatible with existing or planned land uses.

B. Application

Application and public hearing procedures for an SUP are consistent with the following sections:

1. 5.01 General Application Processing;
2. 5.04 Public Hearings and Notification Requirements for Zoning-Related Applications;
3. 5.05 Zoning Text and Map Amendments;
4. 5.07 Site Plan Requirements, unless waived by the Zoning Administrator.

C. Criteria for Special Permit Approval.

1. Special Use Permit Criteria

The City Council shall use the following criteria to evaluate an SUP:

- a. Whether the proposed use shall be in harmony with the policies of the Comprehensive Plan.
- b. Whether the proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- c. Whether the proposed use shall not adversely affect the use of neighboring properties.
- d. Whether the proposed use shall not generate pedestrian and vehicular traffic that is hazardous or in conflict with the existing and anticipated traffic in the neighborhood.
- e. Whether utility, drainage, parking, loading, signs, lighting access and other necessary public facilities to serve the proposed use shall meet the adopted codes of the City.

2. Specific Conditions

In granting an SUP, the City Council may impose conditions, including limits of time, which shall be complied with by the owner or grantee before a Certificate of Occupancy may be issued by the Building Official for use of the building on such property pursuant to such SUP; and such conditions may not be construed as conditions precedent to the granting of the Certificate of Occupancy.

3. Compliance With Written Requirements

No SUP shall be granted unless the applicant, owner and grantee of the SUP accepts and agrees to be bound by and comply with the written requirements of the SUP and any conditions and supporting materials approved and adopted by City Council, including, but not limited to, the Site Plan and other conditions and restrictions approved by the City Council.

4. Expiration of SUP

- a. Following approval, an SUP may continue in operation and be transferred between owners, operators, or businesses at the same location unless one or more of the conditions listed in subsection 5.09.C.4.b is present.
- b. An SUP will expire under one or more of the following conditions:
 - (1) The applicant does not apply for a Building Permit within one (1) year from the time the SUP is approved;

- (2) The building, premise, or use associated with the SUP is voluntarily vacated or abandoned for a period of six (6) months or longer;
 - (3) The building, premise, or use associated with the SUP is destroyed to an extent that is 50% or less of the most recent appraised value by fire or other cause, and the building, premise, or use is not reconstructed or reestablished within one (1) year of the occurrence of the event that destroyed the building, premise, or use; or
 - (4) The building, premise, or use associated with the SUP is destroyed to an extent greater than 50% of the most recent appraised value by fire or other cause.
- c. The City Council, upon recommendation of the Planning and Zoning Commission, may approve a request to delay expiration of an SUP by up to one (1) year.
- d. If the SUP expires under any scenario listed in subsection 5.09.C.4.b, a new SUP must be approved prior to a Certificate of Occupancy being issued on the property.
- 5. Modification of SUP
 - a. No building, premise, or use associated with the SUP may be enlarged, modified, structurally altered, or otherwise significantly changed unless City Council approves a modification to the SUP according to the procedures listed in subsection 5.09.B.
 - b. Any person possessing an SUP that is found to be in violation of this Zoning Ordinance, another ordinance of the City, or the conditions associated with the SUP must, upon notification by the City, cease the violation within thirty (30) days or modify the SUP consistent with this section 5.09.
 - (1) If a violation does not cease following notice given by the City, the City Council is authorized, by a simply majority vote, to suspend or revoke the SUP.
- 6. The Board of Adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the granting extension, revocation, or modification or any other action taken relating to such SUP.

5.10. Amortization of Nonconforming Uses

A. City Council Initiation of Amortization Case

The City Council, by majority vote, may request that the Board of Adjustment consider establishing a compliance date for a Nonconforming Use.

B. Board of Adjustment Decision

1. Once requested by the City Council, the Board of Adjustment may require the discontinuance of a Nonconforming Use under any plan whereby the full value of the use's structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the zoning regulations.
2. The value of any structures and facilities that are configured for use by a conforming use in the zoning district where the property is located may be excluded from the determination of a reasonable amortization period.
3. All actions to discontinue a Nonconforming Use shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare, the character of the area surrounding the nonconforming use, and the goal of conservation and preservation of conforming properties.

C. Public Hearing Process

1. First Public Hearing

- a. The Board of Adjustment shall hold a public hearing to determine whether continued operation of the Nonconforming Use is in the public interest. Any interested party may submit testimony or evidence either for or against amortization.
- b. Upon receiving a request from the City Council, the Zoning Administrator shall schedule a public hearing before the Board of Adjustment.
- c. In determining whether the continued operation is in the public interest, the Board of Adjustment shall consider the following factors:
 - (1) The character of the surrounding neighborhood.
 - (2) The degree of incompatibility of the use with the zoning district in which it is located.
 - (3) The manner in which the use is being conducted.
 - (4) The hours of operation of the use.
 - (5) The extent to which continued operation of the use may threaten public health or safety.
 - (6) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.
 - (7) The extent to which public disturbances and nuisances may be created or perpetuated by continued operation of the use.
 - (8) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.
 - (9) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.
 - (10) The extent the nonconforming use impacts the value and marketability of the abutting and surrounding properties or neighborhood.
 - (11) Whether the property is readily suitable for development or operation of a conforming use.

- d. If the Board of Adjustment determines that cessation of the Nonconforming Use is in the public interest, the Board of Adjustment shall, consistent with State Law, provide a compliance date for the Nonconforming Use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a reasonable time period. The following factors shall be considered by the Board of Adjustment in determining a reasonable amortization period:
 - (1) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site and excluding structures, fixed equipment, and other assets that are readily suitable for use by a conforming use) on the property before the time the use became nonconforming.
 - (2) Any costs that are reasonably and directly attributable to accomplishing the ordered compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.
 - (3) Any return on investment since inception of the use, including net income and depreciation.
 - (4) The anticipated annual recovery of investment, including net income and depreciation.
 - (5) A reasonable closeout and termination period for the Nonconforming Use.
- e. The Board of Adjustment may request financial documentation from the owner relating to the factors listed.
- f. If the owner does not provide documentation, the Board of Adjustment is authorized to make its determination of a compliance date based upon any reasonably available public records as well as testimony at the public hearing.
- g. Failure by owner to provide the requested financial documents and records shall not prevent the Board of Adjustment from setting a compliance date.

D. Ceasing Operations

If the Board of Adjustment establishes a compliance date for a Nonconforming Use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.

E. Definitions

For purposes of this section **5.10**, "owner" means the owner of the Nonconforming Use at the time of the Board of Adjustment's determination of a compliance date for the Nonconforming Use.

F. Finality of Decisions

1. Decision to Deny a Request to Establish a Compliance Date

A decision by the Board of Adjustment to deny a request to establish a compliance date is final unless appealed by an aggrieved party to district court within ten (10) calendar days.

2. Decision Setting a Compliance Date

A decision by the Board of Adjustment setting a compliance date is final unless appealed by an aggrieved party to district court within ten (10) calendar days.

Section 155.6. Zoning Relief Procedures

6.01. Zoning Regulation Appeal

A. Types of Appeals

Table 22: Review Bodies and the Associated Public Hearings per Zoning Application Type summarizes the types of appeals contained within this Zoning Ordinance

Table 22: Review Bodies and the Associated Public Hearings per Zoning Application Type			
Application Type	City Council	Board of Adjustment	District Court or County Court
Appeal of Administrative Decision Related to Building Permit, Site Plan, Certificate of Occupancy, or Nonconforming Use		Appeal	
Appeal of Administrative Decision Related to Alternative Compliance	Appeal		
Appeal of Board of Adjustment Decision			Appeal
Appeal of Vested Rights Determination by Zoning Administrator	Appeal		

1. Appeal of a City Administrative or Interpretative Decision

- a. Any person, department, board, or bureau of the City affected by any administrative officer acting pursuant to the Zoning Ordinance regulations must submit written appeal to the Board of Adjustment within twenty (20) calendar days of the decision, unless specified elsewhere in this Zoning Ordinance or by State Law.
- b. In exercising its authority herein, the Board of Adjustment may reverse or affirm, in whole or in part, or modify the City 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 the Board has the same authority as the City's administrative official.
- c. Public hearings shall be held in accordance with section **5.04 above**.

B. Appeals Procedure to the City Council or Board of Adjustment

1. Timing and Fee

Appeal to the City Council or Board of Adjustment shall be made consistent with the time and manner specified in this Zoning Ordinance and with State Law by filing with the City Secretary a notice of appeal specifying the grounds thereof.

2. Appeal Stays Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator or Building Official certifies in writing that a stay would cause imminent peril to life or property.

C. Appeals Procedure to District Court

1. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petitions shall be presented to the court within ten (10) calendar days after the filing of the decision in the office of the Board of Adjustment.
2. The appeal must be in writing and specify the decision of the Board of Adjustment and grounds of such appeal.
3. Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

6.02. Zoning Variance

A. Purpose

1. The Board of Adjustment is authorized in specific cases to grant a variance from this Zoning Ordinance.
2. A variance is authorized by this Zoning Ordinance when such cases are shown not to be contrary to the public interest if, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in an undue hardship and so that the spirit of the ordinance shall be observed and substantial justice done.
3. The Board of Adjustment is not authorized to grant a variance that will allow a use not authorized in the Use Chart or modify the standards or conditions of a PD zoning district or SUP.

B. Zoning Variance Applicability

The Board of Adjustment is authorized to grant a variance from the following regulations consistent with this section **6.02**:

1. Open Space (Yard) Dimensions
2. Lot Dimensions
3. Floor Area
4. Structure Height
5. Lot Coverage

C. Criteria for Approval

The Board of Adjustment may not grant a variance without first having given public notice and having held a public hearing on the variance request in accordance with section **5.04 above** and this subsection **6.02.C**.

1. Findings of Fact

The Board of Adjustment may grant a variance if the Board finds affirmatively that the following are true:

- a. Due to special conditions that affect the subject property, an unnecessary hardship will result from a literal interpretation of the regulation that is the subject of the variance request;
- b. The hardship is unique to the subject property in that it is not commonly found on similar properties in the immediate vicinity;
- c. The hardship is inherent to the property and is not self-created;
- d. The variance is not contrary to the public interest;
- e. The variance is necessary for the preservation and enjoyment of a substantial property right of the Applicant;
- f. The variance is in harmony with the general purpose and intent of this Zoning Ordinance;
- g. Public health, safety, and welfare will be secured; and
- h. Substantial justice will be done.

2. Contextual Factors in Making Determination

- a. In making the findings listed in subsection **6.02.C.1**, the Board of Adjustment may consider the following grounds to determine whether compliance with this Zoning Ordinance would result in unnecessary hardship:

- (1) The nature of the proposed use of the land involved;

- (2) The existing uses of land in the vicinity;
- (3) Whether the financial cost of compliance with the regulation as written is greater than fifty percent (50%) of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code;
- (4) Whether compliance with the regulation as written would result in a loss to the lot on which the structure is located of at least twenty-five percent (25%) of the area on which development may physically occur;
- (5) Whether compliance with the regulation as written would result in the structure violating a different requirement of a City ordinance, building code, or other requirement;
- (6) Whether compliance with the regulation as written would result in the unreasonable encroachment on an adjacent property or easement;
- (7) Whether the structure is a Nonconforming Structure under Section **3.07**;
- (8) The probable effect the variance will have upon conditions of public health, safety, convenience, and welfare; or
- (9) Whether the granting of the variance will adversely affect the ability of adjacent property to develop or will prevent the orderly use of adjacent property.

3. Record of Findings

Such findings of the Board of Adjustment, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of Board of Adjustment meeting at which the variance is considered.

4. Conditions of Approval

In granting a variance, the Board of Adjustment may prescribe conditions that it deems necessary to preserve the public interest.

D. Concurring Vote of 75 Percent Required

Pursuant to **TLGC Section 211.009.(c)**, the concurring vote of seventy-five percent (75%) of the members of the Board of Adjustment is necessary for the Board to grant a variance.

E. Zoning variance denial.

No request for a variance that has been denied shall be further considered by the board under a subsequent request unless:

1. Six (6) months have elapsed from the date of denial; or
2. Conditions relative to other property in the immediate vicinity, within the said six months period, have been changed or acted on by the board or council so as to alter the facts and conditions on which the previous board action was based.

6.03. Zoning Special Exception

A. Purpose

The Board of Adjustment is authorized to hear and decide a special exception in accordance with this section **6.03**.

B. Zoning Special Exception Defined

A special exception is an allowed variation from the regulations of this Zoning Ordinance, but is differentiated from a variance by the following:

1. No Hardship Required

A special exception does not require a finding of an unnecessary hardship.

2. Specifically Allowed and Pre-Determined by the Zoning Ordinance

Approval of a special exception by the Board of Adjustment is specifically provided for and defined in this Zoning Ordinance.

C. Requests for a Zoning Special Exception

The Board of Adjustment may grant a special exception upon receiving a written request from the property owner or authorized agent.

D. Zoning Special Exception Authorized

If the Board of Adjustment finds that the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the Board of Adjustment may authorize the following special exceptions to the regulations herein established:

1. Nonconforming Uses

Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use and permit the expansion of off-street parking or off-street loading for a nonconforming use.

2. Building Setbacks

For existing buildings that were legally constructed prior to the effective date of this Zoning Ordinance, the Board of Adjustment may authorize a special exception to allow reconstruction of a building over a setback line or allow a building to be set back further than a build-to line established by this Zoning Ordinance.

3. Cell Tower Height

a. The Board of Adjustment may approve a special exception for an antenna support structure that exceeds thirty-five feet (35') in height if the structure is set back an additional foot from the minimum required setback for each foot in height above thirty-five feet (35') to a maximum height of sixty-five feet (65').

b. Only one antenna facility exceeding thirty-five feet (35') in height is permitted on each lot.

4. Landscaping

The Board of Adjustment may permit landscaping that varies by more than ten percent (10%) from the requirements of Section **4.01**.

E. Approval Conditions

In granting a special exception, the Board of Adjustment may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare, including

but not limited to conditions specifying the period during which a nonconforming use may continue to operate or exist before being brought into conformance with the provisions of this Zoning Ordinance.

F. Concurring Vote of 75 Percent Required

Pursuant to **TLGC Section 211.009.(c)**, the concurring vote of seventy-five percent (75%) of the members of the Board of Adjustment is necessary to grant a special exception.

G. Zoning special exception denial.

No request for a zoning special exception that has been denied shall be further considered by the board under a subsequent request unless:

1. Six (6) months have elapsed from the date of denial; or
2. Conditions relative to other property in the immediate vicinity, within the said six months period, have been changed or acted on by the board or council so as to alter the facts and conditions on which the previous board action was based.

Section 155.7. Zoning Definitions

7.01. Standard Zoning Definitions

Words and terms not expressly defined in this section are to be construed according to the normally accepted meaning of such words or terms or, where no definition appears, according to their customary usage in the practice of municipal planning and engineering.

1. **Abandonment**

To cease or discontinue a use or activity other than short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

2. **Abutting**

Adjacent, adjoining, and contiguous to. It may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, waterline, park, or open space.

3. **Access**

A means of approaching or entering a property, or the ability to traverse a property (such as in the use of the phrase “pedestrian access easement”).

4. **Accessory Building**

A subordinate building incidental to the main structure.

5. **Accessory Use**

A use that is clearly and customarily incidental and secondary to the Principal Use of land or building(s), and that is located upon the same lot, and that does not change the character thereof. The land/building area that is used for the accessory use is significantly less than that used for the Principal Use.

6. **Adult Day-Care Services**

A facility that provides services on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility.

7. **Agricultural Use**

Land where the production, keeping, or maintenance for sale, lease, or personal use of plants and animals useful to man, including, forages and sod crops, grains and seed crops, dairy animals, poultry and livestock, including but not limited to ostriches, emus, buffalos, beef cattle, sheep, goats, mules, horses and ponies.

8. **Airport or Airport Facility**

A complex of runways and buildings for the takeoff, landing, and maintenance of aircrafts, with facilities for passengers.

9. **Alcoholic Beverage Sales and Service (on-site consumption)**

An establishment operated within a restaurant, stadium, or other facility that offers mixed beverages consisting of distilled spirits, wine, beer, or other alcoholic beverages for sale and consumption on the premises.

10. **Alcohol Sales (off-premises consumption)**

An establishment principally for the retail sale of sealed containers of beer and wine for consumption off-premises. For this definition, alcoholic beverage as defined by the Texas Alcoholic Beverage Code means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

11. **Alley**

A public Right-of-Way, not intended to provide the primary means of access to abutting lots, that is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

12. **Alternative Financial Establishment**

A check cashing business, money transfer business, payday advance or loan business, or title loan business, or any business that provides capital at a high rate of interest with a short repayment period measured most accurately measured in days or weeks to leveraged consumers having no other source of capital. An alternative financial establishment does not include state or federally chartered banks, community development financial institutions, savings and loans, and credit unions.

13. **Ambulance Service**

A facility for the dispatch, storage and maintenance of emergency medical care vehicles.

14. **Amortization**

Discontinuance of a nonconforming use of land or structure under any plan whereby the full value of the structure and facilities can be recovered within a definite period of time and the property or use can be made to conform to the regulations of this Zoning Ordinance.

15. **Amusement, Commercial (Indoors)**

An amusement enterprise wholly enclosed in a building that is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line and including, but not limited to, a climbing wall center, laser tag, video arcade, trampoline park, go-kart track, or billiard parlor.

16. **Amusement, Commercial (Outdoors)**

An amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open including, but not limited to, a golf driving range, archery range, miniature golf course, **carnival**, riding stables, or race tracks.

17. **Animal Shelter or Pet Boarding (with Outside Yard/Kennels)**

Facility with a fenced yard or outside kennels in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

18. **Animal Shelter or Pet Boarding (without Outside Yard/Kennels)**

Facility entirely indoors in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as “doggy day care” or a “pet hotel”.

19. **Antenna Support Structures**

- a. Monopole antenna structure: A self-supporting pole type structure with no guy wire support, tapering from base to top and so designed to support fixtures that hold one or more antennas and related equipment for wireless telecommunication transmission.
- b. Lattice antenna structure: A steel lattice, self-supporting structure with no guy wire support, so designed to support fixtures that hold one or more antennas and related equipment for wireless communication transmission.
- c. Guyed lattice antenna structure: A steel lattice, guy wire supported structure, so designed to support fixtures that hold one or more antennas and related equipment for wireless communication transmission.

20. **Antique Shop**

An establishment offering for sale, within a building, articles such as glass, china, furniture or similar furnishing and decorations that have value and significance due to age, design, and sentiment.

21. **Apartment**

A building, or portion of a building, designed for occupancy by three (3) or more households living independently of each other where each household occupies one (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit not owned in fee simple.

22. **Applicant**

The person or entity responsible for the submission of an Application. The Applicant must be the actual owner of the property for which an Application is submitted, or a duly authorized representative of the property owner. Also see Developer.

23. **Application**

The package of materials, including but not limited to an Application Form, completed checklist, tax certificate, drawings or studies, and other informational materials, that is required by the City to initiate City review and approval of a development project.

24. Application Form

The written form (as provided by and as may be amended by the Zoning Administrator) that is filled out and executed by the Applicant and submitted to the City along with other required materials as a part of an Application.

25. Approval

- a. Approval constitutes a determination by the official, board, commission or City Council responsible for such determination that the Application is in compliance with the minimum provisions of this Zoning Ordinance.
- b. Such approval does not constitute approval of the engineering or surveying contained in the plans, as the design engineer or surveyor that sealed the plans is responsible for the adequacy of such plans.

26. Art Gallery or Museum

An institution for the collection, display, or distribution of objects of art that is open to the general public, and may be sponsored by a public or quasi-public agency or a private agency.

27. Arterial

- a. A Street designated within the Master Thoroughfare Plan.
- b. A principal traffic way more or less continuous across the City or areas adjacent thereto, intended primarily to provide for the movement of through traffic, and that shall act as a principal connecting street with highways as indicated in the Master Thoroughfare Plan.

28. Artisan's Workshop

An establishment used for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items.

29. Assisted Living

A residential facility that restricts occupancy to residents 55 and older and that may provide additional accommodations such as transportation, meals, facilities for on-site medical care or examination, and hospice care.

30. Auction House

A facility that receives and stores any item(s), including, but not limited to, motorized vehicles and heavy equipment, for auction.

31. Automobile Body Shop

A facility that provides collision repair services, including body frame straightening, replacement of damaged parts, and paint repair or repainting but not including repair of mechanical components.

32. Automobile or Other Motorized Vehicle Sales and Service

A business providing sales, display, and service of new and used motorized vehicles, including automobiles and light trucks under 16,000 pounds gross vehicle weight rating (GVWR), motorcycles, RVs, and boats – not including semi-truck or heavy truck sales.

33. **Automobile Parts Store**

Stores selling automobile parts, tires, and accessories.

34. **Automobile Rental**

A business that rents automobiles and light trucks under 16,000 pounds gross vehicle weight for personal use at a daily rate.

35. **Automobile Salvage**

A facility that derives some or all of its income from storage of inoperable or salvaged vehicles for the purpose of resale (including Heavy Load Vehicles). A salvaged vehicle includes vehicles that have been declared a total loss due to damage or mechanical deficiencies, qualify as “non-repairable” as that term is defined by the Texas Department of Motor Vehicles, are partially or totally dismantled, or vehicles that otherwise derive the majority of their value from the scrap value of their materials or parts. An Automobile Salvage operation may include the retail sales of salvaged parts and complete or disassembled vehicles or chassis, such as a “pick n’ pull”.

36. **Automobile Service Garage (Major)**

A facility for repairs involving removal, disassembly, and rebuilding of major engine and drivetrain components including engine, transmission, differential, drive axle, or other lubricated components, electrical, or hybrid or electric vehicle battery components, with all work being conducted inside a building and often spanning multiple days.

37. **Automobile Service Garage (Minor)**

A facility for routine automobile services or minor repairs, such as tire services, oil changes, brake repair, battery sales, suspension components, and other peripheral part replacement that does not involve removal or disassembly of the drivetrain, with all work being conducted inside the building and generally within a 24 hour period.

38. **Automobile Wrecker and Impound Lot**

A business that employs a tow truck or flat-bed truck to recover vehicles for temporary storage or impound for a period not to exceed ninety (90) days.

39. **Bail Bond Services**

A bail bond service or bondsman is any person or corporation that will act as a surety and pledge money or property as bail for the appearance of a criminal defendant in court.

40. **Bakery (Retail)**

A place for preparing, cooking, baking, and selling of baked goods, such as pastry items and donuts on the premises

41. **Bank or Financial Institution**

An establishment, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit and/or facilitating the transmission of funds and that is licensed by the appropriate state or federal agency as a bank, savings and loan association, or credit union. This

includes business activities listed under SIC (Standard Industrial Classification) Codes 60 and 61, but excludes pawnshops, check cashing businesses, payday advance/loan businesses, money transfer businesses and car title loan businesses (see Alternative Financial Establishment).

42. **Banquet Hall**

A building, facility, room, or portion thereof, which is rented, leased or otherwise made available to any person or group for a private event function, that is not open to the general public, and to which admission is not offered to the general public, whether or not a fee is charged.

43. **Bed and Breakfast Inn**

An owner (or operator) occupied residence with up to five bedrooms available for overnight guests. A bed and breakfast inn may provide for guest stays up to 14 consecutive days; however, it shall not offer weekly rental rates. Kitchen and dining facilities may be included to provide meals for guests only; however, no food preparation shall be permitted in guest bedrooms. A bed and breakfast inn shall not include restaurants, banquet facilities or similar services.

44. **Block**

A tract or parcel of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad Right-of-Way, highway, stream, or corporate boundary lines.

45. **Board**

See **Board of Adjustment**.

46. **Boarding House**

A building as defined in chapter 260 of the Health and Safety Code containing between two (2) and six (6) residential units that may be arranged or used for long term lodging for compensation, with or without meals, and not occupied as a single-family dwelling unit. Long term lodging is defined as being for a period exceeding 30 days.

47. **Board of Adjustment**

The City's Board of Adjustment.

48. **Book Store**

A retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media.

49. **Bowling Alley**

An establishment that devotes more than 50 percent of its gross Floor Area to bowling lanes, equipment, and playing area. A bowling alley is wholly enclosed in a building that is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line.

50. Brewery or Distillery

An industrial use that brews ales, beers, meads, and/or similar beverages on site. Breweries and distilleries are classified as a micro and macro based on barrels brewed annually.

a. Microbrewery or Microdistillery

Any facility that brews fewer than 10,000 barrels annually and may include a tasting room, Brewpub, and retail sale for off-premises consumption.

b. Macrobrewery or Macrodistillery

Any facility that brews 10,000 barrels or more annually and may include a tasting room.

51. Brewpub

A restaurant in which the owner or operator, pursuant to a Brewpub License granted by the Texas Alcoholic Beverage Commission (TABC), (i) manufactures, brews, bottles, cans, packages, and labels malt liquor, ale, and beer, and (ii) sells or offers without charge, on the premises of the restaurant, to ultimate consumers for consumption on or off those premises, malt liquor, ale, or beer produced by the owner or operator, in or from a lawful container, to the extent the sales or offers are allowed under the owner or operator's other TABC permits or licenses.

52. Building

Any structure built for support, shelter or enclosure of persons, animals, personal property, records or other movable property and when separated in a manner sufficient to prevent fire, each portion of such building shall be deemed a separate building.

53. Building Façade**a. Primary Façade**

A façade that faces a public or private street or street right of way, park, courtyard, or trail.

b. Secondary Façade

A façade that does not face a public or private street or street right of way, park, courtyard, or trail.

c. Front Façade

The façade that contains a primary public entrance to a building.

54. Building Height

The vertical distance from the grade to the average height of the highest roof surface.

55. Building Official

The Building Official of the City or his or her designee.

56. Building Permit

A permit issued by the City before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the City code.

57. Building Setback Line

The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street Right-of-Way/property line.

58. **Business**
Retail, commercial and manufacturing uses and districts as defined in the Zoning Ordinance.
59. **Car Wash, Full Service**
A facility where a customer can have a motorcycle, automobile, and light load vehicle washed in exchange for financial consideration.
60. **Car Wash, Self Service**
A facility, typically coin operated, used by the customer to wash motorcycles, automobiles and light load vehicles.
61. **Carpentry Shop**
A shop involving woodworking and the assembly of wood products.
62. **Carport**
A roofed structure used for vehicle storage that is not permanently enclosed on at least three sides and which is constructed over a parking space accessible by a driveway to a public street or alley.
63. **Catering Service**
A service providing meals or refreshments for public or private entertainment for a fee.
64. **Cement Storage**
A facility for unpackaged storage of raw cement, a binding substance used in concrete, mortar, and other construction applications.
65. **Cemetery or Mausoleum**
Property used for the interring of the dead.
66. **Certificate of Occupancy**
Written authorization issued by the Building Official to conduct a use listed in Section **3.03 Use Chart** at a particular location.
67. **Ceramic and Pottery Manufacturer**
Manufacturing site for ceramic and pottery goods, including dust, odor, and fume control.
68. **Child Care Facility (Children's Home)**
A business for the care of children at a location other than a caretaker's residence for more than 24 hours. See **Chapter 42** of the Human Resources Code, Regulation of Certain Facilities, Homes, and Agencies that Provide Child Care Services.
69. **Child Care Facility (Day-Care Center)**
A business for the care of children at a location other than a caretaker's residence for less than 24 hours a day, for seven (7) or more children under fourteen (14) years of age for less than twenty-four (24) hours a day, but at least two (2) hours a day, three (3) or more days a week. See **Chapter 42** of

the Human Resources Code, Regulation of Certain Facilities, Homes, and Agencies that Provide Child Care Services.

70. **Child Care Home (7 or More Children)**

A child-care facility that provides care in the caretaker's own residence for seven (7) or more children, excluding children who are related to the caretaker, for less than twenty-four (24) hours a day, but at least two (2) hours a day, three (3) or more days a week. See **Chapter 42** of the Texas Human Resources Code.

71. **Child Care Home (Up to 6 Children)**

A child-care facility that provides 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, with the total number of children not to exceed twelve (12). Also known as a "Family Home". When the home operates as part of a network of homes, may be referred to as a "Cottage Family Home" (See **Chapter 42** of the Texas Human Resources Code).

72. **City**

The City of Cleburne, Texas, together with all its governing and operating bodies.

73. **City Attorney**

The City Attorney of the City.

74. **City Council**

The City Council of the City.

75. **City Manager**

The City Manager of the City or their designee.

76. **City Secretary**

The person(s) so designated by the City to provide clerical and official services for the City Council. This term shall also include any designee of the City Secretary.

77. **Civic/Convention Center**

A building or complex of buildings used for cultural, recreational, athletic, convention, or entertainment purposes and rentable by large groups such as professional organizations, orchestras, plays, stage productions, debates, and recitals.

78. **Code of Ordinances**

The Cleburne Code of Ordinances, as amended.

79. **Collector**

A street that is continuous through several residential districts and is intended as a connecting street between residential districts and nonresidential districts, highways, or business districts, and that may serve both through-traffic and local access functions.

80. **Commission**

See Planning and Zoning Commission.

81. **Common Access Easement**

See Easement, Common Access.

82. **Community Center, Private or Clubhouse**

A building or facility designed for the recreational use or other common use by a neighborhood or community other than the general public, and that is typically owned, operated, or maintained by an entity such as a Homeowners' or Property Owners' Association, neighborhood organization, or management company.

83. **Community Home I**

A licensed residential facility that provides food and shelter, personal guidance, care, habilitation services, & supervision for no more than six (6) persons with a disability as defined by **Chapter 123 of the Texas Human Resources Code**, the Americans with Disabilities Act or the Fair Housing Act.

84. **Community Home II**

A licensed residential facility that provides food and shelter, personal guidance, care, habilitation services, & supervision for seven (7) or more persons with a disability as defined by **Chapter 123 of the Texas Human Resources Code**, the Americans with Disabilities Act or the Fair Housing Act.

85. **Comprehensive Plan**

The plan adopted by City Council under the authority of **Texas Local Government Code Chapter 213** for the purpose of promoting sound development and the public health, safety, and welfare and that is used to coordinate and guide the establishment of development regulations, including this Zoning Ordinance.

86. **Concrete or Asphalt Batching Plant, Permanent**

A permanent manufacturing facility for the production of concrete or asphalt.

87. **Concrete or Asphalt Batching Plant, Temporary**

A temporary manufacturing facility for the on-site production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

88. **Consignment Store**

A store that receives merchandise on consignment from individuals and places for resale.

89. **Contractor's Shop or Storage Yard**

A building, part of a building, or land area for the construction or outdoor or indoor storage of materials, tools, products, and vehicle fleets.

90. **Convenience Store**

A business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, that has less than 20,000 gross square feet of floor area. For purposes of this definition, convenience goods mean food, beverage, household, personal care and pharmaceutical items. A gasoline pump is not considered a drive-in or drive-through service.

91. **Council**

See City Council.

92. **Country Club**

An area containing a golf course and club house that may include as adjunct facilities a dining room, private club, swimming pool, cabanas, tennis courts and similar service and recreational facilities for the members.

93. **County**

Johnson County, Texas and any of its agencies or officers, unless otherwise specified.

94. **Dance, Music, or Drama Studio**

Studio for performing arts education or similar activities.

95. **Developer**

- a. A person or entity, limited to the property owner or duly authorized representative thereof, who proposes to undertake or undertakes the division, development, or improvement of land and other activities covered by this Zoning Ordinance.
- b. The word Developer is intended to include the terms Subdivider, property owner, and, when submitting platting documents, Applicant.

96. **Development**

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, paving, drainage, utilities, storage, and agricultural activities.

97. **Development Director**

The person designated by the City Manager to provide oversight for and have responsibility of the City's planning and development related duties. This term shall also include any designee of the Development Director. Also, this term shall be inclusive of any future variations of the term (see Zoning Administrator).

98. **Donation or Recycling Collection Point**

An incidental use that serves as a neighborhood drop-off point for and temporary storage of donations and recoverable resources. No processing of such items occurs on-site and the site

functions solely as an area of collecting materials. This facility is generally located in a shopping center parking lot or in a public/quasi-public area such as in a church and school.

99. **Drive-Thru or Drive-In Uses**

A commercial use that allows patrons to purchase and receive goods or services without leaving a vehicle by utilizing one or more drive-through lanes, drive-in spaces, order boards, or pick-up windows. Does not include a Restaurant, Car Wash, Full Service or parking spaces reserved for take-out, carside, or curbside service where goods or services are purchased within a building or prior to entering the site.

100. **Duplex**

See Dwelling, Single-Family (Attached – Duplex)

101. **Dwelling Unit**

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

102. **Dwelling, Multi-Family**

Any building, or portion thereof, that is designed, built, rented, leased or let to be occupied as three (3) or more dwelling units or Apartments.

103. **Dwelling, Single-Family (Attached – Duplex)**

A building designed for occupancy for two (2) families living independently of each other. A two family attached unit (also known as a duplex) consists of two (2) units on a single lot or has a lot line dividing the building and separating the building's two (2) dwellings units onto two (2) separate lots.

104. **Dwelling, Single-Family (Attached – Townhouse)**

A dwelling that is joined to another dwelling at one or more sides by a party wall or abutting separate wall, and that is designed for occupancy by one family and is located on a separate lot delineated by front, side and rear lot lines.

105. **Dwelling, Single-Family (Detached)**

A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract and occupied by one family.

106. **Easement**

A grant by a property owner of the use of land by the public, a corporation, entity, or persons for specific purposes.

107. **Easement, Common Access**

An easement created for the purpose of providing vehicular or pedestrian access to a property.

108. **Effective Date**

The date this Zoning Ordinance, or a subsequent amendment thereto, shall become effective.

109. **Electrical Energy Generating Plant**

A facility or structure where electrical (high voltage) energy is generated.

110. **Electrical Power Substations**

A part of the electrical distribution system with the primary function to transform electrical voltage, and includes transformer stations and switching stations.

111. **Electrical Transmission**

Distribution components of the electrical system including, but not limited to, lines, wires, conduit, transformers, and support poles.

112. **Engineer**

Per **Section 1001.002 of the State of Texas Occupations Code**, as may be amended, "Engineer" means a person licensed to engage in the practice of engineering in the State of Texas.

113. **Equestrian Center**

An improved area, lighted and generally fenced, of at least thirty feet (30') in width or length within which equestrian activities involving horse riding or driving occurs. Also includes boarding stables.

114. **Equipment Rental (Heavy)**

An establishment that rents large equipment and machinery such as compressors, backhoes, front-end loaders, roller compactors, generators, tree coppers, trailers, bulldozers, trenching machines, sky lifts, tractors, and dump trucks. The equipment is generally stored outside. This use may involve the starting and running of machinery.

115. **Equipment Repair Shop**

Business providing basic repair services for mechanical equipment.

116. **Established Build Line**

Where a building line has been established along the same side of the street within an existing block and the building line creates a front yard setback lesser in depth than that required by the zoning district (applies in the SF-7, Single-Family Dwelling District).

117. **ETJ**

See Extraterritorial Jurisdiction.

118. **Exterminator**

A business providing services for the extermination of rodents and insects.

119. Extraterritorial Jurisdiction

The unincorporated area, not a part of any other municipality, that is contiguous to the corporate limits of the City, the outer limits of which are measured from the extremities of the corporate limits of the City outward up to the distance stipulated in **Chapter 42 of the Texas Local Government Code**, as may be amended, according to the population of the City, and in which area the City may apply its Subdivision Regulations and other ordinances and regulations specifically provided by State law to be applied within the Extraterritorial Jurisdiction.

120. Fabrication, Metal or Plastic

The creation of parts, components, molds, or other objects for use or display from metal or plastic base materials.

121. Family

A person living alone, or one of the following groups of people living as a single housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- a. Any number of people related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
- b. Up to four (4) unrelated people; or
- c. Up to two (2) unrelated people and any children (including adopted children) related to either of them.

122. Farmer's Market

An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

123. Fee Schedule

A separate document listing fees for various City Applications, prepared by the City Manager or designee and approved by City Council and which may be amended periodically.

124. Feed Store

An establishment engaged in retail sale of supplies directly related to the day-to-day activities of agricultural production.

125. Flea Market

A retail market, customarily outdoors, with booths from which vendors generally sell secondhand goods.

126. Floodplain

An area of land subject to inundation by a 100-year frequency flood as determined using standard engineering practices and generally as shown on the Flood Insurance Rate Map (FIRM) of the City.

127. Floor Area**a. Gross Floor Area**

The floor area within the inside perimeter of the exterior walls of a building exclusive of vent shafts and courts, but including corridors, stairways, closets, the thickness of interior walls, columns, or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

b. Net Floor Area

The floor area within the inside perimeter of the exterior walls of a building exclusive of all non-habitable space such as garages, stairways, closets, and utility rooms.

128. Florist

Retail business whose principal activity is the selling of plants that are not grown on the site and whose business is conducted within an enclosed building.

129. Food Processing Plant

A building or plant that uses special processes, treatments or blending of foods to achieve a specified result. Not a distribution center.

130. Fraternal Organization

A facility or building, other than an Office, Professional, Medical, or Business used by a private organization and limited to use by its members and that may include one or more accessory uses such as Alcoholic Beverage Sales and Service (on-site consumption) or Special Event Center.

131. Freeway

State Highway 121/Chisholm Trail Parkway and U.S. 67, including frontage roads.

132. Front Yard

See Yard, Front.

133. Frontage

All the property abutting on one (1) side of the street, or between two (2) intersecting streets, measured along the street line.

134. Funeral Home or Mortuary

Establishment engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals.

135. Furniture Repair and Upholstering Shop

A business that repairs and replaces upholstery to household and office furnishings; does not include motor vehicle upholstery or repair.

136. **Gasoline or Diesel Passenger Vehicle Filling or Service Station**

Property used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquefied flammable gas, or flammable gas into the fuel tanks of passenger motor vehicles, including any associated use.

137. **Gasoline or Diesel Passenger Vehicle Self-Service Pumps Only**

Property used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquefied flammable gas, or flammable gas into the fuel tanks of passenger motor vehicles. This use addresses the presence of self-service pumps only and does not include any related buildings, such as an associated convenience store or service station.

138. **Gasoline or Diesel Truck Filling or Service Station**

Property used partly or entirely for storing or dispensing flammable liquids, combustible liquids, liquefied flammable gas, or flammable gas into the fuel tanks of commercial motor vehicles, such as semi-trailer truck, including any associated convenience store or service station.

139. **Gasoline or Diesel Truck Filling or Service Station with Overnight Parking**

A Gasoline or Diesel Truck Filling or Service Station with accommodation for sleeping, showering, dining, and overnight parking.

140. **Golf Course**

A private or public tract of land laid out with at least nine holes for playing a game of golf or a derivation of golf such as frisbee golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and shelters as accessory uses.

141. **Greenhouse (Commercial Non-Hobby)**

A building or enclosed facility used or designed to grow plants for commercial use.

142. **Grocery Store (<20,000 square feet)**

See Convenience Store .

143. **Grocery Store (≥20,000 square feet)**

A retail establishment that sells fresh meat, produce, dairy, and bread as well as prepackaged foods and other household goods and may include other ancillary uses such as Restaurant or Cafeteria, without Drive-Thru, Pharmacy, and Medical Clinic.

144. **Guest House/In-Law Quarters**

Living quarters operated as an incidental/accessory use that is either attached or detached from the principal residence and used without renting or leasing as a residence by either guests or persons employed to provide domestic services to the occupants of the principal residence.

145. **Gun Club, Skeet or Target Range (Indoor)**

The use of a structure for archery or the discharging of firearms indoors for the purpose of target practice or competition.

146. **Gun Club, Skeet or Target Range (Outdoor)**

The use of land for archery or the discharging of firearms outdoors for the purpose of target practice or competition.

147. **Gym or Health/Fitness Center**

A facility where individuals use equipment or facilities for the purpose of physical exercise.

148. **Gymnastic Studio**

A building or portion of a building used as a place of work for a gymnast or for instructional classes in gymnastics.

149. **Halfway House**

A facility for the housing, rehabilitation and training of persons on probation, parole or early release from correctional institutions, or other persons found guilty of criminal offense as regulated by Chapter 508 of Texas Government Code.

150. **Handicraft Shop**

A shop where handcrafted art objects are made and displayed for sale.

151. **Hazardous Waste Disposal**

A facility for the disposal of hazardous materials (see subsection **3.06**).

152. **Heavy Load Vehicle**

A self-propelled vehicle having a manufacturer's recommended gross vehicle weight rating (GVWR) equal to or greater than 16,000 pounds, such as large recreational vehicles exceeding thirty-two feet (32'), semi-trucks or tractor-trailers, buses, farm or construction equipment, and other similar vehicles.

153. **Heavy Load Vehicle Sales and Service**

Retail sale and minor service [oil change, tire change, brake service, and other services similar to those authorized for Automobile Service Garage (Minor)] of Heavy Load Vehicles, including recreational vehicles, trailers, and Industrialized Housing regardless of weight rating from a lot where vehicles are offered for sale in an operable condition, are parked on an Improved Surface, and where sales are conducted from an office in a permanent building.

154. **Heavy Load Vehicle Service Garage**

A facility for repair of Heavy Load Vehicles involving functions included under Automobile Service Garage (Minor) and also involving the removal, disassembly, and rebuilding of major engine and drivetrain components including engine, transmission, differential, drive axle, or other lubricated components, electrical, or hybrid or electric vehicle battery components, with all work being conducted inside a building and often spanning multiple days.

155. **Height (Building)**

See Building Height.

156. Heliport or Helistop

An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

157. Hobby Shop

A retail shop that sells materials and supplies to persons for the making of arts and crafts, including models.

158. Home-Based Business

A business, occupation, or profession conducted within a residential dwelling unit by one or more permanent occupants of the dwelling.

159. Homeowners' or Property Owners' Association

A formal nonprofit organization operating under recorded land agreements through which:

- a. Each lot or property owner in a specific area is automatically a member; and
- b. Each lot or property interest is automatically subject to a charge for a proportionate share of the expense for the organization's activities, such as the maintenance of common property; and
- c. The charge if unpaid, becomes a lien against the nonpaying member's property

160. Hospital, Acute Care

An institution where sick or injured patients are given medical or surgical treatment on an out-patient basis, and that is licensed by the State of Texas.

161. Hospital, Chronic Care

An institution where persons suffering from serious illness or injury are given care and treatment on an in-patient or prolonged basis, and that is licensed by the State of Texas.

162. Hotel

A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Hotel room units are accessed through doorways into an internal hallway, courtyard or lobby. Financial consideration for hotel room units is generally calculated on a nightly basis.

163. Hotel, Extended Stay

A building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Residence hotel room units are designed to be suitable for long-term occupancy with financial consideration being calculated on a nightly, weekly, or monthly basis. A Hotel, Extended Stay is not considered a Dwelling Unit or Residential Use.

164. Improved Surface

Concrete or asphalt surface meeting the City's standard detail requirements or as specified in this Zoning Ordinance.

165. Improvement

Any man-made fixed item that becomes part of or placed upon real property. See also Public Improvement.

166. Industrialized (Commercial) Building

Per **Section 1202.003 of the State of Texas Occupations Code**, as may be amended:

- a. An industrialized building is a commercial structure that is:
 - i. Constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site; and
 - ii. Designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed.
- b. An industrialized building includes the structure's plumbing, heating, air conditioning, and electrical systems.
 - i. An industrialized building includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site but does not include commercial building or structure that is:
 - 1. Installed in a manner other than on a permanent foundation; and
 - 2. Either:
 - a. Not open to the public; or
 - b. Less than 1,500 square feet in total area and used other than as a school or a place of religious worship.

167. Industrialized Housing

Per **Section 1202.002 of the State of Texas Occupations Code**, as may be amended:

- a. Industrialized housing is a residential structure that is:
 - i. Designed for the occupancy of one or more families;
 - ii. Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
 - iii. Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
- b. Industrialized housing includes the structure's plumbing, heating, air conditioning, and electrical systems.
- c. Industrialized housing does not include:
 - i. Housing constructed of a sectional or panelized system that does not use a modular component; or
 - ii. A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.
- d. See subsection **3.04.A.16** for Industrialized Housing regulations.
- e. For Mobile Homes and Manufactured Homes, see Manufactured Housing.

168. Infrastructure

All streets, alleys, sidewalks, storm drainage, water, and wastewater facilities, utilities, lighting, transportation, and other facilities as required by the City.

169. Institution for the Care of Alcoholic, Psychiatric or Narcotic Patients

An institution offering resident treatment to alcoholic, psychiatric or narcotic patients.

170. Jewelry Manufacturing or Assembly

A facility for manufacturing or assembling jewelry.

171. Landfill

A tract of land used for the burial of farm, residential, institutional, industrial, or commercial waste that is not hazardous, medical, or radioactive.

172. Laundry, Commercial

An industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

173. Laundry, Dry Cleaning Drop-Off/Pick-Up

A launderer that cleans fabrics, clothes, and linens with facilities for on-site drop-off and pick-up by the patron.

174. Laundry, Self-Service

A laundromat facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

175. Leather Product and Saddle Manufacturing

A facility that uses animal hides to produce products for sale, including saddles.

176. Library

A room or building for exhibiting, or an institution in charge of, a collection of books, or artistic, historical, or scientific objects.

177. Light Assembly and Manufacturing Processes

- a. The fabrication, assembly, manufacturing, and packaging of finished products or parts, predominantly from previously prepared materials.
- b. Light fabrication, assembly, manufacturing, and packaging processes are those that do not emit detectable dust, odor, smoke, gas or fumes beyond the property lines of the lot or tract upon which the use is located and that do not generate noise or vibration at the property boundary that is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

178. Light Load Vehicle

A self-propelled vehicle having a manufacturer's recommended gross vehicle weight (GVW) not greater than 16,000 pounds, and having no more than two axles, such as pick-up trucks, vans,

recreational vehicles (less than 32 feet in length), campers and other similar vehicles but not including automobiles and motorcycles.

179. **Live Work Unit**

A Dwelling Unit such as an Apartment in which a significant portion of the space includes a Nonresidential Use that is operated by the tenant where all uses, including the Live Work Unit itself and the associated Nonresidential Use are permissible under Section **3.03**.

180. **Local Street**

A street used primarily for access to the abutting properties.

181. **Lot**

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

182. **Lot Depth**

The mean horizontal distance from the front property line or Right-of-Way to the rear property line or the line that is most nearly parallel to the front property line.

183. **Lot Lines**

Means the lines bounding a lot.

184. **Lot of Record**

A lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk, or a parcel of land, the deed for which has been recorded in the office of the county clerk prior to adoption of the Zoning Ordinance.

185. **Lot Width**

The mean horizontal distance between side lines measured at right angles to the depth.

186. **Manufactured Housing**

Prefabricated housing products that are typically manufactured or assembled at a location other than the end user's permanent site, and that are regulated by the Texas Manufactured Housing Standards Act (Texas Occupations Code Chapter 1201) and Texas Occupations Code Chapter 1202. Industrialized Housing and Buildings. For the purpose of this Ordinance, the following constitute the types of manufactured homes:

a. Mobile Home

- i. A mobile home is any manufactured home that was constructed prior to June 15, 1976.
- ii. As governed by the definition within the Texas Manufactured Housing Standards Act ([Texas Occupations Code, Sec. 1201.003](#)), a movable dwelling designed to be transported on its own chassis on the highway (either intact or in major sections) by a prime mover, that is constructed with a base section so as to be independently self-supporting, and that does not require a permanent foundation for year-round living.

b. Manufactured Home

- i. Manufactured Homes are regulated by HUD Code. A HUD-Code manufactured home is also defined as a movable manufactured home that was constructed after June 15, 1976. A HUD-Code manufactured home will display a red certification label on the exterior of each transportable section.
- ii. As governed by the definition within the Texas Manufactured Housing Standards Act (Texas Occupations Code, Sec. 1201.003), a movable dwelling designed to be transported on the highway, either intact or in major sections, by a prime mover, that can be used as a residential dwelling either with or without a permanent foundation.

187. **Manufacturing or Industrial Operations**

An establishment engaged in manufacturing, assembly, packaging, or other similar process where products are manipulated from raw materials or base components into a finished commodity for wholesale or retail sale. This definition also includes the bulk storage and handling of products and materials associated with the manufacturing or industrial process, or a manufacturing or industrial use having the potential to produce noise, dust, glare, odors, or vibration that will affect neighboring properties if not properly attenuated.

188. **Master Thoroughfare Plan**

The plan that guides the development of adequate roadway circulation and traffic management within the City, and includes the official map designating the ultimate cross sections of Streets as Local Street, Collector Street, Arterial Street, or Freeway.

189. **Meat Processing Plant**

A building where live animals are killed and sold after packing and processing.

190. **Medical Clinic**

A group of offices for one or more physicians, surgeons, chiropractors, or dentists engaged in treating the sick or injured, but not including rooms for the chronic care of patients.

191. **Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions**

An area designated, arranged, or used for the location of mobile homes that are intended for occupancy as living quarters by individuals or families. RV Park are not included in this definition.

192. **Modular Home**

See Industrialized Housing.

193. **Motel**

A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door allowing for direct access from a vehicle to the room or unit door.

194. **Movie Theatre**

A specialized theater for showing movies or motion pictures.

195. **Movie Theatre, Drive In**

An establishment that allows patrons to watch movies on-site from their vehicles and where the movies are projected onto a physical screen or surface while audio is broadcast via a designated radio frequency or other means not involving sound that is amplified or otherwise capable of being heard beyond the property line of the theater.

196. **Multi-Family**

See Dwelling, Multi-Family

197. **Newspaper Printing**

A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

198. **Nonconforming Lot**

A lot that does not meet the current requirements of this Zoning Ordinance, but that was in conformance with the standards in place at the time of its inception (see Section **3.07**).

199. **Nonconforming Structure**

A structure that does not meet the current requirements of this Zoning Ordinance, but that was in conformance with the standards in place at the time of its inception (see Section **3.07**).

200. **Nonconforming Use**

A use of land that does not meet the current requirements of this Zoning Ordinance, but that was in conformance with the standards in place at the time of its inception (see Section **3.07**).

201. **Nonconformities**

The term Nonconformities is a general term used to refer to Nonconforming Uses, Nonconforming Structures, and Nonconforming Lots (see Section **3.07**).

202. **Nonresidential Use**

A use other than a residential use, including residential and nonresidential uses in the same building (mixed-use).

203. **Nonresidential Zoning Districts**

The NC, LC, RC, MU, CI, and I zoning districts. See **Table 1: Zoning Districts**.

204. **Nursery, Non-Retail**

An establishment for the cultivation and propagation, display, storage, and sale (retail and wholesale) of large plants, shrubs, trees and other materials used in indoor or outdoor plantings, and the contracting for installation or maintenance of landscape material as an accessory use. Outdoor display and storage is presumed with this use.

205. Nursery, Retail

A retail business for the display and sale of trees, shrubs, flowers, ornamental plants, seeds, garden and lawn supplies, and other materials used in indoor and outdoor planting, without outside storage or display.

206. Office, Professional, Medical, or Business

A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

207. On-Premise Residence

A residence located on a non-residential premises and occupied only by an employee of the business that occupies the non-residential premises.

208. Open Space

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 projection of architectural features such as cornices, eaves, or bay windows.

209. Outside Display

The temporary outside display of finished goods. Finished goods are specifically intended for immediate retail sales and are not intended nor used as an area for the continuous keeping or storage (i.e., Outside Storage) of such finished goods. Examples of outside display include the display of grills, deer feeders, patio furniture, lawn mowers, flowers, pumpkins, Christmas trees, and clothing. For information regarding Outside Display regulations, see the Use Chart and subsection **3.04.A.18.**

210. Outside Sales

The sale of goods or commodities from an open yard where no sales activity is conducted from a permanent building.

211. Outside Storage

The continuous keeping or storage of any finished or unfinished goods, materials, merchandise, or equipment outside of a building for more than twenty-four (24) hours.

212. Park, Playground, or Community Center, Public

An open recreational facility or park owned and operated by a public agency such as the City or the school district, and available to the general public.

213. Parking (Principal Use)

An open area or place, other than a street or alley, used for temporary parking of vehicles with no other Principal Use or Principal Building on the same lot.

214. Parking (Heavy Load Vehicles)

An open area or place, other than a street or alley, used for temporary parking of vehicles 16,000 pounds GVWR or higher.

215. Parking Garage

A multilevel structure used for temporary parking or storage of automobiles which may include other commercial uses on the ground floor.

216. Parking Space

An area of not less than 162 square feet (measuring approximately nine feet by 18 feet), not on a public street or alley, surfaced with an all-weather surface, enclosed or unenclosed, together with an all-weather surfaced driveway connecting the parking space with a street or alley permitting free ingress and egress. Such term, unless otherwise specified, does not include in any Residential Use district the parking of Heavy Load Vehicles for commercial purposes or head-in parking adjacent to a public thoroughfare wherein the maneuvering is done on a public street.

217. Pawn Shop

An establishment that lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness, or, that deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

218. Penal and Correctional Institutions

Publicly or privately operated facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail, prison, and halfway house.

219. Personal Service Shop

Establishments primarily engaged in providing services generally involving the care of the person or apparel including but not limited to barber and beauty shops, nail shops and massage shops, dressmaking, shoe shining, dry-cleaning and laundry pick-up stations, tailor or seamstress, and health clubs.

220. Pet Store

A retail sales establishment primarily involved in the sale of pet supplies or the sale or adoption of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

221. Petroleum and Gas Storage and Collection Facilities

An outdoor area where storage of petroleum and natural gas is allowed (tank farm).

222. Pharmacy

A shop or a store wherein prescription medicines are processed and compounded before retail sale to patients and where secondary medical supplies or sundries may be offered for sale.

223. **Photographer's or Artist's Studio/Film Processing**
Workspace for one or more photographers, artists, or artisans, including the accessory sale of art produced on the premises.
224. **Planning and Zoning Commission**
The Planning and Zoning Commission of the City.
225. **Planning Director**
See Development Director and Zoning Administrator.
226. **Plastic Products Manufacturing**
The making of goods by processing plastics materials or raw rubber, with dust and fume control.
227. **Plat**
A map or chart of the subdivision, lot or tract of land that is filed in the County plat records.
228. **Play Field or Stadium (no nighttime illumination)**
An athletic field or stadium including a baseball field, football field, soccer pitch, or stadium that does not include permanent nighttime illumination.
229. **Play Field or Stadium (with nighttime illumination)**
An athletic field or stadium including a baseball field, football field, soccer pitch, or stadium that does include permanent nighttime illumination.
230. **Plumbing/Electrical/Air Conditioning Store (Retail Sales Only)**
Establishments primarily engaged in retail sales of plumbing, heating, and air-conditioning equipment, without warehouse facilities, includes storage for ordinary repair but no materials for contracting work.
231. **Police or Fire Station**
Protection centers operated by a governmental agency, including administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of safety vehicles; excluding, however, correctional institutions.
232. **Principal Building**
The building that contains the primary function or activity on a lot.
233. **Principal Use**
The primary or predominant use of any lot or building.
234. **Printing/Duplication Shop or Mailing Center**
a. An establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving; or

- b. A commercial business that conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

235. **Private Club**

Establishments which hold and have been issued a private club registration permit or other private club permits under the Texas Alcoholic Beverage Code **Chapters 32 and 33**, as amended.

236. **Professional Services**

Services such as support services, production of goods, or repair of items not otherwise listed or defined that are performed by a business or individual in exchange for money or other consideration and that are entirely conducted within an enclosed building and where no sound, dust, odor, or glare is emitted from the building during the operation of the use.

237. **Public Improvement**

Any facility or service together with its associated public site, Right-of-Way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City or other government authority ultimately assumes the responsibility for maintenance, operation or ownership.

238. **Public Use or Building**

- a. Any use or building held, used, or controlled exclusively for public purposes by any department or branch of government, federal, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated.
- b. A building belonging to or used by the public for the transaction of public or quasi-public business.

239. **Radio or TV Station (No Tower)**

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Facilities classified as major utility services or broadcasting or communication towers are excluded from this definition and must be approved by Special Exception consistent with subsection **3.04.A.27**.

240. **Rail Station or Bus Station, Passenger**

A building, structure, or property used for the boarding of passengers on a train or bus and related ticketing sales and offices.

241. **Railroad Facility**

Facilities, buildings, equipment, and yards used in the operation of a railroad.

242. **Railway and Railway Right-of-Way**

A public or private right-of-way on which tracks for trains are constructed for use by light or heavy rail trains, including passenger and freight trains.

243. Rear Yard

See Yard, Rear.

244. Recycling Center

A facility in which recoverable resources, including but not limited to, paper, glassware, and metals, are collected, stored, flattened, crushed, or bundled for shipping to a Recycling Facility.

245. Recycling Facility

A facility where damaged, inoperable, obsolete, or used, secondhand materials are bought, sold, exchanged, temporarily stored, processed, or broken down into raw materials. Recycled materials include, but are not limited to, scrap iron and other metals, glass, demolished building materials, automobiles, and machinery.

246. Religious Use

A place of worship and religious training of recognized religions, including the on-site housing of ministers, rabbis, priests, nuns, imams, and similar staff personnel.

247. Renewable Energy System

See Solar Panel or Array or Wind Turbine.

248. Research or Scientific Laboratory

An establishment that engages in research, testing or evaluation of materials or products, but not necessarily medical related.

249. Residence Hotel (Extended Stay Hotel)

See Hotel, Extended Stay.

250. Residential Use

Residential use means use of a structure as a Dwelling Unit designed to be occupied by at least one (1) Family but not including Boarding House, Hotel, Hotel, Extended Stay, or Motel.

251. Residential Zoning Districts

See **Table 1: Zoning Districts** for a list of districts.

252. Resource Extraction (Oil and Gas)

Drilling, production, or distribution activity related to oil and gas extraction as regulated under the Texas Natural Resources Code.

253. Restaurant or Cafeteria, with Drive-Thru

An establishment, with drive-up window where food and drink are prepared and consumed primarily off-premises.

254. Restaurant or Cafeteria, without Drive-Thru

An establishment where food and drink are prepared and consumed primarily on the premises, but which may include takeout or curbside service for consumption off-premises.

255. Retail Stores and Shops

An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

256. Retirement Housing

Any age restricted housing development that may be in any housing form, including detached and attached Dwelling Units and Apartments, offering private and semiprivate rooms and designed to provide meals and nursing care to persons aged 55 or over.

257. Right-of-Way

- a. A parcel of land occupied or intended to be occupied by a street or alley or other transportation infrastructure.
- b. A Right-of-Way may be used for other facilities and utilities, such as sidewalks, railroad crossings, electrical communication, oil or gas, water or sanitary or storm sewer facilities, or for any other use.
- c. The use of Right-of-Way shall also include parkways and medians outside of pavement.

258. RV Park

A designated and defined parcel of land within a recreational vehicle park intended for occupation by a recreational vehicle for no longer than thirty (30) consecutive days.

259. School, Career

An organization offering a curriculum or course of study leading to credentialing in a recognized profession such as trade school, information technology, dental assistant, pharmacy technician, nurse aide, veterinary assistant, etc.

260. School, College or University

Includes colleges or universities providing a post-secondary education and issuing a degree for a course of study in the arts, humanities, sciences, or other advanced field of study other than School, Career.

261. School, K-12

Includes school facilities providing primary and post-secondary education to students in Kindergarten-12th grade.

262. Seamstress or Tailor Shop

Establishments primarily engaged in manufacturing or modifying clothing.

263. Secondhand Store

The sale of used items or goods not principally donated to the seller by the previous owner (see Thrift Store).

264. **Self-Storage (Mini Warehouse Facilities)**

A building(s) containing separate, individual self-storage units for rent or lease and generally used for storing household or personal items or vehicles, including boats and recreational vehicles (RVs) but not for bulk storage, storage of hazardous materials, or occupation by humans or animals.

265. **Setback Line**

A line within a lot, parallel to and measured from a corresponding lot line, establishing the minimum required yard and governing the placement of structures and uses on the lot.

266. **Sexually Oriented Business**

A sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

267. **Shoe Repair Shop**

An establishment with the principal business of repairing shoes.

268. **Side Yard**

See Yard, Side.

269. **Sight Visibility Triangle**

A space left open and unobstructed by fences, structures, shrubs, trees, or other plant life along streets at the corner in front of the building line of lots contiguous to intersecting streets. Also called "intersection sight triangle."

270. **Single-Family Detached Residential**

See Dwelling, Single-Family (Detached)

271. **Site Plan**

A Site Plan is a detailed, scaled drawing of all surface improvements, structures, and utilities proposed for development and is associated with the zoning ordinance.

272. **Sketch Plan**

An informal plan drawn to approximate scale by hand or using basic non-technical software that depicts the general layout of a development site. Sketch plans are generally for the purpose of discussion only, such as a Pre-Application Conference, and are not suitable for detailed technical review.

273. **Slaughterhouse**

A commercial facility used for the slaughtering and processing of animals and the refining and distribution of byproducts from slaughtering.

274. Small Engine Repair Shop

A shop for the repair of lawnmowers, chainsaws, lawn equipment, and other small engine equipment and machinery than can be conveyed by hand by a single person of average strength.

275. Smelter, Refinery, or Chemical Plant

A building or facility for refining or processing oil or a chemical plant for producing chemical products or processing of those products.

276. Solar Panel or Array (mounted on building or structure)

A solar collector or other device not exceeding the maximum height of a building or structure (if mounted on a building or structure) that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing the sun's radiant energy for a beneficial use such as electrical power.

277. Solar Panel or Array (ground installation)

A solar collector or other device not exceeding the maximum height, setback, or lot coverage for an accessory structure (if installed on the ground) that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing the sun's radiant energy for a beneficial use such as electrical power.

278. Special Zoning Districts

A zoning district as listed a special zoning district within **Table 1: Zoning Districts**.

279. Specific Use Permit

- a. A zoning procedure to allow a specific use on a property.
- b. See Section **5.09** for procedures.
- c. See Use Chart for which zoning districts allow a Specific Use Permit (SUP).

280. Story

That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Also the vertical distance between two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

281. Stable

- a. Commercial or Boarding
A building or shelter where animals or livestock such as horses, sheep, goats, and pigs are kept either for compensation by a person other than the owner of the animals or for the purpose of making the animals available to the general public for a commercial purpose such as riding.
- b. Private
A building or shelter where animals or livestock such as horses, sheep, goats, and pigs are kept by the owner of the animals.

282. Street

A public Right-of-Way that provides vehicular traffic access to adjacent lands or for the movement of through traffic.

283. Structure

Anything constructed or erected that requires location on the ground or attached to something having a location on the ground, including, but not limited to freestanding canopies, pergolas, gazebos, carports, advertising signs, billboards, and poster panels, but not including fences, retaining walls, sidewalks, or curbs. For structures designed for habitation, see Building.

284. Subdivider

- a. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision.
- b. In any event, the term “subdivider” shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land to be subdivided.

285. Subdivision

- a. The division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership with the exception of transfer to heirs of an estate, and shall include re-subdivision.
- b. Any other subdivision or re-subdivision of land contemplated by the provisions of **Chapter 212, Local Government Code**.

286. Subdivision Regulations

The adopted subdivision regulations of the City.

287. Sundry Store

A retail store, also commonly referred to and promoted and advertised as a dime or dollar store, selling various small items such as dry goods, toiletries, household supplies, frozen food, and other perishable and nonperishable food.

288. SUP

See Specific Use Permit (SUP).

289. Surveyor

A licensed State Land Surveyor or a Registered Public Surveyor, as authorized by the State to practice the profession of surveying.

290. Swimming Pool

An outdoor pool designed for one or more persons to immerse themselves for recreational or exercise use. A swimming pool contains at least twenty-four (24) inches of average depth and one hundred fifty (150) square feet of surface area constructed either in-ground, above ground, or a combination and includes a system of pumps and filters to recirculate and chemically sanitize the pool water for human occupation.

291. Tattoo or Piercing Studio**a. *Tattoo or Tattooing***

The practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or related equipment. The term includes the application of permanent cosmetics.

b. *Piercing*

The creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.

292. Taxi Garage or Dispatcher

A service that offers transportation in passenger automobiles and vans to persons including those who are handicapped in return for remuneration. The business may include facilities for servicing, repairing, and fueling the taxicabs or vans.

293. Taxidermist

An establishment whose principal business is the practice of preparing, stuffing, and mounting the skins of dead animals for exhibition in a lifelike state.

294. Temporary Building for New Construction

- a. A structure or shelter used in connection with the construction of a development or building project for housing on the site of temporary administration and supervisory functions and for sheltering employees and equipment.
- b. Buildings are permitted for a specific period of time in accordance with a permit issued by the City.

295. Temporary On-Site Storage Unit or Container

A transportable structure or container no more than twenty feet (20') in length used primarily for temporary storage of building materials, household goods, personal items, or other materials (see subsection **3.04.A.25 Temporary On-Site Storage Unit or Container Standards**).

296. Textile Manufacturing

Establishments primarily engaged in finishing of textiles, fabrics, and apparel, with dust and odor controls.

297. Theater, Drive-In

See Movie Theatre, Drive In.

298. Theater, Live Performance (indoor)

An indoor facility or establishment where theater, recitals, orchestra, or similar productions are performed live for patrons or attendees.

299. Theater, Live Performance (outdoor)

An outdoor or open-air facility or establishment where theater, recitals, orchestra, or similar productions are performed live for patrons or attendees.

300. Thrift Store

A business or organization that engages in or specializes in the sale or resale of previously owned or used goods that are primarily donated to the seller. A specialty retail store that sells used merchandise not donated for sale, including but not limited to used record stores, used book stores, used furniture stores, and sports trading card stores, shall not be considered a thrift store for the purpose of this ordinance.

301. Tobacco, Vapor, e-Cigarette Store

An establishment principally for the retail sale of sealed containers of tobacco or nicotine products or similar devices, including e-cigarettes. Tobacco product means any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, or any other form of tobacco, which may be utilized for smoking, chewing, inhalation or other manner of ingestion or absorption.

302. Townhome

See Dwelling, Single-Family (Attached – Townhouse)

303. Trailer

A portable unit designed to move on wheels from location to location by automobile or truck (for Dwelling Units commonly moved as a trailer or moved using a trailer see Manufactured Housing and Mobile Home Parks, Trailer Parks, Trailer Courts, or Trailer Subdivisions).

304. Transitional Home Facility

See Halfway House.

305. Truck

See Heavy Load Vehicle.

306. Truck Terminal

An area and building where cargo is stored and where trucks, including tractor and trailer units, load and unload cargo on a regular basis. May include facilities for the temporary storage of loads prior to shipment.

307. Utility Distribution/Transmission Line

Facilities, including subsidiary stations that serve to distribute, transmit, transform, or reduce the pressure of gas, water, or electric current, including, but not limited to, electrical transmission lines, gas transmission lines, and metering stations.

308. Utility Easement

See Easement.

309. Veterinarian Clinic (no outdoor kennels)

An establishment where animals and pets are admitted for examination and medical treatment that contains outdoor kennels on site.

310. **Veterinarian Clinic (with outdoor kennels)**

An establishment where animals and pets are admitted for examination and medical treatment that does not contain outdoor kennels on site.

311. **Warehouse/Distribution**

Facilities characterized by enclosed storage areas accessed by loading bays designed to accommodate large trucks or semi-trucks, using ceilings with sufficient clear height according to applicable standards within the building code and fire code for the stacking of goods and commodities that are loaded or unloaded using trucks or forklifts.

312. **Water Storage**

Facility for the storage of water, either elevated or ground level.

313. **Water or Wastewater Treatment Facility**

The facility or facilities within the water supply system that can alter the physical, chemical, or bacteriological quality of the water, including associated facilities such as pumping stations and lift stations.

314. **Wedding Chapel, Reception Facility, or Special Events Center**

See Banquet Hall.

315. **Wholesale Center (no outside sales or storage)**

An establishment or place of business primarily engaged in selling or distributing merchandise to the general public, to retailers, to industrial, commercial, institutional, or professional business users, and to other wholesalers.

316. **Wind Turbine**

A wind energy conversion device that produces electricity and does not exceed the maximum allowed height of a building in the zoning district; typically three blades rotating about a horizontal axis and positioned up-wind of the supporting tower.

317. **Wireless Communication System**

- a. A system of equipment for communication purpose by cable, telegraph, telephone, or wireless broadcast and includes Antenna Support Structures for mobile and land based telecommunications.
- b. Systems include whip antennas, panel antennas, microwave dishes and receive-only satellite dishes, cell enhancers and related equipment for wireless transmission from a sender to one or more receivers, such as for mobile or cellular telephones, mobile radio systems facilities, commercial mobile radio service and radio or television (commercial only) broadcasting towers and transmitting stations.
- c. This definition is inclusive of the placement of the above-referenced equipment on a monopole tower, a steel lattice tower, guyed steel lattice tower and any communication tower which does or does not utilize guy wire support in addition to existing buildings or other independent

support structures. This system shall also allow as one of its components an unmanned equipment shelter.

318. **Woodworking and Planing Mill**

Establishments with dust and noise control and primarily engaged in one or more of the following:

- a. Manufacturing dimension lumber from purchased lumber;
- b. Manufacturing dimension stock (i.e., shapes) or cut stock;
- c. Re-sawing the output of sawmills; and
- d. Planing or levelling the face of purchased lumber.

These establishments generally use woodworking machinery, such as jointers, planers, lathes, and routers to shape wood.

319. **Yard**

An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

320. **Yard, Front**

A yard across the full width of a lot extending from the front line of the main building to the front property line of the lot.

321. **Yard, Rear**

A yard extending across the full width of the lot and measured between the rear property line of the lot and rear line of the main building, except that area included in the side yard as defined below.

322. **Yard, Side**

A yard between the building and the side property line of the lot and extending from the front yard to the required minimum rear yard.

323. **Zoning Administrator**

The City official designated by the City Manager or Development Director to administer the Zoning Ordinance.

324. **Zoning District Map**

The official map upon which the boundaries of the various zoning districts are drawn and that is an integral part of the Zoning Ordinance.

325. **Zoning Ordinance**

The adopted Zoning Ordinance of the City, as may be amended in the future, and may be referred as “the Zoning Ordinance.”

Section 155.8. Heading 1

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