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# ZONING AND SUBDIVISION ORDINANCES

## Contents:

- CHAPTER 154: SUBDIVISIONS**
- CHAPTER 155: ZONING CODE**
- CHAPTER 157: HISTORIC PRESERVATION**

## CHAPTER 154: SUBDIVISIONS

### Contents:

- 154.100 PURPOSES AND APPLICATION**
- 154.200 GENERAL PROVISIONS**
- 154.300 DESIGN STANDARDS**
- 154.400 APPLICATIONS, REVIEW, AND NOTICE**
- 154.500 PERMITS AND PROCEDURES**

## 154.100 PURPOSES AND APPLICATION

### Contents:

- § 154.101 PURPOSES.**
- § 154.102 APPLICATION.**

### § 154.101 PURPOSES.

The general purpose of the subdivision platting process is to ensure compliance with the land development standards and requirements set forth in this Chapter, and other applicable requirements of the City to encourage quality development consistent with the goals of the Strategic Community Plan. Other purposes are to:

- (A) Provide for the harmonious development of the City and its extra-territorial jurisdiction (ETJ), for the coordination and alignment of streets within subdivisions with other existing or planned streets, or with other features of the City;
- (B) Provide for appropriate open space for recreation, public facilities, light, and air;
- (C) Ensure that development is compatible with and properly integrated into existing and future neighborhoods;
- (D) Provide for protection from fire, flooding, and other dangers;
- (E) Regulate the design, dedication, and acceptance of infrastructure for transportation, water, wastewater, drainage, recreation, resource protection, and other purposes;
- (F) Coordinate the development of tracts of land so that proposed infrastructure is adequate, safe, orderly, economical, and efficient and aligns with existing infrastructure;
- (G) Protect groundwater and surface water from erosion and contamination by storm water runoff and other sources of pollution;
- (H) Reduce potential impacts of new development on street congestion by providing alternative travel routes, provide a meaningful choice of alternative modes of transportation, shorten trips to work, shopping, or recreation, or lessen overall vehicle miles traveled; and





- (I) Assure that facilities to be accepted and maintained by the City are properly located and constructed.

## § 154.102 APPLICATION.

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### (A) Application of Chapter.

- (1) No building permit may be issued for any building, structure or improvement located within a subdivision or upon any parcel, tract or lot, and no plat for a subdivision of land may be recorded with Brazoria County, until a plat for the subdivision, parcel, tract, or lot has received final approval, all required dedications of land have been accepted by the City, and all required improvements have been provided for and installed in accordance with the procedures and requirements of this Chapter.
- (2) This Chapter applies to all subdivisions or re-subdivisions in all areas of the City and its ETJ that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land required for a building permit or any other activity or use of property which is not already platted.

- (B) **Jurisdiction.** This Chapter sets out standards to be applied in the review of subdivision plats in the City and the extraterritorial jurisdiction (ETJ), in addition to other applicable regulations of this Chapter.

- (C) **Types of Subdivision Plats.** This Chapter sets out the applicable subdivision requirements for the following types of plats:

- (1) Amending Plat;
- (2) Minor Plat;
- (3) Preliminary Plat;
- (4) Final Plat;
- (5) Plat Vacation; and
- (6) Replats.

- (D) **Improvements.** Existing and proposed public improvements required in this Chapter shall conform and be properly related to the policies of the Strategic Community Plan and all related provisions of the City's Code of Ordinances. The Brazoria County Thoroughfare Plan is the basis for all decisions regarding classification, reservation, or dedication of rights-of-way that may be required by this Chapter.

- (E) **Exceptions to Platting Requirement.** No provision of this Chapter applies to any lot in a subdivision legally created and filed for record before the effective date of this Chapter, unless the lot is further subdivided, re-subdivided or where there is a building permit requested or required.

- (F) **Waiver of Platting Requirement.** The Administrator may waive the requirement for platting where he or she determines that the nature of the request for a building permit is such that there is no impact upon the purposes of this Chapter. Examples of activities that may be considered for a waiver include, but are not limited to:

- (1) Single-issuance of electrical and/or gas permit;
- (2) A foundation or building less than 150 square feet in size; and
- (3) Other comparable activities as determined by the Administrator.

- (G) **Lot Splits.** Lot splits resulting from other than an approved plat shall not be considered by the City as a legitimate use or sale of land unless it is platted or replatted in compliance with the minimum requirements of this Chapter or [CHAPTER 155: ZONING CODE](#), and shall otherwise be prohibited.





## 154.200 GENERAL PROVISIONS

### Contents:

- § 154.201 DEFINITIONS.
- § 154.202 ENFORCEMENT OF CHAPTER.
- § 154.203 SUBDIVISION UNDER DIRECTION OF CITY.
- § 154.204 RELATIONSHIP TO OTHER APPROVALS.
- § 154.205 CONFORMITY TO CHAPTER PROVISIONS.
- § 154.206 FEES AND CHARGES.

### § 154.201 DEFINITIONS.

**100-YEAR FLOOD** means a flood of such magnitude as may be reasonably expected to equal or exceed on an average of once every 100 years. The term also means that level of flooding having a one percent probability of occurrence each year.

**ADMINISTRATOR** means the City Manager or his designee to administer the regulations and provisions of this Chapter.

**ALLEY** means a minor way used primarily for vehicular and/or utility service to the rear or side of properties otherwise abutting on a street.

**AMENDING PLAT** means a plat that provides an expeditious means of making minor revisions to a recorded plat, such as correcting errors or relocating lot lines consistent with provisions of Texas Local Government Code [212.016](#), *Amending Plat*.

**APPLICANT** means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision. The term shall be restricted to include only the owner or the authorized agent to such owner of land sought to be subdivided.

**BLOCK** means a parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels, boundaries of a municipality, or a combination thereof.

**CERTIFICATE OF IMPROVEMENT** means an instrument which the City Engineer shall furnish the Planning Commission, being a written certification stating that all improvements required by the general provisions of this Chapter concerning regulations which have been completed prior to the final approval have been satisfactorily completed in accordance with all City plans and specifications for such improvements, and shall further certify that sufficient cash has been deposited or security bond furnished with the City to secure the completion of all improvements.

**CITY** means the City of Freeport, TX.

**CUL-DE-SAC** means a short minor street having only one vehicular access to another street and terminated by a vehicular turn-around.

**EASEMENT** means a grant of one or more property rights by the property owner to and for the use of the public, a corporation or other persons, for a designated part of his property, and for a specified purpose.

**EXTRATERRITORIAL JURISDICTION** means the area adjacent to the City as determined under Tex. Local Gov't Code, Chapter 42.

**FINAL PLAT** means a map of a land subdivision prepared according to applicable laws of the State of Texas and ordinances of the City and County having the necessary affidavits for filing, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land.





**LIMITED ACCESS HIGHWAY** means roadways that are access-controlled, grade-separated intersections, and are characterized by multi-lane, median divided roadways. These roadways have four or more total travel lanes. They are devoted entirely to traffic movement, with little or no direct land service function. This class includes tollways that have limited access to on and off ramps. Limited access highways maximize mobility by serving large volumes of high-speed traffic and are intended to serve long trips, including vehicles entering, leaving, and passing through Brazoria County.

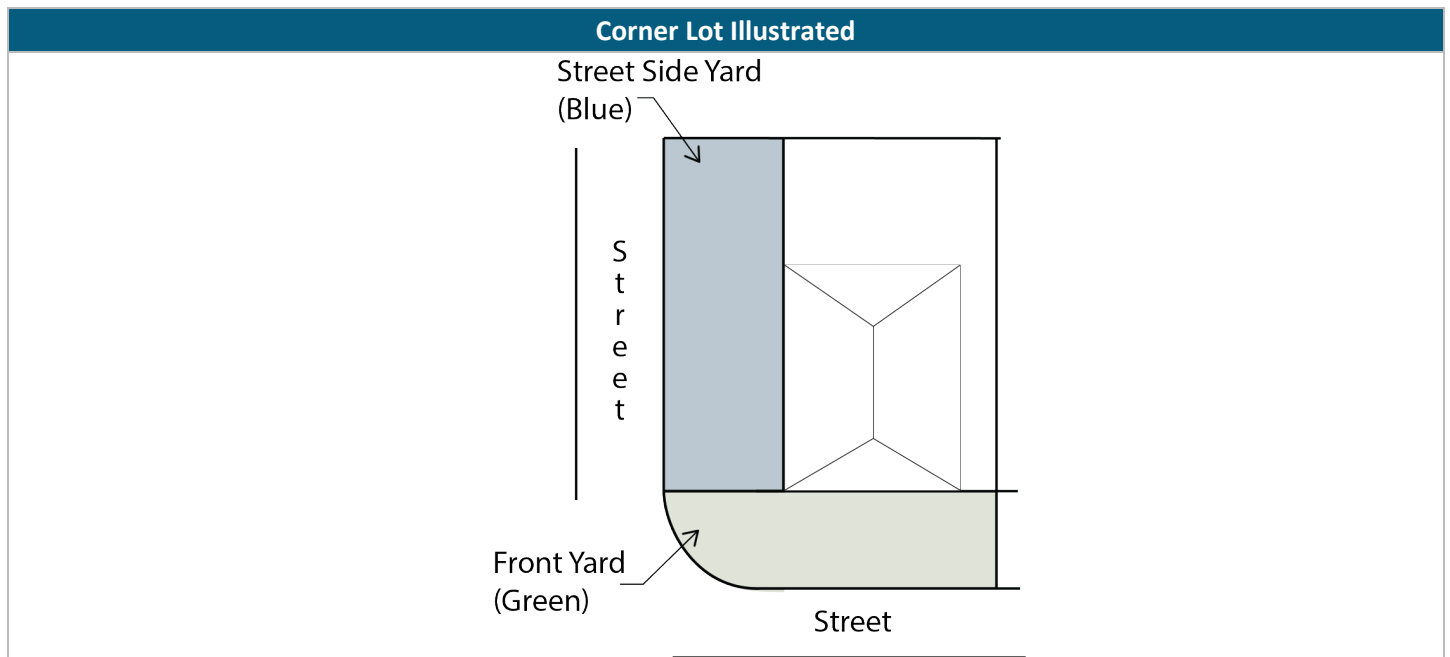
**LOCAL STREET** means roadways that are publicly maintained and are not classified as either a major collector, major thoroughfare, principal thoroughfare, or limited access highway by the 2020 Brazoria County Thoroughfare Plan

**LOT** means a platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.

**LOT LINES** means the lines bounding a lot or parcel.

**LOT WIDTH** means the minimum distance between the side lot lines of a lot measured along a straight line at the rear of the required front yard and parallel to the street line.

**LOT, CORNER** means a lot located at the intersection of and abutting two or more streets. A lot located at the intersection of a street and an alley would not be considered a corner lot for the purposes of this Chapter.



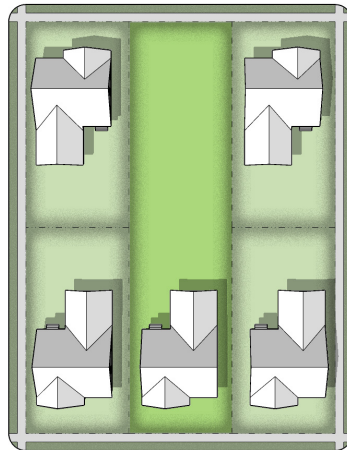
**LOT, DOUBLE FRONTAGE.** See Lot, Through.

**LOT, THROUGH** means a lot having a pair of opposite property lines along two or more public streets, and that is not a corner lot. Also referred to as a "double frontage lot".





## Through Lot Illustrated



**MAJOR COLLECTOR** means roads with two to four total travel lanes and that collect traffic from local roads for distribution to the higher-class roadways. These roads provide shorter-distance mobility with more access to properties in residential, commercial, and industrial areas.

**MAJOR THOROUGHFARE** means roadways designed for fast, heavy traffic and are generally provided in a grid system. When access to adjoining properties is permitted, it is to serve several properties, rather than permitting each property owner to have his private driveway access point.

**MINOR PLAT** means a plat containing four or fewer lots fronting on an existing street and does not require the creation of any new streets or the extension of municipal facilities.

**PARCEL** means a contiguous area of land in the possession of or owned by, or recorded as the property of, the same person or persons.

**PLANNING COMMISSION** means the Planning Commission for the City of Freeport, TX as established by the City Council pursuant to Article II, Section 2, of the Home Rule Charter of the City.

**PRELIMINARY PLAT** means a plat of a proposed subdivision to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of this Chapter.

**PRINCIPAL THOROUGHFARE** means access-managed roadways, characterized by considerable length roadways that provide continuity throughout the area. A principal thoroughfare is typically devoted, in large part, to heavy, fast-moving traffic, with little direct land service function. Principal thoroughfares are predominantly made up of Farm-to-Market (FM) roads or state highways; as such, they are typically managed by TxDOT.

**P.S.I.** Pounds per square inch.

**RESUBDIVISION** means the division of an existing subdivision, together with any change of lot or area size therein, or the relocation of any street line or lines.

**SPECIAL FLOOD PRONE AREA** means the area designated as Zone A on the Federal Insurance Administration Maps Nos. H48 039 2490 03 and I 48 039 2490 03 filed in the Office of the City Secretary.

**SUBDIVISION** means the division of a tract or parcel of land into two or more lots or parts or other division of land, for the purpose, whether immediate or in the future, of transfer of ownership or building development, but expressly excluding development for agricultural purposes, and shall include resubdivisions. The term shall further include the division of land whether by lots and/or blocks, plats, and/or metes and bounds description.



**VACATING PLAT** means a plat to provide an expeditious means of vacating a recorded plat in its entirety, consistent with provisions of Texas Local Government Code [212.013](#).

**VISIBILITY TRIANGLE** means the triangular area formed by a diagonal line connecting two points located on intersecting street right-of-way lines, or a right-of-way line and the curb or edge of a driveway. Refer to [§154.316](#), *Visibility Triangle*.

**YARD** means an open space at grade between a building and the adjoining lot lines and right-of-way, unoccupied, and unobstructed by any portion of a structure from the ground upward.

**YARD, FRONT** means the yard between the front setback and the front lot line. For lots on the waterfront, the front yard is the side that faces the street and the rear yard is the side facing the water. Corner lots have two front yards. See Lot, Corner.

**YARD, REAR** means the yard between the rear setback and the rear lot line. For lots on the waterfront, the rear yard is the side facing the water and the front yard is the side facing the street.

**YARD, SIDE** means the yard between the side building line and the side lot line.

## **§ 154.202 ENFORCEMENT OF CHAPTER.**

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The City shall not furnish City utilities or other services to any landowner, subdivider, or person who violates the provisions of this Chapter. The City shall have the right to prohibit violation of this Chapter or correct such violation by writ of injunction.

## **§ 154.203 SUBDIVISION UNDER DIRECTION OF CITY.**

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- (A) **Subdivision Required.** All land within the City not subdivided into lots, blocks and streets, or within the extraterritorial jurisdiction (ETJ) of the City, shall be laid out under the direction of the Planning Commission, subject to the approval of the City Council in the case of a final plat. No other subdivision will be recognized by the City. The City Engineer, or designee, shall check the plat and make recommendations prior to the consideration of a plat by the Planning Commission. The City may enter into and, from time to time, amend an agreement with Brazoria County regarding the regulation of plats within the City's ETJ as permitted by Tex. Local Gov't Code, [Chapter 242](#).
- (B) **Unlawful Development.** It shall be unlawful for any owner, or agent of any owner, to lay out, subdivide, or plat any land into lots, parcels, blocks, and streets within the City limits, or to sell property, which has not been laid out, subdivided, and platted according to the provisions of this Chapter and the rules and regulations of the Planning Commission.
- (C) **Compliance Required.** No officer or employee of the City shall perform, or cause to be performed, any work upon any street, or any addition or subdivision, unless all provisions of this Chapter have been complied with by the owner of an addition, subdivision, or resubdivision. No City employee shall appear on behalf of any applicant before the Planning Commission or City Council.
- (D) **Timing of Public Improvements.** No public improvements shall be initiated nor any contracts executed until subdivision approval has been granted. The City shall withhold all applicable public improvements of any nature, including the maintenance of streets and street lights, and furnishing of wastewater facilities and water service from all additions, unless and until:
  - (1) The final subdivision plat has been approved by the Planning Commission and City Council;
  - (2) The final plat is filed for record with Brazoria County; and
  - (3) A copy of the recording documents are returned to the City. No public improvements shall be initiated nor any contracts executed until subdivision approval has been granted.





(E) **Plat Recordation.** No final plat shall be released for filing with Brazoria County, and no building permit shall be issued prior to recordation of the plat with the County until requirements of this Chapter and **CHAPTER 155: ZONING CODE**, have been met.

### **§ 154.204 RELATIONSHIP TO OTHER APPROVALS**

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- (A) **Zoning Prerequisite.** If a plat approval requires a rezoning in order to comply with the requirements of this Chapter, then the plat application shall not be accepted for processing until the rezoning is approved. Plat applications that are submitted with rezoning applications will be considered filed as of the date of the rezoning approval, provided that the application is complete on that date.
- (B) **Coordinated Approval.** The City will not accept or maintain any street, will not allow the connection to any water service, or sanitary sewer service, and will not allow the connection of any utility to any subdivision of land, unless and until:
- (1) A final plat for the subdivision, parcel or tract has been approved by the Planning Commission;
  - (2) Bufferyards, if required, are installed per the approval;
  - (3) Required landscaping is installed, as applicable; and
  - (4) Required irrigation is installed, inspected, and tested by the City.

### **§ 154.205 CONFORMITY TO CHAPTER PROVISIONS.**

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To be approved, a plat, replat of any subdivision, or resubdivision within the City or its ETJ, shall follow and conform to the provisions of this Chapter.

### **§ 154.206 FEES AND CHARGES.**

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- (A) **Master Fee Schedule.** The City Secretary, his deputies, and/or assistants shall calculate and collect the fees in accordance with the Master Fee Schedule. All of the applicable fees and charges shall be paid in advance and no action of the Planning Commission or any other commission, board or agency, shall be valid until the fee shall have been paid to the appropriate officer of the City.
- (B) **Fee Regardless of Action.** These fees shall be charged on all plats, regardless of the action taken by the Planning Commission or whether the plat is approved or denied.





## 154.300 DESIGN STANDARDS

### Contents:

- § 154.301 MINIMUM REQUIREMENTS.
- § 154.302 LOTS.
- § 154.303 BLOCKS.
- § 154.304 COMMON OPEN SPACE.
- § 154.305 MONUMENTS.
- § 154.306 STREETS AND RIGHTS-OF-WAY.
- § 154.307 PAVEMENT
- § 154.308 SANITARY SEWER.
- § 154.309 WATER.
- § 154.310 SIDEWALKS.
- § 154.311 ACCESS MANAGEMENT.
- § 154.312 UTILITY EASEMENTS.
- § 154.313 MINIMUM HEIGHT AND STRUCTURAL ELEVATIONS.
- § 154.314 FLOOD DAMAGE PREVENTION
- § 154.315 MEASUREMENTS
- § 154.316 VISIBILITY TRIANGLE

### § 154.301 MINIMUM REQUIREMENTS.

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The requirements in § 154.302, *Lot Sizes*, through § 154.313, *Minimum Height and Structural Elevations*, are the minimum requirements to be provided by the subdivider at their own cost and expense before consideration will be given to any final plat of any subdivision or resubdivision within the City or its ETJ.

### § 154.302 LOTS.

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#### (A) Generally.

- (1) New lots shall be dimensioned according to the requirements zoning district-specific requirements within § 155.501, *Standards for Residential Development*, or § 155.502, *Standards for Non-Residential Development*. The size, shape, orientation, and buildable area of lots shall be appropriate to the applicable zoning district, the location of the proposed development, and to the type of development contemplated.
- (2) Lots are required to be platted unless specifically exempted by this Chapter. Lots shall be of appropriate size, width and depth to provide for adequate off-street parking, loading facilities, landscaping, and other required site improvements and open space or landscape surface areas.

(B) **Shape.** Side lot lines shall be approximately at right angles to the centerlines of abutting streets. Alternative configurations may be recommended by the Administrator and approved by the Planning Commission to accomplish a public purpose, such as the preservation of estuarine and marine, freshwater emergent, freshwater forested/shrub wetlands, water bodies, and other environmentally sensitive lands.

(C) **Lot Frontage.** Generally, new single-family detached and attached, multiplex, and live-work residential lots shall front only on minor streets. Alternatively, such lots may front on common open spaces, provided that vehicular access may be taken from an alley that serves not more than 12 dwelling units.

#### (D) Through Lots.





- (1) *New Through Lots Prohibited.* Through lots for all residential land uses are prohibited with the exception of multi-family dwellings. Where residential development is bound by one or more arterial streets, lots shall be separated from the arterial street rights-of-way by a minimum 20-foot bufferyard that is owned and maintained by a property owners' association or through an agreement accepted as to form by the City Attorney and approved by the City Council. Such agreement shall run with the land.
- (2) *Existing Through Lots.* As of the effective date of this Chapter, there are a number of existing through lots within the City's jurisdiction. Whenever an existing through lot is proposed for development, all primary and accessory structures may be built facing the frontage of the applicant's choice, unless otherwise prohibited by this Chapter or Chapter 155, *Zoning Code*. To be able to build on both frontages, a property owner must subdivide the property according to the requirements of this Section.

(E) **Cul-de-Sacs.**

- (1) Lots facing a cul-de-sac street are exempt from the width requirements set out above, but shall conform to the minimum lot area required by either § 155.501, *Standards for Residential Development*, or § 155.502, *Standards for Non-Residential Development*.
- (2) Lots facing a cul-de-sac street shall meet the minimum lot width requirement at a distance of 25 feet from the front property line.

## § 154.303 BLOCKS.

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(A) **Generally.** The length, width, and shape of blocks shall be determined with regard to the following:

- (1) The provision of adequate building sites suitable to the particular needs of the type of use contemplated;
- (2) The required lot widths and lot areas for the development;
- (3) The need for convenient access, circulation, control, and safety of street traffic;
- (4) The need to provide for mobility and accessibility for people who use alternative modes of transportation; and
- (5) Limitations and opportunities of soils, natural resources, and uses or features that bound the parcel proposed for development.

(B) **Dimensions.** Blocks shall be dimensioned according to the following standards:

- (1) *Residential Blocks.*
  - (a) Blocks that are used to provide access to single-family detached and attached dwellings shall be of sufficient width to allow two tiers of lots with appropriate lot depths (according to the lot widths and areas applied).
  - (b) Generally, blocks that are used to provide access to residential uses shall not be longer than 800 feet. Blocks may be up to 1,600 feet in length if there is a mid-block pedestrian easement, with a minimum width of 15 feet, providing access to abutting blocks.
- (2) *Nonresidential Blocks.* Blocks for business or industrial use shall be of a width suitable for the intended use, with due allowance for off-street parking and loading facilities and other site improvements, landscape surface areas, and open space areas required by [CHAPTER 155: ZONING CODE](#).

(C) **Relationship to Existing Arterial and Collector Streets.** Residential blocks shall be designed so that lots are not oriented for access from arterial or collector streets. Marginal access streets may be approved if necessary for the efficient layout of lots on a parcel proposed for development, provided that:

- (1) Access to the marginal access street meets the requirements of § 154.311, *Access Management*; and
- (2) A bufferyard (refer to § 155.704, *Bufferyards*) is provided between the marginal access street and the abutting arterial or collector street.

## § 154.304 COMMON OPEN SPACE.

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- (A) **Generally.** Recreation areas, resource protection areas, and other accessible open spaces may be integrated into development design to bring open space to properties, as well as visibility from public rights-of-way within the proposed development. Visual or physical access to open spaces may be limited if such limitations would materially enhance natural resource management compared to a condition of more open access.
- (B) **Preservation of Existing Tree Stands.** Development should be designed so that ecologically important features are protected and located in designated open spaces whenever practicable.
- (C) **Greenways.** Open space may be designed to provide greenways along the river and its tributaries, waterways, and drainage corridors. Where not inconsistent with maintenance of drainage facilities, landscaping along waterbodies shall be designed to enhance stormwater quality, ecosystems and habitats.
- (D) **Continuity.** During the layout and design of a subdivision, the subdivider shall provide for interconnectivity within the development and with adjacent and future development.
- (E) **Designation.** All boundaries of open space shall be identified as tracts on a plat or site plan.
- (F) **Securely Held.** Open space shall not be developed or redeveloped once established, unless approved by the City Council.
- (G) **Ownership.** Open space may be privately held and maintained. Publicly dedicated open space may be owned in the following ways:
  - (1) Dedication to the City in cases where the City accepts the dedication;
  - (2) Through a special district formed in accord with state statute;
  - (3) A duly recorded covenant of easement whereby the City is a party to the easement, as authorized by motion of the Council;
  - (4) A duly recorded conservation easement that is:
    - (a) Platted and recorded as a portion of and along the rear lot line of fee simple lots to preserve significant resource features as native landscape, provided that portion of the lot outside of the easement meets the minimum lot area requirement of the respective district;
    - (b) Dedicated to a pre-approved private, non-profit organization that is capable of managing the open space in perpetuity; or
    - (c) Held in common by a property owners' association, with an easement dedicated to all property owners within the association.
- (H) **Maintenance.** Under any arrangement, the easement shall require maintenance as indicated on the approved plat or site plan. The Council has the right under such easement to maintain the area and place a lien on the property, or a property owners' association to recover its costs.

## § 154.305 MONUMENTS.

- (A) **Generally.** Monuments shall be placed to mark the following lot corners, points of curvature, points of tangency, reference points, street centerlines, and where street lines intersect the exterior boundaries of a subdivision.
- (B) **Monument Requirements.**
  - (1) **Materials.** Iron rods, five-eighths-inch in diameter and three feet long, shall be placed on all boundary corners, block corners, curve points, and angle points. A copper pin one-quarter-inch in diameter embedded three inches in the monument shall be placed at the exact intersection point on the monument. The monuments shall be set at such an elevation that they will not be disturbed during construction and the top of the monument shall not be less than 12 inches above the finished ground level.
  - (2) **Marks.** Marks on existing concrete, stone, or steel surface must consist of drill holes, chisel marks, or punch marks and must be of sufficient size, diameter, or depth to be definitive, stable, and readily identifiable as a survey monument. Marks on asphalt streets may consist of railroad spikes, large nails, "PK nails", or other permanent metal spikes or nail-like objects.





- (3) **Stakes.** Wooden stakes shall not be set as permanent boundary monuments.
- (C) **Monument Installation.** Monuments must be set vertically whenever possible and the top must be reasonably flush with the finished grade when practical. Monuments subject to damage from earthwork, construction, or traffic should be buried at a sufficient depth to offer protection.
- (D) **Witness Monuments.** When physically impossible to set a monument at the corner, witness monuments shall be set when possible, preferably on each converging line at measured distances from the corner and identified as such in the description and on the plat of the property.
- (E) **Benchmarking.**
  - (1) *When Required.* For all subdivisions of five lots or more, a permanent benchmark shall be accessibly placed, the elevation of which shall be based on mean sea level as determined by the U.S. Geological Survey (USGS) and accurately noted on the subdivision plat. Permanent benchmarks shall be brass capped, set in concrete, with a minimum dimension of six inches in diameter, four feet long with a flat top. The top of the brass monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade stamped with one-half inch number.
  - (2) *When Not Required.* Where no benchmark is established or can be found within 300 feet of the boundary of the subdivision, such benchmark shall be established to the latest edition of the U.S. Coast and Geodetic Survey datum. The benchmark shall be established upon a permanent structure, or may be set as a monument and shall be readily accessible and identifiable on the ground.
- (F) **Lot Makers.** Lot markers shall be five-eighths-inch or greater reinforcing bar, 24 inches long, or approved equal, and shall be placed at all lot corners flush with the ground, or below ground if necessary, to avoid being disturbed.

## § 154.306 STREETS AND RIGHTS-OF-WAY.

- (B) **Street Classifications.** Classifications of streets can be found in the [Brazoria County 2020 Thoroughfare Plan](#), as amended from time to time.
- (C) **Minimum Requirements.** The subdivider shall dedicate a minimum street right-of-way as required in Table 154.306-1, *Right-of-Way and Street Pavements Widths by Street Classification Type* and illustrated in Figure 154.306-1, *Right-of-Way Street Pavement Illustrations*.

Table 154.306-1 Right-of-Way and Street Pavements Widths by Street Classification Type <sup>1</sup>			
Street Types	Right-of-Way Width Minimum <sup>2</sup>	Total Pavement Street Width Minimum	Number of Lanes
Local Street	60 ft	36 ft	2
Major Collector	80 ft	48 ft	4
Major Thoroughfare	120 ft	Option 1: 48 ft Option 2: 72 ft	Option 1: 4 Option 2: 6
Principal Thoroughfare	150 ft	72 ft	6

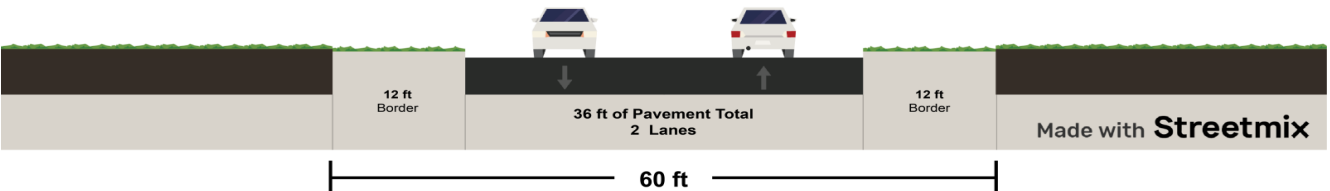
Table Notes:  
<sup>1</sup>Additional right-of-way width and/or street pavement width may be required to accommodate the existing rights-of-way and existing street pavement.  
<sup>2</sup>"Right-of-Way Width Minimum" shall be measured from front lot line to front lot line of opposite lots.



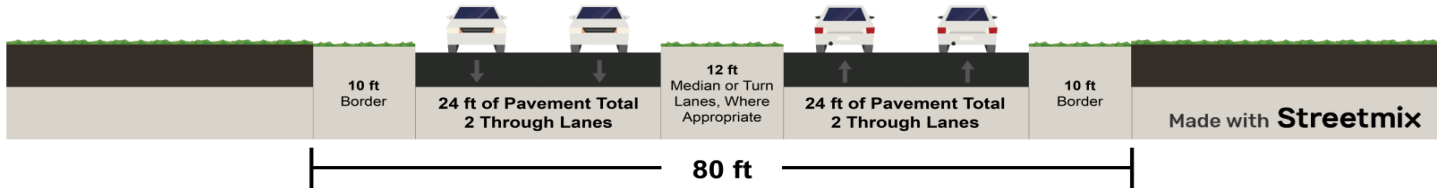


**Figure 154.306-1**  
**Right-of-Way and Street Pavement Illustrations<sup>1</sup>**

**Local Street**

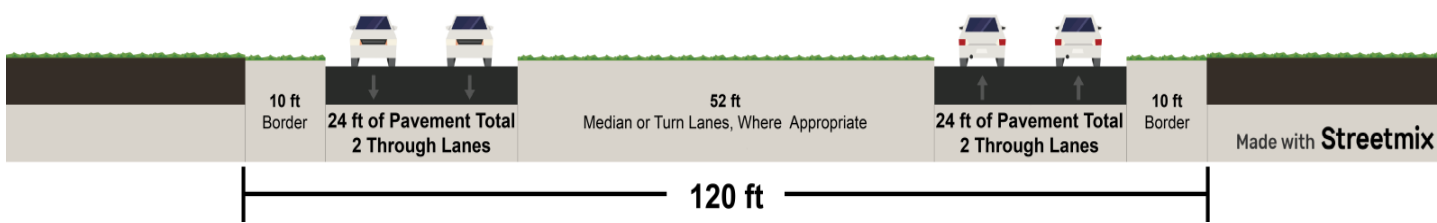


**Major Collector**

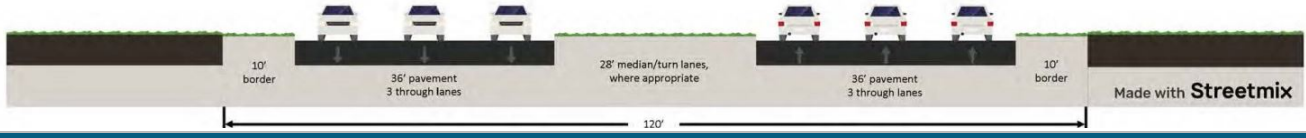


**Major Thoroughfare**

**4 Lane Option**



**6 Lane Option**



**Principal Thoroughfare**

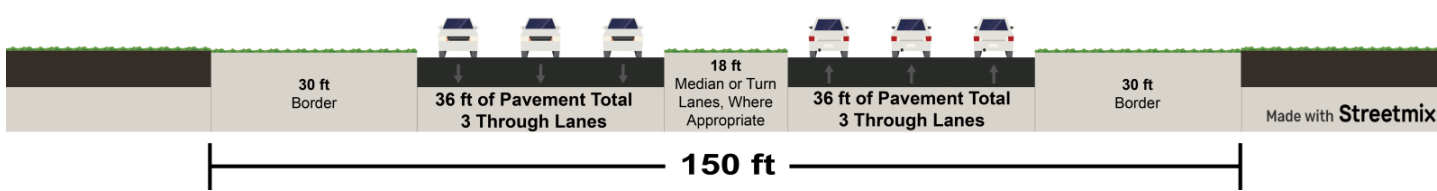


Table Notes:  
<sup>1</sup>Source for the illustrations is the [Brazoria County 2020 Thoroughfare Plan](#).

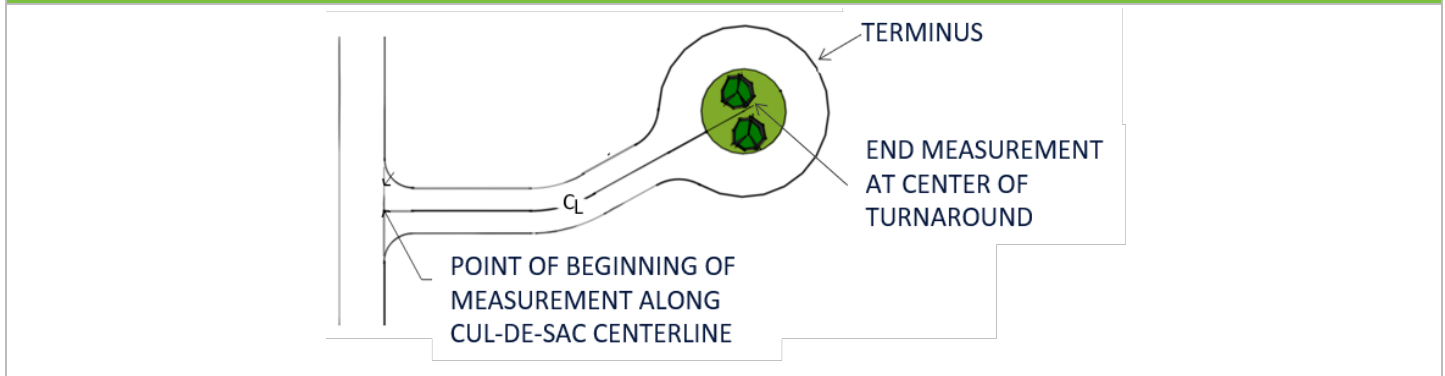
(D) **Cul-de-Sacs.** A cul-de-sac shall not exceed a maximum length of 800 feet measured from the nearest right-of-way line of the intersecting street, along the centerline of the cul-de-sac, to the center of the turning radius of the turnaround, as depicted in Figure 154.306-2, *Maximum Cul-de-Sac Length*.







**Figure 154.306-2**  
**Maximum Cul-de-Sac Length**



### § 154.307 PAVEMENT.

- (A) **Roadways.** All roadways shall be paved. Pavements shall be of suitable width for the traffic on the street, and shall meet the width requirements as provided in Table 154.306-1, *Right-of-Way and Street Pavements Widths by Street Classification Type*.
- (B) **Rights-of-Way.** The rights-of-way shall be graded for their full widths to provide suitable finish grades for pavements, sidewalks, and planting strips with adequate surface drainage and convenient access to the lots.
- (C) **Minimum Requirements.** Minimum acceptable pavements shall be:
  - (1) Five-inch reinforced concrete pavement (3500 P.S.I.) with six-inch integral concrete curbs.
  - (2) Asphaltic concrete pavement, four inches of coarse graded binder course, and two inches of fine graded surface course, with a six-inch concrete curb and 18-inch gutter (24 inches overall).

### § 154.308 SANITARY SEWER.

- (A) **Generally.** Sanitary sewers shall be installed to serve each lot in all subdivisions.
- (B) **Requirements.** All subdivisions shall be provided with an approved sewage disposal system to conform to the latest TCEQ (Texas Commission on Environmental Quality) regulations and the City's Standard Construction Specifications.

### § 154.309 WATER.

- (A) **Generally.** Water systems shall have a sufficient number of outlets and shall be of sufficient size to furnish adequate domestic water supply and fire protection to all lots and shall conform to the City's water system.
- (B) **Requirements.**
  - (1) *Location.* Where possible, water mains shall be located in the streets and shall be so located as to be accessible without disturbing the pavement.
  - (2) *Fire Hydrants.* Fire hydrants shall be placed on block corners or near the center of the block so all of every lot is within a radius of 500 feet, but preferably within 400 feet of a fire hydrant.
  - (3) *Minimum Service.* The system shall be so valved as to provide a minimum number of blocks to be out of service at any one time.

### § 154.310 SIDEWALKS.

- (A) **Required for New Development.** Sidewalks meeting the requirements of this Section are required for the construction of all new subdivisions within the City.



- (B) **Required for Redevelopment.** Sidewalks meeting the requirements of this Section are required be installed on all properties being redeveloped when:
  - (1) There is a portion of sidewalk that currently exists on the same block and side of the street as the property being redeveloped by the applicant; and
  - (2) There is sufficient right-of-way available between the edge of the curb or street pavement and the start of a property owner's private property to properly install the sidewalk.
- (C) **Width.** Sidewalks shall be at least four-foot wide.
- (D) **Technical Standards.** Sidewalks shall be:
  - (1) Four inches thick; and
  - (2) Concrete of at least 3500 P.S.I.
- (C) **Distance from Roadway.**
  - (1) *For New Development.* Distance from the roadway shall be up to the discretion of the Applicant.
  - (2) *For Redevelopment.* Distance from the roadway shall be consistent with the existing portions of sidewalk that exist on the same block.
- (D) **Curb Ramps.** Wheelchair ramps shall be provided at all necessary intersections and as required by the state Department of Licensing and Regulation and the Americans with Disabilities Act.

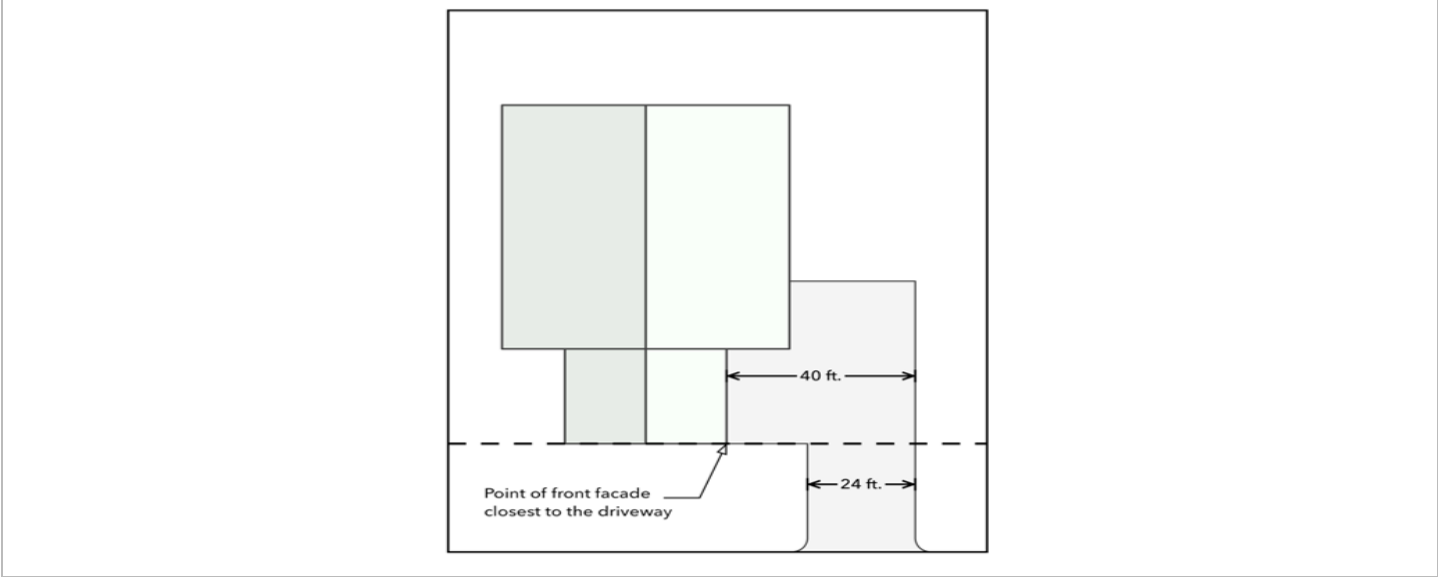
## § 154.311 ACCESS MANAGEMENT.

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- (A) **Access.**
  - (1) *Generally.* New streets within developments shall provide access to all building sites and parcels in the development.
  - (2) *Street Alignment.* Street alignments within the residential subdivisions shall utilize curves, islands, intersections, and/or other methods that allow adequate access but discourage speeding.
- (B) **Residential Driveways.**
  - (1) *Driveways with Front-Loading, Rear-Loading or No Garage or Carports.* Residential driveways leading to a front- or rear-loading garage or carport or residential driveways without garages or carports shall have a maximum of a width of 24 feet.
  - (2) *Driveways with Side-Loading Garage or Carport.* Residential driveways leading to a side-loading garage or carport shall have a maximum width of 24 feet for the portion of the driveway located within the front yard and a maximum width of 40 feet starting behind the front façade of the house at a point that is closest to the driveway, as shown in Figure 154.311-1, *Driveways with Side-Loading Garage or Carport.*

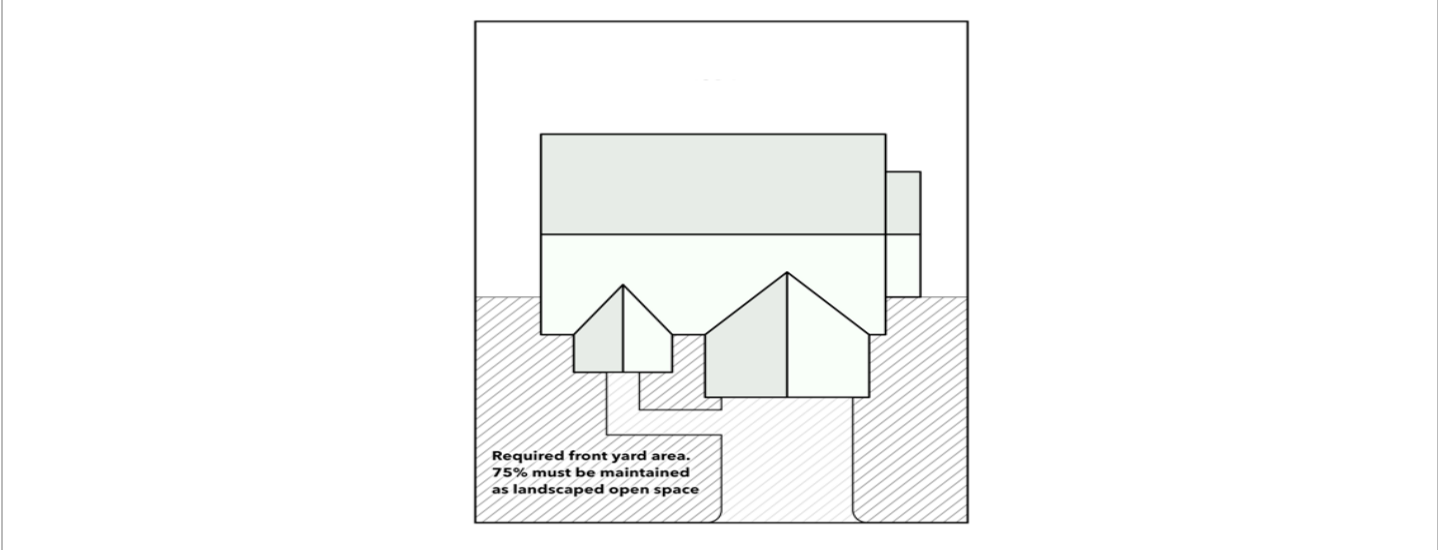


**Figure 154.311-1**  
**Driveways with Side-Loading Garage or Carport**



- (3) *To Exceed Maximum Width.* Driveways may only exceed the maximum width of 24 feet if at least 75 percent of the area located between the front lot line and a line parallel to the front lot line drawn through a point that is on the side of the principal structure farthest from the front lot line, extending to the edge of the zoning lot, excluding the principal structure, is maintained as landscaped open space. Figure 154.311-2, *Front Yard Open Space Percentage.*

**Figure 154.311-2**  
**Front Yard Open Space Percentage**





## § 154.312 UTILITY EASEMENTS.

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- (A) **Generally.** During the development approval process, the City may require a variety of easements on private property or lots. These easements may include, but are not limited to the following purposes:
- (1) Pedestrian access;
  - (2) Solid waste removal;
  - (3) Fire protection or hazard mitigation;
  - (4) Access to public utilities or drainage areas;
  - (5) Utilities; and
  - (6) Drainage.
- (B) **Easement Size.** Alleys will not be required, but utility easements shall be seven and one-half feet on each side of the rear or side lot lines.
- (C) **Easement Connections.** Easements shall connect with established easements and adjoining property.

## § 154.313 MINIMUM LOT AND STRUCTURAL ELEVATIONS.

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- (A) **Issuing Building Permits.** The Building Inspector shall not issue a building permit in any new subdivision areas of the City which building and/or lot fails to comply with the minimum elevations of this Chapter.
- (B) **Lot Elevation.** All lots within any approved subdivision shall be at least three feet above mean sea level.
- (C) **Finished Floor Elevation.** The subdivider shall provide in all restrictive covenants that the finished floor elevation of all buildings on any lot shall be at least 24 inches above the highest gutter elevation on streets abutting upon each lot.

## § 154.314 FLOOD DAMAGE PREVENTION

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All subdivision proposals shall be consistent with all applicable provisions of [Chapter 153: Flood Damage Prevention](#).



## § 154.315 MEASUREMENTS

Table 154.315-1, *Measurements*, below, provides the method of measurement for the standards in this Chapter and Chapter 155, *Zoning*.

Table 154.315-1 Measurements		
Measurement	Methodology	Illustration
Lot Area	The total horizontal area included within property lines.	<p>65 Ft.</p> <p>125 Ft.</p> <p>Lot Area: 8,125 Ft.</p>
Lot Width	<p>For an interior parcel, the horizontal distance between the side property lines, measured at the required front setback line.</p> <p>For a cul-de-sac parcel, the horizontal distance between the side property lines measured at the front setback line.</p>	<p>Side Lot Line</p> <p>Lot Width (Across Front Setback Line)</p> <p>Side Lot Line</p> <p>Lot Width (Across Front Setback Line)</p>
Block Length and Depth	<p>Block length is measured from exterior lot line to exterior lot line as shown by Line A.</p> <p>Block depth is measured from front lot line to front lot line as shown by Line B.</p>	<p>A</p> <p>B</p>



## § 154.316 VISIBILITY TRIANGLE

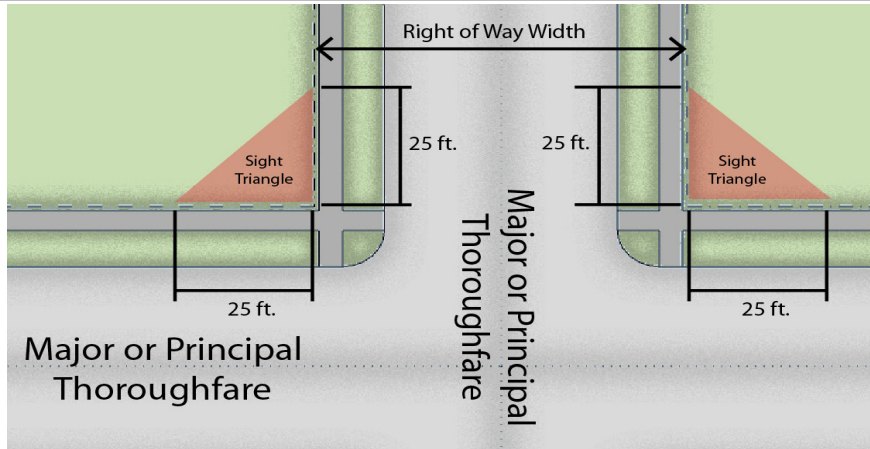
- (D) **Generally.** No buildings, structures, fences, walls, and other similar objects shall be erected or placed on a lot in a manner that obstructs or interferes with visibility at any intersection of any street, driveway, or other vehicle access point.
- (E) **Exceptions.** Trees and shrubs may be planted in the visibility triangle area provided that the limbs and foliage are trimmed so they are not projecting into the vertical dimensions of the visibility triangle area as illustrated in Figure 154.316-3, *Vertical Dimensions of Visibility Triangle Areas*.
- (F) **Visibility Triangle Areas.** The size of the visibility triangle areas are based on the vehicle access type and street classifications found in [Brazoria County 2020 Thoroughfare Plan](#). The standards for each type of area are detailed in Subsection (D) and Subsection (E), below and illustrated in Figures 154.316-1, *Horizontal Dimensions for Road Intersections*, and 154.316-2, *Horizontal Dimensions for Driveway Intersections*.
- (G) **Horizontal Dimensions for Road Intersections.**
- (1) *Intersections with Major or Principal Thoroughfares.* Where one or both of the intersecting roads are major or principal thoroughfares, the horizontal dimensions of this triangle are measured 25 feet along the property lines from the intersection.
  - (2) *Intersections with Major Collectors and Local Roads.* Where one or both of the intersecting roads are principal thoroughfares, the horizontal dimensions of this triangle are measured 15 feet along the property lines from the intersection.



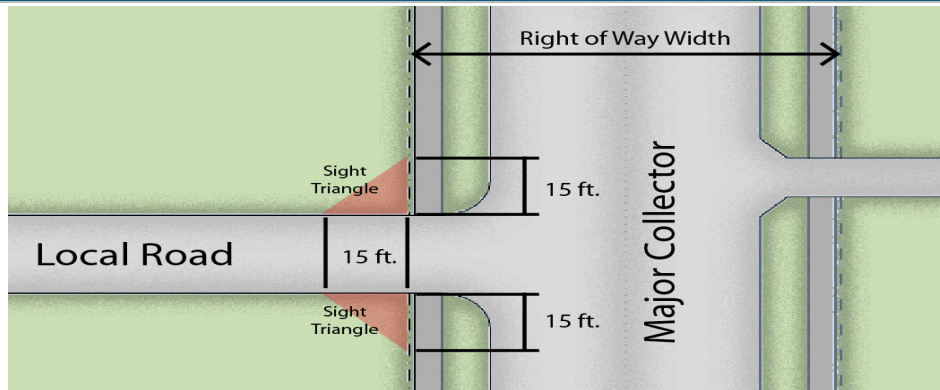
**Figure 154.316-1**

**Horizontal Dimensions for Road Intersections**

**Intersections with Major or Principal Thoroughfares**



**Intersections with Major Collectors and Local Roads**

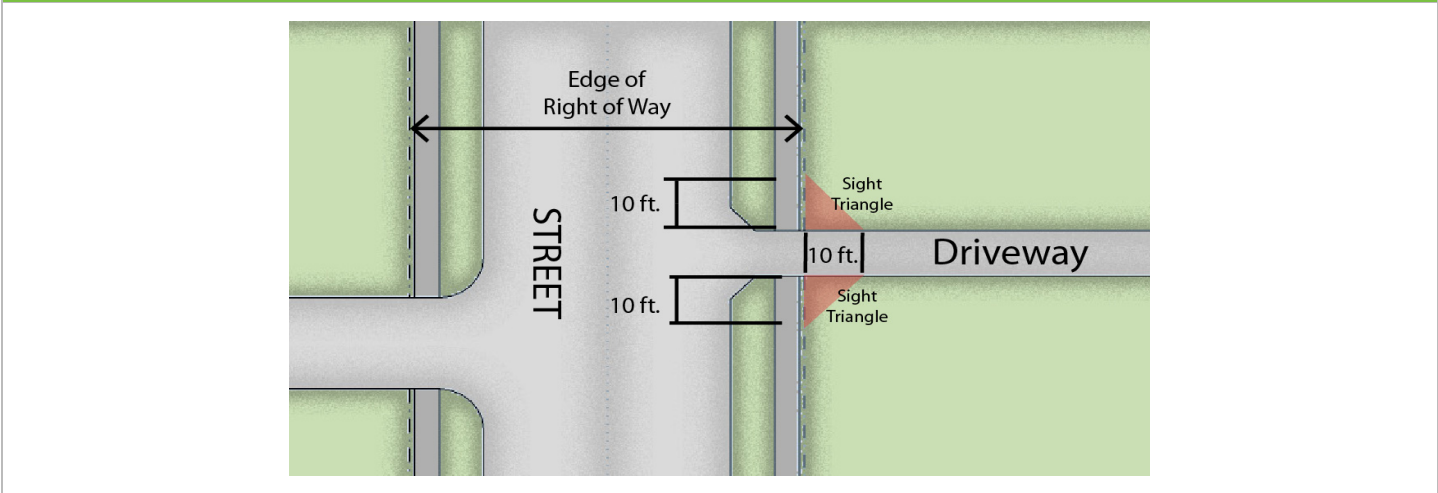


(H) **Horizontal Dimensions for Driveway Intersections.** Where the intersection consists of a right-of-way and a driveway, the horizontal dimensions of this triangle are measured 10 feet along the property lines from the intersection.



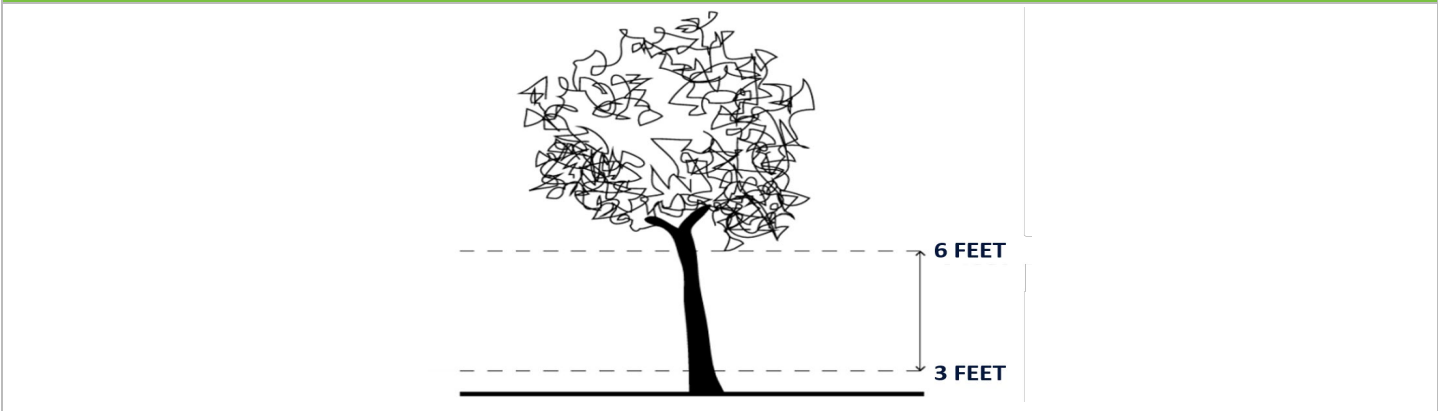


**Figure 154.316-2**  
**Horizontal Dimensions for Driveway Intersections**



(I) **Vertical Dimensions.** The vertical dimensions of the visibility triangle are three feet to six feet above finished grade as illustrated in Figure 154.316-3, *Vertical Dimensions of Visibility Triangle Areas*.

**Figure 154.316-3**  
**Vertical Dimensions of Visibility Triangle Areas**







## 154.400 APPLICATIONS, REVIEW, AND NOTICE

### Contents:

- §154.401 PRE-APPLICATION CONFERENCE
- §154.402 FILING OF APPLICATION
- §154.403 APPLICATION COMPLETENESS
- §154.404 PUBLIC NOTICE
- §154.405 STAFF REVIEW
- §154.406 STAFF REPORT
- §154.407 INACTIVE APPLICATIONS
- §154.408 SUCCESSIVE APPLICATIONS

### § 154.401 PRE-APPLICATION CONFERENCE

- (A) **Purpose.** The purpose of a pre-application conference is to familiarize the applicant with the submittal requirements and review procedures, including all applicable standards and any known constraints, hazards, or special conditions associated with the subject property.
- (B) **Applications Requiring a Pre-Application Conference.** Table 154.106-1, *Summary of Procedures*, denotes the subdivision applications that require a pre-application conference.
- (C) **Submittals.** At or following the pre-application conference, the Administrator may request that the applicant provide additional materials at the time of application submittal as necessary per § 154.502, *Common Decision Criteria*.
- (D) **Disclaimer.** The pre-application conference shall not imply, in whole or in part, any final decision regarding any application as its purpose is informative in nature.

### § 154.402 FILING OF APPLICATION

- (A) **Generally.** Every application for development approval required by this Chapter shall be submitted on a form approved by the responsible official, along with the corresponding application fee.
- (B) **Authorization to Initiate an Application.** Table 154.402-1, *Application Authorization*, denotes those who are authorized to initiate each of the application types.

**Table 154.402-1  
Application Authorization**

Application Type	City Council or Planning Commission	Property Owner <sup>1</sup>
Amending and Minor Plats	No	Yes
Preliminary Plats	No	Yes
Final Plats	No	Yes
Replats	No	Yes
Vacating Plat	Yes	Yes
Text Amendment	Yes	Yes
Variance	No	Yes
Appeals	No	Yes

**TABLE NOTES:**

"Yes"= Entity may initiate application | "No" = entity may not initiate application

<sup>1</sup> Including his or her agent





- (C) **Forms and Fees.** Every application required by this Chapter shall be submitted in a format and in numbers established by the Administrator and shall include a fee as described in § 154.206, *Fees and Charges*.
- (D) **Form Updates.** The Administrator shall promulgate and periodically revise forms for each type of application required by this Chapter.
- (E) **Information Required.** Application forms shall include specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the responsible official, and have the purpose of facilitating:
  - (1) The evaluation of applications for compliance with the standards of this Chapter; and
  - (2) The administration of this Chapter.
- (F) **Deadlines.** The Administrator may establish periodic application submittal deadlines.
- (G) **Continuing Review Process.** Complete applications shall subsequently undergo the processes established in § 154.403 *Application Completeness*.

## § 154.403 APPLICATION COMPLETENESS

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- (A) **Completeness Review.**
  - (1) *Administrator Responsibility.* The Administrator shall review all development review submittals for completeness.
  - (2) *Meaning of Completeness.* The Administrator shall deem complete a submittal that contains:
    - (a) All of the submittal information required in the application form;
    - (b) Documents or drawings that are prepared and certified by qualified professionals (where such certifications are required);
    - (c) The application fee; and
    - (d) Any additional information that is necessary to demonstrate compliance with all of the applicable requirements of this Chapter.
- (B) **Timeline for Review.** The completeness review required in subsection (A), shall be accomplished no later than five business days after an applicant submits a potential application.
- (C) **Completeness Does Not Equate to Approval.** A determination of completeness does not mean that:
  - (1) The contents of the submittal are accurate or that they comply with the standards of this Chapter;
  - (2) The application will receive a positive recommendation or final decision from the applicable administrative body; or
  - (3) During the review, additional clarification or information will not be needed.
- (D) **Incomplete Applications.**
  - (1) When the Administrator determines a submittal to not be complete, the Administrator shall:
    - (a) Notify the applicant in writing with a list of all missing or incomplete items; and
    - (b) Provide 10 business days for the applicant to resubmit the missing or incomplete items.
  - (2) If the missing or incomplete items are not submitted within the 10-day period, then the Administrator shall deem the application rejected, shall not accept the application for filing, and shall make the submittal and application fee available to the applicant for retrieval. After the Administrator rejects an application, a new application and fee shall be required if the applicant wishes to apply again.
  - (3) Incomplete or rejected applications are not considered "filed" or "submitted" for the purposes of Texas Local Government Code (TLGC) Chapter 212, TLGC Chapter 245, or for any other purpose.





## § 154.404 PUBLIC NOTICE

(A) **Generally.**

- (1) *Notice by Publication.* When required, shall be provided in accordance with the requirements of the Texas Local Government Code (TLGC).
- (2) *Notice by Mail.* When required, shall be provided to each owner, as indicated by the most recently approved municipal tax roll of real property.

(B) **Applicability.** Table 154.404-1, *Required Notice*, sets out the specific notice required for each type of application where notice is required.

Table 154.404-1 Required Notice		
Type of Application	By Mail	By Publication
Preliminary Plats	Not Required	Required
Final Plats	Not Required	Required
Plat Vacation	Not Required	Required
Amending and Minor Plats	Not Required	Required
Replats	Required <sup>1</sup>	Required
Text Amendment	Not Required	Required
Subdivision Variance	Required	Required
Appeals	Not Required	Required
Table Notes:		
<sup>1</sup> Required per <a href="#">Texas Local Government Code (TLGC) Sec. 212.015</a>		

(C) **Procedural Requirements for Notice.** All notices shall describe the action proposed to be taken and the date, time, and place of the public hearing. In addition, the following requirements apply based on the type of required notice:

- (1) *Publication Notice.*
  - (a) Notice shall be published in an official newspaper of general circulation in the City as provided by state law at least 10 days prior to the date of the public meeting.
  - (b) Notice shall appear on the City's website for at least 10 days prior to the date of the public meeting.
- (2) *Mailed Notice.*
  - (a) Written notice shall be sent to all owners of real property which are located within 200 feet of the subject property or within 200 feet of any other abutting property under the same ownership as the subject property.
  - (b) Measurements shall be taken inclusive of public streets.
  - (c) Such notice may be served by using the last known address as listed on the City tax roll and depositing the notice, postage paid, with the United States Postal Service (USPS).

(D) **Contents of Notice.** Contents of Notice shall include:

- (1) The date, time, and place of the hearing;
- (2) Staff contact and phone number, a description, address, or location of the matter to be heard, and a statement that the public is invited to review and comment on the application.





## § 154.405 STAFF REVIEW

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- (A) **Final Decision or Distribution.** After completeness determination, the Administrator shall:
- (1) *Review and Comment.* Review the application and provide comments to the applicant, which may include required revisions;
  - (2) *Review and Decide.* Review and make a final decision on the application; or
  - (3) *Distribute.* Distribute the application to the appropriate administrative body or outside agency, including, but not limited to, utilities and school districts, for recommendation or final decision.
- (B) **Required Revisions.**
- (1) *Comments.* During the application review, the Administrator may provide comments from administrative bodies, where applicable, to the applicant. The applicant shall revise and resubmit the application with requested changes.
  - (2) *Resubmittal.* Upon receipt of the resubmittal, the Administrator may refer the application to any applicable outside agency again if the changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments, or require the agency's technical expertise for appropriate review.
- (C) **Administrative Recommendation or Decision.** Promptly after submittal of a complete application that addresses the comments provided pursuant to Subsection B above (or, after finding that no revisions are required):
- (1) *Administrative Applications.* If the application is denoted in Table 154.501-1, *Summary of Procedures*, as an application with a recommendation or final decision by the Administrator, then the Administrator shall approve, conditionally approve, or deny the application, as appropriate.
  - (2) *Other Applications.* If according to § 154.404, *Public Notice*, the application requires a public meeting or public hearing prior to a final decision, then the Administrator shall forward a recommendation to the next administrative body who will consider it for further recommendation or final decision.
- (D) **Common Decision Criteria.** In addition to all other applicable provisions of this Chapter, administrative bodies shall consider the provisions of Table 154.1065-1, *Commons Decision Criteria*, when making a recommendation or a final decision.
- (E) **Continuing Review Process.** Applications requiring a public meeting or hearing shall subsequently undergo the processes established in § 154.404, *Public Notice*.

## § 154.406 STAFF REPORT

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- (A) **Generally.** If a request for subdivision is approved with conditions or disapproved, the Administrator shall provide the applicant a written statement of the reasons for the conditional approval or disapproval.
- (B) **Written Statement of Reasoning.**
- (1) *Approval with Conditions.* For a request that is approved with conditions, each individual condition shall be clearly articulated in writing, and each condition must:
    - (a) Be directly related to the requirements of the Texas Local Government Code (TLGC) Chapter 212, *Municipal Regulation of Subdivisions and Property Development*;
    - (b) Include a citation to state statute or a municipal ordinance, as the basis for the conditional approval or disapproval, as applicable; and
    - (c) Not be arbitrary.
  - (2) *Disapproval.* For a request that is disapproved, the reason for disapproval shall be clearly articulated in writing and must be based on:
    - (a) Applicable criteria as denoted in Table 154.306-1, *Common Decision Criteria*.
    - (b) All other required criteria enumerated in the specific review procedures within this Chapter.





(C) **Timing.**

- (1) *Decision by Administrator.* If the request is approved with conditions or disapproved by the Administrator, the written statement shall be given to the applicant within thirty days from when the request was filed.
- (2) *Decision by Governing Body.* If the request is approved with conditions or disapproved by a governing body such as the Planning Commission or Board of Adjustments, the written statement shall be given to the applicant within thirty days from when the decision was made.

## § 154.407 INACTIVE APPLICATIONS

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(A) **Generally.** Applicants shall diligently pursue the completion of approved applications. This Section extinguishes applications that become inactive due to applicant inaction.

(B) **Voiding of Inactive Applications.**

- (1) *Process to Inactivity.* An unapproved application becomes inactive after 45 days from receiving review comments if the applicant fails to completely address the City's comments, unless the Administrator determines that the applicant is actively pursuing action to address such comments. If the Administrator makes such a determination, then the application will become inactive 90 days after the date of receipt of the comments if the applicant fails to completely address the comments.
- (2) *Void.* Inactive applications will automatically expire and become null and void without further notice 30 days after the date when they became inactive if the applicant fails to take action or to request an extension of time.

(C) **Extension of Time.**

- (1) Prior to the expiration of an inactive plat, the application may be extended for up to six months upon written request of the applicant for cause only; and
- (2) If the City amends this Chapter or adopts other regulations during the period of time when the application was inactive, the application shall:
  - (a) Not be subject to compliance to the new regulations until the original application is considered to be voided; and
  - (b) The application shall be subject to the new regulations and ordinances if the period of time to request an extension lapses.
- (3) An inactive application shall expire after a six-month extension lapses and if an extension was not requested.

(D) **Effect of Expiration.** Applications that expire pursuant to this Section are automatically null and void without further notice or action by the City.

## § 154.408 SUCCESSIVE APPLICATIONS

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(A) **Generally.** It is the policy of the City not to hear successive applications for the same approval after an application is denied. The limitations of this Section prevent the consideration of successive applications.

(B) **Time Required Between Substantially Similar Applications.** The City shall not accept submittal of an application that is substantially similar to an application that was denied within a one-year period.

(C) **Appeal.** The Administrator's determination that an application is substantially similar to a denied application is subject to appeal per § 154.510, *Appeals*.





## 154.500 PROCEDURES

### Contents:

- § 154.501 SUMMARY OF PROCEDURES
- § 154.502 COMMON DECISION CRITERIA
- § 154.503 AMENDING AND MINOR PLATS
- § 154.504 PRELIMINARY PLATS
- § 154.505 FINAL PLATS
- § 154.506 PLAT VACATION
- § 154.507 REPLAT
- § 154.508 TEXT AMENDMENT
- § 154.509 VARIANCE
- § 154.510 APPEALS

### § 154.501 SUMMARY OF PROCEDURES

- (A) **Generally.** Procedures for obtaining approval pursuant to this Chapter are summarized in this Section.
- (B) **Applications and Procedures.** Each application or permit required by this Chapter is spelled out in the below table.

Table 154.501-1 Summary of Procedures PC=Planning Commission CC=City Council BOA=Board of Adjustments Admin=Administrator						
Permit/Plan	Required For	Timing	Exceptions	Review Responsibilities		Cross-Reference <sup>1</sup>
				Recommendation	Final Decision	
Amending and Minor Plats	Subdivision of property; land development where only minor changes are necessary	Prior to developing a minor subdivision or making a minor modification to a recorded plat	All other plats	Admin	PC	§ 154.503
Preliminary Plats <sup>2</sup>	Subdivision of land and prior to submission of detailed construction drawings of all subdivision improvements	Prior to final plat submittal	Minor Plats	Admin	PC	§ 154.504
Final Plats <sup>2</sup>	Subdivision of land and acceptance of public improvements	Prior to recordation and starting development	Minor Plats	PC	CC	§ 154.505
Plat Vacations	Returning a previously subdivided and recorded plat of land to a single unit of property	N/A	None	Admin	PC	§ 154.507
Replats	The addition of lots or public rights-of-way to a recorded plat without prior vacation	N/A	None	PC	CC	§ 154.506
Text Amendment	Text additions or changes to this Chapter	Prior to amending Chapter	Non-substantive amendments	PC	CC	§ 154.508





Subdivision Variance	Deviation from the standards of this Chapter	Prior to or concurrent with submittal of a Preliminary Plat	None	Admin	BOA	§ 154.509
Appeals	Appeals from decisions of the Planning Commission	Within 30 days of a decision	None	--	BOA	§ 154.510

<sup>1</sup> Cross-references are provided for convenience only and do not exempt the application from complying with all applicable standards of this Chapter, any other provision within the City's Code of Ordinances, state law, or federal law.  
<sup>2</sup> Only when the Administrator does not approve an amending plat, minor plat, or replat, then the Administrator shall submit the plat to the Planning Commission and the procedures of § 154.504, *Preliminary Plats*, and § 154.505, *Final Plats*, shall apply.

## § 154.502 COMMON DECISION CRITERIA

- (A) **Generally.** In determining whether to approve, approve with conditions or modifications, or deny an application, the applicable review bodies shall consider the basic review criteria denoted in Table 154.502-1, *Common Decision Criteria*, below.
- (B) **Additional Criteria.** Additional decision criteria may apply and are enumerated in the specific review procedures within this Chapter.

Table 154.502-1 Common Decision Criteria				
Common Decision Criteria	Subdivision Plats	Text Amendment	Subdivision Variance	Appeals
The request complies with the applicable standards of this Chapter, the City Code, and any applicable county, state, or federal requirements.	Yes	No	No	No
The request provides for the proper arrangement of streets in relation to existing or proposed streets and conforms to the Brazoria County Thoroughfare Plan for the extension of roads, streets, and public highways within the City, taking into account access to and extension of public utilities.	Yes	No	Yes	No
Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.	Yes	No	Yes	No
The request is consistent with applicable policies of the Strategic Community Plan and applicable utility plans and capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the Strategic Community Plan, the request does not impair the implementation of Strategic Community Plan.	Yes	Yes	Yes	No
The request facilitates the orderly and efficient layout and use of the land.	Yes	No	Yes	No
The request substantially conforms to any associated prior approval for the development, including, but not limited to Preliminary Plats.	Yes	No	No	No
The decision body has considered the recommendation of Staff.	Yes	Yes	Yes	No
The request promotes the purposes of this Chapter as established in § 154.101, <i>Purposes</i> , and in other applicable purpose statements in this Chapter.	Yes	Yes	Yes	No
TABLE NOTES: "Yes" = Common decision criteria applies. "No" = Common decision criteria does not apply.				

## § 154.503 AMENDING AND MINOR PLATS

- (A) **Generally.**
- (1) *Minor Plat.* The purpose of a minor plat is to allow for the approval of:
- The subdivision of property into four or fewer lots if the subject property fronts on an existing public street with no need to dedicate new public right-of-way or extend public utilities; or
  - The consolidation of four or fewer existing lots.





- (2) *Amending Plat.* An amending plat is any plat meeting the definition in [Texas Local Government Code \(TLGC\) Section 212.016](#).
- (B) **Submittal Requirements.**
- (1) *Current Configuration.*
- (a) The amending or minor plat shall depict both the current recorded configuration and the proposed configuration of all altered lots and reserves.
- (b) The current configuration shall be located on the left side of the amending or minor plat as originally recorded.
- (2) *Proposed Configuration.* The proposed configuration shall be located on the right side of the amending or minor plat and shall depict all information as required for final plats.
- (3) *Reference to Preliminary and Final Plats.* Amending plats and minor plats shall conform to the rules and regulations of [§ 154.504, Preliminary Plat](#), and [§ 154.505, Final Plat](#), as applicable.
- (C) **Fee.** Refer to [§154.206, Fees and Charges](#).
- (D) **Public Notice.** See [§154.404, Public Notice](#).
- (E) **Decision Criteria.** In determining whether to approve, approve with conditions, or deny a minor or amending plat, the Planning Commission shall consider applicable criteria in [Table 154.502-1, Common Decision Criteria](#), and the following:
- (1) *Number of Lots.* The minor plat is proposed for the creation or merger of four or fewer lots.
- (2) *Existing Street.* Each lot in the minor plat has frontage on an existing public street without the need for the creation or extension of a new public street.
- (3) *Existing Utilities.* Existing public utilities of adequate capacity serve the entirety of the subject property in the minor plat without the need for extension.
- (4) *TLGC Reference.* The purpose of the amending plat is solely one or more of those listed in [TLGC Section 212.016](#).
- (F) **Public Meeting.** The Planning Commission shall hold a public meeting on the preliminary plat within 30 days from when the application is determined to be complete in compliance with the standards of [§ 154.403, Application Completeness](#).
- (G) **Planning Commission Action.** The Planning Commission may approve, approve with conditions, or deny a preliminary plat.

## **§ 154.504 PRELIMINARY PLATS**

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- (A) **Generally.** Preliminary plats are for the subdivision of land that is not considered an amending or minor plat per [§154.503, Amending and Minor Plats](#), or a Replat per [§154.507, Replat](#).
- (B) **Plat Submission.** Preliminary plats shall be submitted to the Administrator for presentation to the Planning Commission at least 30 days prior to the meeting at which approval is sought. The following items must be received with the submittal:
- (1) Full filing fee;
- (2) The name, address, and contact information of the owner or agent;
- (3) Letter of transmittal, stating briefly the type of street surfacing, drainage, sanitary facilities, and water supply proposed;
- (4) Three prints of the plat printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" which meets or exceeds the requirements of Subsection (B), *Plat Contents*; and
- (5) Supplemental materials as applicable in other sections of this Chapter.
- (C) **Plat Contents.** Such preliminary plat shall be drawn to scale of 100 feet to the inch or larger, and shall show:







- (1) The proposed name of the subdivision;
- (2) North point (true or magnetic), scale, and date;
- (3) The names and contact information of the owner, subdivider, and of the registered professional civil engineer or licensed land surveyor responsible for the survey and design;
- (4) An accurate location of the subdivision in reference to the real estate records of Brazoria County;
- (5) A vicinity map showing the relationship of subdivision to major thoroughfares in all directions to a distance of at least one mile;
- (6) The plat boundaries shall be drawn with heavy lines to indicate the subdivision with overall survey dimensions and bearings. Lines outside the subdivision shall be drawn as dashed lines;
- (7) The names of adjacent subdivisions or the names of recorded owners of adjoining parcels of land which is unsubdivided land;
- (8) The legal description of the property proposed to be subdivided, including the name of the survey and abstract number, together with reference to at least one established corner of a nearby recorded subdivision or the nearest public street right-of-way intersection;
- (9) The location, widths, and names of all existing or platted streets, roads, alleys, half-streets, railroad rights-of-way, and easements within the subdivision and immediately adjacent thereto, the location of all existing permanent buildings within the subdivision, and all existing easements and other important features, such as section lines, political subdivision, municipal limit lines, on all sides for a distance of not less than 200 feet;
- (10) Location of pipelines, present physical features on the land including natural and artificial water courses, ditches, ravines, culverts, bridges, present structures and any other features directly pertinent to the land being subdivided, location of existing utilities, showing pipe sizes and capacities of sewer and water mains and drainage facilities;
- (11) True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat;
- (12) Municipal, County, school district or section lines accurately tied to the lines of the subdivision by distances and bearings;
- (13) Topographic map of the property with contours intervals of 0.5 feet or less, referred to sea level (U.S. Coast and Geodetic Survey) datum;
- (14) The location and approximate width of existing and proposed watercourses, ravines, drainage easements, and topographical elevations; and the boundaries of designated flood zones, as provided in the latest edition of the Federal Insurance Rate Map as published by the Federal Emergency Management Agency. All such information shall be certified by a registered professional land surveyor or a registered professional engineer authorized to do business in the state;
- (15) The names of all proposed streets located within the subdivision and immediately adjacent to said subdivision. If all or part of a street or major thoroughfare runs through the subdivision, the plat shall depict such street, and the plat shall contain a note that such street will be dedicated to the City. Furthermore, the developer shall build such street in accordance with the City's standards established in § 155.405, *Streets and Rights-of-Way*.
- (16) Zoning district classification and land use designation of the land within the subdivision;
- (17) Setback building lines as determined by the applicable zoning district in either § 155.501, *Standards for Residential Development*, or § 155.502, *Standards for Non-Residential Development*; and
- (18) The draft of any protective covenants whereby the subdivider proposes to regulate the use of the land in the subdivision; provided however, that such restrictive covenants, conditions, or limitations shall never be less than the minimum requirements of the City under the provisions of this Chapter and/or under the provisions of CHAPTER 155, *Zoning Code*.





- (D) **Public Notice.** See §154.404, *Public Notice*.
- (E) **Decision Criteria.** The Planning Commission shall consider the criteria in Table 154.502-1, *Common Decision Criteria*, and other applicable provisions of this Chapter.
- (F) **Public Meeting.** The Planning Commission shall hold a public meeting on the preliminary plat within 30 days from when the application is determined to be complete in compliance with the standards of § 154.303, *Application Completeness*.
- (G) **Planning Commission Action.** The Planning Commission may approve, approve with conditions, or deny a preliminary plat.
- (F) **Effect of Approval.** A preliminary plat approval authorizes an applicant to file an application for a final plat approval. The approval of the preliminary plat of a subdivision shall not constitute acceptance of the same, but is merely an authorization for the subdivider to proceed with the preparation of the final or recorded plat.
- (G) **Expiration and Extension of Approval.**
  - (1) *Approval Expiration.* The approval of the preliminary plat of a subdivision shall expire after 120 days, unless the final or record plat has been submitted and recorded as provided in this Chapter.
  - (2) *Extension of Approval.* An extension of such period of time may be given at the discretion of the Planning Commission, provided the subdivider has shown that he is proceeding in good faith to complete the work necessary before filing the final or record plat.
- (H) **Plans and Specifications For Improvements.**
  - (1) *Plans for Construction.* After approval of the preliminary plat of a subdivision, the subdivider's engineer, who shall be a registered professional civil engineer, shall prepare the necessary plans for the construction of water mains, sanitary sewers, and street paving.
  - (2) *City Engineer Approval Required.* No work shall be started or contract awarded until the plans for such work have been approved by the City Engineer and Planning Commission. The City will provide construction engineering and inspection.
  - (3) *Copies of Approved Construction Plans.* Three prints and one reproducible print of the approved construction plan shall be furnished to the city.

## § 154.505 FINAL PLATS

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- (B) **Generally.** Final Plats are to finalize the subdivision of land and acceptance of public improvements after the approval of the Preliminary Plat.
- (C) **Plat Submission.** Preliminary plats shall be submitted to the Administrator for presentation to the Planning and Zoning Commission at least 30 days prior to the meeting at which approval is sought. The following items must be received with the submittal:
  - (1) Full filing fee;
  - (2) The name, address, and contact information of the owner or agent;
  - (3) Plat that conforms to the preliminary plat as approved with any and all changes, directions, and additions imposed by the City through the preliminary platting process;
  - (4) Three prints of the plat printed at a scale of 24 x 36 inches and stamped "Final Plat" which meets or exceeds the requirements of this Section and § 154.504, *Preliminary Plats*;
  - (5) A set of detailed plans signed by a State of Texas Registered Professional Engineer showing streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and other engineering details;
  - (6) One original final plat with all required changes and proper signatures, prepared and signed by a State of Texas Registered Land Surveyor.



- (7) A certificate of ownership and dedication of all streets, alleys, parks, and playgrounds to the public use forever, shall be executed by all persons, firms, associations, or corporations owning an interest in the property subdivided, resubdivided and platted, and shall be acknowledged in the manner prescribed by state law for conveyances of real property. In the case of lien-holders, they shall execute a subordination agreement, subordinating their liens to all public streets, alleys, parks, school sites and other public areas shown on the plat of such subdivision or resubdivision as being set aside for public use and purpose. The certificate of dedication shall, in addition to the above requirement, contain the following:
    - (a) An accurate description of the tract of land subdivided.
    - (b) A statement and express representation that the parties joining in such dedication deed or certificate of dedication are the sole owners of such tract of land.
    - (c) An express dedication to the public for public use forever of the streets, alley, rights-of-way, utility easements, parks, school sites, and other public places shown on the plat attached thereto.
    - (d) A positive reference and identification of the plat of such subdivision by the name of such subdivision, date of plat, and the name of the engineer.
  - (8) A waiver of claim for damage occasioned by the establishment of grades or alterations of the surface of any portion of the streets.
  - (9) Certificate showing that all taxes have been paid on the tract to be subdivided, and that no delinquent taxes exist against the property.
  - (10) Certificate of approval to be signed by the City Council.
  - (11) Other data such other certificates, affidavits, endorsements, or dedications as may be required by the Planning Commission for the enforcement of these regulations.
- (D) **Special Flood Hazard Requirements.** If any part of the plat lies in a special flood hazard area, then one-foot contour lines shall be shown on the plat and the 100-year flood elevation contour shall be drawn with a very heavy line and designated. The plat shall also show the following statement in print equal in size to the certificates of approval: "Parts of this plat lower than the 100-year flood elevation have a one percent chance each year of being inundated by flooding."
- (E) **Public Notice.** See §154.404, *Public Notice*.
- (F) **Decision Criteria.** In determining whether to approve, approve with conditions, or deny a final plat, the Planning Commission and City Council shall consider applicable criteria in Table 154.502-1, *Common Decision Criteria*, and provisions within § 154.400, *Applications, Review, and Notice*.
- (G) **Public Meeting.** The Planning Commission shall hold a public meeting on the final plat within 30 days from when the application is determined to be complete in compliance with the standards of § 154.403, *Application Completeness*.
- (H) **Planning Commission Action.** The Planning Commission shall review each final plat application. The Planning Commission shall recommend approval of a final plat to the City Council if it is in compliance with this Chapter.
- (I) **City Council Action.** If the Planning Commission recommends final plat approval or if the Planning Commission does not recommend a final plat and the applicant decides to continue with the platting process, then the City Council shall review each plat submitted to it by the Planning Commission. City Council shall approve any plat if it is in compliance with this Chapter.
- (H) **Plat Finalization.** No final plat shall be approved by the Planning Commission until the City Engineer issues a certificate of improvement.
- (I) **Filing with County Clerk.** Prior to being filed with the County Clerk, the final plat shall be approved separately by the Planning Commission and the City Council.
- (J) **Security Bond (Post-Approval).**





- (1) *City Attorney Approval.* When a security bond has been furnished to the City by the applicant in lieu of any or all required improvements, it shall be delivered to the City Attorney for approval.
- (2) *Contract.* The security bonds shall have an attached copy of the contract for such improvements and such other information necessary to determine the validity and enforceability of such bonds.
- (3) *Written Certification.* When the bond has been examined and approved, the City Attorney shall furnish the Planning Commission with a written certification that the surety bond is valid and enforceable as regards all improvements required by these regulations still incomplete and for which cash deposit has not been made.

## § 154.506 PLAT VACATION

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- (A) **Generally.** A plat vacation is to eliminate a subdivision of property reflected by a prior recorded plat, whereby the subdivided land would return to a single unit of property.
- (B) **Requirements to Vacate.** In accordance with [Texas Local Government Code Section 212.013](#), a recorded plat may be vacated pursuant to the following.
  - (1) *Common Ownership.* The owners of the tract covered by a plat may vacate the plat at any time before any lot in the subdivision is sold.
  - (2) *Separate Ownership.* If lots in the subdivision have been sold, the subdivision, or any part of the subdivision, may be vacated on the application of all the owners of lots in the subdivision with approval obtained in the manner prescribed for the original plat for the subdivision.
  - (3) *When Vacated.* The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
  - (4) *Execution and Recording.* On the execution and recording of the vacating instrument, the vacated plat has no effect.
  - (5) *Utilities.* The relocation and/or abandonment of any utilities shall be the responsibility of the subdivider and shall be provided for concurrently with the vacation procedure. The cost of any such relocation and/or abandonment shall be borne by the subdivider.
- (C) **Government Initiated Plat Vacation.**
  - (1) *Generally.* The Planning Commission may vacate a plat of an approved subdivision when:
    - (a) No lots within the approved plat have been sold within five years from the date that the plat was approved;
    - (b) The City is unable to obtain funds from the subdivider's bonding company with which to complete construction of unfinished and abandoned public improvements, except that the vacation shall apply only to lots owned by the subdivider or its successor; or
    - (c) The plat has been of record for more than five years and the Planning Commission determines that the further resale of lots within the subdivision presents a threat to public health, safety, and general welfare, except that the vacation shall apply only to lots owned by the subdivider or its successors.
  - (2) *Utilities.* The relocation and/or abandonment of any utilities shall be the responsibility of the subdivider and shall be provided for concurrently with the plat vacation. The cost of any such relocation and/or abandonment shall be borne by the subdivider.
- (D) **Fee.** Refer to [§154.206, Fees and Charges](#).
- (E) **Public Notice.** See [§154.404, Public Notice](#).
- (F) **Review and Decision Criteria.** The Planning Commission shall consider criteria in [Table 154.502-1, Common Decision Criteria](#), and other applicable provisions of this Chapter.



- (G) **Public Meeting.** The Planning Commission shall hold a public meeting on the preliminary plat within 30 days from when the application is determined to be complete in compliance with the standards of § 154.303, *Application Completeness*.
- (H) **Planning Commission Action.** The Planning Commission may approve, approve with conditions, or deny a plat vacation.

## § 154.507 REPLAT

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- (A) **Generally.** A replat revises a subdivision plat that was previously approved by the City pursuant to § 154.507, *Final Plats*, and that has been filed for recordation with the County to allow for the additions of lots or public rights-of-way without the applicant being required to vacate the original plat.
- (B) **Replating Without Vacating Preceding Plat.** In accordance with Texas Local Government Code sections 212.014, 212.0145, and 212.015, a replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
  - (1) Is signed and acknowledged by only the owners of the property being replated;
  - (2) Is approved, after a public hearing on the matter, if required; and
  - (3) Does not attempt to amend or remove any covenants or restrictions.
- (C) **Utilities.** The relocation and/or abandonment of any utilities shall be the responsibility of the subdivider and shall be provided for concurrently with the replat. The cost of any such relocation and/or abandonment shall be borne by the subdivider.
- (D) **Fee.** Refer to §154.206, *Fees and Charges*.
- (E) **Public Notice.** See §154.404, *Public Notice*.

## § 154.508 TEXT AMENDMENT

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- (A) **Generally.** Requests for amendments to the text of this Chapter may be initiated by the request of the Planning Commission, City Council, or City Manager to amend, supplement, change, modify, or repeal any portion of this Chapter that is not expressly required by Texas or Federal Law.
- (B) **Public Notice.** See §154.404, *Public Notice*.
- (C) **Planning Commission Action.** The Planning Commission shall review the proposed text amendments and make a recommendation to the City Council on whether to approve or not approve the requirement.
- (D) **City Council Process.** The City Council shall:
  - (1) Receive the written recommendation of the Planning Commission and staff regarding the proposed amendment;
  - (2) Hold a public hearing prior to taking action on the proposed amendment.
  - (3) By majority vote, approve or deny the amendment, or continue the item to a future meeting.
- (E) **Decision Criteria.** In determining whether to approve a text amendment, the review bodies shall consider applicable criteria in Table 154.502-1, *Common Decision Criteria*, and consider the following additional factors (no one factor is controlling and thus requires the City Council to make a specific decision):
  - (1) *Consistency.* Whether and the extent to which the proposed amendment would conflict with any portion of this Chapter or any of Chapter of the City's Code of Ordinances.
  - (2) *Effect on Natural Environment.* Whether and the extent to which the proposed amendment would not result in significantly adverse impacts on the natural environment including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
  - (3) *Community Need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.





- (4) *Adopted Planning Documents.* Whether and the extent to which the proposed amendment is compatible with the vision set forth in the City's adopted planning documents.
- (F) **Non-Substantive Amendments.** Notwithstanding the other provisions of this Section, if necessary the Administrator may without action by the Planning Commission and/or the City Council:
  - (1) Correct spelling or punctuation errors:
  - (2) Cross-reference changes (because another area of City Code has been moved or changed); and
  - (3) Cross-reference errors.

## § 154.509 VARIANCE

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- (A) **Generally.** A variance is to provide limited relief from the requirements of this Chapter as described below.
- (B) **Fee.** Refer to §154.206, *Fees and Charges*.
- (C) **Public Notice.** See §154.404, *Public Notice*.
- (D) **Procedural Requirements.**
  - (1) Any variance authorized is required to be entered in writing into the minutes of the Board of Adjustments (BOA) meeting specifically stating the reason(s) for which the variance was approved.
  - (2) Not less than two-thirds of the entire membership of the BOA must approve the request.
- (E) **Decision Criteria.** In addition to Table 154.502-1, *Common Decision Criteria*, the BOA shall consider if the applicant can show the need for the variance because:
  - (1) Strict adherence to would cause unnecessary hardship; and
  - (2) A physical condition that is peculiar to the land.

## § 154.510 APPEALS

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- (A) **Generally.**
  - (1) *Purpose.* The purpose of the appeals process is to provide an opportunity for affected parties to seek review of a decision of a responsible official or the Planning Commission in a timely and inexpensive way.
  - (2) *Administrator and City Manager Decisions.* All decisions of the Administrator or the City Manager, pertaining to this Chapter, may be appealed to the Board of Adjustments (BOA).
  - (3) *Planning Commission Decisions.* All decisions of the Planning Commission, pertaining to this Chapter may be appealed to the Board of Adjustments (BOA).
- (B) **Parties to Appeal.**
  - (1) Only parties in the action shall have standing to bring an appeal. No appeal by a person who is not a party shall be heard.
  - (2) A person or entity is a party if it demonstrates:
    - (a) That final action of the City caused it injury;
    - (b) The injury is different in kind or degree from injury to members of the general public; and
    - (c) The injury can be remedied if the appeal is granted.
  - (3) The Applicant is always a party, and shall not be required to demonstrate injury if:
    - (a) The Applicant is appealing an adverse decision or an adverse condition of approval, in which case the Applicant is a Petitioner; or
    - (b) The Applicant's application is the subject of an appeal by another party, in which case the Applicant is a Respondent.





- (4) Any person or entity that owns property within 300 feet of any parcel line of the parcel that is the subject of the appeal shall not be required to demonstrate injury.
- (C) **Deadline to Appeal.** All appeals must be fully completed and submitted to the City 30 days after an official decision by any City official, committee, or governing body.
- (D) **Content.** The request for appeal shall clearly state each alleged error or ground for protest which the appellant intends to assert. It cannot be amended, supplemented, or modified after the public notice of meeting is posted.
- (E) **Fee.** Refer to §154.206, *Fees and Charges*.
- (F) **Public Notice.** See §154.404, *Public Notice*.
- (G) **Transmission of Records.** The decision-maker whose decision is being appealed shall transmit to the BOA all of the documents constituting the record of the appealed action.
- (H) **Effect of Filing Appeal.** The filing of an Appeal stays all proceedings in furtherance of the final decision appealed, unless the decision-maker whose decision is being appealed certifies in writing to the BOA that, by reason of facts stated, a stay would in their opinion, cause imminent peril of life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the BOA or by a court of competent jurisdiction on application or notice to the officer from whom the appeal is taken and on due cause shown.
- (I) **Burden of Proof in Appeals.** The BOA shall presume the appealed final decision to be valid. The appellant shall present sufficient evidence and have the burden to justify a reversal of the decision being appealed.
- (J) **Scope of Review.** The Board of Adjustments (BOA) shall review the application in the same manner, using the same approval criteria as the decision-maker. However:
- (1) No new evidence shall be presented to the BOA that was not considered by the decision-maker; and
  - (2) No issues shall be reviewed by the BOA that were not described or obviously implied by the notice or request for appeal.





## CHAPTER 155: ZONING CODE

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### Contents:

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## 155.100 AUTHORITY, PURPOSE, AND APPLICATION

### § 155.101 AUTHORITY

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The Freeport Zoning Code is adopted:

- (A) Under the authority of the Constitution and laws of the State of Texas, including but not limited to, the following chapters of the Texas Local Government Code (TLGC):
  - (1) TLGC Chapter 211, *Municipal Zoning Authority*;
  - (2) TLGC Chapter 213, *Municipal Comprehensive Plans*;
  - (3) TLGC Chapter 214, *Municipal Regulation of Housing and Other Structures*;
- (B) Pursuant to the provisions of the City's Home Rule Charter.

### § 155.102 PURPOSE

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The regulations of this Chapter are established to:

- (A) Implement the City's adopted planning documents, including but not limited to the City's Strategic Community Plan;
- (B) Promote the public health, safety, morals, and general welfare of the City;
- (C) Secure safety from fire, panic and other dangers;
- (D) Provide adequate light and air;
- (E) Prevent the overcrowding of land;
- (F) Avoid undue concentration of population; and
- (G) Facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.

### § 155.103 APPLICATION

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(A) **Jurisdiction.** Unless otherwise noted:

- (1) All provisions of this Chapter apply within the corporate limits of the City of Freeport; and







- (2) No provision of this Chapter shall apply within the Extraterritorial Jurisdiction (ETJ) of the City.
- (B) **Zoning Districts.** This Chapter divides the City into zoning districts that create different standards for development that vary depending upon which zoning district a parcel of property is located within.
- (C) **Minimum Standards.** The regulations set by this Chapter for each district shall be minimum regulations and shall apply uniformly to all land, buildings, and structures unless otherwise stated.
- (D) **Conformity.** No building, structure, land or part thereof shall be used, occupied, erected, constructed, reconstructed, moved or structurally altered unless in conformity with all regulations in this Chapter specified for the district in which it is located.





## 155.200 GENERAL PROVISIONS

### § 155.201 DEFINITIONS.

#### A

**ACCESSORY BUILDING OR STRUCTURE** means a structure that is subordinate to the principal building, which serves a purpose that is customarily and clearly associated with the principal use. Examples of accessory buildings include storage sheds, gazebos, detached carports, and detached residential garages. The term does not include structured parking.

**ACCESSORY DWELLING UNIT** means a type of residential land use that is accessory to a primary residential land use.

**ACCESSORY USE** means a use subordinate to the principal use of a building or a lot and serves a purpose customarily incidental to the principal use.

**ADULT ENTERTAINMENT.** See Adult-Oriented Businesses.

**ADULT-ORIENTED BUSINESSES** means an establishment as defined in [Chapter 123](#) of the City's Code of Ordinances.

**AGRICULTURE AND ANIMAL SERVICES** means a category of uses that contains nonresidential uses primarily related to the raising of animals and the secondary enterprises associated with agricultural production. Uses in this use category include, but aren't limited to: animal hospital, pound or shelter (parking requirement does not include outdoor kennels); farm equipment sales, service, repairs, feed store; field crops, horticulture, nursery, truck gardening, but not including retail sales on the premises; livestock feeding yards or pens, greenhouse (non-retail)

**ALLEY** means a public or private way affording only secondary means of access to abutting property.

**APARTMENT** means a room or suite of rooms in an apartment house arranged, designed or occupied as a residence by a single family, individual or group of individuals.

**APARTMENT HOUSE** means any multiple-family dwelling or building or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied as three or more apartments or which is occupied as the home or residence of three or more families living independently of each other and maintaining separate cooking facilities.

**ASSISTED LIVING FACILITY** means a facility that provides meals and assistance with daily activities, such as dressing, grooming, and bathing, for the elderly or adults who are unable to manage these activities themselves. This definition does not include nursing homes, skilled nursing facilities, or similar institutions with professionally trained technical staff devoted primarily to the care of the chronically ill or the incurable.

**ASPHALT/CONCRETE BATCHING PLANT** means a temporary light manufacturing facility used for the production of asphalt or concrete, or asphalt or concrete products, used in building or construction of a specific site or project, and includes facilities for the administration and management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

**ATHLETIC FIELD, COMMERCIAL** means a sport playing field, that is not owned or operated by the City, used primarily for organized sports for schools, professional sports, sanctioned league play, etc.

**AUTOMOBILE ACCESSORY AND SUPPLY STORE** means retail sales of automobile and motorcycle related parts and accessories without installation on-site.

**AUTOMOBILE PARKING LOT OR GARAGE** means an open area or structure not accessory with any particular use, surfaced with dust free materials, designed and used for the parking of vehicles that is operated as a business enterprise with a service charge or fee being paid to the owner or operator of the parking structure or lot.



**AUTOMOBILE WASH** means any area or business using self-service, in-bay automatic, or conveyor equipment for cleaning and washing motor or other vehicle types, whether as a part of another business operation (e.g., as an accessory use to an automobile fueling or charging station, automobile sales, rental, and service) or as a stand-alone operation, of any type, on a commercial basis.

## B

**BAIT STORE** means a retail establishment that sells both live and frozen bait as well as clothing related to fishing activities. This definition includes Bait Store Clothing and Shrimp, Bait-live sales.

**BANK OR CREDIT UNION** means an establishment that is engaged in the business as a bank or credit union and is federally chartered or state chartered.

**BAR OR TAVERN** means a building where liquors are sold to be consumed on the premises and where food may or may not be served or sold.

**BARGE AND BOAT MANUFACTURING AND REPAIR** means any establishment where the primary services offered are the manufacturing, repair, or painting of large boats, barges, or other large watercraft.

**BLOOD or PLASMA CENTER** means a facility for the donation or sale by individual donors of blood, blood plasma, and other blood products.

**BOARDING HOUSE** means a building other than a hotel, where lodging and meals for five or more persons are served for compensation. This definition includes Rooming House and/or Tourist Home.

**BOAT AND MARINE RELATED PARTS, RETAIL AND WHOLESALE SALES, TRANSPORTATION AND HANDLING** means a facility that sells parts related to boats, marinas, or other watercraft to retail establishments or the general public. This definition also includes the transportation and handling of the parts.

**BOAT LAUNCHING** means an area with a ramp on the shore by which ships or boats can be moved to and from the water. This definition includes slips, slipways, boat ramps, and boat deployers.

**BOAT, FISHING CHARTER** means any facility with a head boat, party boat, party fishing boat, charter fishing boat, tour boat, excursion boat, or sightseeing boat, which are for temporary charter, rent or hire for recreational purposes all shall be construed to mean they are charter boats.

**BOAT RENTAL, LEASING AND SALES** means any premises on which three or more used or new boats, or other watercraft are offered for sale, rental, or lease during any calendar year, and which may include the sale of marine supplies or outboard motors and repair service conducted as accessory uses.

**BOAT REPAIR** means any establishment where the primary services offered are the repair or painting of boats, or other small watercraft.

**BOAT OR RECREATIONAL VEHICLE OUTDOOR STORAGE** means a facility where boats and other watercraft are stored outdoors.

**BODY ART SERVICES** means an establishment that has been licensed by the proper regulatory authority for the primary purpose of practicing body piercing or tattooing. This definition does not include clothing accessory or jewelry stores that offer ear piercing to customers.

**BOWLING CENTER** means an establishment containing long narrow tracks used in bowling and similar games.

**BREW PUB** means an establishment primarily engaged in the retail sale of prepared food for consumption, which includes the brewing of beer as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage.



**BUILDING** means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building.

**BUILDING COVERAGE** means the area of a lot covered by any roofed structure, but not paved areas, such as patios.

**BUILDING LINE** means a line parallel or approximately parallel to a lot line or street line and beyond which buildings may not be erected.

**BUILDING OFFICIAL** means the Chief Building Inspector.

**BUILDING OR DEVELOPMENT CONTRACTOR** means facilities for building, heating, plumbing, or electrical contractors, and related storage facilities. The site may include an unenclosed portion upon which a contractor maintains an area used to store equipment and other materials customarily used in the trade carried on by the contractor. This definition excludes temporary contractor storage associated with the site of an on-going construction project.

**BUILDING, PRINCIPAL** means a building in which is conducted the principal use of the site on which it is located. In any residential district any and all dwellings shall be deemed to be main buildings on the site on which they are located.

**BULK STORAGE** means the warehousing of large quantities of goods, including, but not limited to, cold storage plants, and storage of household goods, equipment, general freight, and nonflammable liquids.

This definition excludes bulk storage of explosive or hazardous materials.

**BUS STATION or TERMINAL** means a facility that serves as a point of arrival or departure for passengers of commercial busses, including any ticket sales areas, reception areas, bus parking and/or refueling areas, and accessory retail sales. Bus Stations or Terminals shall not include the storage, cleaning, or repair of buses.

## C

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**CAMPER** means a mobile living unit designed to be mounted upon and conveyed by another vehicle.

**CAMPGROUND** means a facility that may be designed for temporary (usually one night) use by travel trailers, recreation vehicles, or tents. A campground with overnight accommodations shall limit the stay of guests to seven days and shall supply toilet and bathing facilities for the guests as essential characteristics.

**CEMETERY, COLUMBARIUM, MAUSOLEUM, OR MEMORIAL PARK** means uses intended for the burial of the dead and dedicated for cemetery purposes or to commemorate the dead without burial taking place on-site.

**CERTIFICATE OF OCCUPANCY AND COMPLIANCE** means a document issued by the Building Official or the Administrator authorizing buildings, structures or used consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

**CHIROPRACTOR** means a practitioner of the system of integrative medicine based on the diagnosis and manipulative treatment of misalignments of the joints who is licensed by the State.

**CITY** means the city of Freeport, in Brazoria County, Texas.

**CIVIC** means a category of uses containing uses that provide services to the general public related to recreation, fellowship, worship, health, education, and transportation. Uses in this use category include, but aren't limited to: Ambulance service; Bus station; Club or Lodge; gallery or museum; Post Office; Public park, playground or playfield; School commercial or trade, when not involving any danger of fire or explosion or offensive noise, vibration, dust, odor, glare, heat or other objectionable influences; School, commercial or trade. Other uses in this category include: Adult Day Care; Aquarium; Community, Senior, or Youth Center; Museum or Gallery; or Pre-School or Child Day Care Center





**COLLEGE, UNIVERSITY, or VOCATIONAL SCHOOL** means a community college, college, university, seminary, vocational/technical school, trade school, language school, business school, training center, beauty school, culinary school, and comparable advanced or continuing education facilities. The phrase does not include fitness centers, sports instruction, swimming instruction, or martial arts instruction.

**COMMON AREA** Refer to Park, Playground, and Common Open Space.

**CONSTRUCTION BUILDING/SITE OFFICE** means a stick-built or modular building that is used as an administrative office for construction related activities occurring on the same lot under an active building permit.

**CONSTRUCTION DUMPSTER** means a large trash or recycling receptacle located on private property (i.e., outside the public right-of-way) which is used to collect construction debris and other development related materials for transport off-site.

**CONSTRUCTION YARD** means a temporary fenced enclosure used for the storage and maintenance of contractor supplies and operational equipment used for and located on the same lot of an active building permit.

**COTTAGE** means a small single-family detached dwelling unit that is intended for small lots in specified zoning districts.

**CORRECTIONAL FACILITY** mean an establishment providing housing and care for individuals legally confined for violations of law.

**COURT** means an open, unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings.

**CURRENCY EXCHANGE (CHECK CASHING BUSINESS)** means a person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check cashing facility" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashing facility" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders for a minimum flat fee not exceeding 2 dollars as a service that is incidental to its main purpose or business. The term "currency exchange" expressly includes businesses known as "check cashing" facilities.

## D

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**DAY CARE FACILITY** means a child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week. State Law Reference: [Texas Human Resources Code, Chapter 42](#)

**DENSITY** mean the maximum number of family units permitted on a lot.

**DETACHED** means any building, accessory building or structure that is not physically attached to any other building or structure by any means.

**DISTRICT or ZONING DISTRICT** means a portion of the territory of the city within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this chapter.

**DOCKING AND SERVICE FACILITIES FOR COMMERCIAL VESSELS** means an establishment that provides services or the space to attach any commercial vessel to any wharf, pier, mooring, gangway or floating dock structure.

**DOCKING AND SERVICE FACILITIES FOR RECREATIONAL AND PLEASURE BOATS** means an establishment that provides services or the space to attach recreational and pleasure boats to any wharf, pier, mooring, gangway or floating dock structure.



**DOWNTOWN LOFT** means a residential use located on the second floor of a building in the Downtown zoning district where the first floor of the building is used for non-residential purposes. This use also includes live-works units and senior housing.

**DUPLEX** means a building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family, and each of which has its own primary outside entrance. Duplexes may be configured side-by-side or over-and-under.

**DWELLING** means any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, trailer or mobile home.

**DWELLING, MULTI-FAMILY** means a building or portion thereof designed for or used by three or more families or housekeeping units. Such a use typically takes place in an Apartment.

**DWELLING UNIT or UNIT** means one room, or a suite of two or more rooms, designed for or used by one family for living and sleeping purposes and having only one kitchen or kitchenette.

## E

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**ENTERTAINMENT, INDOOR** means a category of commercial uses containing, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting. Uses in this use category include, but aren't limited to: auditorium, arena, coliseum, or theater; bowling alley; dance hall, commercial; indoor air rifle ranges that comply with national rifle association guidelines; lounges serving alcoholic beverages; physical culture and health studios; skating rink, commercial; studio for professional work or for teaching any form of fine arts, photography, music, drama, etc.; swimming pool commercial. Other uses in this category include: Archery / Firearms Range (Indoor); Axe throwing lounge; Bingo hall; Convention center; Dance Club or Dance Hall; Fitness Gym; Gymnastic, Dance, or Martial Arts Facility; Movie or Other Theater; Pool hall; Skating rink; Tennis or Racquetball Facility

**ENTERTAINMENT, OUTDOOR** means a category of commercial uses providing daily or regularly scheduled recreation-oriented activities in an outdoor setting. Uses in this use category include, but aren't limited to: baseball park, commercial; golf course, but not including commercial golf games, or amusement; golf course, commercially operated driving ranges, pitch and putt courses, miniature golf or other commercial amusement; swimming pool commercial; theater, drive-in; and baseball park. Other uses in this category include: Amphitheater; Amusement Park; Campground without Overnight Accommodation; Fairgrounds; or Mini-Golf Course; Paintball Facility; Race Track (Vehicle); Skateboard Park; Stadium, Running Track, Sports Park or Ball Field

## F

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**FAMILY** means a person living alone or two or more persons living together as a single housekeeping unit in a dwelling unit, and in which not more than four individuals are unrelated by blood.

**FARMERS MARKET** means an outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more producers where at least 75 percent of the displayed inventory of the products sold in each farmers market is farm products or value-added farm products.

**FLOOR AREA** means the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the center lines of exterior walls or from the center line of walls separating two buildings in square feet.

**FOOD OR GROCERY STORE** means an establishment engaged in the sale of primarily food, but could also include goods, merchandise or services, to the general public and sometimes offering for retail sale prepackaged food products, household items and other goods commonly associated with the same. Excludes eating and drinking places.

**FUEL SALES (RETAIL)** means a place where vehicular fuel, stored only in underground tanks, is offered for sale to the public or where charging stations are made available for the charging of vehicles.



**FUNERAL HOME OR MORTUARY SERVICES** means a facility used primarily for human funeral services, which may contain space and facilities for embalming, preparation of the dead for burial, casket storage, and undertaking services.

## G

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**GOLF COURSE** means an outdoor area designed for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a Country Club or other clubhouse, a driving range, putting greens, and shelters as accessory uses.

**GOVERNMENT / NON-PROFIT PARKING LOT or MAINTENANCE AREA** means a stand-alone parking lot or maintenance area of a governmental agency or non-profit organization that provides indirect services such as parking and vehicle and facility maintenance to a government or non-profit entity.

**GOVERNMENT SERVICES (ADMINISTRATIVE, EDUCATION, POSTAL, SAFETY)** means facilities focused on the provision of a public service that are public in nature and serve a wide range of needs and patrons. This definition includes, but is not limited to, police stations, fire stations, emergency medical service stations, botanical gardens, libraries, post offices, and government-owned animal shelters.

**GRADE, EXISTING** means the average level of the original surface of the ground adjacent to the exterior walls of the building.

**GROUP LIVING** means a category of uses containing uses with residential occupancy of a dwelling by a means other than found in Household Living typically providing communal kitchen/dining facilities. Uses in this use category include, but aren't limited to: rooming, boarding house, and/or tourist home.

## H

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**HEAVY INDUSTRIAL** means a category of commercial uses engaged in the manufacturing, assembly or processing of chemicals, animal products and metals; the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare. Uses in this use category include, but aren't limited to: Asphalt or asphalt products, manufacturing and processing; Batching or mixing plant, Portland cement, concrete, mortar or plaster, commercial; Chemicals or petrochemicals, including but not limited to: acids, acetylene, aniline dyes, ammonia, ammonium sulfate, bleaching compounds, carbide, caustic soda, soda ash, cellulose, chlorine, carbon black or bone black, cleaning or polishing preparations, creosote, exterminating agents, hydrogen, oxygen, industrial alcohol, sugar, potash, plastic materials, synthetic resins or synthetic yarns, manufacturing, refining or processing; Coal, coke, charcoal or tar products, including gas, processing; Explosives or fireworks, manufacturing or storage; Fertilizers, active, manufacturing and processing, storage, transportation and handling; Fertilizers, inert, manufacturing and processing; Gases or flammable liquids, processing involving; Hair, felt or feathers, bulk processing, washing, curing or dyeing; Heavy equipment, storage, repair and sales, earth moving Incineration, distillation or reduction of garbage, offal or dead animals, fat rendering; Insecticides, fungicides, disinfectants or related industrial or household chemical compounds, manufacturing or processing; Jute, hemp, sisal or oakum products; Leather, hair or fur, tanning, curing, finishing or dyeing; Livestock feeding yards or pens; Meat, poultry or fish, slaughtering, processing or preparation for packing; Metal alloys or foil, including solder, pewter, brass, bronze and tin, aluminum, lead or gold foil, manufacturing or processing; Metal, metal ores or metal products, reduction, refining, processing; Oil well supplies and machinery sales; Paint, enamel, lacquer, turpentine or varnish, manufacturing; Petroleum or petroleum products, refining; Plastic or rubber products, manufacturing; Production of casting or foundry products; Soaps, detergents or perfumes, manufacturing; Tires, recapping or vulcanizing shop; Wood products, fiber or lumber, manufacturing and processing; Wool, scouring, pulling and processing, manufacturing involving; Wool, scouring, pulling and processing, manufacturing involving.

**HELIPORT** means any area of land or water designed and set aside for the landing and take-off of aircraft and utilized, or to be utilized, in the interest of the public for such purposes.



**HOME OCCUPATION** means any occupation that is carried out within the home or within a structure which is an accessory to the home.

**HOSPITAL** means an institution that is licensed by the State or operated by an agency of the government to provide medical, surgical, psychiatric or emergency medical services to sick or injured persons, primarily on an in-patient basis. The term "hospital" shall not include skilled nursing facilities.

**HOTEL** means a building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals, in which as a rule the rooms are occupied for hire, and in which there are more than 12 sleeping rooms, a public room for the accommodation of more than 12 guests and a general kitchen.

**HOUSEHOLD LIVING** means a category of uses containing residential occupancy of a dwelling unit by a household on a month-to-month or longer basis in structures with self-contained dwelling units including kitchens. Uses in this use category include, but aren't limited to: apartment house or housing project; duplex (two-family dwelling); manufactured homes; single-family dwelling unit; townhouse.

**HUD-CODE MANUFACTURED HOME** means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a travel trailer.

## J

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**JUNK** means all worn-out and discarded material, in general, including but not limited to old iron, steel, brass, tin, lead, copper and other base metals; old cordage, ropes, rags, fibers and fabrics; old rubber; old bottles or other glass; bones; waste paper and other waste or discarded material whether or not such objects might be prepared to be used again in some form; junked vehicles as defined in Freeport's Code of Ordinance, [Chapter 94, Junked Motor Vehicles](#) and Texas Transportation Code [Chapter 683, Abandoned Motor Vehicles](#); and any or all or any pieces or parts of any of the foregoing.

**JUNK YARD** Refer to Salvage Yard.

## K

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**KENNEL** means any premises on which four or more dogs, six months or older, are kept for the purposes of boarding or breeding. This term includes privately-owned animal shelters.





## L

**LIGHT INDUSTRIAL** means a category of commercial uses containing uses engaged in the manufacturing, assembly or processing of industrial, business or consumer goods; usually from basic finished inputs such as metal, stone, glass, plastic, or rubber. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Uses in this use category include, but aren't limited to: advertising displays manufacture; bookbinding; books, binding, other than hand binding; bottling works, for all beverages; brooms or brushes; cabinet or carpentry shop; carpets manufacture and cleaning; ceramics, stone, glass, marble and porcelain products; construction, equipment sales, service, rental and repair; contractors or construction offices, shops and yards; dry cleaning, package plant, or pickup station; electrical appliances, equipment assembly, supplies or similar products including electrical machinery; exterminator; food locker plant for consumer use; food products, not including meat products or fish products, the slaughtering and/or preparation thereof; furniture and upholstery; glass and cutting shop; ice vending establishment; ice, dry or natural; laboratory, research or testing; laundry plant; laundry, package plant, pickup station or self-service; linen or uniform supply, or diaper service; machine tools, including metal lathes, metal presses, metal stamping machines, woodworking machines or similar products; machinery, miscellaneous, including repairs; machines, business, including typewriter, accounting machines, calculators, card-counting equipment or similar products; manufacturing of baked goods, candy, delicatessen foods and ice cream; mattresses, including rebuilding or renovating; mirror silvering; monument sales and incidental processing; musical instruments, including pianos or organs; newspaper distribution station; orthopedic or medical appliances, including artificial limbs, braces, supports, stretchers or similar products; paper products, including envelopes, stationery, bags, boxes, shipping containers, bulk goods, tubes, wallpaper printing or similar products; pharmaceutical products; printing or publishing including engraving or photoengraving; soaps, detergents or perfumes; manufacturing; sporting or athletic equipment; steel products, miscellaneous fabrication or assembly; textiles, spinning, weaving, manufacturing, dyeing, bleaching, printing, knit goods, yard, thread or cordage; tools or hardware, including bolts, nuts, screws, doorknobs, drills, hand tools or cutlery, hinges, house hardware, locks, non-ferrous metal castings, plumbing appliances or similar products; toys and novelty products; vehicles, children's, including bicycles, scooters, wagons, baby carriages or similar vehicles; venetian blinds, window shades or awnings; water distillation.

**LIMITED USE** means a land use that is permitted subject to meeting standards in §155.203, *Limited Use Standards*. Table 155.401-1, *Permitted Uses by District*, indicates which uses are limited uses in which zoning districts.

**LIQUOR STORE** Refer to Package Liquor.

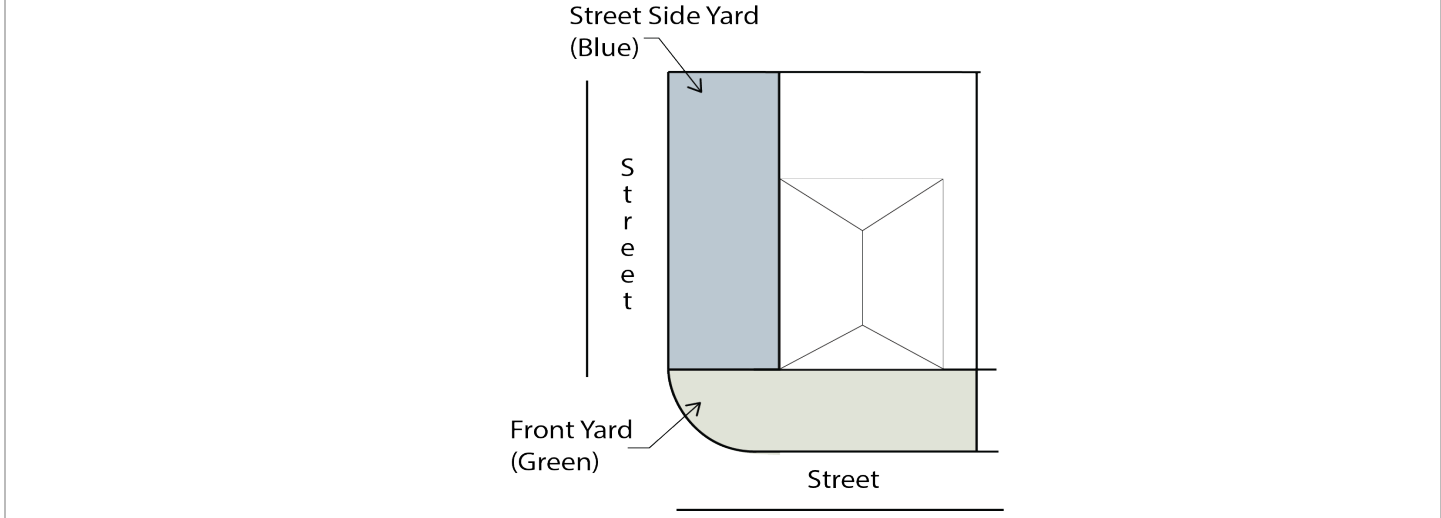
**LOT** means a platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.

**LOT, AREA OF** means the area of the lot shall be the net area of the lot and shall not include portions of streets and alleys.

**LOT, CORNER** means a lot located at the intersection of and abutting two or more streets. A lot located at the intersection of a street and an alley would not be considered a corner lot for the purposes of this Chapter.



## Corner Lot Illustrated

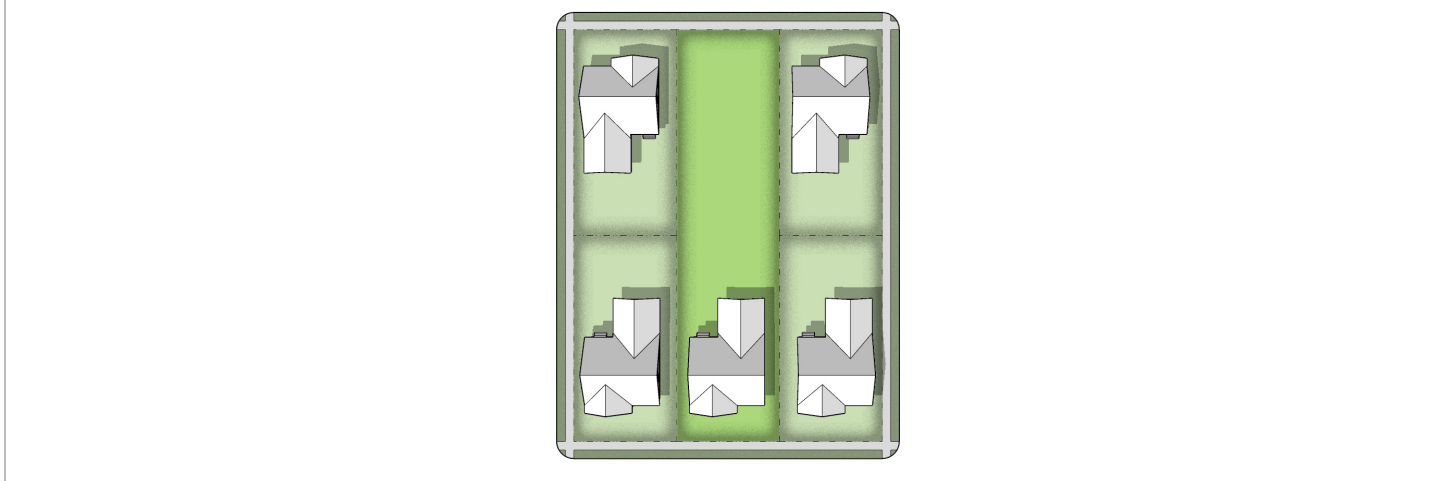


**LOT DEPTH** mean the mean horizontal distance between the front lot line and rear lot line of a zoning lot.

**LOT, DOUBLE FRONTAGE.** See **LOT, THROUGH.**

**LOT, THROUGH** means a lot having a pair of opposite property lines along two or more public streets, and that is not a corner lot. Also referred to as a "double frontage lot".

## Through Lot Illustrated



**LOT LINE** means a boundary of a lot.

**LOT LINE, FRONT** means the street right-of-way line at the front of a lot.

**LOT LINE, REAR** means the lot line opposite and most distant from the front.

**LOT LINE, SIDE** means a lot line which is not a front lot line or rear lot line. A side lot line separating a lot from a thoroughfare other than an alley is an exterior side lot line as opposed to an interior side lot line.

**LUMBERYARD** means a retail establishment that sells items including, but not limited to, lumber, brick, tile, cement, insulation, and roofing materials. Secondary sale of items such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper may take place.





## M

**MANUFACTURED HOUSING** means a HUD-code manufactured home.

**MARINA** means a dock or basin providing secure moorings for pleasure boats and often offering supplies, repair and other facilities.

**MARINA RELATED BUSINESS** means any business which primarily provides goods and services to any customer of any marina.

**MARINE FUELING FOR BARGES AND VESSELS** means a facility at which marine fuels and other marine related products for barges and other large watercraft vessels are sold.

**MARINE NET MANUFACTURING, REPAIR, AND SALES** means a facility that manufactures, repairs, or sells nets used for fishing or other marine related activities.

**MARINE SERVICE STATION FOR RECREATIONAL AND PLEASURE BOATS** means a facility at which marine fuels and other marine related products are sold at retail to the general public.

**MAY** means the act referred to is permissive.

**MEDICAL CLINIC OR OFFICE** means a use where medical, dental, psychiatric, psychological, chiropractic and/or and other outpatient services are performed.

**MEDICAL FACILITIES** means a category of uses containing public and civic uses providing medical or surgical care to patients. Some uses may offer overnight care. Uses in this use category include, but aren't limited to: clinic or office, medical; drug stores; hospital, general, not including animal, laboratory, medical or dental. Other uses in this category include: Blood or Plasma Center; Hospice Center; Hospital; Medical or Dental Laboratory

**MICROBREWERY** means an establishment engaged in on-site brewing of beer and sales of beer by the glass for on-premise consumption. These establishments are primarily used for the production of beer and ale and may include retail and food service as an accessory use. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverage.

**MICRO-DISTILLERY** means an establishment primarily engaged in on-site distillation of spirits and may include retail and food service as an accessory use. The distillery operation processes the ingredients to make spirits by mashing, cooking, and fermenting. The micro-distillery operation does not include the production of any other alcoholic beverage.

**MINI-WAREHOUSE** means a structure containing separate storage spaces, which may be of various sizes, leased or rented on an individual basis.

**MOBILE HOME** means a structure that was constructed before June 15, 1976, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a travel trailer.

**MOBILE HOME PARK** means any lot upon which are located one or more mobile homes, occupied for dwelling purposes, regardless of whether or not a charge is made for such accommodation.

**MODULAR COMPONENT** means a structural part of housing or building constructed at a location other than the building site in a manner that prevents the construction from being adequately inspected for code compliance at the building site without damage or removal and reconstruction of a part of the housing or building.

**MODEL HOMES AND ON-SITE REAL ESTATE OFFICES** means a dwelling unit temporarily used as a sales office for on-site sales of individual units in a residential subdivision or condominium development under construction.



- (A) Model homes are used to display the layout and finishes of other dwelling units that are or will be available for sale within a subdivision or condominium development.
- (B) Sales offices can be located in a model home, condominium unit, or in a separate modular unit located on-site in the subdivision or condominium development.

**MODULAR OR INDUSTRIALIZED BUILDING** means a commercial structure that is constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site and is 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; but excluding a commercial structure that exceeds three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof or a commercial building or structure that is installed in a manner other than on a permanent foundation and is either not open to the public or less than 1,500 square feet in total area and used other than as a school or a place of religious worship.

**MOTEL** means a building or group of buildings, including either separate units or a row or rows of units which (a) contain living or sleeping accommodations primarily for transient occupancy and (b) having individual entrances.

**MOTOR FREIGHT OR TRUCK TERMINAL** means a building or area in which freight brought by truck is assembled or stored for shipping in interstate and intrastate commerce by truck.

## N

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**NEW HUD-CODE MANUFACTURED HOME** means one which is newly manufactured and not a used HUD-code manufactured home.

**NURSERY OR GREENHOUSE** means an establishment primarily engaged on the propagation of horticultural specialties, such as flowers, shrubs and trees, intended for ornamental or landscaping purposes.

## O

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**OFFICE** means a category of commercial uses containing activities conducted in an office setting and generally focusing on business, professional, or financial services. Uses in this use category include, but aren't limited to: bank, loan company; loan office – payday; office, any type; radio, television or recording studio. Other uses in this category include: Accounting, Advertising, Architecture, Bill Collection, Charitable Organization, Consulting, Counseling, Data Processing, Design, Engineering, Investment or Brokerage, Law, Real Estate or Insurance, Sales, Temporary Employment, or Travel; Bank or Credit Union (without drive-through); TV or Radio Studio

**OIL FIELD SUPPLIES, STORAGE, TRANSPORTATION, AND HANDLING** means a facility used for the storage, transportation, and handling of supplies for the oil field operations.

**OPEN SPACE** means any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. Open Space can include: greenspace (land that is partly or completely covered with grass, trees, shrubs or other vegetation).

**OTHER AGRICULTURE AND ANIMAL SERVICES** means land uses that are contained in the definition for the agricultural and animal services use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to farm equipment sales, service, repairs, feed store, field crops, horticulture, and truck gardening. The uses do not include retail sales on the premises or livestock feeding yards or pens.

**OTHER CIVIC USES** means land uses that are contained in the definition for the civic use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to clubs, lodges, galleries, museums, aquariums, adult daycares, youth centers, senior centers, and community centers.





**OTHER MEDICAL FACILITIES** means land uses that are contained in the definition for the medical facilities use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to drug stores, blood or plasma centers, hospice centers, medical or dental laboratories.

**OTHER SOCIAL SERVICE** means land uses that are contained in the definition for the social service use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to uses that primarily provide treatment of those with psychiatric, alcohol, or drug problems, transient housing related to social service programs, and housing for individuals legally confined.

**OTHER INDOOR ENTERTAINMENT USES** means land uses that are contained in the definition for the indoor entertainment use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to auditoriums, arenas, coliseums, theaters, dance halls or dance clubs, indoor air rifle ranges that comply with national rifle association guidelines, lounges serving alcoholic beverages, physical culture and health studios, fitness gym, tennis or racquetball facilities (indoor), skating rinks (commercial), studios for professional work or for teaching any form of fine arts, photography, music, drama, etc., swimming pools (commercial), archery / firearms ranges (Indoor), axe throwing lounges, bingo halls, convention centers, gymnastic, dance, or martial arts facilities, movie or other theater or pool halls.

**OTHER OUTDOOR ENTERTAINMENT USES** means land uses that are contained in the definition for the outdoor entertainment use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited driving ranges, pitch and putt courses, miniature golf or other commercial amusement, swimming pools (commercial), drive-in theatres, amphitheaters, amusement parks, campground without overnight accommodations, fairgrounds, paintball Facilities, race tracks (vehicle), skateboard parks.

**OTHER OFFICE USES** means land uses that are contained in the definition for the office use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to offices (any type), radio, television or recording studios, offices used for accounting, advertising, architecture, bill collection, charitable organization, consulting, counseling, data processing, design, engineering, investment or brokerage, law, real estate, insurance, sales, temporary employment, travel, and TV or radio studios.

**OTHER SALES-ORIENTED USES** means land uses that are contained in the definition for the sales-oriented uses in the retail repair, sales, and service use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to selling, leasing or renting animal feed, antiques, appliances, art, art supplies, automobile and motorcycle parts and accessories, bicycles, books, building supplies, cameras, carpet and floor coverings, clothing, collectibles, computers, convenience goods, crafts, electronic equipment, electronic and mixed media, fabric, flowers, furniture, garden supplies, gifts or novelties, hardware, home improvement supplies, household products, jewelry, luggage, medical supplies, musical instruments, office supplies, pets, pet supplies, pharmaceuticals, photographic supplies, picture frames, plants, postal supplies (non-governmental), printed materials, school or teacher supplies, second-hand goods indoors, seeds, souvenirs, shoes, sporting goods, stationery, tobacco, electronic cigarettes, and related products, and toys.

**OTHER VEHICLE SALES AND SERVICE USE** means land uses that are contained in the definition for the vehicle sales and service use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to sales of mobile homes, manufactured homes, portable buildings ore trailers, rental or storage of buses, trucks, boats, or taxis storage, tire and upholstery service for trucks or trailers.





**OTHER HEAVY INDUSTRIAL USES** means land uses that are contained in the definition for the heavy industrial use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to asphalt or asphalt products, manufacturing and processing; Batching or mixing plant, Portland cement, concrete, mortar or plaster, commercial; Chemicals or petrochemicals, including but not limited to: acids, acetylene, aniline dyes, ammonia, ammonium sulfate, bleaching compounds, carbide, caustic soda, soda ash, cellulose, chlorine, carbon black or bone black, cleaning or polishing preparations, creosote, exterminating agents, hydrogen, oxygen, industrial alcohol, sugar, potash, plastic materials, synthetic resins or synthetic yarns, manufacturing, refining or processing; Coal, coke, charcoal or tar products, including gas, processing; Explosives or fireworks, manufacturing or storage; Fertilizers, active, manufacturing and processing, storage, transportation and handling; Fertilizers, inert, manufacturing and processing; Gases or flammable liquids, processing involving; Hair, felt or feathers, bulk processing, washing, curing or dyeing; Heavy equipment, storage, repair and sales, earth moving Incineration, distillation or reduction of garbage, offal or dead animals, fat rendering; Insecticides, fungicides, disinfectants or related industrial or household chemical compounds, manufacturing or processing; Jute, hemp, sisal or oakum products; Leather, hair or fur, tanning, curing, finishing or dyeing; Livestock feeding yards or pens; Meat, poultry or fish, slaughtering, processing or preparation for packing; Metal alloys or foil, including solder, pewter, brass, bronze and tin, aluminum, lead or gold foil, manufacturing or processing; Metal, metal ores or metal products, reduction, refining, processing; Oil well supplies and machinery sales; Paint, enamel, lacquer, turpentine or varnish, manufacturing; Petroleum or petroleum products, refining; Plastic or rubber products, manufacturing; Production of casting or foundry products; Soaps, detergents or perfumes, manufacturing; Tires, recapping or vulcanizing shop; Wood products, fiber or lumber, manufacturing and processing; Wool, scouring, pulling and processing, manufacturing involving; Wool, scouring, pulling and processing, manufacturing involving.

**OTHER LIGHT INDUSTRIAL USES** means land uses that are contained in the definition for the light industrial use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to advertising displays manufacture; bookbinding; books, binding, other than hand binding; bottling works, for all beverages; brooms or brushes; cabinet or carpentry shop; carpets manufacture and cleaning; ceramics, stone, glass, marble and porcelain products; construction, equipment sales, service, rental and repair; dry cleaning, package plant, or pickup station; electrical appliances, equipment assembly, supplies or similar products including electrical machinery; exterminator; food locker plant for consumer use; food products, not including meat products or fish products, the slaughtering and/or preparation thereof; furniture and upholstery; glass and cutting shop; ice vending establishment; ice, dry or natural; laundry plant; laundry, package plant, pickup station or self-service; linen or uniform supply, or diaper service; machine tools, including metal lathes, metal presses, metal stamping machines, woodworking machines or similar products; machinery, miscellaneous, including repairs; machines, business, including typewriter, accounting machines, calculators, card-counting equipment or similar products; manufacturing of baked goods, candy, delicatessen foods and ice cream; mattresses, including rebuilding or renovating; mirror silvering; monument sales and incidental processing; musical instruments, including pianos or organs; newspaper distribution station; orthopedic or medical appliances, including artificial limbs, braces, supports, stretchers or similar products; paper products, including envelopes, stationery, bags, boxes, shipping containers, bulk goods, tubes, wallpaper printing or similar products; pharmaceutical products; printing or publishing including engraving or photoengraving; soaps, detergents or perfumes; manufacturing; sporting or athletic equipment; steel products, miscellaneous fabrication or assembly; textiles, spinning, weaving, manufacturing, dyeing, bleaching, printing, knit goods, yard, thread or cordage; tools or hardware, including bolts, nuts, screws, doorknobs, drills, hand tools or cutlery, hinges, house hardware, locks, non-ferrous metal castings, plumbing appliances or similar products; toys and novelty products; vehicles, children's, including bicycles, scooters, wagons, baby carriages or similar vehicles; venetian blinds, window shades or awnings; water distillation.

**OTHER WAREHOUSING AND FREIGHT MOVEMENT USES** means land uses that are contained in the definition for the warehousing and freight movement use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to old storage plant; Food Processing, Packing, and Distribution; Outdoor Storage Yard; Truck, Tractor, Trailer, or Bus Storage, Parking Yard, Lot, or Garage.





**OTHER WASTE RELATED SERVICE USES** means land uses that are contained in the definition for the waste related services use category, but they are not individually listed in Table 155.401-1, *Permitted Uses by District*. These uses include, but aren't limited to junk handling or storage.

**OVERNIGHT ACCOMMODATIONS** means a category of commercial uses containing uses with bedroom and bathroom units arranged for short-term stays of less than 30 days for rent or lease.

Uses in this use category include, but aren't limited to: Hotel; Motel; RV Park.

## P

**PACKAGE LIQUOR** means any retail establishment at which liquor, as defined in Chapter One of the Texas Alcoholic Beverage Code, is offered for sale for off premises consumption.

**PARK, PLAYGROUND, and COMMON OPEN SPACE** means an area typically open to the general public and reserved for recreational, educational, or scenic purposes. This definition includes uses such as but not limited to a dog park, and a nature preserve or trail. The term may include structural improvements devoted to maintenance of the park, playground, or common open space, small-scale recreation, walkways, picnic areas, and other amenities.

**PARKING LOT** means private property adjacent to and usable for vehicular parking by the customers of any business the entrance to which fronts on such parking area.

**PAWNBROKER** means a person engaged in the business of:

- (A) lending money on the security of pledged goods; or
- (B) purchasing goods on condition that the goods may be redeemed or repurchased by the seller for a fixed price within a fixed period.

State Law Reference: [Texas Finance Code Sec. 371.003](#).

**PAWNSHOP** means a location at which or premises in which a pawnbroker regularly conducts business. State Law Reference: [Texas Finance Code Sec. 371.003](#).

**PAYDAY LOAN BUSINESS** means an establishment that engages in the business of offering payday loans. A “payday loan” is a loan transaction where a post-dated check or other check that the parties agree will be held for a period of time before presentment for payment or deposit is accepted as collateral for the loan.

**PERMANENT FOUNDATION** means a foundation having the following characteristics:

- (A) The foundation and all related construction complies with the requirements of the mandatory building code adopted under the Texas Industrial Building and Housing Program;
- (B) The foundation system is capable of transmitting all design loads imposed by or upon the foundation and the attached structure into soil or bedrock without failure;
- (C) The structure is attached without the towing hitch, axles, brakes, wheels and other parts of the chassis that only operate during transportation;
- (D) Ventilation and decay details are provided in accordance with the requirements of such code.

**PERMITTED USE** means a land use that is permitted by right, subject only to standards that apply to all permitted uses. Table 155.401-1, *Permitted Uses by District*, indicates which uses are permitted uses in which zoning districts.

**PERSON** means a firm, association, organization, partnership, trust, company or corporation as well as an individual.

**PORTABLE STORAGE UNIT** means an enclosed storage container less than 20 feet in length that may be used to transport goods, but may then also be stationary on a single site for any period of time before or after transport. This definition includes truck containers, with or without the chassis attached to it; moving vans; portable on demand (POD) moving containers; pre-assembled storage structures; and shipping containers.





**PUBLIC ASSEMBLY FACILITY** means an establishment where people assemble for civic, educational, religious, philosophical or cultural purposes. Typical uses include assembly, meeting, event or exhibition hall; church, mosque, synagogue, or temple; club or lodge; community center; philanthropic institution; and senior or youth center.

## R

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**RECREATIONAL VEHICLE** means a vehicular type unit primarily designed as temporary living quarters for recreational camping or travel use that either has its own motive power or is mounted on or towed by another vehicle and requiring no special permit by the Texas Department of Highways and Public Transportation. The basic entities are travel trailers, camping trailers, truck campers and motor homes. A recreational vehicle is not a mobile home as defined above for purposes of this chapter.

**RECREATIONAL VEHICLE PARK** means a unified development of 40 or more recreational vehicle spaces arranged on a tract of land.

**REPAIR OF SCIENTIFIC or PROFESSIONAL INSTRUMENTS** means an establishment that repairs medical, optical, and scientific instruments, software, electronic components, optical equipment, and precision instruments.

**REPAIR-ORIENTED USES** means a subset of uses in the retail repair, sales, and service category of uses that is primarily engaged in the provision of repair services to individuals and households rather than other businesses, but excluding vehicle and commercial repair services. Uses include, but are not limited to stores offering repair of retail consumer goods such as appliances, bicycles, clocks, electronics, furniture, jewelry, locks and keys, musical instruments, office equipment, shoes, and watches. This definition also includes other uses that the Administrator interprets to be functionally similar to a use in this use type. Repair-oriented uses do not include those repair services listed in the vehicle sales and service use category.

**RESEARCH, TESTING, AND DEVELOPMENT LABORATORY** means a facility that for scientific research, investigation, testing, development, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESTAURANT** means a category of commercial uses containing establishments that prepare and sell food for on-premises or off-premises consumption. This use type may or may not include the accessory sale of alcohol for on-premises consumption. This use type may or may not also include the accessory sale of alcohol for off-premises consumption. Uses in this use category include, but aren't limited to: Bakery retail; Candy, nut, confectionery store; Caterer; Eating place, enclosed; Eating place providing auto service. Other uses in this category including: Candy or Ice Cream Shop; Catering Establishment; Coffee Shop; Food Delivery; Restaurant, Sit-Down.

**RESTAURANT, DINE-IN** means a restaurant within which the primary use is prepared food offered for sale and consumption within the structure or in a designated and permitted outdoor area. The use may also include carry-out service but cannot include a drive-in or drive-through.

**RESTAURANT, DRIVE-IN OR DRIVE-THROUGH** means a restaurant located either within a retail center, or situated in a stand-alone structure, that contains a drive-in or drive-through facility and customarily serves food in disposable containers.

**RETAIL REPAIR, SALES, and SERVICE** means a category of commercial uses containing establishments or individuals involved in the sale, lease, or rental of new or used products, or providing personal services or repair services to the general public. Refer to the definitions for repair-oriented, sales-oriented, and service-oriented uses.





Uses in this use category include, but aren't limited to: barber shop or beauty parlor; book store or lending library commercial; camera or photographic supplies store; clothing including formal wear and costumes; department store; floor covering sales retail; food or grocery store retail; fur shop or hat shop; funeral home or mortuary; gift, novelty shop; hardware store and small tool rental, but not including sales of lumber or industrial hardware; hobby shop or supply store; jewelry store; laundry - pickup or self services; locksmith or key shop; music store, phonograph records retail sales; optical goods, optician, optometrist; orthopedic or medical shoe or appliance store and repair; paint and wallpaper store or decorators shop; pet shop; photographic, studio or store and photo processing; plumbing fixture sales retail; rental, repair or servicing of articles whose sale is permitted in the same district, unless more specifically listed elsewhere; second hand store or rummage shop; sewing machine sales retail; shoe repair shop or store; sporting goods store; stationery store; tailor shop seamstress, altering and repairing of wearing apparel; toy stores; watch repair; taxidermist; veterinarian, indoor soundproof kennels only; barber and beauty shop equipment and specialties, sales; firearms, ammunition, and hunting supplies, in combination, sales; liquor store, by specific use permit only; tattoo parlors; sporting or athletic equipment; telephone answering service; telephone exchange, garage, shop or service; art, supply store; antique store; business machines, sales/service; florist shop or greenhouse (retail); furniture, appliance and custom upholstery; rental, repair or servicing of articles whose sale is permitted in the same district, unless more specifically listed elsewhere; pawnshop; machine tools, sales, service, rental and repair; sign shop.

## S

**SALES-ORIENTED USES** means a subset of uses in the retail repair, sales, and service category of uses that is engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Sales-oriented uses include selling, leasing or renting consumer, home, and business goods including, but not limited to alcoholic beverages, animal feed, antiques, appliances, art, art supplies, automobile and motorcycle parts and accessories, baked goods (retail), bicycles, books, building supplies, cameras, carpet and floor coverings, clothing, collectibles, computers, convenience goods, crafts, electronic equipment, electronic and mixed media, fabric, flowers, furniture, garden supplies, gifts or novelties, groceries, hardware, home improvement supplies, household products, jewelry, luggage, medical supplies, musical instruments, office supplies, pawned items, pets, pet supplies, pharmaceuticals, photographic supplies, picture frames, plants, postal supplies (non-governmental), printed materials, produce, school or teacher supplies, second-hand goods indoors, seeds, souvenirs, shoes, sporting goods, stationery, tobacco, electronic cigarettes, and related products, and toys. This definition also includes other uses that the Administrator interprets to be functionally similar to a use in this use type.

**SALVAGE YARD** means a place or a business that owns junk and/or salvage and is operated to store, buy, or sell said junk and/or salvage. Typically all or part of the junk and/or storage is stored outdoors.

**SCHOOL, ELEMENTARY or MIDDLE** means an educational establishment for children between kindergarten and 8th grade. This definition includes both public or private schools.

**SCHOOL, HIGH** means an educational establishment with a curriculum that is primarily focused on educating persons in grades 9 -12.

**SEAFOOD HANDLING, SHIPPING, AND SALES** means an establishment where seafood is handled, processed, and sold for human consumption.

**SEASONAL SALES** means the temporary outdoor sale of merchandise from private property that permit either temporary seasonal retail sales or outdoor display or sale of goods related to a holiday event (e.g., sale of holiday trees or Fourth of July fireworks, etc.), particular seasonal activity (e.g., sale of pumpkins in the Fall), or other similar merchandise or other articles of arts and crafts related to the seasonal sales activity.

**SELF-SERVICE STORAGE** means a category of commercial uses containing facilities providing separate storage areas for personal or business use designed to allow private access by the tenant for storing or removing personal property. Uses in this category include Boat or Recreational Vehicle Outdoor Storage and Mini-Warehouse.





**SERVICE-ORIENTED USES** means a subset of uses in the Retail Repair, Sales, and Service category of uses that provides non-medical services that are generally needed on a recurring basis, and generally require one-to-one interaction between the proprietor or employee and the customer in order to provide the service. Service-oriented uses include, but aren't limited to taxidermists, veterinarians (small animals and indoor soundproof kennels only), barber shops, beauty, skin, tanning or nail salons, tattoo parlors, telephone answering services, dry cleaning and pressing establishments, laundromats, licensed massage therapist services, optician or optometrist, photocopy, blueprint, and quick-sign services, postal services (non-governmental), psychics or mediums, and tailors. This definition also includes other uses that the Administrator interprets to be functionally similar to a use in this use type.

**SETBACK LINE** means that line which is parallel to and the minimum allowable horizontal distance from a given point or line of reference, such as a lot line, to the minimum required building line.

**SEXUALLY ORIENTED BUSINESS.** An adult bookstore, adult theater, adult video store or other sexually oriented business as those terms are defined in Chapter 243 of the Tex. Local Government code, and the decisions of the appellate courts having jurisdiction over the territory in which the city is located, and in Chapter 123 of this code. A commercial establishment may have other business purposes that are not a sexually oriented business or related to a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a SEXUALLY ORIENTED BUSINESS so long as one of its business purposes is a sexually oriented business.

**SHALL** means the act referred to is mandatory.

**SHORT-TERM RENTAL** means any residence that is rented to an occupant for a term of fewer than 28 days. This definition does not include motels or hotels.

**SIDEWALK SALES** means a temporary, special outdoor sale conducted on public or private sidewalks immediately adjacent and contiguous to commercial establishments; provided, the merchandise being sold is consistent with the merchandise of the adjacent and contiguous business.

**SINGLE-FAMILY DETACHED DWELLING** means a building or structure containing only one dwelling unit that is not attached by a common wall to another dwelling unit.

**SKILLED NURSING FACILITY** means an institution that is licensed by the State to provide in-patient services for persons needing regular medical attention and bed care services on a 24 basis, but excluding hospitals.

**SOCIAL SERVICE** means a category of uses containing uses that primarily provide treatment of those with psychiatric, alcohol, or drug problems; transient housing related to social service programs; and housing for individuals legally confined.

**SPACE, RV or MOBILE HOME** means a plot of ground within a mobile home park or a recreational vehicle park designated for the accommodation of one mobile home or one recreational vehicle, respectively, together with such open space as is required by §155.402, Limited Use Standards.

**SPECIAL EVENT** means any planned special event or gathering held on private property, regardless of whether a fee is charged, which invites the general public to an identifiable place and at a specified time and is likely to generate visitors sufficient in quantity to obstruct, delay, or interfere with the safe and orderly movement of pedestrian or vehicular traffic. Public special events could include outdoor gatherings; auctions; art sales; outdoor festivals, concerts, or parades; carnivals; circuses; outdoor meetings; special athletic activities (e.g., running races), and special entertainment at commercial properties, etc.

**SPECIFIC USE** means a land use that requires approval as described in §155.1107, *Specific Use Permit*. Table 155.401-1, *Permitted Uses by District*, indicates which uses are specific uses in which zoning districts.

**STORY** means the portion of a building included between the surface of any floor and the ceiling next above it.

**STREET** means any thoroughfare other than an alley.

**STREET LINE** means a dividing line between a street and an abutting lot, tract or parcel of land.





**STRUCTURE** Refer to Building.

**SWIMMING POOL (PUBLIC)** means a water-filled enclosure or splash pad constructed for use by the general public for swimming or wading, swimming, or water-oriented recreation, including those operated as a business and those constructed and maintained by the City or County.

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**TEMPORARY USE** means a land use that is permitted subject to standards, including duration and operational standards, outlined in §155.404, *Temporary Use Standards*. Table 155.401-1, *Permitted Uses by District*, indicates which uses are permitted as temporary uses in which zoning districts.

**TOWNHOUSE** means a single-family attached dwelling unit, with a single unit going from ground to roof and with individual outside access.

**TRAVEL TRAILER** means a vehicular type unit primarily designed as temporary living quarters for recreational camping or travel use that either has its own motive power or is mounted on or towed by another vehicle. The basic entities are recreational vehicles, camping trailers, truck campers and motor homes but it does not include a manufactured home as herein defined.

## U

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**USED or OCCUPIED** means include the words intended, designed or arranged to be used or occupied.

**USED HUD-CODE MANUFACTURED HOME** means one which has been previously owned by a person or entity other than the manufacturer thereof or its authorized representative.

**UTILITIES** means a category of uses containing major or minor infrastructure that serves a site, a development, or the City at-large. Major Utilities include public or private infrastructure serving the general community, that may or may not be maintained or regulated by a public or municipal entity and possibly having on-site personnel. Minor Utilities include public or private infrastructure serving a limited area with no on-site personnel.

## V

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**VEHICLE BODY REPAIR** means any establishment where the primary services offered are the repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, tractors, construction equipment, agricultural implements, and similar vehicles or equipment.

**VEHICLE REPAIR, HEAVY** means the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including body work, framework, welding, and major painting service.

**VEHICLE REPAIR, LIGHT** means an establishment that is primarily engaged in, but not limited to, one or more of the following activities: diagnostic service and tune-ups; installation or repair of air-conditioners, brakes, carburetors, electrical systems, fuel systems, generators, starters, and radiators; lubricating service; wheel alignment; the installation or repair of automotive glass; and the installation or repair of exhaust systems.

**VEHICLE SALES AND SERVICE** means a category of commercial uses containing establishments related to direct sales of and service to passenger vehicles, light, medium, and heavy trucks and equipment, and other motor vehicles such as motorcycles, boats, and recreational vehicles.



Uses in this use category include, but aren't limited to: automobile, accessory and supply store; automobile laundry; automobile service station; automobile parking lot or garage; automobile repair, body work painting; motorcycle sales, building or repair, bus and truck storage, but not including tire recapping; automobile laundry; automobile, glass, including parts, installation and repair, motorcycles, muffler, new or used; automobile, or rebuilding of engines; boats, rental or taxi storage; automobile sales, repair, repairs and sales; mobile home sales automobiles, sales, seat cover, servicing, storage and service; trailer sales or rental (for use with private passenger automobiles); vehicle, tire and upholstery service, trucks or trailers. Vehicle sales and services also include uses that the Administrator interprets to be functionally similar to a use in this use type.

**VEHICLE SALES, RENTAL, AND LEASING** means any premises on which three or more used or new cars, trailers, trucks, or other vehicles are offered for sale, rental, or lease during any calendar year.

**VESSEL** means any boat, ship, barge, or craft which floats upon water whether self-propelled or not.

**VETERINARY CLINIC** means an animal hospital or clinic that provides medical care for small animals or pets, including, but not limited to: dogs, cats, birds, and the like. This definition does not include the veterinary hospital use.

**VETERINARY HOSPITAL** means an animal hospital or clinic that provides medical care for large or livestock animals, including, but not limited to: horses, cows, bison, deer, llamas, alpacas, sheep, goats, chickens, turkeys, ducks, and pigs. This definition does not include the veterinary clinic use.

## W

**WAREHOUSING AND FREIGHT MOVEMENT** means a category of commercial uses containing establishments involved in the storage or movement of goods for themselves, other firms, or individual consumers. Goods are generally delivered to recipients with little on-site sales activity to customers. Uses in this use category include, but aren't limited to: cold storage plant; freight depot or terminal, railroad and/or truck; lumber yard (parking does not include lumber sheds); pipe storage enclosed; storage of goods or merchandise, used in, produced by or normally carried in stock in conjunction with permitted uses in the applicable district regulations; warehousing establishment other than accessory to permitted retail use; wholesale office with storage limited to samples. Other uses in this category include: Food Processing, Packing, and Distribution; Outdoor Storage Yard; Truck, Tractor, Trailer, or Bus Storage, Parking Yard, Lot, or Garage

**WASTE RELATED SERVICE** means a category of commercial uses containing establishments that receive solid or liquid wastes from others for treatment or transfer to another location and uses that manufacture or produce goods or energy from the large-scale composting of organic material. Uses in this use category include, but aren't limited to: junk handling or storage.

**WATERFRONT** means a category of commercial uses establishments related to activities around marinas, boats, docks, and other commercial uses typically concentrated along waterfronts. This use category includes: Bait Store; Barge and Boat Manufacture and Repair; Boat rental, leasing and sales; Boat, fishing charter; Boat & marine related parts; retail and wholesale sales, transportation and handling; Boat repair; Boat launching; Docking and service facilities for recreational and pleasure boats; Docking & service facilities for commercial vessels; Marine fueling for Barges and Vessels; Marine fueling for recreational and pleasure boats; Marine net; manufacture, repair & sale; Oil field supplies; storage, transportation & handling; and Seafood; handling, shipping and sales

**WHOLESALE TRADE** means a category of commercial uses containing establishments involved in the sale, lease, or rent of products to industrial, institutional or commercial enterprises only. The uses emphasize on-site sales or order-taking and often include display areas. The business may or may not be open to the general public. Products may be picked up on-site or delivered to the customer. Uses in this use category include, but aren't limited to: bakery wholesale; wholesale establishments of other types, including storage, but excluding processing, manufacturing and like preparation of products for wholesale or retail sale. Other uses in this category include: Fuel Sales and Storage (Bulk); Mail-Order Business; Sale or Rental of Machinery and Equipment; Wholesale or Auction of Food, Clothing, Auto Parts, or Hardware.





## Y

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**YARD** means an open, unoccupied space other than a court, on the lot in which a building is situated and which is unobstructed from the ground to the sky.

**YARD, FRONT** means the yard between the front setback and the front lot line. For lots on the waterfront, the front yard is the side that faces the street and the rear yard is the side facing the water. Corner lots have two front yards. See Lot, Corner.

**YARD, REQUIRED FRONT** means the open space extending the full width of a lot between the front lot line and the front setback line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Chapter.

**YARD, REAR** means the yard between the rear setback and the rear lot line. For lots on the waterfront, the rear yard is the side facing the water and the front yard is the side facing the street.

**YARD, REQUIRED REAR** means the open space extending the full width of the lot between the rear lot line and the rear setback line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Chapter.

**YARD, SIDE** means the yard between the side building line and the side lot line.

**YARD, REQUIRED SIDE** means the open space extending from the minimum front yard setback line to the minimum rear yard setback line between the side yard setback line and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this chapter.

## Z

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**ZONING MAP, OFFICIAL** means the zoning map or maps of the City attested together with all amendments subsequently adopted.

### § 155.202 EFFECTIVE DATE

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The effective date of this Chapter is the date at which the City Council fully completes the process of adopting both the text of this Chapter and the Official Zoning Map.

### § 155.203 TRANSITIONAL STANDARDS

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(A) **Development Approvals Predating Code's Effective Date.**

- (1) This Chapter does not prevent the City from:
  - (a) Adopting or enforcing building codes; or
  - (b) Prohibiting the use of building materials that have been proven to be inherently dangerous.
- (2) It is the City's intent to respect existing zoning and land development approvals. Approved development may be carried out within the scope of the development approval, including applicable standards in effect at the time of approval, provided that the approval was valid and has not lapsed per §155.1006, *Inactive Applications*.

(B) **Pending Applications.**

- (1) Each application for development approval shall be evaluated only by the zoning regulations and adopted ordinances in effect at the time that each complete application is submitted.
- (2) Applications that are not pursued with due diligence may expire pursuant to §155.1006, *Inactive Applications*.

### § 155.204 CONFLICTING PROVISIONS

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(A) **Public Restrictions.** The following provisions apply to laws adopted by a federal, state, or local legislative body.





- (1) Where this Chapter conflicts with another local, state, or federal law, whichever the Administrator finds imposes the more stringent restrictions controls. Where the Administrator finds conflicting provisions to be equally stringent, then the provision more recently adopted controls.
  - (2) Where the text of this Chapter conflicts with its tables or illustrative material, the text controls.
  - (3) Where a table of this Chapter conflicts with an illustration, the table controls.
- (B) **Private Restrictions.** The City does not interpret or enforce private restrictions, including, but not limited to, deed restrictions, covenants, or easements, unless it is a party to them. If the City is a party to private restrictions, and such restrictions conflict with this Chapter, then the more stringent restrictions control.

## § 155.205 SEVERABILITY

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- A. **Generally.** If a court of competent jurisdiction holds any provision of this Chapter to be illegal or invalid, the remainder of this Chapter shall remain in full force without being affected by the judgment.
- B. **As-Applied.** If a court of competent jurisdiction holds any application of a provision of this Chapter to a particular structure, land, or water to be illegal or invalid "as-applied", such judgment shall not be applicable to any other structure, land, or water not specifically included in the judgment.

## § 155.206 FEES AND CHARGES.

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- (A) **Generally.** The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for permits, applications, appeals, and other matters pertaining to this Chapter.
- (B) **Master Fee Schedule.** The City Secretary, their deputies, and/or assistants shall calculate and collect the fees in accordance with the Master Fee Schedule. The Master Fee Schedule shall be on file in the office of the City Hall.
- (C) **Payment in Full Required.** No permit, amendment, certificate, or variance shall be issued unless or until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken or public hearing be held unless or until preliminary charges and fees have been paid in full.
- (D) **Fee Regardless of Action.** Unless noted otherwise with this Chapter, fees shall be charged on all applications, regardless of whether the application is approved or denied.



## § 155.207 MEASUREMENTS

Table 155.207-1, *Measurements*, below, provides the method of measurement for the standards in this Chapter.

Table 155.207-1 Measurements		
Measurement	Methodology	Illustration
Building Coverage	The sum of all areas of a lot covered by any roofed structure, but not paved areas, such as patios.	
Gross Density	The number of dwelling units divided by gross acres.	<p>Gross Density 10.0 Acres of land - 1.5 Acres of open space  45 Units / 8.5 Gross Acres = 5.29 Units per Acre</p>
Gross Floor Area	The total area of all the floors of a building, including intermediately floored tiers, mezzanines, etc., as measured from the exterior surfaces of the outside walls of the building. Single-family residential garages are not included in this calculation.	<p style="text-align: center;"><math>A \times B = \text{Gross Floor Area}</math></p>
Height	<p><b>Buildings:</b> The vertical distance from the grade level of that portion of a parcel covered by the building to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or to the average height between eaves and the ridge of a gable, hip or gambrel roof.</p>	
	<p><b>Walls or Fences:</b> The vertical distance from the grade level of that portion of a parcel immediately abutting a wall or fence to the highest point of the wall or fence.</p> <p><b>Sloping Ground:</b> Where a building, wall, or fence is located on sloping ground, the lower point of measurement is the average grade across a 40-foot horizontal</p>	



**Table 155.207-1  
Measurements**

Measurement	Methodology	Illustration
Lot Area	<p>span.</p> <p>The total horizontal area included within property lines.</p>	
Lot Width	<p>For an interior parcel, the horizontal distance between the side property lines, measured at the required front setback line.</p> <p>For a cul-de-sac parcel, the horizontal distance between the side property lines measured at the front setback line.</p>	
Setback	<p>The horizontal distance of a required open space at grade between the outer wall of a building or structure and the adjoining property lines, unoccupied and unobstructed by any portion of a structure from the ground upward.</p> <p><b>Front and Rear:</b> The front and rear setback lines span the entire width of the property.</p> <p><b>Sides:</b> The interior side and street side setback lines extend from the required front setback line to the required rear setback line.</p>	







# 155.300 ZONING DISTRICTS

## § 155.301 ZONING DISTRICTS ESTABLISHED

The City is divided into zones, or districts, which are shown on the Official Zoning Map and listed in Table 155.301-1, *Zoning Districts Established*, below.

<b>Table 155.301-1 Zoning Districts Established</b>	
<b>Zoning District Name</b>	<b>Zoning District Purpose</b>
<b>Residential Districts</b>	
R1, Semi-Urban Residential	This district consists mainly of areas containing single-family dwellings and of open spaces where low-density, detached single-family development on large lots is desired.
R2, Semi-Urban Residential Infill	This district consists of areas containing single-family, detached or single-family, attached dwellings on medium-sized lots and areas containing single-family, attached or detached dwellings, cottages, townhomes, or a combination of listed housing types on existing small, narrow lots.
MH, Manufactured Home Subdivision	This district consists primarily of HUD-code manufactured homes.
WR, Waterfront Residential	This district consists of waterfront areas occupied by or suitable for single-family dwellings and of open spaces where single-family development appears desirable.
MF, Multiple-Family	This district consists mainly of areas containing multiple-family development or which are centrally located or suitable for multiple-family development. In addition to the general purposes applying to all residential districts, the regulations of MF are designed to encourage the provision of conveniently located, maintained multi-family housing.
<b>Non-Residential and Mixed Use Districts</b>	
DT, Downtown District	This district is designed to enhance the economic development and quality of life for the citizens of Freeport, residents of the district, and visitors. The district serves to promote access by the general public to enjoy its beauty, balanced with development as a place of residence and commerce. The district is designed to preserve and enhance Freeport's established downtown with a compact pedestrian-friendly scale that creates a mix of residential and smaller-scale commercial uses, on-street and off-site parking, and urban character typical of a downtown core.
C-1, Retail Business	This district consists mainly of land occupied by or suitable for neighborhood shopping facilities for the retailing of "convenience goods" and the furnishing of certain personal services to satisfy most of the daily needs of the adjacent residential neighborhood.
C-2, General Commercial	This district consists mainly of land occupied by or suitable for a wide range of retail and wholesale activities. Land in this district is located mainly along major highways and in the vicinity of industrial areas. The C-2 District regulations are designed to permit development of the enumerated functions and to provide space for commercial uses which are generally not appropriate for Retail Business District.
C-3, Entertainment District	This district consists of industrial uses and adult-oriented business uses as defined in <a href="#">Chapter 123</a> of the City Code.
W-1, Waterfront - Resort and Marina	This district consists mainly of areas occupied by or suitable for harbor and marine resort-related activities including the storage, transport, and handling of goods and materials related to pleasure and charter boats as well as such commercial uses as may have a natural relation to such activities, uses, and facilities.
IN, Industrial	This district consists of land for a wide range of commercial, manufacturing, and other industrial activities subject to limitations intended to protect nearby residential and commercial districts and to protect the permitted uses from one another. Uses in this district include manufacturing, wholesale, warehousing, transportation of goods and port, harbor, or other marine-related uses.
PUD, Planned Unit Development	The unified and coordinated development of parcels or tracts of land. Certain freedom of choice as to intended land uses shall be permitted, provided that the essential site development regulations are complied with and that the intended uses are not in conflict with the general purpose and intent of this Chapter.
<b>Overlay District</b>	





**Table 155.301-1  
Zoning Districts Established**

Zoning District Name	Zoning District Purpose
TC, Town Center	This district consists of two blocks within the City's Downtown which is designed to be the center of the City. As such, a historic pattern of development is desired.

**§ 155.302 OFFICIAL ZONING MAP**

- (A) **Generally.** An up-to-date and official copy of the City of Freeport Zoning Map is maintained by the Administrator and is available for inspection during regular business hours at City Hall.
- (B) **Force and Effect.** The Official Zoning Map and all notations, references, and other information shown on the map are incorporated into of Chapter.
- (C) **Omitted Land.** It is the intent of this Chapter for the entire area within the City's municipal limits to be zoned. This includes all land and water areas, rivers, streets, alleys, railroads, and other rights-of-way. Any area not shown on the Official Zoning Map as being included in a specific zone shall be classified as Semi-Urban Residential (R1).
- (D) **Annexed and Undesignated Property.** For the purposes of ensuring that all land within the municipal limits has a zoning designation, any land that is not assigned a zoning district on the Official Zoning Map or any land that is annexed into the City, without an express zoning district designated within the annexation ordinance, shall be zoned as Semi-Urban Residential (R1).
- (E) **Interpreting the Zoning Map.** Where the Official Zoning Map appears to be unclear regarding the location of district boundaries, the Administrator, or at the Administrator's discretion, the Planning and Zoning Commission, shall make a determination using the following criteria:
  - (1) *Rights-of-Way or Easements.* Where boundary lines appear to follow existing streets, alleys, railroad tracks, utility lines, or similar features, the zoning boundary shall be construed to follow the centerline of such features. Where the location of these features on the ground differs from that shown on the Official Zoning Map, the features on the ground control.
  - (2) *Property Lines.* Where the boundaries are indicated as approximately following property or other lot lines, such lines shall be construed to be the boundaries.
  - (3) *Watercourses.* Boundaries shown as following, or approximately following, the shoreline or centerline of drainage ways, rivers, streams, water bodies, or other watercourses shall be construed as following the channel shoreline or centerline. In the event of a natural change in the location of such streams or other watercourses, the zoning district boundary shall be construed as moving with the channel shoreline or centerline.
  - (4) *Un-subdivided Land or No Identifiable Feature.* Where un-subdivided land, or where a zoning district boundary follows no identifiable feature, the location of the boundary, unless the same is indicated by dimensions, shall be determined by applying, in order, the following rules:
    - (a) *Legal Description.* The boundary shall be according to the legal description in the ordinance establishing the district boundaries;
    - (b) *Text Dimensions.* The boundary shall be located by reference to dimensions shown in the text on the Official Zoning Map.
    - (c) *Map Scale.* The boundary shall be located using the map scale appearing on the Official Zoning Map.
  - (5) *Floodplain Boundaries.* When not otherwise determined, the boundaries of flood zones shall follow contour or elevation lines at the elevation above sea level indicated on the official Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). Elevations between stream cross-sections on the FHBM or FIRM shall be determined by proportional interpolation.





- (6) *Vacation or Abandonment.* Where a public street, alley, or parcel of land is officially vacated or abandoned, the regulations applicable to the abutting property apply equally to the vacated or abandoned street, alley, or parcel of land.

## § 155.303 PLANNED UNIT DEVELOPMENT (PUD) REGULATIONS

- (A) **Purposes.** In order that the public health, safety, integrity, and general welfare may be furthered to meet shifting market demands, the Planned Unit Development (PUD) zone is established to provide project variety and diversity through the modification of standards within this Chapter, so that maximum community benefits can be gained for the following purposes:
- (1) To encourage a pattern of development that enhances the landscape in a manner which could not otherwise be accomplished within the other zones as established in § 155.301, *Zoning Districts Established*, such that placement and construction of buildings, paths, and roads will enhance the natural assets, and unique landforms which are already present on-site;
  - (2) To encourage innovations in residential, commercial, recreational, and industrial development such that the demands of the population may be met by a greater variety in type, design, and layout of buildings; and
  - (3) To provide for necessary commercial, recreational, and educational facilities conveniently located in proximity to residential uses.
- (B) **Applicability.**
- (1) *Threshold.* No PUD zone shall be created unless it is demonstrated that the zone materially advances the purposes set out in subsection (A) above.
  - (2) *Higher Quality Development Required.* Any development approved through the use of the PUD zone shall be of a higher quality than would otherwise be achieved through the application of this Chapter. PUD zones shall not be used to avoid the intent of requirements of this Chapter which provides for community benefit that more than offsets the impacts of the development allowed with a PUD.
- (C) **Use Regulations.** A building or premise in this zoning district may be used for any use allowed in any district contained in this Chapter, except those uses specifically prohibited by this Chapter.
- (D) **Height, Lot, and Yard Requirements.** The height, lot, and yard requirements shall conform to those requirements of the appropriate subsections of this ordinance for the appropriate intended use, except that modifications in these regulations may be granted if it shall be found that such modifications will not adversely affect nearby properties and provides a higher standard of built environment than what is presently permitted.
- (E) **Area Requirements.**
- (1) The entire tract to be zoned (PUD) may be considered as one building lot, or separate areas intended for separate land uses may be considered as separate building lots. Area requirements shall conform to those regulations for the appropriate intended use, except that for each 75 dwelling units, one acre of land shall be designated and appropriately developed as recreational or open space.
  - (2) A minimum land area of 10 acres shall be required before application for a PD will be approved.
- (F) **Parking Regulations.** Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in § 155.600, *Parking and Loading*.
- (h) **Subdivision Regulations.** All requirements of Chapter 154, *Subdivision Regulations*, shall be complied with, except for height, lot, yard, and area requirements should it found that the proposed development provides a higher standard of built environment.
- (i) **Common Areas.**
- (1) *Joint Ownership.* Any and all developments which create joint ownership of property shall be developed through the PUD process of this Section.





(2) *Legal Instrument.* A legal instrument detailing the legal and maintenance responsibilities of a Property Owners Association or similar organization shall be approved by the City Attorney.

(j) **Procedural Process.** See § [155.1108](#), *Zoning Map Amendment (Rezoning)*.





## 155.400 LAND USE REGULATIONS

### § 155.401 LAND USE TABLE

- (A) **Generally.** The table in this Section describes which land uses are prohibited, permitted, a limited use, a specific use, or temporary uses within the zoning districts identified in Table 155.301-1, *Zoning Districts Established*.
- (B) **Using the Permitted Uses by District Table.** Table 155.401-1, *Permitted Uses by District*, lists the applicable land uses in rows, organized by use type. The districts are arranged in columns. Where rows and columns intersect, a letter indicates if the use is permitted, limited, temporary, or prohibited in the district.
- (C) **Symbols.** The tables in this Section use the following symbols:
- (1) "P" means that the land use is Permitted by Right, subject to the standards that apply to all permitted uses. The use is approved by the Administrator.
  - (2) "L" means that the land use is a limited use that is permitted in the same manner as a permitted use, but is also subject to §155.203, *Limited Use Standards*.
  - (3) "S" means that the use is allowed as a Specific Use subject to approval as described in §155.1107, *Specific Use Permit*.
  - (4) "TP" means that the use is allowed as a Permitted Temporary Use that is permitted in the same manner as a permitted use, but is also subject to §155.404, *Temporary Use Standards*.
  - (5) "TS" means that the use is allowed as a Temporary Specific Use, that is subject to the applicable standards in §155.404, *Temporary Use Standards and approval of a Specific Use Permit in accordance with §155.1107, Specific Use Permit*.
  - (6) "--" means that the use is a prohibited use in the specified Zoning district.
- (D) **Standards.** The "Standards" column provides a reference to associated standards for uses permitted with limitations. Where "N/A" is in the column, there is no associated standard because the use is permitted by right.
- (E) **Parking.**
- (1) *Amount Required.* The "Parking" column provides the amount of parking required for each use.
  - (2) *Interpretation of Off-Street Parking Requirements.* Table 155.401-2, *Interpretation of Off-Street Parking Requirements*, illustrates how to calculate required parking for each use listed in Table 155.401-1, *Permitted Uses by District*.
  - (3) *Exempt.* Uses located in the Downtown zoning district are exempt from parking requirements.

**Table 155.401-1,  
Permitted Uses by District**

Use Category	Land Use <sup>1</sup>	Residential					Mixed-Use and Non-Residential					Use-Specific Standards <sup>2</sup>	Parking <sup>3</sup> (155.600)	
		R1	R2	MH	W-R	MF	DT	C-1	C-2	C-3	W-1			IN
<b>Agriculture</b>														
Agriculture and Animal Services	Kennel	--	--	--	--	--	--	--	P	P	P	P	--	1/200
	Nursery or Greenhouse	--	--	--	--	--	--	P	P	P	P	P	--	1/200
	Veterinary Clinic or Veterinary Hospital	--	--	--	--	--	--	--	P	P	P	P	--	1/200
	Other Agriculture and Animal Services	--	--	--	--	--	--	--	P	P	--	P	--	1/400



**Table 155.401-1,  
Permitted Uses by District**

Use Category	Land Use <sup>1</sup>	Residential					Mixed-Use and Non-Residential					Use-Specific Standards <sup>2</sup>	Parking <sup>3</sup> (155.600)	
		R1	R2	MH	W-R	MF	DT	C-1	C-2	C-3	W-1			IN
<b>Residential</b>														
Household Living	Accessory Dwelling Unit	L	L	L	L	--	--	--	--	--	--	--	--	1/unit
	Single-Family Detached	P	P	P	P	--	--	--	--	--	--	--	--	
	Duplex	P	P	P	P	--	--	--	--	--	--	--	--	1/unit
	Townhouse	--	P	--	--	P	--	--	--	--	--	--	--	1/ unit
	Cottage	--	P	--	--	P	--	--	--	--	--	--	--	1/unit
	Dwelling, Multi-Family (three or more families)	--	--	--	--	P	--	--	--	--	--	--	--	1.5/unit
	Manufactured Housing	--	L	--	--	--	--	--	--	--	--	--	\$155.402	1/unit
	Downtown Loft	--	--	--	--	--	L	--	--	--	--	--	\$155.402	none
Commercial Uses of the Home	Home Occupation	L	L	L	L	L	--	--	--	--	--	--	\$155.402	none
	Short-Term Rental	L	L	--	L	--	L	--	--	--	--	--	\$155.402	1/unit
Group Living	Assisted Living or Skilled Nursing Facility	--	--	--	--	S	--	--	P	--	--	--	\$155.1107	1/3 beds
<b>Public and Institutional</b>														
Civic	Bus Station or Terminal	--	--	--	--	--	P	P	P	P	P	P	--	none
	Cemetery, Columbarium, Mausoleum, or Memorial Park	--	--	--	--	--	--	P	P	P	--	P	--	none
	College or Vocational School	--	--	--	--	--	P	P	P	P	--	P	--	1/400
	Day Care Facility	S	S	--	S	--	--	P	P	--	--	--	--	1/10 enrolled persons pulse 1/ employee on largest shift
	Government/Non-Profit Parking Lot or Maintenance Area	--	--	--	--	--	--	--	--	P	--	P	--	none
	Government Services (Administrative, Education, Postal, Safety)	--	--	--	--	--	P	P	P	P	P	P	--	1/200
	Heliport	--	--	--	--	--	--	--	--	S	--	S	\$155.1107	1/1.5 emp
	Park, Playground, and Common Open Space	P	P	P	P	P	P	P	P	--	P	--	--	1/2 acres; Minimum 10 spaces
	Public Assembly Facility	S	S	S	S	S	S	S	S	S	S	S	\$155.1107	1/350 or 1/4 seats in assembly area, whichever is greater
	School, Elementary, Middle, or High	S	S	--	S	--	--	P	P	--	--	--	--	Elementary and Middle School - 1/10





**Table 155.401-1,  
Permitted Uses by District**

Use Category	Land Use <sup>1</sup>	Residential					Mixed-Use and Non-Residential					Use-Specific Standards <sup>2</sup>	Parking <sup>3</sup> (155.600)	
		R1	R2	MH	W-R	MF	DT	C-1	C-2	C-3	W-1			IN
														students plus 1/ employee pm largest shift High School - 1/4 students plus 1/employee on largest shift
	Swimming Pool (Public)	--	--	--	--	--	--	P	P	--	P	--	--	1/200
	Other Civic Uses	--	--	--	--	--	P	P	P	P	P	P	--	none
Medical Facilities	Chiropractor or Medical Clinic or Office	--	--	--	--	--	P	P	P	--	P	--	--	1/200
	Hospital	--	--	--	--	--	P	P	P	P	P	P	--	1.5/bed plus 1/500 sq ft emergency room and outpatient area
	Other Medical Facilities	--	--	--	--	--	P	P	P	P	P	P	--	1/250
Social Service	Correctional Facility	--	--	--	--	--	--	--	--	S	--	S	§155.1107	none
	Other Social Service Uses	--	--	--	--	--	--	S	S	S	--	S	§155.1107	none
Utilities	Utilities, Minor	--	--	--	--	--	--	P	P	P	P	P	--	none
	Utilities, Major	--	--	--	--	--	--	--	--	P	--	P	--	1/ on-site employee or visitor
<b>Commercial and Office</b>														
Entertainment, Indoor	Bar or Tavern	--	--	--	--	--	P	P	P	P	P	P	--	1/100
	Body Art Service	--	--	--	--	--	--	P	P	--	--	--	--	2/station
	Bowling Center	--	--	--	--	--	--	--	P	--	P	--	--	3/lane
	Brewpub, Microbrewery, or Microdistillery	--	--	--	--	--	P	P	P	--	P	--	--	1/100
	Other Indoor Entertainment Uses	--	--	--	--	--	P	P	P	P	P	P	--	1/300
Entertainment, Outdoor	Athletic Field, Commercial	--	--	--	--	--	--	--	P	P	P	P	--	1/3 seats
	Golf Course, commercial and noncommercial	--	--	--	--	--	--	--	P	--	P	--	--	1/500
	Other Outdoor Entertainment Uses						--	P	P	P	P	P	--	none
Office	Bank or Credit Union (with or without drive-through)	--	--	--	--	--	P	P	P	P	P	P	--	1/200





**Table 155.401-1,  
Permitted Uses by District**

Use Category	Land Use <sup>1</sup>	Residential					Mixed-Use and Non-Residential					Use-Specific Standards <sup>2</sup>	Parking <sup>3</sup> (155.600)	
		R1	R2	MH	W-R	MF	DT	C-1	C-2	C-3	W-1			IN
	Currency Exchange (Check Cashing) or Payday Loan Business	--	--	--	--	--	P	P	P	P	P	P	--	1/200
	Other Office Uses	--	--	--	--	--	P	P	P	--	P	--	--	1/400
Overnight Accommodations	Campground with Overnight Accommodations	--	--	--	--	--	--	--	P	P	P	P	--	2/ park site
	Hotel or Motel	--	--	--	--	--	P	P	P	P	P	P	--	Hotel: 1/2 units Motel: 1/unit
	Recreational Vehicle Park	--	--	--	--	--	--	L	L	L	L	L	§155.402	1/RV Space
	Rooming/Boarding House, and/or Tourist Home	--	--	--	--	P	P	P	P	P	P	P	--	1/unit
Restaurant	Restaurant, Dine-In	--	--	--	--	--	P	P	P	P	P	P	--	1/100
	Restaurant, Drive-In or Drive-Through	--	--	--	--	--	--	--	P	P	P	P	--	1/100
Retail Repair, Sales, and Service	Food or Grocery Store	--	--	--	--	--	--	P	P	P	P	P	--	1/200
	Package Liquor	--	--	--	--	--	--	--	S	S	S	S	§155.1107	1/400
	Pawnshop	--	--	--	--	--	P	P	P	P	P	P	Code of Ordinances Chapter 117	1/200
	All Sales-Oriented Uses	--	--	--	--	--	P	P	P	P	P	P	--	1/300
	Other Repair-Oriented Uses	--	--	--	--	--	P	P	P	P	P	P	--	1/300
	Funeral Home or Mortuary Services	--	--	--	--	--	--	S	S	--	--	--	§155.1107	1/300
	All Service-Oriented Uses	--	--	--	--	--	P	P	P	P	P	P	--	1/300
Self-Service Storage	Boat or Recreational Vehicle Outdoor Storage	--	--	--	--	--	--	--	--	P	P	P	--	1 / 350 sq ft office area plus 1 per 2,500 sq ft outdoor storage
	Mini-Warehouse	--	--	--	--	--	--	--	--	P	P	P	--	1 /350 sq ft office area plus 1/ 20 storage stalls
Adult-Oriented Businesses	Adult-Oriented Businesses	--	--	--	--	--	--	--	--	P	--	--	Code of Ordinances Chapter 123	1/300
Vehicle Sales and Service	Automobile Wash	--	--	--	--	--	P	P	P	P	P	P	--	10/wash lane
	Automobile Accessory and Supply Store	--	--	--	--	--	P	P	P	P	P	P	--	1/200







**Table 155.401-1,  
Permitted Uses by District**

Use Category	Land Use <sup>1</sup>	Residential					Mixed-Use and Non-Residential					Use-Specific Standards <sup>2</sup>	Parking <sup>3</sup> (155.600)	
		R1	R2	MH	W-R	MF	DT	C-1	C-2	C-3	W-1			IN
	Automobile Parking Lot or Garage	--	--	--	--	--		P	P	P	P	P	--	none
	Fuel Sales (Retail)	--	--	--	--	--	P	P	P	P	P	P	--	none
	Vehicle Sales, Rental, and Leasing (including motorcycles)	--	--	--	--	--	P	P	P	P	P	P	--	1/400
	Vehicle Body Repair	--	--	--	--	--	--	--	P	P	P	P	--	1/400
	Vehicle Repair, Heavy	--	--	--	--	--	--	--	--	--	--	P	--	1/400
	Vehicle Repair, Light	--	--	--	--	--	--	P	P	P	P	P	--	1/400
	Other Vehicle Sales and Service Uses	--	--	--	--	--	--	--	--	--	--	P	--	1/400
Waterfront	Bait Store	--	--	--	--	--	--	--	P	P	P	P	--	1/200
	Barge and Boat Manufacture and Repair	--	--	--	--	--	--	--	--	P	--	P	--	1/400
	Boat, Fishing Charter	--	--	--	--	--	--	--	--	P	--	P	--	1.5/passengers
	Boat Launching	--	--	--	--	--	--	--	--	S	S	S	§155.1107 Code of Ordinances Chapter 95	none
	Boat Rental, Leasing and Sales	--	--	--	--	--	--	--	--	P	--	P	--	1/400
	Boat and Marine Related Parts, Retail and Wholesale Sales	--	--	--	--	--	--	--	--	P	--	P	--	1/400
	Boat Repair	--	--	--	--	--	--	--	--	P	P	P	--	1/400
	Docking and Service Facilities For Commercial Vessels	--	--	--	--	--	--	--	--	P	--	P	Code of Ordinances Chapter 95	2/60 linear ft dock space
	Docking and Service Facilities for Recreational and Pleasure Boats	--	--	--	--	--	--	--	--	P	P	P	Code of Ordinances Chapter 95	1/200
	Marine Fueling for Barges and Vessels	--	--	--	--	--	--	--	--	S	--	S	§155.1107	none
	Marine Net Manufacturing, Repair, and Sales	--	--	--	--	--	--	--	--	P	--	P	--	1/400
	Marine Service Station for Recreational and Pleasure Boats	--	--	--	--	--	--	--	--	P	--	P	--	none
	Oil Field Supplies, Storage, Transportation, and Handling	--	--	--	--	--	--	--	--	P	--	P	Code of Ordinances Chapter 112	1/1000
	Seafood Handling, Shipping, and Sales	--	--	--	--	--	--	--	--	P	--	P	--	1/400





**Table 155.401-1,  
Permitted Uses by District**

Use Category	Land Use <sup>1</sup>	Residential					Mixed-Use and Non-Residential						Use-Specific Standards <sup>2</sup>	Parking <sup>3</sup> (155.600)
		R1	R2	MH	W-R	MF	DT	C-1	C-2	C-3	W-1	IN		
<b>Industrial</b>														
Heavy Industrial	Other Heavy Industrial Uses.	--	--	--	--	--	--	--	--	S	--	S	§155.1107	1/1.5 employee
Light Industrial	Building or Development Contractor	--	--	--	--	--	--	--	--	P	--	P	--	1/400
	Repair of Scientific or Professional Instruments	--	--	--	--	--	--	--	--	P	--	P	--	1/400
	Research, Testing, and Development Laboratory	--	--	--	--	--	--	--	P	P	P	P	--	1/400
	Other Light Industrial Uses	--	--	--	--	--	P	--	P	P	P	P	--	1/1000 1/400 1/1.5 emp
Warehousing and Freight Movement	Bulk Storage	--	--	--	--	--	--	--	P	P	--	P	--	1/1000
	Lumberyard	--	--	--	--	--	--	--	P	P	P	P	--	1/400
	Motor Freight or Truck Terminal	--	--	--	--	--	--	--	--	--	--	--	--	1/400 1/1000
	Other Warehousing and Freight Movement Uses	--	--	--	--	--	--	--	P	P	P	P	--	1/1000
Waste Related Service	Salvage Yard	--	--	--	--	--	--	--	--	--	--	L	§155.402	1 / 10,000 of storage yard
	Other Waste Related Service Uses	--	--	--	--	--	--	--	--	--	--	S	§155.1107	1 per 2,500 sq ft
Wholesale Trade	All Wholesale Trade	--	--	--	--	--	--	--	P	P	P	P	--	1/400
<b>Temporary Uses</b>														
Public and Commercial Events	Farmers' Market	--	--	--	--	--	TP	TP	TP	--	--	--	§155.404	none
	Special Event	TP	TP	--	TP	TP	TP	TP	TP	--	--	TP		
Public and Commercial Events	Seasonal Sales	--	--	--	--	--	TP	TP	TP	--	--	--		
	Sidewalk Sales	--	--	--	--	--	TP	TP	TP	--	--	--		
Construction, Storage, and Refuse Connection Facilities	Asphalt/Concrete Batching Plant	--	--	--	--	--	--	--	--	TS	--	TS	§155.404 §155.1107	1 per 2,500 sq ft
	Construction Building/Site Office	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP	§155.404	none
	Construction Dumpster	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP		none
	Construction Yard	--	--	--	--	--	--	--	--	TP	--	TP		none
	Model Homes and On-Site Real Estate Offices	TP	TP	TP	TP	TP	--	--	--	--	--	--		none
	Portable Storage Unit	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP	TP		none

**TABLE NOTES:**

<sup>1</sup> All land uses are defined in §155.201, *Definitions*.

<sup>2</sup> All uses are subject to all applicable provisions of this Chapter including §155.600, *Parking and Loading*, and §155.700, *Landscaping and Bufferyards*.

<sup>3</sup> Parking ratios are not applicable for uses in the Downtown zoning district.





**Table 155.401-2  
Interpretation of Off-Street Parking Requirements**

Parking Ratio	Description
none	Off-street parking not required
1/100	1 space for each 100 square feet of gross floor space
1/unit	1 space for each dwelling unit
1/guest room	1 space for each guest room
1/3 seats	1 space for each three seats within the largest auditorium (20 inches shall equal 1 seat of benches as provided)
1/3 beds	1 space for each 3 beds
1/1.5 emp	1 space for every 1.5 employees
1/ 2.25 attendee	1 space for every 2.25 attendees expected
3/lane	3 spaces for each bowling lane
10/wash lane	10 spaces for each washing lane

**§ 155.402 LIMITED USE STANDARDS**

- (A) **Generally.** Standards established in this Section for uses indicated as in Table §155.401-1, *Land Use Table*, are to promote compatibility among land uses. Limited uses are permitted only if they meet the standards of this Section and all other applicable standards and requirements of this Chapter.
- (B) **Standards for Residential Limited Uses.**
- (1) *Accessory Dwelling Unit.*
    - (a) All utility connections and services shall be for the address of the principal dwelling only;
    - (b) Either the principal or accessory unit must be occupied by the property owner;
    - (c) The accessory dwelling shall be at least 400 square feet of floor area, but no larger than 50 percent of the gross floor area of the principal dwelling; and
    - (d) The ADU shall meet all setback requirements for the zoning district in which it is located.
  - (2) *Downtown Loft.* Use shall only be located on second floor and above. Residential use of ground-floor is prohibited.
  - (3) *Manufactured Housing.*
    - (a) *Mobile Home.* Mobile homes are prohibited;
    - (b) *Development Standards.* The use must be:
      - (i) Compliant with the U.S. Housing and Urban Development (HUD) Code;
      - (ii) The entire manufactured home must be built on a permanent concrete foundation;
      - (iii) Provide hard surface off-street parking in accordance with § 155.600, *Parking and Loading*; and
      - (iv) In accordance with the standards of § 155.501, *Standards for Residential Development*.
      - (v) Compliant with Chapter 152, *Mobile Homes and Mobile Home Parks*, and any other applicable Chapters of the City Code.
  - (4) *Home Occupations.*
    - (a) *Employees.* Home occupations shall not require the employment of help other than members of the immediate family.
    - (b) *Equipment Installation.* Home Occupations shall not require the installation of equipment or electric motors exceeding a total limitation of three horsepower per dwelling unit.





- (c) *Home Occupations Not Permitted.* The following uses shall under no circumstances be permitted as a home occupation:
  - (i) The purchase of any retail products that are received by the buyer on-site;
  - (ii) Barber or beauty shops;
  - (iii) Beauty culture schools;
  - (iv) Commercial stables or kennels;
  - (v) Doctor's office for the treatment of patients; and/or
  - (vi) The display of goods for purchase at the dwelling unit.

(5) *Short-Term Rentals (STR).*

- (a) *Events.* No catered functions or special events may be offered.
- (b) *Legally Established.* Any dwelling unit used for a STR must be a legally established dwelling unit.
- (c) *Residential Appearance.* The dwelling unit and site being used as a STR must remain residential in appearance, character, and function.
- (d) *Tax Requirements.* The use must comply with all City tax requirements.

(C) **Standards for Commercial and Office Limited Uses.**

(1) *Recreational Vehicle Park.*

- (a) *Recreational Vehicles in Single Space.* No more than one recreational vehicle may be placed in a single recreational vehicle space.
- (b) *Setbacks Adjacent to Residential Districts.* The minimum requirements for setbacks from property lines located adjacent to residential districts (R1,R2, MH, WR, MF) are:
  - (i) Front: 25'
  - (ii) Rear: 25'
  - (iii) Sides:
    - A. One: 25'
    - B. Sum of Both: 50'
- (c) *Setbacks Adjacent to All Other Properties.* The minimum requirements for setbacks from property lines located adjacent to all mixed-use and non-residential districts (DT, C-1, C-2, C-3, W-1, IN) are:
  - (i) Front: 25'
  - (ii) Rear: 10'
  - (iii) Sides:
    - A. One: 5'
    - B. Sum of Both: 10'
- (d) *Parking.* In addition to the required parking ratio listed in Table 155.401-1, *Permitted Uses by Districts*, an off-street parking area for guests and visitors shall be included at the ratio of one for every two recreational vehicle spaces in the park.
- (e) *Other Requirements.* The development of recreational vehicle parks shall conform to [Chapter 120, Recreational Vehicles](#) of the City Code of Ordinances and other requirements applicable to recreational vehicle parks found in currently adopted technical codes.

(D) **Standards for Industrial Limited Uses.**

- (1) *Salvage Yard.* Use shall be enclosed by a wall or fence of at least six feet in height.





## § 155.403 ACCESSORY USES AND STRUCTURES

- (A) **Generally.** This Section shall apply to all accessory buildings and structures in all districts.
- (B) **Standards that Apply to All Accessory Uses and Structures (Excluding Fences and Walls).**
- (1) *Same Property.* Any accessory use or structure must be located on the same parcel or lot as the principal use or structure.
  - (2) *Timing of Construction.* No detached accessory structure shall be constructed until the construction of the rafters, or general equivalent, of the principal structure has commenced.
  - (3) *Separation.* No accessory structure shall be located closer than 10 feet to any other structure.
  - (4) *Easements.* Accessory buildings permanently affixed to the ground shall not encroach into an easement.
  - (5) *Height.* The maximum height of an accessory structure is 18 feet.
  - (6) *Not within Front Yard.* Accessory structures are prohibited in the front yard with for the following exceptions:
    - (a) If the subject lot is abutting a gulf, river, or other waterways that cause the lot to have two front yards. In that instance, accessory structures are permitted in the front yard abutting the waterway; or
    - (b) A porte-cochère is allowed in front yard, attached or unattached, if it meets one of the following standards:
      - (i) It is constructed of like or better materials than principal structure; or
      - (ii) Its supporting posts, fascia, soffits, or roof are comparable to that of the primary structure.
  - (7) *Commercial Use Prohibited.* Accessory structures located on residentially zoned or used property shall not be used for commercial purposes other than home occupations that comply with this Section § 155.402, *Limited Use Standards*.
  - (8) *Setbacks.*
    - (a) *Attached Accessory Structures.* Attached accessory structures shall comply with the interior side, street side, and rear setback standards for the principal structure established for their zoning district in Article 155.500, *District Standards*.
    - (b) *Detached Accessory Structures.* Detached accessory structures shall have a minimum rear setback of at least 5 feet and shall comply with the interior side and street side setback standards for the principal structure established for their zoning district in Article 155.500, *District Standards*.
    - (c) *Lots Abutting Waterways.* Both attached and detached accessory structures located in the front yard abutting a gulf, river, or other waterways causing the lot to have two front yards shall comply with the interior side, street side, and rear setback standards for the principal structure established for their zoning district in Article 155.500, *District Standards*. All setbacks are measured from the property line regardless of where the water's edge is located.
    - (d) *Porte-Cochère in Front Yards.* A porte-cochère located in a front yard shall maintain the front setback for the principal structure established for the zoning district in which the lot is located.
  - (9) *Improved Surfaced.* Any accessory structure used for parking or storage of vehicles shall have an improved, hard surface floor. Parking on grass, dirt, gravel, or other unimproved surfaces is prohibited.
- (C) **Fences and Walls.**
- (1) *Setbacks.*
    - (a) *Interior Lots.* On interior lots, fences and walls are permitted in any required setbacks.
    - (b) *Corner Lots.* On corner lots, fences and walls with greater than 50 percent opacity shall not encroach into the street side setbacks.
  - (2) *Obstruction Prohibited.* No fence or wall shall be built to be in violation of the site visibility triangles as required by § 155.705, *Visibility Triangle*.



- (3) *Fence Orientation.* The finished side of all fences shall face outward toward neighboring property or adjacent rights-of-way. Posts and supports shall face inward toward subject property.
- (4) *Prohibited Fence Types.* Barbed, razor, or electric wire shall be prohibited.
- (5) *Residential Districts and Uses.* The following standards for height, location, and design shall apply to residentially zoned (R1, R2, MH, WR) or used properties, excluding multi-family:
  - (a) *Rear Yard and Interior Side Yard.* No fence or wall located in a rear or interior side yard shall exceed six feet in height above the grade of the adjacent property.
  - (b) *Front Yard and Street Side Yard.* No fence or wall located in a front or street side yard shall exceed three and one-half feet in height.
  - (c) *Subdivision Perimeter Fences or Walls.* Fences or walls along the perimeter of a new subdivision adjacent to a public right-of-way shall:
    - (i) Be installed by the subdivider;
    - (ii) Be six feet in height;
    - (iii) Not encroach into the public right-of-way; and
    - (iv) Be maintained by the homeowners' association.
- (6) *Nonresidential and Multifamily Districts and Uses.* The following standards for height, location, and design shall apply to nonresidential and multifamily districts and uses:
  - (a) *Rear Yard and Interior Side Yard.* No fence or wall located to the rear or interior side lot line shall exceed eight feet in height above the grade of the adjacent property.
  - (b) *Front Yard and Street Side Yard.* No fence or wall located in a front or street side yard shall exceed four feet in height.

**(D) Dumpster Regulations.**

- (1) *When Dumpsters are Required.* Dumpsters shall be provided for multi-family residential, manufactured home parks, nonresidential, and mixed-use developments in accordance with the provisions of this subsection.
- (2) *Standards.* All dumpsters shall:
  - (a) Be located no more than 200 feet from the individual uses that they are intended to serve;
  - (b) Be configured to meet the requirements of the refuse hauler and approved by the City. Access shall be provided from an alley if an alley is present and used for service to other properties;
  - (c) Be fully enclosed by an opaque wall with a minimum height of six feet constructed of treated wooden, brick, stone, or stucco-finished concrete block to match the principal building;
  - (d) Have enclosures with opaque service gates that include a separate pedestrian access gate or pedestrian access opening that screens the dumpster from view and with all gates remaining closed at all times except when the dumpster is being serviced unless the dumpster is located in a rear or side service yard that is screened from the adjoining properties. In such a case, no enclosure is required;
  - (e) In all cases, the dumpster pad shall be constructed of concrete;
  - (f) Meet City engineering design standards, including those that pertain to maneuvering space; and
  - (g) Be located in a side or rear yard of the parcel proposed for development, unless it is not possible to provide service access in such locations. If an enclosure must be in the front yard, then it shall be constructed with the same materials as the principal building walls.

**(E) Outdoor Storage of Materials.**

- (1) *Permitted Zoning Districts.* Outdoor storage of materials is permitted in the IN and W-1 zoning districts.
- (2) *Storage on Public Property Prohibited.* Storage of outdoor materials, such as vehicles, equipment, or materials, shall not be displayed or stored in full or partially on any streets, alleys, or sidewalks.





- (3) **Surfacing.**
  - (a) All outdoor material storage areas, including access aisles, driveways, and maneuvering areas, shall be composed of an all-weather surface.
  - (b) Access aisles and maneuvering areas of enclosed outdoor storage areas in the IN zoning district may be constructed out of compacted gravel.
- (4) **Placement.** An outdoor storage facility shall be located to the rear or side yard of the primary structure and shall not abut any residential district or the DT district.
- (5) **Public Views.** Outside storage shall be screened or situated on a lot to prevent public view of stored materials or equipment.
- (6) **Maneuvering of Inventory.** The site shall be of adequate size, shape, and design to ensure:
  - (a) All maneuvering of inventory will be contained on site;
  - (b) All on-site maneuvering shall occur without encroaching onto adjacent properties or rights-of-way;
  - (c) All inventory will be stored in a manner that will not interfere with the designed vehicle flow of the lot or interfere with fire vehicle access; and
  - (d) Inventory will not be maneuvered in off-street parking lots or access drives.
- (7) **Buffering and Screening.** Outdoor storage areas shall be screened from the public right-of-way and from adjacent properties with a Type B Bufferyard as established in Table 155.704-2, *Bufferyards*, together with a fence or wall that is a minimum of six feet and a maximum of eight feet in height.
- (8) **Exemptions.** The following types of outdoor storage are exempt from the screening requirements of this Section:
  - (a) Retail planting stock and landscape stone or similar landscape materials, associated with a nursery or greenhouse;
  - (b) Commercial vehicles related to a permitted business on-site; and
  - (c) Finished recreational vehicles, automobiles, portable buildings, boats, trailers, manufactured homes, and other similar vehicles or equipment sold by a permitted use on-site.

(F) **Outdoor Display of Merchandise.**

- (1) **Permitted Zoning Districts.** Permanent or seasonal outdoor display of merchandise is permitted in the all non-residential zoning districts with the exception of the C-3 district subject to the requirements of this Section.
- (2) **Accessory Use.** The outdoor display area involves items for sale by a business that is located within a permanent structure or a designated area on the same site.
- (3) **Attached to Principal Building.** An outdoor display area that is attached to a principal building is permitted if the outdoor display area is:
  - (a) Adjacent to a wall of a principal structure;
  - (b) Configured as a walled and/or decoratively fenced area that is architecturally integrated into the principal building;
  - (c) If covered, the display area shall be covered with a roof structure that is architecturally integrated into the primary building, except that nursery areas may be covered by greenhouse roofing, screening, or another cover material that is appropriate for protecting plant stock;
  - (d) Within the buildable area of the site formed by the required setbacks;
  - (e) Not larger than 15 percent of the gross floor area of the principal building; and
  - (f) Not located in areas that are required or used for parking, loading, or vehicular circulation.





## § 155.404 TEMPORARY USE STANDARDS

- (F) **Generally.** Temporary uses as denoted in Table §155.401, *Land Use Table*, can be approved only if they meet the standards of this Section and other applicable standards and requirements of this Chapter.
- (G) **Permit Required.** All temporary uses require a permit per §155.1106, *Temporary Use Permit*, unless listed in Subsection (C), below.
- (H) **Exemptions.** The following activities shall not require a temporary use permit:
- (1) *Yard/Garage Sales.* Yard/garage sales held on residential property provided:
    - (a) Occurs no more than four times per calendar year; and
    - (b) Lasts for no more than five consecutive days, not including set-up and tear-down.
  - (2) *Stadiums, Amphitheaters, and Parks.* Events in athletic stadiums, amphitheaters, and City parks; and
  - (3) *Other.* Other public events where the expected attendance is less than 50 persons.
- (I) **Public and Commercial Outdoor Sales.**
- (1) *Compliance with City Laws and Regulations.* All public and commercial events shall comply with the provisions of [Title XI](#), Business Regulations of the Code of Ordinances.
  - (2) *Buildings and Structures.*
    - (a) Temporary buildings shall comply with the height restrictions of the district in which the building is proposed to be located unless they met the exemption below.
    - (b) Temporary structures (e.g., carnival rides and mega-inflatables) that are taller than the height allowed by the district in which it is proposed to be located are allowed, provided they are set back from all property lines a distance of two feet for every one foot in height.
  - (3) *Noise Controls.* Noise shall be controlled so that:
    - (a) The noise level at the nearest residential property line does not exceed 50 dBA after 10:00 p.m.;
    - (b) The noise level at the property line of the temporary use does not exceed 75 dBA for more than two hours per day; and
    - (c) The noise level at the property line of the temporary use does not exceed 85 dBA at any time. Generators, if used, shall be secured and set back at least 50 feet from all property lines.
  - (4) *Public Convenience and Litter Control.*
    - (a) Adequate on-site restroom facilities shall be required to serve the expected attendance at the event a rate of one toilet and one urinal per 50 expected attendees.
    - (b) Trash containers and recycling bins shall be placed in convenient areas including:
      - (i) Near principal places of assembly;
      - (ii) Near food and beverage vendors;
      - (iii) Near restrooms; and
      - (iv) At entry and exit points.
    - (c) All litter generated by the event shall be removed, at no expense to the City, within 24 hours after the closing on the last day of the event. Litter clean-up shall extend into the adjoining public rights-of-way.
  - (5) *Access, Circulation, and Parking.*
    - (a) The street from which access is taken must have the capacity to serve the event, including acceleration and deceleration lanes or personnel to manage ingress and egress to the site;
    - (b) Safe on-site vehicular and pedestrian circulation shall be provided, including:
      - (i) Minimizing points of conflict between vehicles and pedestrians;
      - (ii) Providing appropriate directional signage;







- (iii) Ensuring adequate and efficient access by emergency vehicles; and
- (iv) Maintaining full access to permanent uses on-site if they are operating during the temporary event, or emergency access to permanent uses on-site if they are not operating during the temporary event.
- (c) Adequate sight distances for safe vehicular ingress and egress shall be maintained.
- (d) Parking shall be managed as follows:
  - (i) Parking shall be provided on-site or within 300 feet of the boundaries of the site;
  - (ii) Parking shall be on improved, striped hard surface spaces, either in a parking lot or on-street;
  - (iii) Truck parking areas shall be provided to service the event which shall be on-site and on an improved hard surface; and
  - (iv) Parking on grass/unpaved areas is allowed provided:
    - A. The applicant has a legal right to use the land proposed for the parking area;
    - B. The surface is reasonably level and compact;
    - C. The parking area is located at least 300 feet from abutting residential property and 20 feet from public rights-of-way; and
    - D. The applicant provides a guarantee as a condition of approval that the parking area will be restored to its pre-event condition after the event.

**(J) Construction, Storage, and Refuse Connection Facilities.**

- (1) *Sanitary Facilities.* Restroom facilities shall be provided for operations of concrete and asphalt batching operations and for users of temporary construction buildings (except when used exclusively for storage).
- (2) *Additional Standards Applicable to Concrete and Asphalt Batching Operations.*
  - (a) The applicant shall provide a written agreement and advanced surety in the amount of 125 percent of the estimated site restoration cost to ensure complete site restoration upon the facility's dismantling or revocation of the permit, plus the estimated road restoration/replacement costs along anticipated principal truck routes. This amount shall be approved by the City Engineer.
  - (b) If deemed necessary by the City Engineer, the property access shall be controlled by special traffic markings and/or signalization at the applicant's expense. Instances warranting such traffic improvements may include locations at busy intersections or other areas where interference with primary traffic from trucks would be extensive.
  - (c) All electric and lighting facilities shall be submitted to the City Engineer prior to installation.
  - (d) Maximum noise level shall not exceed 60 dBA at the nearest property line.

**(K) Use Specific Standards.** The location, hours of use, operational limitations, and duration of use are set out in Table 155.404-1, *Temporary Use Standards*.

Table 155.404-1 Temporary Uses Standards				
Temporary Use	Location	Hours	Duration	Operational Requirements
<b>Public and Commercial Outdoor Sales</b>				
Farmers' Market	On property leased or owned by the City with permission from applicable entities or on nonresidential, private property with permission from the property owner.	7:00 AM to 10:00 PM	Not Limited.	None





**Table 155.404-1  
Temporary Uses Standards**

Temporary Use	Location	Hours	Duration	Operational Requirements
Special Event	The size of the site shall be large enough to accommodate the expected attendance in a manner that is safe for the site, neighborhood, street, or other infrastructure. Event shall be at least 25 feet from public rights-of-way		Shall not be held on a lot or parcel more than 4 times per calendar year, and shall be limited to no more than 7 consecutive days, not including set-up and tear-down.	
Seasonal Sales	In parking lot, only if no more than 5% of the lot is being used by the seasonal sales. Sale shall be at least 25 feet from rights-of-way and property lines.		Shall not be held on a lot or parcel more than 2 times per calendar year, and shall be limited to no more than 30 consecutive days.	
Sidewalk Sales	In parking lot, only if no more than 2 percent of the lot is being used by sidewalk sales. On sidewalk if there is at least 4 ft. of unobstructed sidewalk during sales event.		Shall not be held on a lot or parcel more than 26 times per calendar year, and shall be limited to no more than 52 days total per calendar year.	
<b>Construction, Storage, and Refuse Connection Facilities</b>				
Asphalt / Concrete Batching Plant	Not less than 500 feet from any residential property.	8:00 AM to 8:00 PM if within 1,000 feet of residential property; or 6:00 AM to 10:00 PM in all other locations	Established by approval to coincide with the use of the facility for a specified construction project. Shall be removed immediately upon project completion.	The facility shall be used only for a project within the City limits.
Construction Building/Site Office	On lot or parcel proposed for development set back at least 10 feet from all lot lines.	Not limited, however, the building may not be used as a residence.	Shall be removed prior to the issuance of a certificate of occupancy for the last building as detailed on the site plan.	May be used by construction superintendent, construction workers, contractors, and other personnel on a construction team or as a security office.
Construction Dumpster	On lot or parcel using dumpster, set back at least 10 feet from the lot line, and placed on an improved hard surface.	Not limited.	If used for construction or renovation, may remain in place for one week after	Refuse shall be contained within the dumpster, and shall be secured to prevent it from being





**Table 155.404-1  
Temporary Uses Standards**

Temporary Use	Location	Hours	Duration	Operational Requirements
	In nonresidential and mixed-use districts, dumpsters shall be located behind buildings (where possible) and shall not obstruct required parking lot requirements.		project completion. If used for another purpose, 10 days.	removed from the dumpster by wind or wildlife.
Construction Yard	No additional location requirements.	7:00 AM to 10:00 PM	Established to coincide with the use of the facility for a specified construction project	The facility shall be used only for a construction site within the City limits.
Model Homes and On-Site Real Estate Offices	On lot or parcel proposed for development.	Not Limited.	On-site real estate offices shall be removed upon completion of model home or suitable permanent floor area on-site; shall be removed by issuance of last certificate of occupancy for development.	Sales limited to units located on the lot or parcel proposed for development; sales offices within model homes shall meet applicable building code criteria.
Portable Storage Unit	On lot or parcel using storage unit, set back at least 10 feet from the lot line, and placed on an improved hard surface.  In nonresidential and mixed-use districts, dumpsters shall be located behind buildings (where possible) and shall not obstruct required parking lot requirements.	Not Limited.	If used for construction or renovation, may remain in place for one week after project completion. If used for another purpose, 10 days.	All items shall be contained within the storage unit

(L) **Additional Conditions.** The Administrator, in coordination with other City Staff as may be necessary, may establish additional conditions that are desirable to ensure land use compatibility or minimize potential adverse impacts on neighboring properties, public streets, or the City as a whole. These may include, but are not limited to, the following:

- (1) *Hours of Operation.* Modification or restrictions on hours of operation.
- (2) *Clean Up.* Posting of a performance bond to ensure clean up and removal of signs, equipment, trash, and other similar items; or
- (3) *Size.* The Administrator may refuse to issue a permit if the use is too large to be safe for the site, neighborhood, street, or other infrastructure, or may place limits on attendance of an event to ensure it can be properly managed.

**§ 155.405 NEW AND UNLISTED USES.**





- (A) **Generally.** It is recognized that new land uses will develop and may seek to locate in the City which were not anticipated at the time the lists of permitted uses contained in this Chapter were originally adopted or thereafter amended.
- (B) **Authorization of Proposed Use.**
- (1) *Administrator Discretion.* If a proposed use is not specified in this Chapter, the Administrator shall make a determination as to whether the use is either a subcategory or functionally similar to a specifically identified use.
  - (2) *Referral to Planning Commission.* If the Administrator feels that it is necessary, they may refer the determination of whether a use is a subcategory or functionally similar to a specified use to the Planning Commission.
- (C) **If Not Authorized, Then Prohibited.** If the Administrator determines that a proposed use is not a subcategory of, or functionally similar to a listed use in this Chapter, then the use is prohibited.
- (D) **Decision Criteria.** The Planning Commission shall consider the following decision criteria to decide whether a proposed use is a subcategory of, or is functionally comparable to, a use specifically identified in Table 155.402-1, *Land Use Table*:
- (1) Parking demand;
  - (2) Average daily and peak hour trip generation (cars and trucks);
  - (3) Impervious surface;
  - (4) Regulated air or water emissions;
  - (5) Noise;
  - (6) Lighting;
  - (7) Dust;
  - (8) Odors;
  - (9) Solid waste generation;
  - (10) Potentially hazardous conditions, such as projectiles leaving the site;
  - (11) Use and storage of hazardous materials;
  - (12) Character of buildings and structures;
  - (13) How the use is advertised;
  - (14) Nature and impacts of operation; and
  - (15) Hours of operation.



## 155.500 DISTRICT STANDARDS

### § 155.501 STANDARDS FOR RESIDENTIAL DEVELOPMENT

#### (A) General Residential Standards.

- (1) *Development Standards.* Table 155.501-1, *Residential Development Standards*, shows the applicable lot standards, building standards, and setbacks for each residential zoning district.
- (2) *Garages Required for New Construction.* Any new residential development in R1, R2, and W-R districts shall include the construction of a garage. The garage may be attached or detached and shall be large enough to accommodate at least one vehicle and is subject to all other applicable standards in §155.403, *Accessory Uses and Structures*.

**Table 155.501-1  
Residential Development Standards**

Zoning District	Housing Type	Lot and Building Standards					Setbacks			
		Minimum			Maximum		Minimum			
		Lot Area	Lot Width	Dwelling Unit Size	Building Height	Building Coverage	Front	Interior Sides	Street Sides	Rear
R1	Single-Family Detached	6,250 sq ft	60 ft	1,300 sq ft	35 ft	50%	25 ft	7.5 ft	15 ft	6 ft
R2 <sup>1</sup>	Single-Family Detached	5,000 sq ft	50 ft	1,000 sq ft	35 ft	50%	25 ft	5 ft	10 ft	5 ft
MH <sup>2</sup>	Manufactured Housing	6,250 sq ft	50 ft	1,000 sq ft	35 ft	40%	25 ft	5 ft	15 ft	5 ft
WR	Single-Family Detached	4,200 sq ft	30 ft	1,300 sq ft	40 ft	50%	25 ft	5 ft	10 ft	10 ft
MF	Multi-Family	6,250 sq ft	50 ft	1,500 sq ft	45 ft	65%	25 ft	12 ft	20ft	10 ft

Table Notes:

<sup>1</sup> For alternative standards for residential infill development in this district, see Subsection B, below.

<sup>2</sup> Additional requirements for manufactured housing are found in §155.402, *Limited Use Standards*.

#### (B) Alternative Standards for Cottages, Single-Family Attached, and Townhouses.

- (1) *Purpose.* The purpose of this Subsection is to provide alternative development standards to enable and encourage development or redevelopment on existing, narrow vacant lots and blocks within the SUI district.
- (2) *Applicability.* The use of alternative standards shall only be used when existing narrow lots are developed. Multiple existing narrow lots may be aggregated and replatted meeting the standards of the lot and building standards, below.
- (3) *Development Standards.* The development standards provided in Table 155.501-2, *Standards for Residential Infill Development*, and illustrated in Figure 155.501-1, *Illustrative Lot Configurations*, are intended to allow the aggregation and redevelopment of existing lots using different housing types (e.g., cottages, single-family attached, and townhouses) to improve development yield during redevelopment.
- (4) *Garages Required for New Construction.* Any new residential dwelling in the SUI district shall include a garage as outlined above in Subsection (A) *General Residential Standards*.





**Table 155.501-2  
Standards for Residential Infill Development<sup>1</sup>**

Housing Type <sup>2</sup>	Number of Existing Lots Needed	Total Units	Number of Bonus Units	Lot and Building Standards					Setbacks for Each Lot			
				Minimum			Maximum		Minimum			
				Lot Area	Lot Width	Dwelling Unit Size	Lot Area	Building Height	Front	Interior Side	Street Side	Rear
Cottage	2	2	0	3,100 sq ft	25 ft	1,000 sq ft	4,000 sq ft	35 ft	10 ft	2.5 ft <sup>3</sup> / 5 ft	5 ft	10 ft
Single-Family Attached	3	4	1	2,300 sq ft	18.5 ft	1,000 sq ft	--	35 ft	10 ft	0 ft <sup>4</sup> / 2.5 ft <sup>3</sup> / 5 ft	5 ft	10 ft
Townhouse	5	7	2	Interior Units: 2,300 sq ft End Units: 2,000 sq ft	Interior Units: 16 ft End Units: 22.5 ft	1,000 sq ft	--	35 ft	10 ft	0 ft <sup>4</sup> / 2.5 ft <sup>3</sup> / 5 ft	5 ft	10 ft
Single-Family Attached + Cottage	4	5	1	Cottage: 3,100 sq ft Single-family Attached: 2,300 sq ft	Cottage: 25 ft Single-family Attached: 17.5 ft	1,000 sq ft	--	35 ft	10 ft	0 ft <sup>4</sup> / 2.5 ft <sup>3</sup> / 5 ft	5 ft	10 ft

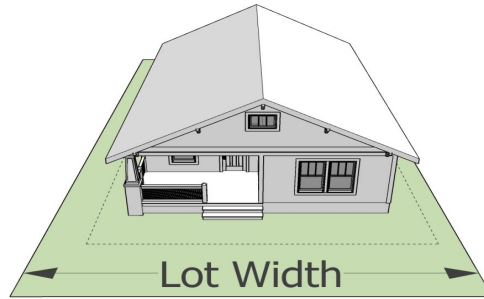
Table Notes:  
<sup>1</sup> The standards within this table are for the alternative housing types as listed in the column on the far left-hand side of the table.  
<sup>2</sup> To develop the single-family attached, townhouse, or single-family attached+cottage housing types, an aggregation of contiguous lots may be necessary. For example, three 25 foot contiguous lots would need to be aggregated, and then either platted as four separate 18.5 foot lots (or consolidated into a single lot using a condominium form of ownership meeting the same lot and design standards). This aggregation of three existing lots allows the development of one additional dwelling unit when redeveloped under the new standards set out in this Section.  
<sup>3</sup> 2.5 ft setback shall only apply when the interior lot line abuts other infill lots developed using standards in Table 155.501-2 or vacant lots. When the interior lot line abuts a lot developed using any other standards than what is listed in Table 155.501-2, the interior setback shall be 5 ft.  
<sup>4</sup> 0 ft setback shall only apply to interior sides of attached units.



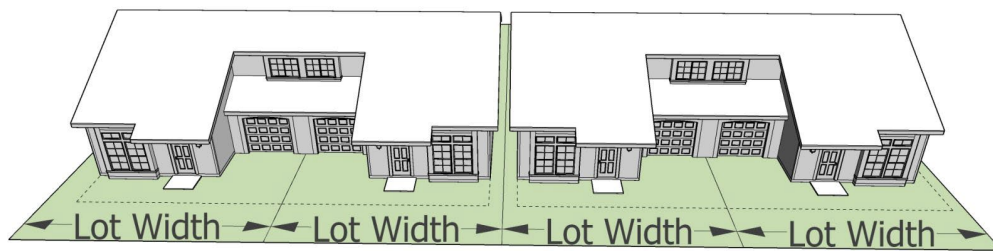


**Figure 155.501-1,  
Illustrative Lot Width Configuration**

**Cottage**



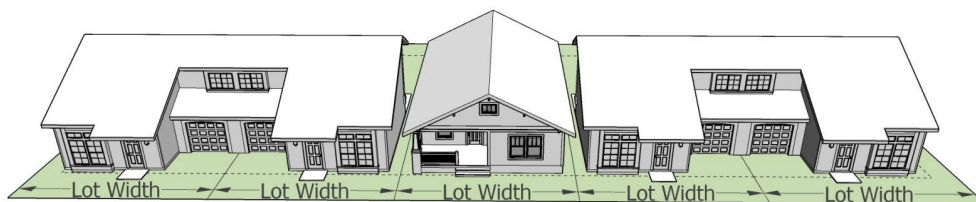
**Single-Family Attached**



**Townhouse**



**Single-Family Attached + Cottage**





## § 155.502 STANDARDS FOR NON-RESIDENTIAL DEVELOPMENT

Table 155.502-1, *Non-Residential and Mixed-Use Development Standards*, shows the applicable lot standards, building standards, and setbacks for each non-residential and mixed-use zoning district. Properties within the Town Center (TC) overlay district regardless of their underlying zoning district are required to conform with the standards of this Section.

Table 155.502-1 Non-Residential and Mixed-Use Development Standards								
Zoning District	Lot and Building Standards				Minimum Setbacks			
	Minimum		Maximum		Front	Interior Side	Street Side	Rear
	Lot Area	Lot Width	Building Height	Building Coverage				
DT	2,500 sq ft	25 ft	50 ft	100%	0-10 ft	0-10 ft <sup>1</sup>	10 ft	10 ft
C-1	2,500 sq ft	25 ft	45 ft	75%	25 ft	10 ft	15 ft	15 ft
C-2	5,000 sq ft	50 ft	80 ft	80%	25 ft	10 ft	15 ft	15 ft <sup>2</sup>
C-3	10,000 sq ft	100 ft	30 ft	100% <sup>3</sup>	15 ft	10 ft	10 ft	25 ft
W-1	2,500 sq ft	25 ft	100 ft <sup>6</sup>	75%	25 ft	0 ft <sup>1</sup>	10 ft	10 ft <sup>4</sup>
IN	10,000 sq ft	100 ft	80 ft	85%	25 ft	20 <sup>5</sup>	20 ft	35 ft
TC	2,500 sq ft	25 ft	50 ft	100%	0 ft	0 - 10 ft <sup>1</sup>	10 ft	10 ft

Table Notes:

<sup>1</sup>When abutting a Residential District, the side yard setback shall not be less than 10 feet.

<sup>2</sup>When abutting a Residential or C-1 District, the rear yard setback shall not be less than 20 feet.

<sup>3</sup>The total floor area of any building or buildings on a lot in the C-3 District shall not exceed the number of square feet in the lot.

<sup>4</sup>When abutting a Residential District, the rear yard setback shall not be less than 20 feet.

<sup>5</sup>When abutting a Residential District, the side setback shall be 35 feet.

<sup>6</sup>Plus additional height of one foot for every four feet setback from yard line.





## 155.600 PARKING AND LOADING

### § 155.601 PURPOSE AND APPLICABILITY

- (A) **Purpose.** The purpose of this Section is to ensure that:
- (1) Adequate off-street parking is provided by this Chapter.
  - (2) Sufficient parking is provided in nonresidential areas that are near residential neighborhoods so that the character and quality of life in the residential neighborhoods are protected from overflow parking;
  - (3) Adequate loading areas are provided that do not interfere with the function of other vehicular use areas;
  - (4) Access to sites is managed to maintain the desired function and safety of the adjacent street(s); and
  - (5) Vehicular use areas and sites are designed and lighted to promote public safety without creating undue light pollution and off-site glare.
- (B) **Applicability.**
- (1) All new development shall provide the quantity of parking spaces required by Table 155.401-2, *Land Uses by District*, and comply with all other provisions of this Section.
  - (2) Redevelopment, significant improvements, expansions, and changes in the land use of existing buildings may create a need for additional parking, and as such the building and use after the modification shall provide parking to the extent of the new demand created by the improvement, expansion, or change in use(s).
- (C) **Timing of Compliance.** No change of use permit, building permit, occupational license, or certificate of occupancy shall be issued unless and until off-street parking and loading is provided in accordance with this Chapter.

### § 155.602 SURFACING AND STRIPING

- (A) **Surfacing.**
- (1) *Generally.* Parking areas shall be paved with an all-weather surface that provides effective drainage and protection against potholes, erosion, and dust.
  - (2) *Maintenance.* All paved parking locations shall be maintained to ensure that should a pothole or erosion occur, it will be repaired.
- (B) **Striping.**
- (1) *Clearly Identified.* Except for single-family residential uses, parking spaces shall be permanently and clearly identified.
  - (2) *Maintenance.* Nonpermanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

### § 155.603 PARKING SPACE DIMENSIONS

Parking spaces shall have the following dimensions:

- (A) **Generally.** Nine feet in width by 20 feet standard stall depth, which equals 180 total square feet.
- (B) **90-degree Parking Spaces that Abut a Curb or the Edge of Pavement.** Nine feet width by 18 feet reduced stall depth provided there is a five-foot-wide sidewalk.
- (C) **Parallel Parking Spaces.** Eight feet width by 20 feet standard stall depth.
- (D) **Space for Entering and Exiting.** Parking spaces shall be provided with sufficient space for entering and exiting without backing onto a public street. Parking spaces on the perimeter of the parking lot and abutting a property line shall have a wheel stop barrier two feet from the end of the parking space.





## § 155.604 ADA PARKING

- (A) **Location of Spaces.** The spaces designated for ADA compliance shall be the spaces that are closest to the front door of the business.
- (B) **Number of Spaces.**
- (1) *Required Parking Spaces.* The Americans with Disabilities Act (ADA) requires a certain number of accessible parking spaces as part of new development and redevelopment. The required accessible parking spaces shall be incorporated into, rather than in addition to, the overall number of parking spaces required in all zoning districts, as established in Table 155.401-1, *Permitted Uses by District*.
  - (2) *Specific Number of Required Spaces.* The minimum number of required accessible parking spaces is set out in Table 155.604-1, *Required Number of Accessible Parking Spaces*.

<b>Table 155.604-1 Required Number Accessible Parking Spaces</b>		
Total Number of Parking Spaces Provided	Total Minimum Number of Accessible Parking Spaces Required <sup>1</sup>	Number of Accessible Spaces That Must be Van Accessible <sup>2</sup>
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	1
301 to 400	8	1
401 to 500	9	2
501 to 1,000	2 percent of total	1 out of 8 accessible parking spaces (rounded up)
1,001 and over	20, plus 1 for each 100 over 1,000	1 out of 8 disabled parking spaces, rounded up

Table Notes:

<sup>1</sup> Must have an access aisle of at least sixty inches.

<sup>2</sup>With an access aisle of at least ninety-six inches.



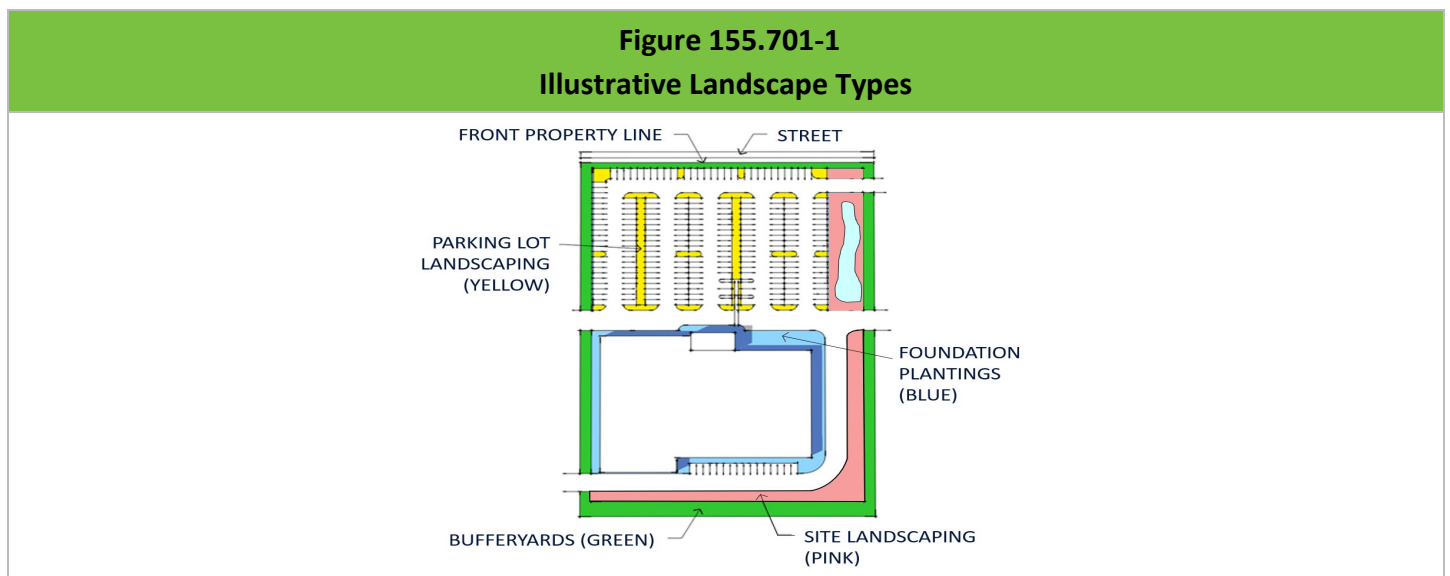


## 155.700 LANDSCAPING AND BUFFERING

### § 155.701 PURPOSE AND APPLICATION

- (A) **Purpose.** The purpose of this Section is to establish landscaping standards that enhance the appearance and character of the City, improve the compatibility of abutting uses, and protect the ecological and recreational value of the City's beautiful natural resources.
- (B) **Application.** This Section applies to all new development, redevelopment, and substantial improvements, and where specifically indicated, to existing trees and landscaping.
- (C) **Required Landscaping Types.**
- (1) *Generally.* Table 155.701-1, *Required Landscaping Types Summary*, sets out landscaping types required in each zoning district. Figure 155.701-1, *Illustrative Landscape Types*, depicts these types.
  - (2) *Soil and Groundcover.* In addition to the requirements in Table 155.701-1, *Required Landscaping Types Summary*, all areas of development lots that are not paved or occupied by a building shall be seeded or sodded with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.

Table 155.701-1 Required Landscaping Types Summary				
Zoning Districts	Development Landscaping (§ 155.703)			Bufferyards (§155.704)
	Foundation Landscaping	Parking Lot Landscaping	Site Landscaping	
R1, R2, MH, WR	--	--	--	Required
MF	Required	Required	Required	Required
DT	--	--	Required	Required
C-1, C-2, C-3	Required	Required	Required	Required
W-1	--	--	Required	Required
IN	--	--	--	Required



- (D) **Landscape Plan.** Prior to the issuance of a building permit on any site within a zoning district to which this Section applies, a landscape plan shall be required. See Sec. 155.1103, *Site Development Plan*.



## § 155.702 GENERAL LANDSCAPING REQUIREMENTS

- (A) **Minimum Size of Plants at Installation.** Plant material that is installed to comply with the requirements of this Article shall be the following sizes as set out in Table 155.702-1, *Minimum Size of Plants at Installation*.

<b>Table 155.702-1 Minimum Size of Plants at Installation</b>	
<b>Type of Plant Material</b>	<b>Minimum Size at Installation</b>
Overstory Tree	3" caliper
Ornamental Tree	2.5" caliper
Evergreen Tree	6 ft in height
Shrub	5 gal. container

(B) **Planting Locations.**

(1) *Distance from Utilities.*

- (a) No street trees or large trees shall be planted under or within 10 lateral feet of any overhead utilities.
- (b) No trees, except street tree species that are approved by the City, shall be planted over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility line, or as required by the owner of the utility or the requirements of the specific easement.

(2) *Sight Distance Triangle.* Trees shall not be installed in locations where there is a substantial likelihood that the mature form of the tree would have to be materially compromised in order to maintain the sight visibility triangles. See §155.705, *Visibility Triangles*.

(C) **Completion of Landscape Improvements.**

(1) *Bufferyard.* Bufferyard and landscaping must be completed prior to a certificate of occupancy being issued. If this requirement would result in the installation of landscaping during an inappropriate season, then the City may:

- (a) Allow the site plan to be recorded upon condition that security is provided for the installation of the required landscaping during planting season; or
- (b) Issue a temporary certificate of occupancy, on the condition that a permanent certificate of occupancy will not be issued unless the required landscaping is installed.

(2) *All Other Landscaping.* All other landscaping must be installed before issuance of a permanent certificate of occupancy. A temporary certificate of occupancy may be issued if necessary to allow for the planting of landscaping improvements during an appropriate season or weather condition.

(D) **Maintenance.**

- (1) *Generally.* The property owner, or property owners' association for a multi-tenant development, shall be responsible for the maintenance of all landscaping and screening devices. This shall include watering, mowing, edging, pruning, weeding, fertilizing, and other such activities common to the maintenance of landscaping.
- (2) Landscape materials shall be maintained in such a manner that they comply with the sight visibility requirements of §155.705, *Visibility Triangle*. Landscaped areas shall be kept free of trash, litter, weeds, and other such materials that are not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year.
- (3) *Replacement.* Plant material that dies shall be replaced with plant material of similar variety and size within 90 days.





## § 155.703 LANDSCAPING REQUIREMENTS BY TYPE

### (A) Foundation Landscaping.

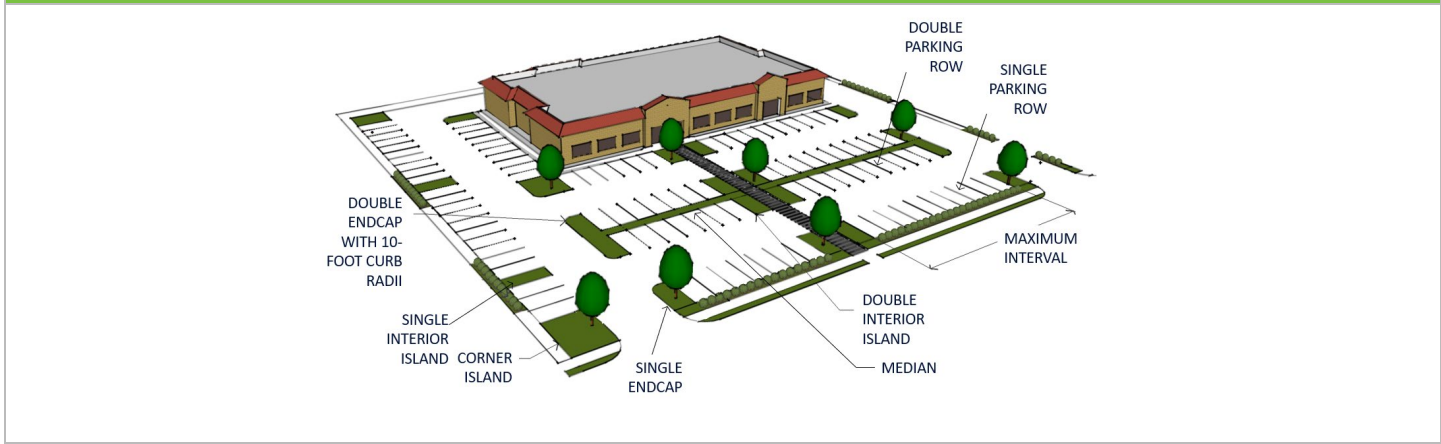
- (1) *Generally.* Landscaping that is planted adjacent to the foundation of a building may be used as screening, buffering between adjacent buildings on the same or different sites, shade for windows or outdoor areas, or as an aesthetic element of the site design.
- (2) *Requirements.* The foundation landscape area shall be planted with 30 shrubs per 1,000 square feet of building area.
- (3) *Substitutions.* Shrubs may be substituted with deciduous ornamental trees or evergreen trees at a rate of three shrubs per small tree or evergreen tree. However, deciduous ornamental trees and evergreen trees shall be set back from building walls a sufficient distance to ensure that they have room to grow to maturity.

- (B) **Parking Lot Landscaping.** Parking lots with five or more parking spaces shall provide permanently landscaped areas consisting of islands and medians within the parking area in accordance with Table 155.703-1, *Parking Lot Planting Requirements*, and as illustrated in Figure 155.703-1, *Illustrative Parking Lot Planting Requirements*.

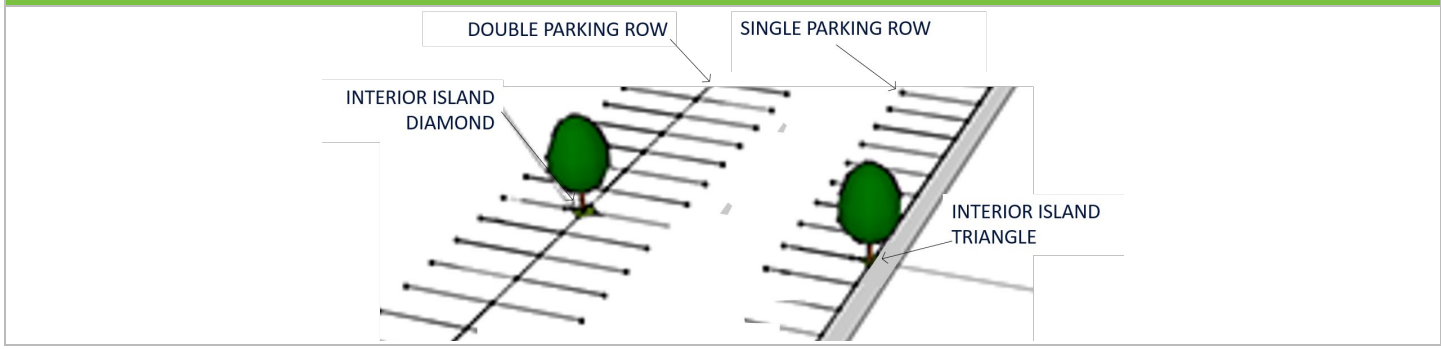
Table 155.703-1 Parking Lot Planting Requirements		
Planting Locations	Required Plantings	Island and Median Standards
<b>All Parking Lots (5 or More Spaces)</b>		
Endcap Island: At the end of each parking row	<ul style="list-style-type: none"> <li>● 1 overstory tree or 2 evergreen or ornamental trees</li> </ul>	Each endcap island shall be a minimum of 9' wide and the length of the parking row <sup>1</sup> with 10-foot curb radii on the side closest to the parking aisle
Corner Island: At the corners of parking lots	<ul style="list-style-type: none"> <li>● 1 overstory tree or 2 evergreen or ornamental trees</li> </ul>	Each corner island shall be a minimum of 400 square feet in area and defined by the intersection of the parking rows at each corner of the parking lot
<b>Parking Rows with Less Than 30 Parking Spaces</b>		
Interior Island: In the middle of parking rows planted at intervals of not less than one island for each 10 parking spaces	<ul style="list-style-type: none"> <li>● 1 overstory tree</li> </ul>	Each interior island shall be a minimum of 9' wide and the length of the parking row <sup>1</sup> with 5-foot curb radii on the side closest to the parking aisle
<b>Parking Rows with 30 or More Parking Spaces</b>		
Interior Island: In the middle of parking rows planted at intervals of not less than one island for each 10 parking spaces	<ul style="list-style-type: none"> <li>● 1 ornamental tree</li> </ul>	Each interior island may be reduced to 16 square feet configured in a diamond or triangle pattern, with the center point of the diamond located at the point where four parking spaces meet (for double parking rows) or the base of the triangle located at the point where two parking spaces meet (for a single parking row). See Figure 155.703-2, <i>Large Parking Row Reduced Interior Islands</i> .
Median: Along the entire centerline of a double parking row	<ul style="list-style-type: none"> <li>● Continual 3-foot tall hedge or ornamental grasses</li> </ul>	Each median shall be a minimum of 5' wide continuous 3' wide continuous 3' tall hedge, shrub, or ornamental grasses
<b>TABLE NOTES:</b>		
<sup>1</sup> For example, if there is single row of 90 degree parking spaces, the length is 18 feet; if there is a double row of 90 degree parking spaces, the length is 36 feet.		



**Figure 155.703-1**  
**Illustrative Parking Lot Planting Requirements**



**Figure 155.703-2**  
**Large Parking Row Reduced Interior Islands**



**(C) Site Landscaping.**

- (1) *Planting Location.* All areas not designated as foundation plantings, bufferyards, parking lot landscaping, or utilized for pedestrian and vehicular access to the building (for example, sidewalks, parking spaces, loading spaces, service areas, and drive-in or drive-through facilities) shall be landscaped meeting the requirements of this Section.
- (2) *Trees.* One overstory or evergreen tree, or three ornamental trees, shall be planted per 1,000 square feet of the site landscaping area.
- (3) *Shrubs.* Six shrubs shall be planted per 1,000 square feet of the site landscape area.

**§ 155.704 BUFFERYARDS**

- (A) **Generally.** The bufferyards that are required by this Chapter are based on the amount of screening they provide, which are classified from less screening (Type A) to more screening (Type C), depending on the types and intensities of adjacent uses.
- (B) **Bufferyard Required.** Table 155.704-1, *Bufferyard Requirements* sets out the type of bufferyard required based on the zoning districts of the parcel proposed for development and adjoining properties.
- (C) **Symbols.** Table 155.704-1, *Bufferyard Requirements*, uses the following symbols:
  - (1) "A" means a Type A bufferyard is required.
  - (2) "B" means a Type B bufferyard is required.





- (3) "C" means a Type C bufferyard is required.
- (4) "--" means no bufferyard is required.

Table 155.704-1 Bufferyard Requirements						
Zoning of Proposed Development	Adjacent Property Zoning					
	R1, R2, WR	MH, MF	DT	C-1, C-2, C-3	W-1	IN
R1, R2, WR	--	A	A	B	B	C
MH, MF	A	--	A	A	B	C
DT	A	A	--	A	B	C
C-1, C-2, C-3	B	A	A	--	A	C
W-1	B	B	A	A	--	C
IN	C	C	C	C	C	--

- (D) **Exemptions.** A parcel proposed for development, redevelopment, or substantial improvement shall be exempt from the requirement to provide a bufferyard under the following conditions:
- (1) When there is an elevation difference between two adjacent properties that is six feet or greater; or
  - (2) When the parcel proposed for development, redevelopment, or substantial improvement is separated from the adjacent property by a natural area that meets or exceeds the level of screening required by the applicable bufferyard.
- (E) **Bufferyard Types.** There are three types of bufferyards, each of which vary in the width of the bufferyard and the numbers and types of plants that are required per 100 linear feet, or portion thereof. The minimum planting requirements for each type and composition of bufferyard are set out in Table 155.704-2, *Bufferyard Types* and Figure 155.704-1, *Bufferyard Types*.

Table 155.704-2 Bufferyard Types										
Type	Bufferyard Width		Required Plantings per 100 Linear Feet							
	Without Fence	With Fence <sup>1</sup>	Overstory Trees		Evergreen Trees		Ornamental Trees		Shrubs	
			Without Fence	With Fence <sup>1</sup>	Without Fence	With Fence <sup>1</sup>	Without Fence	With Fence <sup>1</sup>	Without Fence	With Fence <sup>1</sup>
A	8 ft	5 ft	2	1	2	1	3	1	15	10
B	18 ft	10 ft	3	2	3	2	6	2	30	20
C	25 ft	15 ft	6	3	6	3	9	3	40	30

Table Notes:  
<sup>1</sup> Fences in Type A or Type B Bufferyards shall be at least six feet tall and fences in Type C Bufferyards shall be eight feet tall. In all bufferyards, fences shall be opaque and comply with §155.403, *Accessory Uses and Structures*.





Figure 155.704-1  
Bufferyard Types

Bufferyard Type	Without Fence	With Fence
A		
B		
C		

(F) **Relationship to Other Bufferyard Requirements.** Some limited uses have different requirements for bufferyards, as specified in §155.402, *Limited Use Standards*. If bufferyards are required by another section of this Chapter along property boundaries that are also district boundaries, then the greater bufferyard requirement shall supersede the lesser one (only one bufferyard is required).

## § 155.705 VISIBILITY TRIANGLE

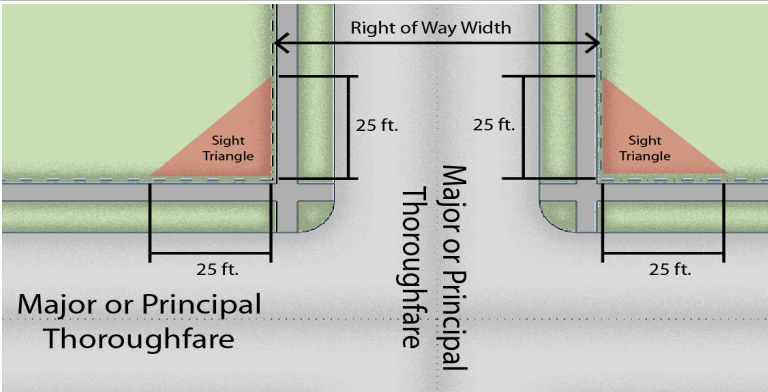
- (A) **Generally.** No buildings, structures, fences, walls, and other similar objects shall be erected or placed on a lot in a manner that obstructs or interferes with visibility at any intersection of any street, driveway, or other vehicle access point.
- (B) **Exceptions.** Trees and shrubs may be planted in the visibility triangle area provided that the limbs and foliage are trimmed so they are not projecting into the vertical dimensions of the visibility triangle area as illustrated in Figure 155.705-3, *Vertical Dimensions of Visibility Triangle Areas*.
- (C) **Visibility Triangle Areas.** The size of the visibility triangle areas is based on the vehicle access type and street classifications found in [Brazoria County 2020 Thoroughfare Plan](#). The standards for each type of area are detailed in Subsection (D) and Subsection (E), below and illustrated in Figures 155.705-1, *Horizontal Dimensions for Road Intersections*, and 155.705-2, *Horizontal Dimensions for Driveway Intersections*.
- (D) **Horizontal Dimensions for Road Intersections.**
- (1) *Intersections with Major or Principal Thoroughfares.* Where one or both of the intersecting roads are major or principal thoroughfares, the horizontal dimensions of this triangle are measured 25 feet along the property lines from the intersection.
  - (2) *Intersections with Major Collectors and Local Roads.* Where one or both of the intersecting roads are principal thoroughfares, the horizontal dimensions of this triangle are measured 15 feet along the property lines from the intersection.



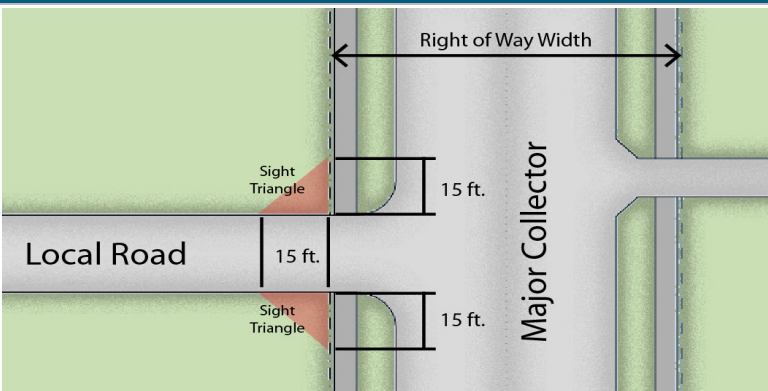


**Figure 155.705-1**  
**Horizontal Dimensions for Road Intersections**

**Intersections with Major or Principal Thoroughfares**



**Intersections with Major Collectors and Local Roads**

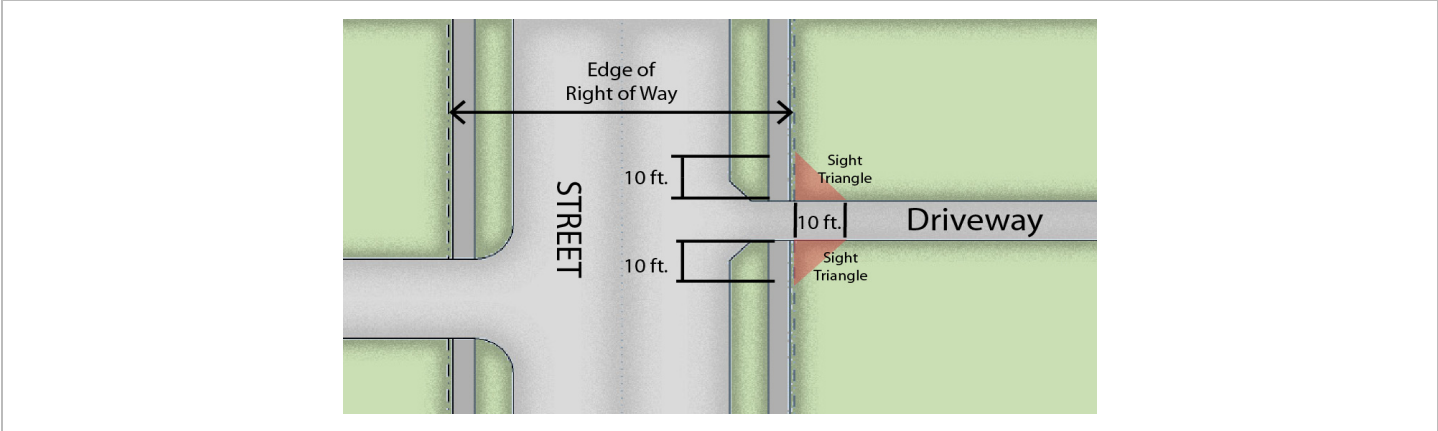


(E) **Horizontal Dimensions for Driveway Intersections.** Where the intersection consists of a right-of-way and a driveway, the horizontal dimensions of this triangle are measured 10 feet along the property lines from the intersection.



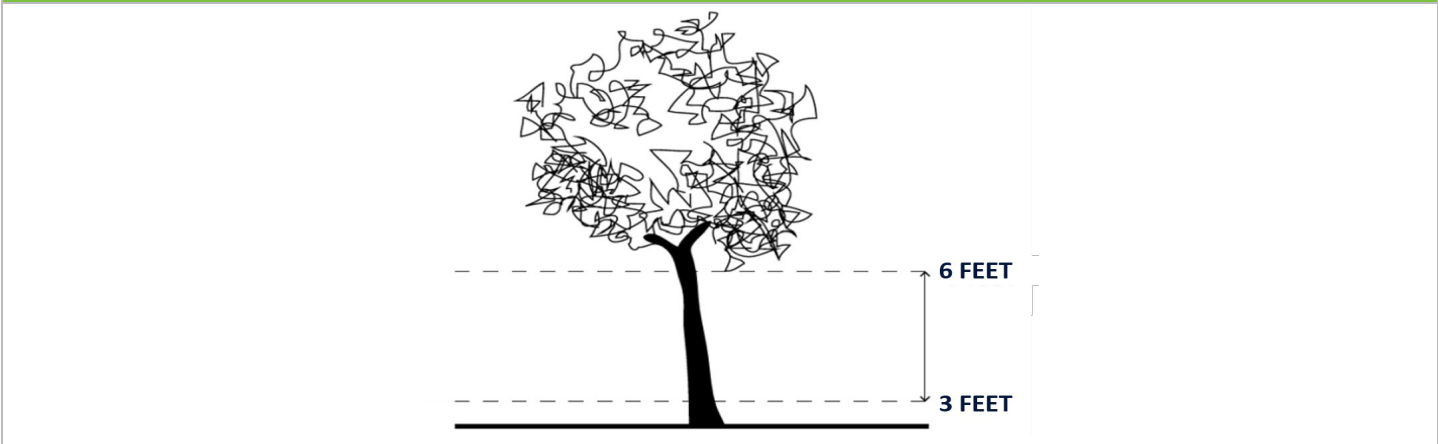


**Figure 155.705-2**  
**Horizontal Dimensions for Driveway Intersections**



(F) **Vertical Dimensions.** The vertical dimensions of the visibility triangle are three feet to six feet above finished grade as illustrated in Figure 155.705-3, *Vertical Dimensions of Visibility Triangle Areas*.

**Figure 155.705-3,**  
**Vertical Dimensions of Visibility Triangle Areas**





## 155.800 ADMINISTRATIVE BODIES

### 155.801 CITY COUNCIL

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See Article 3, *The Governing Body*, of the City's Home Rule Charter.

### § 155.802 PLANNING COMMISSION

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See Section 8.03, *Planning Commission*, of the City's Home Rule Charter.

### § 155.803 BOARD OF ADJUSTMENTS

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- (A) **Generally.** The City's Board of Adjustments (BOA) shall have membership, qualifications, and terms of office in accordance with and controlled by the provisions of [Texas Local Government Code Section 211.008, Board of Adjustment](#)
- (B) **Powers and Duties.** The BOA shall have the authority to make final decisions on the development review applications denoted in Table [155.1101-1, Summary of Procedures](#).
- (C) **Membership.**
- (1) *Number of Members.* The BOA shall consist of five permanent members and two alternatives.
  - (2) *Appointments.* The City Council shall appoint members of the BOA for terms of two years. Terms begin from the date of appointment.
  - (3) *Alternative Members.* The City Council shall appoint two alternate members of the BOA to temporarily serve in the absence of a permanent member. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. The City Council may fill a vacancy among the alternate members in the same manner as a vacancy among the regular members.
  - (4) *Vacancies and Removal.* The City Council shall fill vacancies in an unexpired term by appointment for the remainder of the term. The City Council may vote to remove a member for good cause at any time in a public meeting.
- (D) **Officers and Staff.**
- (1) *Election.* The BOA shall elect a Chairperson and Vice-Chairperson at the first meeting of each calendar year.
  - (2) *Officer Duties.* The chair, or in the chair's absence the vice-chair, shall administer oaths, be in charge of all proceedings before the BOA, and take such action necessary to preserve the order and integrity of all proceedings before the BOA. In the absence of both, the Board shall elect a temporary chair to conduct the meeting.
  - (3) *Staff.* The Administrator shall serve as the professional staff of the BOA and shall appoint a recording secretary to keep minutes to summarize all proceedings, attested to by a majority of the members of the BOA voting.
  - (4) *Recordkeeping.* Minutes of the proceedings of the BOA showing the vote of each member and records of its examinations and other official actions shall be filed with the City as a public record.
- (E) **Meetings and Procedures.**
- (1) *Frequency, Location, Date, and Time.* The BOA shall meet once each month unless there are no items for it to decide upon. The Chairperson may call a special meeting following required notice.
  - (2) *Absences.* Any member of the BOA who misses three consecutive regular meetings without valid reason, as determined by City Council, shall be deemed no longer interested in serving, and the City Council shall appoint a new interim member to fill the vacancy.
  - (3) *Rules of Procedure.* The BOA may establish its own rules of procedure, provided that such shall not be in conflict with the laws applicable to the BOA or the provisions of this UDO.



(F) **Proceedings of the Board of Adjustment.**

- (1) *Rule Adoption.* The BOA shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Chapter.
- (2) *Open to Public.* All meetings shall be open to the public.
- (3) *Meeting Minutes.* The BOA shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the City.
- (4) *Stay of Proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official from whom the appeal is taken certifies to the BOA after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the BOA or by a court of competent jurisdiction, on notice to the Administrator from whom the appeal is taken and on due cause shown.

## **§ 155.804 ADMINISTRATOR**

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- (A) **Generally.** The Administrator is the member of the City Staff or his or her designee who is responsible for the processing of an application the making a recommendation to another review body, and a final decision.
- (B) **Powers and Duties.** The Administrator shall have the authority to make recommendations or final decisions on the development review applications denoted in Table 155.1101-1, *Summary of Procedures*.
- (C) **Recommendations.** The Administrator shall make a report and recommendations to the appropriate review body with regard to all applications requiring approval from this Chapter.
- (D) **Decisions.** The Administrator shall:
  - (1) Establish deadlines for how far in advance an initial application must be submitted to be reviewed by either the City Council and/or the Planning Commission;
  - (2) Provide application materials for applicants; and
  - (3) Submit in writing to an applicant
    - (a) Specific conditions required as a part of conditional approval for any and all applications; or
    - (b) Specific reasons for denial of an application.





## 155.900 NONCONFORMITIES AND ENFORCEMENT

### § 155.901 NONCONFORMITIES

- (A) **Generally.** Nonconformities are the lots, structures, and uses of land which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or any future amendment.
- (B) **Purpose.** It is the intent of this Chapter to permit nonconformities to continue until they are removed, but not to encourage their survival.
- (C) **Safe Building Conditions.** Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any City Official whose responsibilities are directly involved with protecting public safety.
- (D) **Nonconforming Uses.**
- (1) *No Changes to Other Nonconforming Use.* A nonconforming use shall not be changed to another nonconforming use.
  - (2) *No Movement on Lot.* A nonconforming use shall not be moved in whole or in part to any other portion of the lot occupied by such use at the effective date of adoption of this Chapter.
  - (3) *Cessation of Use.* If any nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Chapter for the district in which such land is located.
  - (4) *Transfer of Ownership.* Change in ownership does not affect the new owner's ability to continue a nonconforming use provided that the new owner is in compliance with this Section.
  - (5) *Repairs and Maintenance.* Any and all necessary repairs and maintenance work on any structure that is nonconforming that houses a nonconforming use is permitted provided that the repairs and construction work completed on said structure complies with Chapter 150, *Building Regulations*.
- (E) **Nonconforming Structures.** Where a lawful structure (includes buildings) exists at the effective date of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristic of the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) *Increase in Nonconformity Prohibited.* No such structure may be enlarged or altered in any way which increases its non-conformity.
  - (2) *Movement of Structure.* Should such structure be moved for any reason for any distance it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  - (3) *Effect of Destruction.* Should such structure be destroyed by any means to an extent of more than fifty percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with provisions of this Chapter.
- (F) **Nonconforming Lots.**
- (1) *Generally.* Nonconforming lots are lots that were lawfully created before the effective date of this Chapter, but which no longer comply with the lot width, lot area, or other lot requirements of this Chapter.
  - (2) *Combination of Lots to Increase Conformity.*
    - (a) *Combination.* Where a property owner owns more than one abutting nonconforming lot, the lots shall be combined to create fully conforming lots prior to any other development application submittal for the property. Or, if full conformity is not possible, they shall be combined if the combination will increase the degree of conformity.
    - (b) *No Combination.* A property owner is not required to combine lots pursuant to Paragraph B.1, above, if:





- (i) The combination of lots would not address the nonconformity;
- (ii) The combination of lots would disrupt the lotting pattern of the street, for example, by creating an internal through on a street segment that does not include any other through lots;
- (iii) Two or more of the lots are developed with principal buildings, and the combination of lots would require that one or more of the buildings be torn down or the property undergo a Zoning Map Amendment in order to comply with this UDC; or
- (iv) The combination of lots would result in regularly shaped lots being combined into a single lot with an irregular shape, such as a flag lot.

## § 155.902 VIOLATIONS.

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- (A) **Complaints.** Any person may file a written complaint to the Administrator when a violation of this Chapter is suspected to have occurred. The Administrator shall record the complaint, immediately investigate and take action as provided in §155.903, *Penalty*.
- (B) **Notice of Violation.**
  - (1) *Mailed Notice.* The Administrator shall send a violation notice by certified mail, postage pre-paid, return receipt requested, to the property owner on which the violation is taking place.
  - (2) *Notice Contents.* The notice shall contain the violation description, address or location of property, date of noticed infraction, steps to correct the violation, and the deadline to correct the infraction.
- (C) **Timeframe for Violation to be Corrected.** Failure to correct the violation within 15 business days from the date of mailing the letter shall constitute an offense.
- (D) **Correction.** Correction of the violation in the manner stipulated by the mailed violation notice at any point during this enforcement process shall deem the notice null and void, and enforcement activity shall cease.

## § 155.903 PENALTY.

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- (A) **Misdemeanor Offense.** Violation of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor.
- (B) **Punishment.** Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction, be fined not more than \$2,000 and also, shall pay all costs and expenses involved in the case. See City Code § 10.99, *General Penalty*.
- (C) **Successive Days.** Each day such violation continues shall be considered as a separate offense.
- (D) **Associated Parties.** The owner or tenant of any full or partial building, structure, premises and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this Section.
- (E) **Other Necessary Action.** Nothing provided in this Section shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.





## 155.1000 APPLICATIONS, REVIEW, AND NOTICE

### § 155.1001 PRE-APPLICATION CONFERENCE

- (A) **Purpose.** The purpose of a pre-application conference is to familiarize the applicant with the submittal requirements and review procedures, including all applicable standards and any known constraints, hazards, or special conditions associated with the subject property.
- (B) **Recommended Step in the Process.** Pre-application conferences are not required, however they are recommended especially for first-time applicants who may not be aware of the specifics of the City's land development process.
- (C) **Submittals.** The Administrator may request that the applicant provide additional materials at the time of application submittal than those discussed or submitted to the Administrator during the pre-application conference. The rules governing
- (D) **Disclaimer.** Outcomes of the pre-application conference shall not imply, in whole or in part, any final decision on the application.
- (E) **Continuing Review Process.** After the pre-application conference has occurred, applications that require such a conference may subsequently undergo the processes established in §155.1002, *Filing of Application*.

### § 155.1002 FILING OF APPLICATION

- (A) **Generally.** Every application for development approval required by this Chapter be submitted on a form approved by the responsible official, along with the corresponding application fee.
- (B) **Authorization to Initiate an Application.** Table 155.1002-1, *Application Authorization*, denotes those who are authorized to initiate each of the application types.

Application Type	Council or Commission	Property Owner <sup>1</sup>	Party Aggrieved by an Administrative Decision <sup>1</sup>
Building Permit	No	Yes	No
Certificate of Occupancy and Compliance	No	Yes	No
Specific Use Permit	No	Yes	No
Temporary Use Permit	No	Yes	No
Site Plan	No	Yes	No
Zoning Map Amendment	Yes	Yes	No
Text Amendment	Yes	Yes	No
Zoning Variance	No	Yes	No
Appeals	No	Yes	Yes

TABLE NOTES:  
 "Yes"= Entity may initiate application | "No" = entity may not initiate application  
<sup>1</sup> Including his or her agent

- (C) **Forms and Fees.** Every application required by this Chapter shall be submitted in a format and in numbers established by the Administrator and shall include a fee as described in §155.206, *Fees and Charges*.
- (D) **Form Updates.** The responsible official shall promulgate and periodically revise forms for each type of application required by this Chapter.
- (E) **Information Required.** Application forms shall include specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the responsible official, and have the purpose of facilitating:





- (1) The evaluation of applications for compliance with the standards of this Chapter; and
  - (2) The administration of this Chapter.
- (F) **Deadlines.** The Administrator may establish periodic application submittal deadlines.

## § 155.1003 APPLICATION COMPLETENESS

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(A) **Completeness Review.**

- (1) *Administrator Responsibility.* The Administrator shall review all development review submittals for completeness.
- (2) *Meaning of Completeness.* The Administrator shall deem complete a submittal that contains:
  - (a) All of the submittal information required in the application form;
  - (b) Documents or drawings that are prepared and certified by qualified professionals (where such certifications are required);
  - (c) The application fee; and
  - (d) Any additional information that is necessary to demonstrate compliance with all of the applicable requirements of this Chapter.

(B) **Timeline for Review.** The completeness review required in subsection (A), shall be accomplished no later than five business days after an applicant submits a potential application.

(C) **Completeness Does Not Equate to Approval.** A determination of completeness does not mean that:

- (1) The contents of the submittal are accurate or that they comply with the standards of this Chapter;
- (2) The application will receive a positive recommendation or final decision from the applicable administrative body; or
- (3) During the review, additional clarification or information will not be needed.

(D) **Incomplete Applications.**

- (1) If the Administrator determines a submittal not to be complete, the Administrator shall:
  - (a) Notify the applicant in writing with a list of all missing or incomplete items; and
  - (b) Provide 10 business days for the applicant to resubmit the missing or incomplete items.
- (2) If the missing or incomplete items are not submitted within the 10-day period, then the Administrator shall deem the application rejected, shall not accept the application for filing, and shall make the submittal and application fee available to the applicant for retrieval. After the Administrator rejects an application, a new application and fee shall be required if the applicant wishes to apply again.
- (3) Incomplete or rejected applications are not considered "filed" or "submitted" for the purposes of Texas Local Government Code (TLGC) [Chapter 212](#), [TLGC Chapter 245](#), or for any other purpose.

## § 155.1004 STAFF REVIEW

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(A) **Final Decision or Distribution.** After completing the process as stated in [§155.1004, Application Completeness](#), the Administrator shall:

- (1) *Review and Comment.* Review the application and provide comments to the applicant, which may include required revisions;
- (2) *Review and Decide.* Review and make a final decision on the application; or
- (3) *Distribute.* Distribute the application to the appropriate administrative body or outside agency, including, but not limited to, utilities and school districts, for recommendation or final decision.

(B) **Required Revisions.**





- (1) *Comments.* During the application review, the Administrator may provide comments from administrative bodies, where applicable, to the applicant. The applicant shall revise and resubmit the application with requested changes.
- (2) *Resubmittal.* Upon receipt of the resubmittal, the Administrator may refer the application to any applicable outside agency again if the changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments, or require the agency's technical expertise for appropriate review.
- (C) **Administrative Recommendation or Decision.** Promptly after submittal of a complete application that addresses the comments provided pursuant to Subsection B above (or, after finding that no revisions are required):
  - (1) *Administrative Applications.* If the application is denoted in Table 155.600-1, *Summary of Procedures*, as an application with a recommendation or final decision by the Administrator, then the Administrator shall approve, conditionally approve, or deny the application, as appropriate.
  - (2) *Other Applications.* If according to §155.1005, *Public Notice*, the application requires a public meeting or public hearing prior to a final decision, then the Administrator shall forward a recommendation to the next administrative body who will consider it for further recommendation or final decision.

## § 155.1005 PUBLIC NOTICE

- (A) **Generally.**
  - (1) *Notice by Publication.* When required, shall be provided in accordance with the requirements of the Texas Local Government Code (TLGC).
  - (2) *Notice by Mail.* When required, shall be provided to each owner, as indicated by the most recently approved municipal tax roll of real property.
- (B) **Applicability.** Table 155.1005-1, *Required Notice*, sets out the specific notice required for each type of application.

Table 155.1005-1 Required Notice		
Type of Application	By Mail	By Publication
Site Development Plan	Not Required	Not Required
Building Permit	Not Required	Not Required
Certificate of Occupancy and Compliance	Not Required	Not Required
Temporary Use Permit	Not Required	Not Required
Specific Use Permit	Required	Required
Zoning Map Amendment (Rezoning)	Required	Required <sup>1</sup>
Text Amendment	Not Required	Required
Variance	Required	Required
Appeals	Not Required	Required
Table Notes:		
<sup>1</sup> Zoning Map Amendments require publication at least 15 days prior to hearing.		

- (C) **Procedural Requirements for Notice.** All notices shall describe the action proposed to be taken and the date, time, and place of the public hearing. In addition, the following requirements apply based on the type of required notice:
  - (1) *Publication Notice.*
    - (a) Notice shall be published in an official newspaper of general circulation in the City as provided by state law at least 10 days prior to the date of the public meeting. For Zoning Map Amendments, the notice shall be published in an official newspaper of general circulation in the City at least 15 days prior to the date of the public meeting.





(b) Notice shall appear on the City's website for at least ten days prior to the date of the public meeting.

(2) *Mailed Notice.*

(a) Written notice shall be sent to all owners of real property which are located within 200 feet of the subject property or within 200 feet of any other abutting property under the same ownership as the subject property.

(b) Measurements shall be taken inclusive of public streets.

(c) Such notice may be served by using the last known address as listed on the City tax roll and depositing the notice, postage paid, with the United States Postal Service (USPS).

(D) **Contents of Notice.** Contents of notice shall include:

(1) The date, time, and place of the hearing;

(2) Staff contact and phone number, a description, address, or location of the matter to be heard, and a statement that the public is invited to review and comment on the application.

## § 155.1006 INACTIVE APPLICATIONS

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(A) **Generally.** Applicants shall diligently pursue the completion of approved applications. This Section extinguishes applications that become inactive due to applicant inaction.

(B) **Voiding of Inactive Applications.**

(1) *Process to Inactivity.* An unapproved application becomes inactive after 45 days from receiving review comments if the applicant fails to completely address the City's comments, unless the Administrator determines that the applicant is actively pursuing action to address such comments. If the Administrator makes such determination, then the application will become inactive 90 days after the date of receipt of the comments if the applicant fails to completely address the comments.

(2) *Void.* Inactive applications will automatically expire and become null and void without further notice 30 days after the date when they became inactive if the applicant fails to take action or to request an extension of time.

(C) **Extension of Time.**

(1) Prior to the expiration of an inactive plat, the application may be extended for up to six months upon written request of the applicant for cause only; and

(2) If the City amends this Chapter or adopts other regulations during the period of time when the application was inactive, the application shall:

(a) Not be subject to compliance to the new regulations until the original application is considered to be voided; and

(b) The application shall be subject to the new regulations and ordinances if the period of time to request an extension lapses.

(3) An inactive application shall expire after a six-month extension lapses and if an extension was not requested.

(D) **Effect of Expiration.** Applications that expire pursuant to this Section are automatically null and void without further notice or action by the City.

## § 155.1007 SUCCESSIVE APPLICATIONS

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(A) **Generally.** It is the policy of the City not to hear successive applications for the same approval after an application is denied. The limitations of this Section prevent the consideration of successive applications.

(B) **Time Required Between Substantially Similar Applications.** The City shall not accept any application for any permit that is substantially similar to an application that was denied within a one-year period.



(C) **Appeal.** The Administrator's determination that an application is substantially similar to a denied application is subject to appeal per Sec. 155.1112, *Appeals*.





## 155.1100 PERMITS AND PROCEDURES

### § 155.1101 SUMMARY OF PROCEDURES

- (A) **Generally.** Procedures for obtaining approval pursuant to this Chapter are summarized in this Section.
- (B) **Applications and Procedures.** Each application or permit required by this Chapter is spelled out in the below table.

Table 155.1101-1 Summary of Procedures PC=Planning Commission CC=City Council BOA=Board of Adjustments Admin=Administrator						
Permit/Plan	Required For	Timing	Exceptions	Review Responsibilities		Cross-Reference <sup>1</sup>
				Recommendation	Final Decision	
Site Development Plan	All new construction	Prior to development, redevelopment, substantial improvement, or expansion of development	Single-Family Detached or Attached Dwelling in an improved subdivision and Emergency Activities	N/A	Admin	§ 155.1003
Building Permit	Construction, reconstruction, improvement, or repair of any building or structure for which an additional permit or approval is required	Prior to construction, alteration, or operation of a structure	None	N/A	Admin	§ 155.1104 Chapter 150
Certificate of Occupancy and Compliance	Certification that construction and/or new use is code compliant	Prior to occupying a structure	Single-Family Dwellings or Residential Accessory Structures	N/A	Admin	§ 155.1105 Chapter 150
Temporary Use Permit	Establishing a temporary use related to a public or commercial event	Prior to establishing a temporary use	None	N/A	Admin	§ 155.1106
Specific Use Permit	Establishing a new or amending an existing Specific Use	Prior to the establishment of a new or expansion of existing Specific Use	None	Admin	PC	§ 155.1107
Zoning Map Amendment (Rezoning)	Changing the zoning of a parcel from one district to another	Prior to a change in land use	None	PC	CC	§ 155.1108
Text Amendment	Text additions or changes to this Chapter.	Prior to amending Chapter	Non-substantive Amendment	PC	CC	§ 155.1109
Planned Unit Development (PUD)	Changing the zoning of a parcel from a conventional zoning district to PUD	Prior to a change in land use and development	None	PC	CC	§ 155.1110
Variance	Deviation from the standards of this Chapter	Prior to or concurrent with submittal of a Building Permit or Site Plan	None	Admin	BOA	§ 155.1111





Appeals	Appeals from decisions of administrative officials, the Planning and Zoning Commission, or the City Council	Within 20 days of a decision	None	--	BOA or CC	§ 155.1111
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<sup>1</sup> Cross-references are provided for convenience only and do not exempt the application from complying with all applicable standards of this Chapter, any other provision within the City's Code of Ordinances, or state law.

## § 155.1102 COMMON DECISION CRITERIA

- (A) **Generally.** In determining whether to approve, approve with conditions or modifications, or deny an application, the applicable review bodies shall consider the basic review criteria denoted in Table 155.1102-1, *Common Decision Criteria*, below.
- (B) **Additional Criteria.** Additional decision criteria may apply and are enumerated in the specific review procedures within this Chapter.

Table 155.1102-1 Common Decision Criteria									
Common Decision Criteria	Site Development Plan	Building Permits	Certificate of Occupancy and Compliance	Temporary Use Permit	Specific Use Permit	Zoning Map Amendment (Rezoning)	Text Amendment	Variance	Appeals
The request complies with the applicable standards of this Chapter, the City Code, and any applicable county, state, or federal requirements.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
The request is consistent with applicable policies of the Strategic Community Plan and applicable utility plans and capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the Strategic Community Plan, the request does not impair the implementation of Strategic Community Plan.	Yes	No	No	No	Yes	Yes	Yes	Yes	No
Adequate facilities, including public or private utilities, solid waste service, drainage, and other improvements are present or are planned	Yes	No	No	No	Yes	Yes	No	Yes	No





to be provided.									
The request substantially conforms to any associated prior approval for the development, including, but not limited to, a Specific Use Permit, Preliminary Plat, or Site Plan.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
The request promotes the purposes of this Chapter as established in Sec. §155.102, Authority, Purposes, Jurisdiction, and Applicability and in other applicable purpose statements in this Chapter.	Yes	No	No	No	Yes	Yes	Yes	Yes	No
The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the general character of the area.	Yes	No	No	No	Yes	Yes	No	Yes	No
TABLE NOTES: "Yes" = Common decision criteria applies. "No" = Common decision criteria does not apply.									

## § 155.1103 SITE DEVELOPMENT PLAN

- (A) **Generally.** A site development plan is required for any proposed development, redevelopment, and substantial improvement within the municipal boundaries of the City to ensure that applicable developments comply with all development and design standards of this Chapter and, if applicable, with the approved Specific Use Permit for the subject property.
- (B) **Exceptions.** The following activities shall not require a site development plan:
- (1) *Residential.* Construction of a single-family detached or attached dwelling in an improved subdivision; and
  - (2) *Emergencies.* Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (C) **Site Plan Requirements.** All site development plans required as part of a permit application submittal shall include the following:
- (1) *Format.*
    - (a) *Scale.* One inch equals 100 feet;
    - (b) *Size.* 24 x 36 inches;
  - (2) *Method of Submittal.* Electronic PDF file format;
  - (3) *Locations Identified.* The following items shall be accurately depicted on the plan:
    - (a) All existing or proposed buildings, structures, or improvements;
    - (b) All existing front, side, and back setback locations;





- (c) All proposed modifications to the external configuration of each building, structure, or improvement (including all carports);
- (d) Open spaces and landscaped areas; and
- (e) Parking and loading with vehicular and pedestrian circulation.

**(D) Supplemental Plans Required.**

- (1) *Landscaping Plan.* Landscaping plan showing trees to be removed or preserved, and new landscaping delineating and annotating canopy, shrub, and ground covering plantings along with any additional buffering requirements per §155.700, *Landscaping and Buffering*.
- (2) *Drainage Plan.* Drainage plan showing all detention/retention facilities providing for a 100-year storm and storm sewers or surface drainage providing for a 25-year storm.
- (3) *Engineering Plan.* Engineering plans for water, sewer, and other utilities, as well as street(s) and parking construction.
- (4) *Grading Plan.* Grading plan showing the proposed grading of all land-disturbing activities on the site tied to existing grades with cut and fill slopes that shall be no greater than a three to one ratio, except as approved by the City to meet other community or environmental objectives.

**(E) Transportation Impact Analysis (TIA).** At the discretion of the City, a TIA may be required for any site development plan if the end result, according to the Institute of Traffic Engineers Traffic Engineering Handbook, is expected to generate an increase in the average daily traffic count.

**(F) Specific Decision Criteria.**

- (1) *Review and Decision.* In determining whether to approve, approve with conditions, or deny a site development plan, the Administrator shall consider the applicable common decision criteria in §155.1102, *Common Decision Criteria*, and the following:
  - (a) The proposed development does not exceed the capacity of existing and planned infrastructure and public services including, but limited to, systems for water, sewer, drainage, transportation, solid waste removal, and public safety.
  - (b) The design of the project provides for vehicle and pedestrian accessibility and circulation within, out of, and into the development and appropriate compatibility and buffering between the development, surrounding land uses (existing or planned), and the natural environment.
  - (c) The proposed development protects public health and safety against natural and man-made hazards and nuisances which include, but are not limited to, traffic noise, water pollution, and flooding.
- (2) *Affirmative Findings.* In order to approve a site development plan, the final decision-making body shall make affirmative findings on all of the applicable decision criteria.

**(G) Post-Approval Process.**

- (1) *Construction of Improvements.* All improvements reflected on approved site development plans must be constructed at the time of development.
- (2) *Certificate of Occupancy.* A Certificate of Occupancy shall not be issued for the subject property unless and until all construction conforms to the approved site development plan and building permits.

## § 155.1104 BUILDING PERMIT

**(A) Generally.** No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Building Official.

**(B) Required Submittal Contents.**

- (1) *Site Development Plan.* An application for a building permit may be approved concurrently with a site development plan provided that all of the requirements § 155.1103, *Site Development Plan*.





- (2) **Building Code Requirements.** See Chapter 150, *Building Regulations*, in City's Code of Ordinances.
- (3) **Other Information Required.** The application shall include such other information necessary to determine conformance with, and provide for the enforcement of, this Chapter as required by the Administrator.
- (C) **Specific Decision Criteria.** In determining whether to approve, approve with conditions, or deny a building permit, the review body shall consider the applicable common decision criteria in § 155.1102, *Common Decision Criteria*, and if the finished project complies with Chapter 150, *Building Regulations*, in the City's Code of Ordinances.
- (D) **Violation.** Failure to obtain a building permit shall be a violation of this chapter and punishable under § 155.903, *Penalty*.

## § 155.1105 CERTIFICATE OF OCCUPANCY AND COMPLIANCE

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- (A) **Generally.** A Certificate of Occupancy and Compliance is to determine compliance with the provisions of this Chapter and all other applicable provisions of the City's Code of Ordinances.
- (B) **Applicability.**
  - (1) No owner shall use or permit the use of any land, structure or building, or part thereof located in any district until a Certificate of Occupancy and Compliance has been issued by the Administrator.
  - (2) A Certificate of Occupancy and Compliance may only be used for the specific land use that has been identified pursuant to its approval.
- (C) **Exceptions.** A Certificate of Occupancy and Compliance shall not be required:
  - (1) For any land, structure or building occupied principally as a single-family dwelling unless more specifically required elsewhere in this Chapter.
  - (2) For residential accessory buildings or structures, but may be included in the Certificate of Occupancy for the principal structure on the same lot, provided that such accessory structures are completed at the same time as, or subsequent to, the principal structure.
- (D) **Specific Decision Criteria.**
  - (1) *Review and Decision.* In determining whether to approve, approve with conditions, or deny a Certificate of Occupancy, the review body shall consider the applicable common decision criteria in § 155.1102, *Common Decision Criteria* and if the finished project complies with Chapter 150, *Building Regulations* in the City's Code of Ordinances.
  - (2) *Affirmative Findings.* In order to issue a Certificate of Occupancy, the final decision-maker shall make affirmative findings on all of the applicable decision criteria.
- (E) **Violation.** Failure to obtain a Certificate of Occupancy and Compliance shall be a violation of this chapter and punishable under § 155.903, *Penalty*.

## § 155.1106 TEMPORARY USE PERMIT

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- (A) **Generally.** A temporary use permit is to ensure that permitted temporary uses comply with §155.404, *Temporary Use Standards*, and other applicable requirements of this Chapter and that they do not become permanent uses or structures.
- (B) **Application Submittal.** Any person desiring a temporary use permit for any temporary use in accordance with §155.404, *Temporary Use Standards*, shall make a written application no less than 14 days prior to the starting date of the event or installation of the use, to the Administrator.
- (C) **Specific Decision Criteria.** In determining whether to approve, approve with conditions, or deny a temporary use permit, the review bodies shall consider the applicable common decision criteria in §155.1102, *Common Decision Criteria*, and the following:





- (1) The temporary use is compatible in intensity, appearance, and operation with surrounding land uses in the area, and it does not unduly impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of pollution.
- (2) The temporary use does not create any violations of the Americans with Disabilities Act, the Texas Accessibility Standards, or the accessibility standards adopted by the City.
- (3) The temporary use does not endanger or is not materially detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the temporary use.

## § 155.1107 SPECIFIC USE PERMIT

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- (A) **Generally.** The specific use permit is to determine if specific uses or specific temporary uses, as denoted in Table 155.401-2, *Permitted Uses by District*, should be allowed on a property subject to standards and a public hearing.
- (B) **Application Submission.** An application for a specific use permit shall be submitted to the Administrator for presentation to the Planning Commission at least 30 days prior to the meeting at which approval is sought.
- (C) **Decision Criteria.** In considering any application for a specific use permit, the Planning Commission shall consider the applicable common decision criteria in §155.1102, *Common Decision Criteria*, and the following:
  - (1) The specific use will not create a nuisance or be detrimental to the public welfare of the community;
  - (2) The specific use does not create an unwanted concentration of similar specific uses that is likely to discourage permitted uses by making the vicinity less desirable for them; and
  - (3) The specific use conforms to the requirements and intent of this UDC.
- (D) **Additional Conditions.** The Planning Commission may impose requirements or conditions in addition to the regulations of the district in which the particular use is located with respect to location, construction, maintenance, and operation, as they may deem necessary for the protection of the adjacent properties and public interest.
- (E) **After Approval.**
  - (1) *Certificate of Occupancy.* Following the approval of a specific use permit the Building Official shall issue Certificate of Occupancy and Compliance, as provided in §155.1105, *Certificate of Occupancy and Compliance*, and shall ensure that development is undertaken and completed.
  - (2) *Compliance with Other Requirements.* Granting of a specific use permit does not exempt the applicant from complying with the requirements of the City's Building Code or other ordinances.

## § 155.1108 ZONING MAP AMENDMENT (REZONING)

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- (A) **Generally.** A zoning map amendment, or as it is frequently referred to as a rezoning, is the means by which a property owner, City Council, or Planning Commission can request to the City that their zoning classification be changed to another classification.
- (B) **Application Submission.** The proposed amendment must be submitted at least 30 days prior to the meeting at which approval is sought.
- (C) **Required Submittal Contents.** An application for a zoning map amendment (rezoning) shall include all of the following:
  - (1) *Legal Description.* An accurate legal description that extends to the centerline of any abutting rights-of-way;
  - (2) *Map.* A map showing the area included in the proposed zoning map amendment;
  - (3) *Other Information Required.* The application shall include such other information necessary to determine conformance with, and provide for the enforcement of, this Chapter as required by the Administrator including, but not limited to a site plan or other drawings.



- (D) **Decision Criteria.** The Planning Commission and City Council shall consider applicable criteria in Table 154.502-1, *Common Decision Criteria*.
- (E) **Action by Planning Commission.**
- (1) *Recommendation to Approve or Not Approve.* At the conclusion of the joint public hearing, the Planning Commission shall deliberate and determine by majority vote whether to recommend approval or recommend to not approve the adoption of the proposed zoning map amendment.
  - (2) *Written Protest Against Recommendation to Approve.* A written protest against the Planning Commission's recommendation to approve the proposed zoning map amendment can be filed with the City by any one of the following:
    - (a) The owners of 20 percent of the land included in the proposed zoning map amendment;
    - (b) The owners of 20 percent of the land immediately adjacent to the land included in the proposed amendment and extending 200 feet therefrom; or
    - (c) The owners of 20 percent of the land directly opposite the land included in the proposed amendment and 200 feet from the street frontage of such opposite land.
- (F) **Action by the City Council.**
- (1) *Recommendation to Approve, without Protest.* If the Planning Commission recommends approval of the proposed zoning map amendment, the City Council may, by simple majority vote to approve, not approve, or approve with conditions the zoning map amendment.
  - (2) *Recommendation to Approve, with Protest.* If the Planning Commission recommends approval of the proposed zoning map amendment, but a written protest meeting Subsection E(3), above, is filed, the City Council may:
    - (a) Vote to not approve the proposed zoning map amendment with a simple majority of the City Council; or
    - (b) Vote to approve or to approve with conditions the proposed zoning map amendment with a vote of three-fourths of the City Council.
  - (3) *Recommendation to Not Approve.* If the Planning Commission recommends to not approve the Zoning Map Amendment, the City Council may:
    - (a) Vote to not approve the proposed Zoning Map Amendment with a simple majority of the City Council; or
    - (b) Vote to approve or to approve with conditions the proposed zoning map amendment with a vote of three-fourths of the City Council.

## § 155.1109 TEXT AMENDMENT

- (A) **Generally.** Requests for amendments to the text of this Chapter may be initiated by the request of the Planning Commission, City Council, or the Administrator to amend, supplement, change, modify, or repeal any portion of this Chapter that is not expressly required by Texas or Federal Law.
- (B) **Planning Commission Action.** The Planning Commission shall review the proposed text amendments and make a recommendation to the City Council on whether to approve or not approve the requirement.
- (C) **Decision by City Council.** The City Council shall:
- (1) Receive the written recommendation of the Planning Commission and staff regarding the proposed amendment;
  - (2) Hold a public hearing prior to taking action on the proposed amendment; and
  - (3) By majority vote, approve or deny the amendment, or continue the item to a future meeting.
- (D) **Decision Criteria.** In determining whether to approve a text amendment, the review bodies shall consider applicable criteria in Table 155.1102-1, *Common Decision Criteria* and consider the following additional factors (no one factor is controlling and thus requires the City Council to make a specific decision):





- (1) *Consistency.* Whether and the extent to which the proposed amendment would conflict with any portion of this Chapter or any of Chapter of the City's Code of Ordinances.
  - (2) *Effect on Natural Environment.* Whether and the extent to which the proposed amendment would not result in significantly adverse impacts on the natural environment including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
  - (3) *Community Need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
  - (4) *Adopted Planning Documents.* Whether and the extent to which the proposed amendment is compatible with the vision set forth in the City's adopted planning documents.
- (E) **Non-Substantive Amendment.** If necessary, the Administrator may without action by the Planning Commission and/or the City Council:
- (1) Correct spelling or punctuation errors;
  - (2) Cross-reference changes (because another area of City Code has been moved or changed);
  - (3) Cross-reference errors; and
  - (4) Correct other matters herein determined by the City Attorney to be non-substantive and not requiring a public notice requirement per either state law or §155.1005, *Public Notice*.

## § 155.1110 PLANNED UNIT DEVELOPMENT

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- (A) **Generally.** All PUDs approved after the effective date of this Chapter shall meet the requirements of this Section and §155.303, Planned Unit Development (PUD) Regulations.
- (B) **Zoning Map Amendment.** All property that obtains a PUD designation must be rezoned through the legislative process of §155.1108, Zoning Map Amendment (Rezoning), in addition to the requirements of this section.
- (C) **Application Submittal.** A submittal of a rezoning to a Planned Unit Development (PUD) shall require approval of a zoning map amendment concurrent with the requirements of §155.1103, Site Development Plan.
- (D) **Specific Decision Criteria.** In addition to the requirements of §155.303, Planned Unit Development (PUD) Regulations the following is required for a zoning map amendment to be approved as a PUD. Both the Planning and Zoning Commission and City Council shall approve the zoning map amendment to PUD by certifying that the following situation exists in each application to a PUD.
  - (1) *Necessity.* The PUD zone is necessary because the development cannot otherwise take place under the regulations of this Chapter.
  - (2) *Mix of Housing and Uses.* The development contains a variety of housing types, and a mix of employment opportunities or commercial services necessary to achieve a balanced community and beyond what is achievable under the by-right development options in this Chapter.
  - (3) *Design Elements.* The development makes use of landscaping, buffering, screening, natural and man-made drainage patterns, recreational amenities, circulation, and common open space to achieve an orderly and creative arrangement of all land uses with respect to each other and to the community.
  - (4) *Integrated Transportation.* The development contains a planned and integrated comprehensive transportation system providing for a separation of pedestrian and vehicular traffic, to include facilities such as roadways, bicycle ways and trails, and pedestrian walkways.
  - (5) *Phasing.* The development is phased in a manner which may be accommodated by the timely provision of public utilities, facilities, and services.





## § 155.1111 VARIANCE

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- (A) **Generally.** A variance is required to provide for any deviation from the regulations of this Chapter.
- (B) **Procedural Requirements.**
- (1) Any variance authorized is required to be entered in writing into the minutes of the Board of Adjustments (BOA) meeting specifically stating the reason(s) for which the variance was approved.
  - (2) Not less than two-thirds of the entire membership of the BOA must approve the request.
- (C) **Decision Criteria.** In addition to Table 155.1102-1, *Common Decision Criteria*, the BOA shall consider if the applicant can show the need for the variance because:
- (1) Strict adherence would cause unnecessary hardship; and
  - (2) A physical condition that is peculiar to the land.

## § 155.1112 APPEALS

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- (A) **Purpose.** The purpose of the appeals process is to provide an opportunity for affected parties to seek review of a decision of a responsible official or the Planning Commission in a timely and inexpensive way.
- (B) **Routing of Appeals.**
- (1) *Administrator Decisions.* All decisions of the Administrator, pertaining to this Chapter, may be appealed to the Board of Adjustments (BOA).
  - (2) *Planning Commission Decisions.* All decisions of the Planning Commission, pertaining to this Chapter may be appealed to the City Council.
  - (3) *Board of Adjustment Decisions.* All decisions of the BOA, may be appealed to a court of competent jurisdiction.
  - (4) *City Council Decisions.* All decisions of the City Council pertaining to this Chapter, may be appealed to a court of competent jurisdiction.
- (C) **Parties to Appeal.**
- (1) Only parties in the action shall have standing to bring an appeal. No appeal by a person who is not a party shall be heard.
  - (2) A person or entity is a party if it demonstrates:
    - (a) That final action of the City caused it injury;
    - (b) The injury is different in kind or degree from injury to members of the general public; and
    - (c) The injury can be remedied if the appeal is granted.
  - (3) The applicant is always a party, and shall not be required to demonstrate injury if:
    - (a) The applicant is appealing an adverse decision or an adverse condition of approval, in which case the applicant is a petitioner; or
    - (b) The applicant's application is the subject of an appeal by another party, in which case the applicant is a respondent.
  - (4) Any person or entity that owns property within 300 feet of any parcel line of the parcel that is the subject of the appeal shall not be required to demonstrate injury.
- (D) **Deadline to Appeal.** All appeals must be fully completed and submitted to the City 20 days after an official decision by any City official, committee, or governing body.
- (E) **Content.** The request for appeal shall clearly state each alleged error or ground for protest which the appellant intends to assert. It cannot be amended, supplemented, or modified after the public notice of meeting is posted.
- (F) **Burden of Proof in Appeals.** The BOA shall presume the appealed final decision to be valid. The appellant shall present sufficient evidence and have the burden to justify a reversal of the decision being appealed.



(G) **Decision Criteria.** The Board of Adjustments (BOA) shall review the application in the same manner, using the same approval criteria as the decision-maker. However:

- (1) No new evidence shall be presented to the BOA that was not considered by the decision-maker; and
- (2) No issues shall be reviewed by the BOA that were not described or obviously implied by the notice or request for appeal.





## CHAPTER 157: HISTORIC PRESERVATION

### Contents:

#### 157.100 HISTORIC LANDMARK DISTRICT

### 157.100 HISTORIC LANDMARK DISTRICT

#### Contents:

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#### § 157.101 PURPOSE.

The City Council declares that, as a matter of public policy, the protection, enhancement and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, education and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural and cultural resources that constitute their heritage, this act is intended to:

- (A) Protect and enhance the landmarks and districts which represent distinctive elements of the city's historic, architectural and cultural heritage;
- (B) Foster civic pride in the accomplishments of the past;
- (C) Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (D) Insure the harmonious, orderly and efficient growth and development of the city;
- (E) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- (F) Encourage stabilization, restoration and improvements of such properties and their values;
- (G) Encourage preservation and utilization of the Old Brazos River Corridor and other waterways.





## § 157.102 APPOINTMENT OF HISTORIC PRESERVATION OFFICER.

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The City Council shall appoint a qualified staff person of the municipal entity to serve as Historic Preservation Officer. This Officer shall administer this section and advise the Freeport Historical Commission (§§ 32.20 - 32.22) on matters submitted to it. In addition to serving as representative to the Commission, the Officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state and national non-profit preservation organizations.

## § 157.103 DEFINITIONS.

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For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALTERATION.** A physical change in or to a building.

**ARCHITECTURAL CONTROL.** Regulations governing the appearance or architectural style of buildings or structures. Architectural control is a form of aesthetic zoning.

**BUILDING.** A building, such as a house, barn, church, hotel or similar construction, is created to shelter any form of human activity. Building also may be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. (National Register Bulletin 24, p. 1)

**COMPREHENSIVE HISTORIC PRESERVATION PLAN.** A document that integrates the various preservation activities and gives them coherence and direction, as well as relates the community's preservation efforts to community development planning as a whole. (National Register Bulletin 24, p. 61)

**COMPREHENSIVE PLAN.** A document or series of documents prepared by a planning commission or department setting forth policies for the future of a community. Enabling statutes in many states require zoning to be in accordance with a comprehensive plan (PAS, Report No. 322, pp. 10-11)

**DESIGN REVIEW.** The decision-making process conducted by an established review committee of a local government that is guided by the terms set in the historic preservation ordinance.

**DESIGN REVIEW GUIDELINES.** These are a set of guidelines adopted by the commission that details acceptable alterations of designated properties. They are usually generously illustrated and written in a manner that would be understood by most property owners.

**DISTRICT.** A district possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. (National Register Bulletin 24, p.1)

**DUE PROCESS (OF LAW).** A requirement that legal proceedings be carried out in accordance with established rules and principals. (PAS, Report No. 322, p. 14)

**ENABLING LEGISLATION.** State legislation that grants certain authority to local governments so that they may direct the development of their communities. Chapter 211, Municipal Zoning Authority is the legislation that enables municipalities in Texas to zone and designate historic landmarks and districts as part of the comprehensive zoning plan.

**GENERAL LAW CITIES.** This refers to incorporated municipalities with populations under 5,000. These cities must conform to the general laws of the State of Texas.

**HISTORIC DISTRICT.** An area, urban or rural, defined as an "historic district" by City Council, state or federal authority and which may contain within definable geographic boundaries one or more landmarks or clusters, including their accessory buildings, fences and other appurtenances and natural resources having historical, cultural and archaeological significance and which may have within its boundaries other buildings or structures, that, while not of such historical, cultural, architectural or archaeological significance as to be designated landmarks, nevertheless contribute to the overall visual setting of or characteristics of the landmark or landmarks located within the district.





**HISTORIC PROPERTY.** A district, site, building, structure or object significant in American history, architecture, engineering, archeology or culture at the national, state or local level.

**HISTORIC RESOURCE.** This generally is the same as a HISTORIC PROPERTY. It includes architectural, historical and archeological properties as well as landscape features.

**HOME RULE CITIES.** This refers to incorporated municipalities with populations over 5,000. These cities must adopt a home rule charter and are granted more independence in their local decision making.

**INTENSIVE SURVEY.** A systematic detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance.

**INTEGRITY.** The authenticity of a property's historic identity, evidence by survival of physical characteristics that existed during the property's historic or prehistoric period.

**INVENTORY.** A list of historic properties that have been identified and evaluated as meeting specified criteria of significance.

**LANDMARK.** This refers to any individual building, structure or object that is significant for historical, architectural or archeological reasons.

**OBJECT.** The term OBJECT is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, such as statuary in a designed landscape. (National Register Bulletin 24, p. 1)

**ORDINARY MAINTENANCE.** This generally refers to activities relating to a property that would be considered ordinary or common for maintaining the property. For example, replacement of a porch floor with identical or in-kind materials. It also may include other activities such as painting.

**POLICE POWER.** The authority of local government to exercise controls to protect the public's health, safety, morals and general welfare.

**PRESERVATION.** The act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form of vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

**PRESERVATION PLANNING.** This refers to the planning for the continued identification and evaluation of historic properties and for their protection and enhancement. (National Register Bulletin 24, p. 61)

**REHABILITATION.** The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

**RESTORATION.** The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

**SITE.** A site is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value, regardless of the value of any existing structure. (National Register Bulletin 24, p. 1)

**SPECIAL DISTRICT.** A district established to accommodate a narrow or special set of uses or for special purposes. The term can signify any district beyond the conventional residential, commercial, industrial and agricultural districts. Examples include open-space districts, hotel/motel districts or historic preservation districts. The establishment of special districts must have an appropriate police power basis (these should be spelled out in the preamble or statement of purpose). (PAS, Report No. 322, p. 32)







**STRUCTURE.** The term structure is used to distinguish from buildings those functional constructions made usually for purposes other than creating shelter. (National Register Bulletin 24, p. 1)

**TAKING.** The appropriation by government of private land for which compensation must be paid. Under the U.S. Constitution, property cannot be condemned through eminent domain for public use or public purpose without just compensation. This is reasonably clear when government buys land directly. But the “taking issue” is far less clear when the imposition of police power controls. (PAS, Report No. 322, p. 34)

**ZONING.** A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement and other development standards. (PAS, Report No. 322, p. 38)

## **§ 157.104 DESIGNATION OF HISTORIC LANDMARKS.**

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- (A) These provisions pertaining to the designation of historic landmarks constitutes a part of the comprehensive zoning plan of the city.
- (B) Property owners of proposed historic landmarks shall be notified prior to the Commission hearing on the recommended designation. At the Commission’s public hearing, owners, interested parties and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural or cultural importance of the proposed historic landmark.
- (C) Upon recommendation of the Historical Commission, the proposed historic landmark shall be submitted to the Planning Commission within 30 days from the date of submittal of designation request. The Planning Commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the Historical Commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The Planning Commission shall make its recommendation to the City Council within 45 days subsequent to the public hearing on the proposed designation.
- (D) The City Council shall schedule a public hearing on the Planning Commission’s recommendation, to be held within 45 days of receipt of the recommendation of the Zoning Commission. The City Council shall give notice, follow publication procedure, hold hearing and make its determination in the same manner as provided in the general zoning ordinance of the city.
- (E) Upon designation, singularly or as a group, of a building, object, site or structure as a historic landmark or district, the City Council shall cause the designation to be recorded in the Official Public Records of Real Property of Brazoria County, the tax records of the city and the Brazoria County Appraisal District as well as the official zoning maps of the city. All zoning maps should indicate the designated landmarks with an appropriate mark.

## **§ 157.105 DESIGNATION OF HISTORIC DISTRICTS.**

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- (A) The provisions pertaining to the designation of a historic district constitutes a part of the comprehensive zoning plan of the city.
- (B) Property owners within a proposed historic district shall be notified prior to the Commission hearing on the recommended designation. At the Commission’s public hearing, owners, interested parties and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural or cultural importance of the proposed historic district.
- (C) The Commission may recommend the designation of a district if it:
- (D) Contains properties and an environmental setting which meet one or more of the criteria for designation of a landmark; and
- (E) Constitutes a distinct section of the city.





- (F) Upon recommendation of the Historical Commission, the proposed historic district shall be submitted to the Planning Commission within 30 days from the date of submittal of designation request. The Planning Commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the Commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The Planning Commission shall make its recommendation to the City Council within 45 days subsequent to the hearing on the proposed designation.
- (G) The City Council shall schedule a public hearing on the Planning Commission’s recommendation to be held within 45 days of the receipt of the recommendation of the Planning Commission. The City Council shall give notice, follow the publication procedure, hold hearings and make its determination in the same manner as provided in the general zoning ordinance of the city.
- (H) Upon designation of a historic district, the City Council shall cause the designated boundaries to be recorded in the Official Public Records of Real Property of Brazoria County, the city tax records and the Brazoria County Appraisal District as well as the official zoning maps of the city. All zoning maps should indicate the designated historic district by an appropriate mark.

### **§ 157.106 CRITERIA FOR THE DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS.**

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A historic landmark or district may be designated if it:

- (A) Possesses significance in history, architecture, archeology or culture;
- (B) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state or national history;
- (C) Is associated with the lives of persons significant in our past;
- (D) Embodies the distinctive characteristics of a type, period or method of construction;
- (E) Represents the work of a master designer, builder or craftsman;
- (F) Represents an established and familiar visual feature of the city.

### **§ 157.107 CERTIFICATE OF APPROPRIATENESS FOR ALTERATIONS OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS.**

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No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation or relocation of any historic landmark or any property within a historic district, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, landscaping, steps, paving or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any historic landmark or any property within a historic district without first obtaining a Certificate of Appropriateness from the Historical Commission.

### **§ 157.108 CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROVAL.**

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In considering an application for a Certificate of Appropriateness, the Historical Commission shall be guided by any adopted design guidelines and, where applicable, the following from The Secretary of the Interior’s Standards for the Rehabilitation of Historic Buildings. Any adopted design guidelines and Secretary of the Interior’s Standards shall be made available to the property owners of historic landmarks or within historic districts.

- (A) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object or site and its environment.
- (B) The distinguishing original qualities or character of a building, structure, object or site and its environment, shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.





- (C) All buildings, structures, objects and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier, or later, appearance shall be discouraged.
- (D) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
- (E) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object or site shall be kept where possible.
- (F) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (G) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (H) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
- (I) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
- (J) Wherever possible, new additions or alterations to buildings, structures, objects or sites shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object or site would be unimpaired.

## **§ 157.109 CERTIFICATION OF APPROPRIATENESS APPLICATION PROCEDURES.**

- (A) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Historical Commission. The application shall contain:
  - (1) Name, address, telephone number of applicant, detailed description of proposed work and legal description of the site;
  - (2) Location and photograph of the property and adjacent properties;
  - (3) Elevation drawings of the proposed changes, if available;
  - (4) Samples of materials to be used;
  - (5) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property;
  - (6) Any other information which the Historical Commission may deem necessary in order to visualize the proposed work.
- (B) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historical Commission. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any other building permit that may be required by another ordinance of the city.
- (C) All certificates of appropriateness must be approved by the Building Official pursuant to applicable codes including the Southern Building Code, Ch. 1, § 101.6, "Special Historic Buildings"; the Standard Existing Building Code, Ch. 3, "Historic Structures"; the Standard Mechanical Code, Ch. 1, § 101.6, "Special Historic Buildings"; the Standard Fire Prevention Code, Ch. 1, § 101.6, "Special Historic Buildings"; the Standard Gas Code, Ch. 1, § 101.6; and the Standard Plumbing Code, Ch.1, § 101.6, as enacted or amended.





- (D) The Historical Commission shall review the application at a regularly scheduled meeting within 60 days from the date the application is received, at which time an opportunity will be provided for the applicant to be heard. The Historical Commission shall approve, deny, or approve with modifications the permit within 45 days after the review meeting. In the event the Historical Commission does not approve, deny, or approve with modification within 90 days of the receipt of the application, a permit may be granted.
- (E) All decisions of the Historical Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on that property and dispersed to appropriate city departments, e.g. building inspection.
- (F) An applicant for a certificate of appropriateness dissatisfied with the action of the Historical Commission relating to the issuance or denial of a certificate of appropriateness shall have the right to appeal to the City Council or any other appropriate board within 30 days after receipt of notification of such action. The City Council shall give notice, follow publication procedure, hold hearings and make its decision in the same manner as provided in the general zoning ordinance of the city.

### **§ 157.110 CERTIFICATE OF APPROPRIATENESS REQUIRED FOR DEMOLITION.**

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A permit for demolition of a historic landmark or property within a historic district, including secondary buildings and landscape features, shall not be granted by the Building Official without the review of a completed application for a certificate of appropriateness by the Historical Commission, as provided for in divisions (G), (H), and (I).

### **§ 157.111 ECONOMIC HARDSHIP AND APPLICATION PROCEDURE.**

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- (A) After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Historical Commission makes a finding that hardship exists.
- (B) When a claim of economic hardship is made due to the effect of this section, the owner must prove that:
  - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
  - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (C) The applicant shall consult in good faith with the Historical Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Historical Commission.
- (D) The Historical Commission shall hold a public hearing on the application within 60 days from the date the application is received by the Building Official. Following the hearing, the Historical Commission has 30 days in which to prepare a written recommendation to the Building Official. In the event that the Commission does not act within 90 days of the receipt of the application, a permit may be granted.
- (E) All decisions of the Historical Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Secretary's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.
- (F) An applicant for a certificate of appropriateness dissatisfied with the action of the Commission relating to the issuance or denial of a certificate of appropriateness shall have the right to appeal to the City Council within 30 days after receipt of notification of such action. The City Council shall give notice, follow publication procedure, hold hearings and make its decision in the same manner as provided in the general zoning ordinance of the city.





## **§ 157.112 ENFORCEMENT.**

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All work performed pursuant to a certificate of appropriateness issued under this section shall conform to any requirements included therein. It shall be the duty of the Building Official to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Commission and verification by the Building Official, the Building Official shall issue an appropriate stop work order and such work shall immediately cease. No further work shall be undertaken on the project as long as a stop work is in effect.

## **§ 157.113 ORDINARY MAINTENANCE.**

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Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, color or outward appearance. In-kind replacement or repair is included in this definition of ordinary maintenance.

## **§ 157.114 DEMOLITION BY NEGLECT.**

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- (A) No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole or in the life and character of the property itself. Examples of such deterioration include but are not limited to:
- (1) Deterioration of exterior walls or other vertical supports.
  - (2) Deterioration of roofs or other horizontal members.
  - (3) Deterioration of exterior chimneys.
  - (4) Deterioration or crumbling of exterior stucco, mortar or paint.
  - (5) Ineffective waterproofing of exterior walls, roof, or foundation, including broken windows or doors.
  - (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Ord. 1100-91-2, passed 4-1-91) Penalty, see § 155.999