

AGENDA

**PLANNING & ZONING COMMISSION WORKSHOP MEETING
WEDNESDAY, SEPTEMBER 25, 2024 - 2:30 PM
MCALLEN CITY HALL, 1300 HOUSTON AVENUE
CITY COMMISSION CHAMBERS, 3RD FLOOR**

At any time during the course of this meeting, the Planning & Zoning Board may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Planning & Zoning Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the Planning and Zoning Commission may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code -

1) PRESENTATION

- a) Presentation of the Unified Development Code**

ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE PLANNING & ZONING COMMISSION MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

Memo

TO: Planning and Zoning Commission
FROM: Edgar I. Garcia, AICP, CNU-A, CPM, Director of Planning & Zoning
DATE: September 4, 2024
SUBJECT: UNIFIED DEVELOPMENT CODE

BACKGROUND: With Envision McAllen’s adoption last May, the next step in streamlining development in McAllen is adoption of a Unified Development Code (UDC). UDCs combine zoning, subdivision, and other regulations into one cohesive document for ease of interpretation and use. City staff, alongside with the City’s Ordinance Review Committee, have reviewed our consultant’s proposals and made revisions and amendments as needed. The UDC was released for public comment on September 9th and will remain open until October 9th, 2024.

UDC CHANGES: The full UDC was included in your packet, but a below is a summary of the most impactful changes aimed at making development in McAllen swift and less cumbersome.

Of particular note is the decreased lot widths and increased maximum heights found in the residential districts. This is in response to what we’ve heard from developers that they’ve seen in the market. Setbacks are also being updated with these new minimums in mind.

Another change we are proposing in reaction to developer comments is the allowing of detached duplexes in R-2 zones. Developers will now no longer need an apartment zoning for detached duplex developments. Generally speaking, however, residential districts other than single-family zones will allow for more diverse housing choices, focusing on missing middle housing.

Our zoning districts will get streamlined with some consolidation of zones as well as the introduction of mixed-use zoning districts (see *Table 1*). With the proposed consolidation, comes changes in permitted and restricted uses. However, the UDC now includes a Zoning District Use Table that will help the public easily discern what is permitted, prohibited, and requires a conditional use permit in each district.

Table 1. Zoning District Changes

District Category	Applicable Zoning District	Previous Zoning District	
Base	A-O	A-O	
	R-1	R-1	
	R-2	R-2	
	R-3		R-3A
			R-3C
			R-3T
	C-1		C-1
			C-2
			C-3L
	C-2	C-3	
I-1		I-1	
		C-4	
I-2	I-2		
Special	M-1*		
	M-2*		
	C-C*		
	PUD		
Overlay	T-O*		
Notes	* = New zoning district		

Maximum heights and setbacks will be getting changed to allow denser properties and give developers more freedom to build as they see best to maximize their property's potential.

Accessory Dwelling Units (ADUs) otherwise known as casitas, guest homes, granny flats, etc. will now be allowed by right but there are size limitations dependent on the residential zone on which it is being proposed. Generally speaking, though, this will avoid another process that homeowners would have normally have to go through to get their building permits.

Parking requirements are being greatly reduced with most uses requiring half the parking of today's standards. This will allow developers to better utilize their property instead of paving over it for parking. On the subject of parking, we are now introducing bicycle parking requirements as part of making the city more open to all transportation modes.

The landscaping section largely mirrors our current landscaping code. The required landscaped lot percentage remains the same. However, the UDC is proposing to give the Planning Director discretion to approve minor modifications to requirements when the paved area is less than 10,000 sq. ft. and when there are practical difficulties in meeting requirements.

All new lighting located within lots will be required to incorporate light fixtures that light from illuminating the sky.

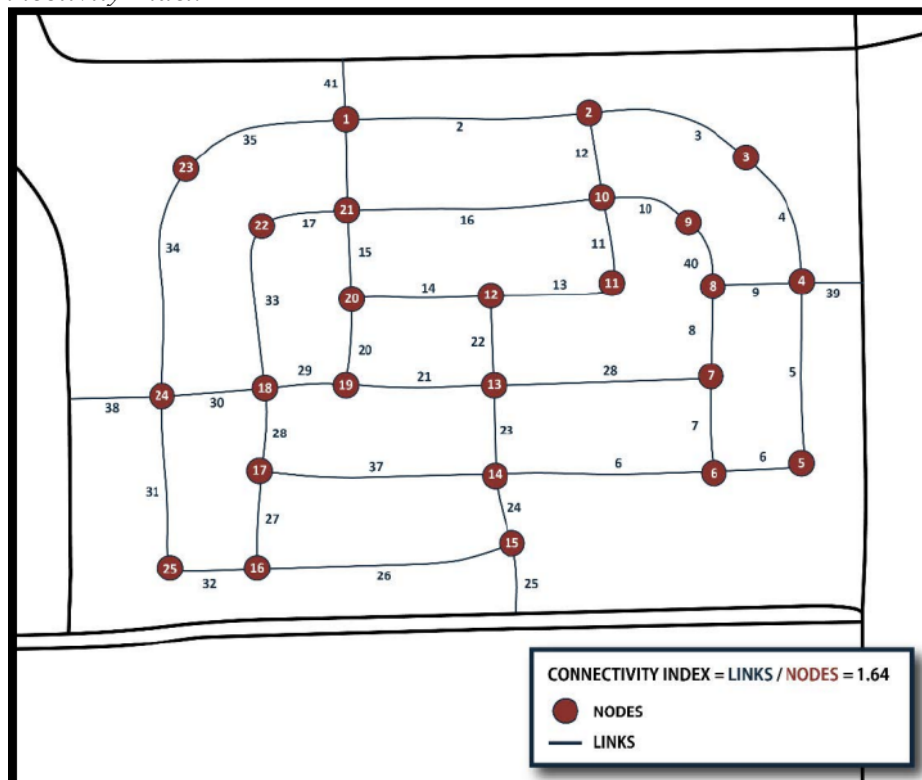
An important change towards easing development is that Conditional Use Permit (CUP) requirements will be changing. For example, institutional uses such as schools, nonprofits, and churches will no longer need a Conditional Use Permit (CUP). These uses will be allowed by right in all zoning districts. Other CUP changes are proposed to allow more uses by right, thus, reducing wait times for businesses.

On the subdivision side of things, the overall platting process remains similar and include equal exemptions to platting as allowed by State law.

In terms of regulations, block length maximums are proposed to be reduced to continue the move towards a more walkable and better-connected city. Along this same line, we are proposing for all new subdivisions provide connections to existing or proposed trail systems; this would not replace our parkland dedication/fee requirement.

For further connectivity, the new code introduces a Connectivity Index which all new subdivisions must meet. This will help ensure that as McAllen continues to grow, all its subdivisions will be better connected, thus, allowing for a smoother flow of traffic as the connections provide the availability of different paths to our residents.

Table 2. Connectivity Index



In line with state law updates, the Planning Director will now be able to approve preliminary plats. While not expected to replace or diminish the Planning and Zoning Commission's role, it will help out when a subdivision is close to meeting the 30-day statutory shot clock. We will be able to avoid calling special meetings of P&Z.

The new Street Design Standards will be taking into account the findings and recommendations of Vision Zero. The different typologies will be broken up into three separate contexts (urban, suburban, and rural) that will dictate minimum rights-of-way, pavement, number of travel lanes, and streetscaping.

Site Design Requirements are one of the most innovative features in our new code. This section allows flexibility in building requirements when a building incorporates certain design aspects. For example, a maximum heights and maximum densities can be increased by a certain percentage. So, if a developer needed more density or a higher building, there is an avenue for them without resorting to a Zoning Board of Adjustment variance.

The Infill Development Standards section is included to allow for an easier path to redevelopment of older areas of town that would have practical difficulties in meeting newer standards. Essentially, setbacks, building height, and lot requirements would match the surrounding developments as opposed to newer standards. The Planning Director would also be empowered to grant minor modifications to setbacks if compliance issues remain.

Nonconforming structures will be given more liberty than they currently have. A nonconforming structure will be able to expand one time by as much as twenty-five percent (25%) of its square footage. Currently, no increase was allowed. This increase will be at the Planning Director's discretion and can be approved without a need to go to boards.

Overall, the UDC provides charts and table throughout it to ease the understanding of it by any and all McAllen residents, developers, engineers. These illustrations also serve as guide so all parties are on the same page as to what is meant when discussing certain items (see examples below).

Illustration 1. Different types of defined lots

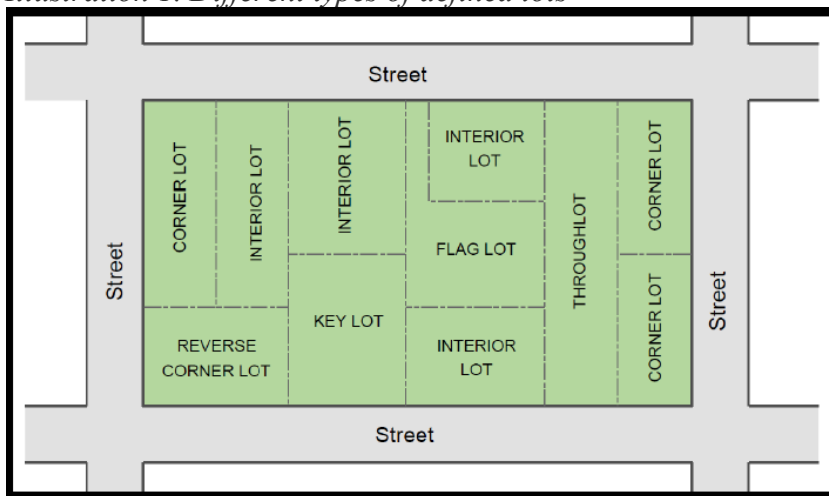


Illustration 2. Yards and Setbacks Summary

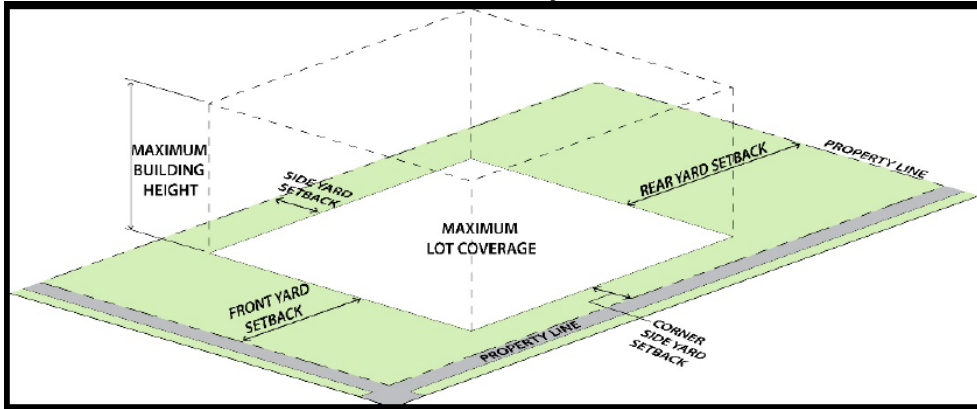
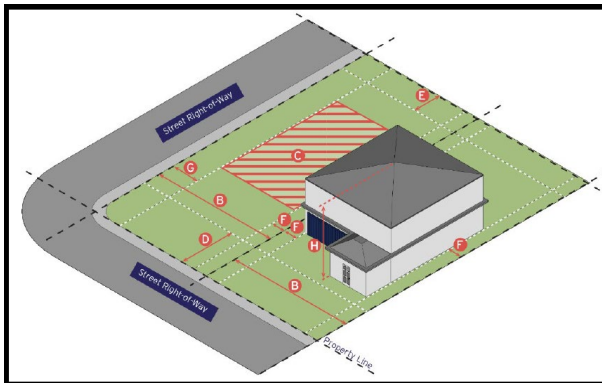


Illustration 3. Low-Density Residential District with Accompanying Regulations



Low-Density Residential (R-1) District		
Lot Requirements		
A	Lot Area (min.)	5,000 square feet
B	Lot Width (min.)	45 feet
C	Lot Coverage (max.)	50%
Setback Requirements		
D	Front Yard (min.)	20 feet

CONCLUSION: The proposed UDC falls in line with the American Planning Association Award-winning Envision McAllen Comprehensive Plan adopted by City Commission last year. It is innovative, flexible, and agile enough to keep up with the development we’ve seen in McAllen. Further, it will continue to maintain McAllen’s high quality of life that keeps it at the forefront of the Rio Grande Valley. We believe this Code will ultimately prove beneficial to the development community as well as the residents of McAllen.

UDC DRAFT

July 22, 2024

- Article I. General Provisions..... 3
 - Division 1. Generally..... 3
 - Division 2. Legal Provisions..... 5
- Article II. Zoning Districts 7
 - Division 1. Generally..... 7
 - Division 2. Base Districts 9
 - Division 3. Special Districts..... 26
 - Division 4. Overlay Districts..... 34
- Article III. Uses 35
 - Division 1. Generally..... 35
 - Division 2. Use-Specific Regulations 47
 - Division 3. Accessory Use Regulations 62
 - Division 4. Temporary Use Regulations 71
- Article IV. Development Standards 74
 - Division 1. Generally..... 74
 - Division 2. Dimensional Standards..... 76
 - Division 3. Site Design Requirements 83
 - Division 4. Parking..... 92
 - Division 5. Loading..... 98
 - Division 6. Landscaping..... 102
 - Division 7. Screening and Fencing..... 109
 - Division 8. Outdoor Lighting..... 117
 - Division 9. Refuse Containers and Enclosures..... 122
 - Division 10. Signs 124
 - Division 11. Infill Development Standards..... 177
 - Division 12. Performance Standards..... 180
- Article V. Subdivision Regulations..... 182
 - Division 1. Generally..... 182

Division 2. Platting 188

Division 3. Subdivision Design Standards and Required Improvements..... 192

Division 4. Construction of Public Improvements 237

Article VI. Procedures 249

 Division 1. General Procedures 249

 Division 2. Zoning and Development Procedures 264

 Division 3. Subdivision Procedures 291

 Division 4. Relief Procedures 312

Article VII. Nonconformities 331

 Division 1. Generally 331

 Division 2. Nonconformity-Specific Regulations..... 332

Article VIII. Enforcement 337

 Division 1. General Enforcement Procedures..... 337

 Division 2. Remedies and Penalties 340

 Division 3. Demolition by Neglect or Without a Certificate of Appropriateness 341

Article IX. Approval Authorities 343

 Division 1. Quasi-Legislative Bodies and Personnel 343

 Division 2. Administrative Bodies and Personnel 348

Article X. Definitions 350

 Division 1. Generally 350

 Division 2. Defined Terms..... 351

Article XI. Appendix A: Historic Districts, Landmark Properties, and Heritage Properties 401

Article XII. Format Reference. 408

 Division 1. Text. 408

Article I. General Provisions

Division 1. Generally

Section 140-1. Title

This Chapter is referred to as the “McAllen Unified Development Code” or “UDC.”

Section 140-2. Purpose

- (a) *Generally.* The UDC implements the purposes established in Texas Local Government Code Sections 211.001 and 211.004:
- (1) Implements McAllen’s Comprehensive Plan;
 - (2) Promotes the public health, safety, morals, and general welfare;
 - (3) Protects and preserves places and areas of historical, cultural, or architectural importance and significance; and
 - (4) Provides for efficient and effective processing of zoning and land use applications.
- (b) *Establishment.* In interpreting and applying this UDC, this UDC establishes the minimum requirements to promote public safety, health, and general welfare.

Section 140-3. Authority

- (a) *Texas State Law.* The following chapters and sections of the laws of the State of Texas authorizing the exercise of authority in this UDC:
- (1) Texas Local Government Code, including:
 - a. Chapter 41 (Municipal Boundaries);
 - b. Chapter 42 (Extraterritorial Jurisdiction of Municipalities)
 - c. Chapter 43 (Municipal Annexation);
 - d. Chapter 54 (Enforcement of Municipal Ordinance);
 - e. Chapter 211 (Municipal Zoning Authority);
 - f. Chapter 212 (Municipal Regulation of Subdivisions and Property Development);
 - g. Chapter 213 (Municipal Comprehensive Plans);
 - h. Chapter 214 (Municipal Regulation of Housing and Other Structures);
 - i. Chapter 215 (Municipal Regulation of Businesses and Occupations);
 - j. Chapter 216 (Regulation of Signs by Municipalities)
 - k. Chapter 217 (Municipal Regulation of Nuisances and Disorderly Conduct); and

1. Chapter 243 (Municipal and County Authority to Regulate Sexually Oriented Business).
 - (2) Texas Government Code, including Chapters 311 (Code Construction Act) and 312 (Construction of Laws), to the extent applicable to this Chapter.
 - (3) Texas Water Code, including the Flood Control and Insurance Act [(Secs. 16.311 through 16.324) (also see 44 C.F.R part 60 (Requirements for Flood Plain Management Regulations)].
- (b) *Exercise of Powers.* This UDC is adopted in the exercise of the power granted by municipalities by these statutes and the City Charter of McAllen.
- (c) *Fees Established.* City Commission shall establish a schedule of fees as required to recoup costs related to the administration of this UDC.

Section 140-4. Applicability

- (a) *Generally.* This UDC applies to all regulations and other matters pertaining to the use and development of land, including zoning, subdivisions, platting, floodplains, and infrastructure as they relate to the purpose and intent of this UDC and enumerated below.
- (b) *Zoning Regulations.* Zoning regulations, including zoning districts, land uses, and development standards, in this UDC apply to all areas within McAllen's corporate limits.
- (c) *Subdivision Regulations.* Subdivision and platting regulations in this UDC apply to all areas within McAllen's corporate limits and extraterritorial jurisdiction (ETJ).
- (d) *Building Permits.*
- (1) Any reference to the issuance of building permits by the City applies only to McAllen's corporate limits, unless the property owner has contracted through subdivision plat restrictions, or another legal instrument, to extend the City's authority to issue building permits for construction on its property.
 - (2) Any reference to the authority of the City to inspect the construction of necessary subdivision improvements apply within the McAllen's corporate limits, unless the property owner so contracted with the City through subdivision plat restrictions, or another legal instrument.
- (e) *Easements, Covenants, and Private Agreements.* This UDC does not interfere with, abrogate, or annul any easements, covenants, or other agreements between parties.

Section 140-5. Consistency with Comprehensive Plan

The City finds that this UDC is consistent with its Comprehensive Plan. The comprehensive plan policies provide guidance in the evaluation of future decisions relevant to municipal planning.

Division 2. Legal Provisions

Section 140-6. Relationship to Other State, Federal, and Local Provisions

- (a) *Generally.* If this UDC imposes a greater restriction upon the use of buildings or premises or building height or requires larger open spaces than are required by other ordinances, rules, regulations, easements, covenants, or agreements, this UDC governs.
- (b) *Conflict with State or Federal Regulations.* If the provisions of this UDC are inconsistent with state or federal law, the more restrictive provision governs, to the extent allowed by law. The more restrictive provision is the one that imposes more stringent controls.
- (c) *Conflict with other City Regulations.* If the provisions of this UDC are inconsistent with one another or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision governs unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.
- (d) *Conflict with Plat Restrictions.*
 - (1) Nothing in this UDC invalidates any plat restriction authorized by the Planning and Zoning Commission or City Commission, nor any provision of adopted building codes.
 - (2) Building setback lines included in a recorded subdivision plat approved by the Planning and Zoning Commission control over general setback provisions required under the zoning provisions of this UDC.
- (e) *Conflict with Building Code Requirements.*
 - (1) No building setback shall be less than that specified for the type of construction proposed by adopted building codes.
 - (2) The Zoning Board of Adjustment has no authority to reduce any building setback required under adopted building codes.

Section 140-7. Private Restrictions

This UDC does not abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. However, if the provisions of this UDC are more restrictive or impose higher standards than any private restriction, the requirements of this UDC control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this UDC, the private restrictions control if properly

enforced by a person having the legal right to enforce those restrictions. The City does not enforce private restrictions.

Section 140-8. Severability

If any article, division, section, paragraph, clause, phrase, or provision of this UDC is, for any reason, adjudged invalid or held to be unconstitutional, the invalidity or unconstitutionality of that particular article, section, paragraph, subdivision, clause, phrase or provision so declared does not affect the validity or constitutionality of the remaining provisions of this UDC, but the same, and each of them, remain in full force and effect.

Section 140-9. Repeal of Existing Ordinances

- (a) *Repeal.* Any ordinance inconsistent with the terms and provisions of this UDC is repealed (*Chapter 130 – Signs, Chapter 134 – Subdivisions, Chapter 138 – Zoning*). That repeal, however, is only to the extent of any inconsistency. In all other respects, this ordinance is cumulative of other ordinances regulating the same subject matter.
- (b) *Fire Prevention, Health, Sanitation, and Safety.* Any inconsistency does not reduce the requirements of those regulations pertaining to fire prevention, health, sanitation or safety of persons or property enacted by the City. If any restriction, prohibition, or provision of this UDC conflict with those provisions or any laws of the State of Texas, or with regulations of State or Federal regulatory bodies having jurisdiction:
 - (1) If the provision of this UDC is not preempted, the more restrictive restriction, regulation, prohibition, or provision applies, or
 - (2) If the state or federal law preempts a provision of this UDC, the state or federal law applies.

Section 140-10. Effective Date

This UDC takes effect upon adoption of the ordinance from which it is derived by the City Commission. The provisions of this UDC supersede all other development regulations governing the development of land within the City. All development applications and proposals filed on or after the effective date of the ordinance from which this UDC is derived, whether for new developments or for additions or expansions of existing developments, shall be processed in accordance with the standards and requirements and pursuant to the procedures established in this UDC.

Article II. Zoning Districts

Division 1. Generally

Section 140-11. Generally

- (a) The use, erection, construction, reconstruction, relocation, or alteration of any building, structure, or land shall comply with the regulations of this article for the zoning district in which the building, structure, or land is located.
- (b) Article IV. Division 2. establishes the rules for applying the dimensional standards in the zoning districts. These include height, lot area, density, and yard requirements. All buildings, structures, and lots in the zoning district must comply with the dimensional standards established for that district. Nothing in this article authorizes an encroachment within any easements or plat restrictions, unless otherwise specified.

Section 140-12. Zoning Districts Established

- (a) *Generally.* The City is geographically divided into the following base, overlay, and special zoning districts. The zoning districts are established according to *Table 12-1*.
 - (1) Base districts capture the major development categories, including residential and nonresidential uses and activities. Each base district includes permitted uses and dimensional standards.
 - (2) Special districts establish additional standards, but some standards may be unique to individual developments as determined through a site plan approval process.
 - (3) Overlay districts establish additional standards within a base or special district.
- (b) *Zoning District Equivalency.* See *Table 12-1*.

Table 12-1: Zoning District Equivalency

District Category	Applicable Zoning District	Previous Zoning District	
Base	A-O	A-O	
	R-1	R-1	
	R-2	R-2	
	R-3		R-3A
			R-3C

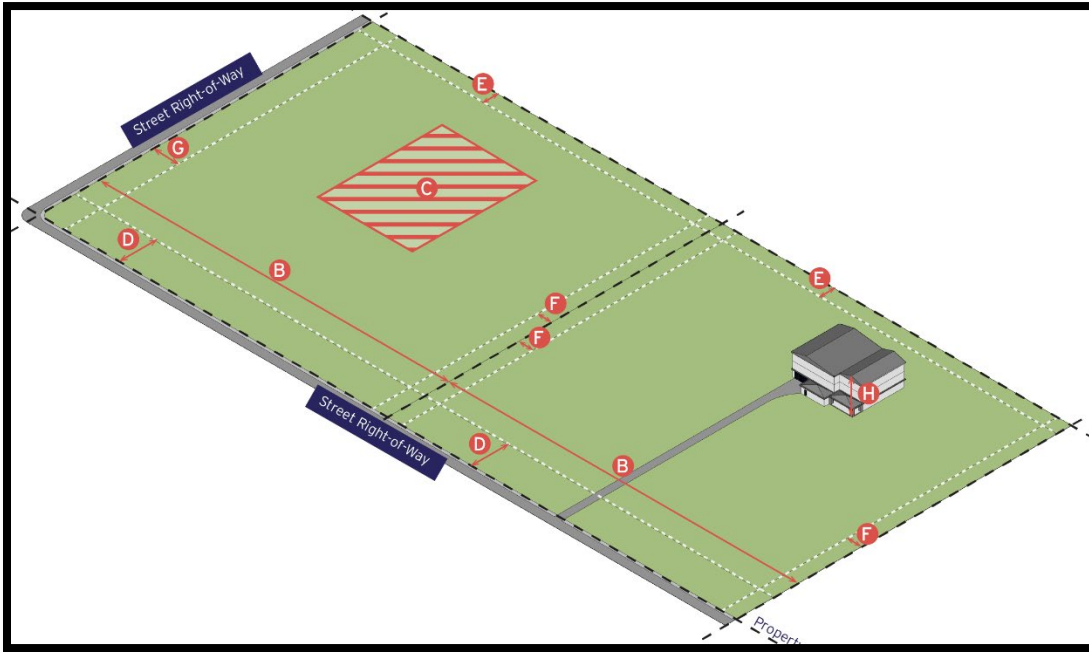
District Category	Applicable Zoning District	Previous Zoning District
		R-3T
	C-1	C-1
		C-2
		C-3L
	C-2	C-3
	I-1	I-1
		C-4
	I-2	I-2
Special	M-1*	
	M-2*	
	C-C*	
	PUD	
Overlay	T-O*	
Notes	* = New zoning district	

Section 140-13. Zoning Map

The zoning districts and their boundaries are adopted and established as shown on the Zoning Map of the City of McAllen, Texas. The Zoning Map includes all notations, references, data, district boundaries and other associated information, and is adopted as part of this UDC. The Zoning Map, properly attested, is on file in the office of the City Secretary and displayed as a GIS layer on the City’s website. The Zoning Map may be amended as provided in Article VI.

Division 2. Base Districts

Section 140-14. Agricultural and Open Space (A-O) District



- (a) *Purpose.* The Agricultural and Open Space (A-O) District provides, preserves, and maintains large tracts of undeveloped land for agricultural pursuits such as crop production and farming, ranching and raising livestock, wildlife management, and agrarian lifestyle practices. This district protects agricultural areas from encroachment of urban and suburban development. This district implements the character and intent of the Comprehensive Plan’s Conservation Land Use Category.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Agricultural and Open Space (A-O) District shall follow the standards in *Table 14-1*.

Table 14-1: A-O District Dimensional Standards

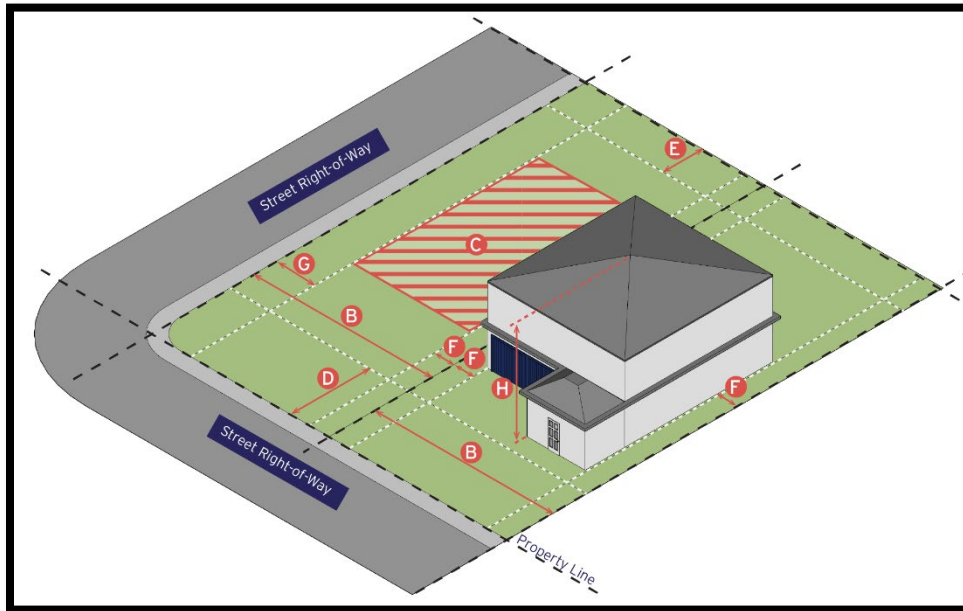
Agricultural and Open Space (A-O) District		
Lot Requirements		
A	Lot Area (min.)	5 acres
B	Lot Width (min.)	150 feet
C	Lot Coverage (max.)	10%

Agricultural and Open Space (A-O) District		
<i>Setback Requirements</i>		
D	Front Yard (min.)	50 feet
E	Rear Yard (min.)	20 feet
F	Side Yard (min.)	20 feet
G	Corner Side Yard (min.)	35 feet
<i>Building Requirements</i>		
H	Building Height (max.)	35 feet
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses		
Article IV. – Development Standards		

(d) *Special Regulations.*

- (1) The Agricultural (A-O) district is the district to be assigned to newly annexed properties unless a different district is selected for initial zoning.
- (2) Entrances to a garage or carport shall be a minimum of eighteen (18) feet from streets or alleys unless otherwise specified by the Planning and Zoning Commission.

Section 140-15. Low-Density Residential (R-1) District



- (a) *Purpose.* The Low-Density Residential (R-1) District is designed to primarily accommodate low-density single-family residential development supported by parks, open space, cultural, and educational amenities. This district implements the character and intent of the Comprehensive Plan’s Complete Community, Parks and Open Space, and Public/Semi-Public Land Use Categories.
- (b) *Uses.* See Table 29-1 and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Low-Density Residential (R-1) District shall follow the standards in Table 15-1.

Table 15-1: R-1 District Dimensional Standards

Low-Density Residential (R-1) District		
<i>Lot Requirements</i>		
A	Lot Area (min.)	5,000 square feet
B	Lot Width (min.)	45 feet
C	Lot Coverage (max.)	50%
<i>Setback Requirements</i>		
D	Front Yard (min.)	20 feet

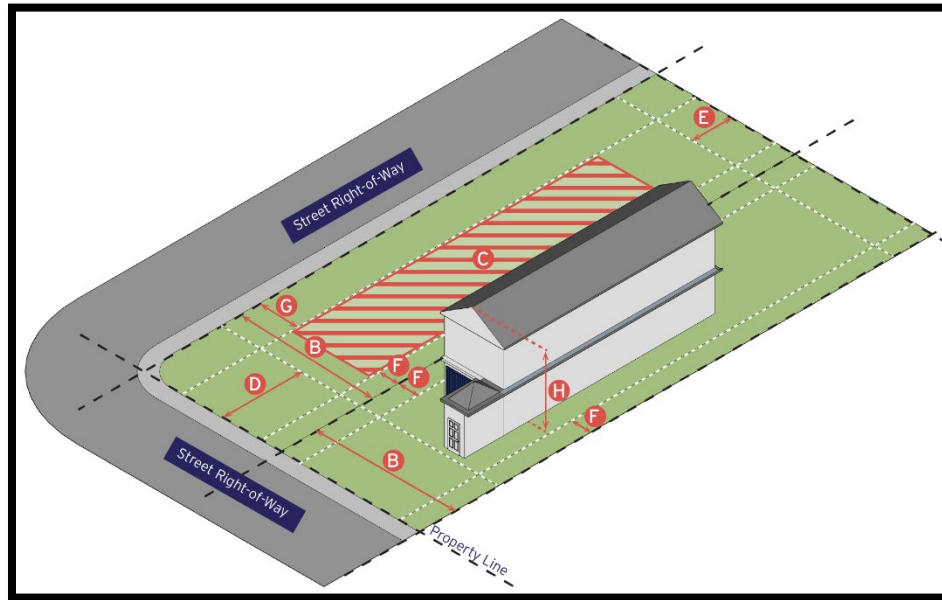
Low-Density Residential (R-1) District		
E	Rear Yard (min.)	10 feet
F	Side Yard (min.)	5 feet
G	Corner Side Yard (min.)	10 feet
<i>Building Requirements</i>		
H	Building Height (max.)	35 feet
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses		
Article IV. – Development Standards		

(d) *Special Regulations.*

- (1) No zero property line dwelling shall encroach over any side property line.
- (2) The Low-Density Residential (R-1) District shall not be located within one thousand (1,000) feet of a designated McAllen Thoroughfare Plan highway¹. This distance shall be measured from the right-of-way center line to the nearest residential property line.
- (3) Entrances to a garage or carport shall be a minimum of eighteen (18) feet from streets or alleys unless otherwise specified by the Planning and Zoning Commission.

¹ This term will align with the largest thoroughfare classification (i.e., highway, freeway, etc.)

Section 140-16. Medium-Density Residential (R-2) District



- (a) *Purpose.* The Medium-Density Residential (R-2) District provides for medium-density residential development with a diversified range of housing choices. This district encourages a mix of single-family, two-family, and multi-family residential uses and incentivizes community amenities to form compact, accessible, walkable, and equitable neighborhoods. This district implements the character and intent of the Comprehensive Plan’s Complete Community, Mixed Density Complete Neighborhood, Parks and Open Space, and Public/Semi-Public Land Use Categories, while promoting "missing middle housing" development.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Medium-Density Residential (R-2) District shall follow the standards in *Table 16-1*.

Table 16-1: R-2 District Dimensional Standards

Medium-Density Residential (R-2) District		
<i>Lot Requirements</i>		
A	Lot Area (min.)	4,500 square feet
B	Lot Width (min.)	35 feet
C	Lot Coverage (max.)	60%

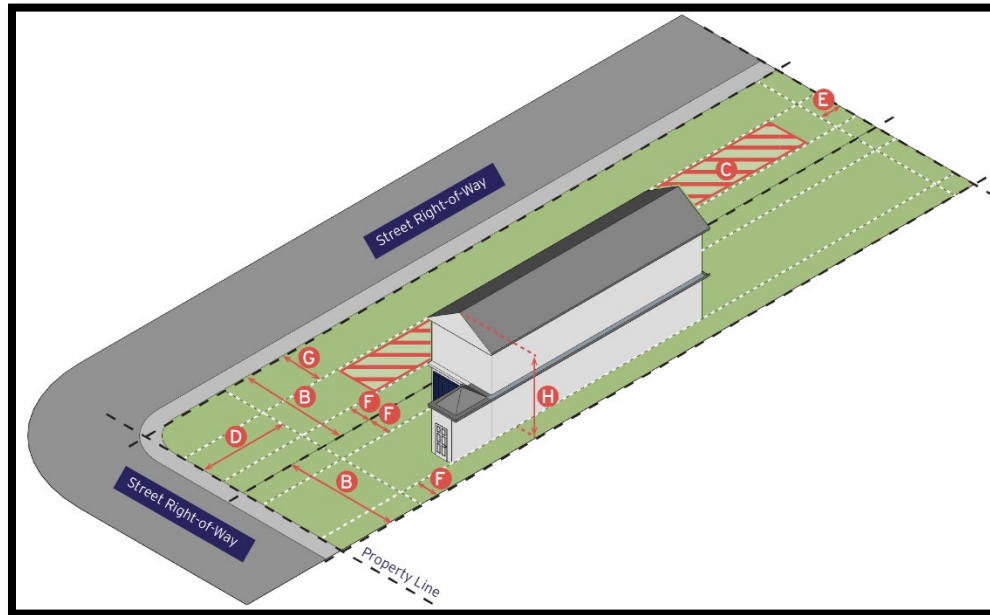
Medium-Density Residential (R-2) District		
<i>Setback Requirements</i>		
D	Front Yard (min.)	20 feet
E	Rear Yard (min.)	10 feet
F	Side Yard (min.)	5 feet
G	Corner Side Yard (min.)	10 feet
<i>Building Requirements</i>		
H	Building Height (max.)	35 feet
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses		
Article IV. – Development Standards		

(d) *Special Regulations.*

- (1) No zero property line dwelling shall encroach over any side property line.
- (2) Any minimum lot area for a triplex, fourplex, courtyard apartment, or bungalow court shall be nine thousand (9,000) square feet.
- (3) The minimum lot area for a townhouse shall be two thousand, two-hundred fifty (2,250) square feet with a minimum lot width of twenty (20) feet.
- (4) Where a townhouse is not separated from an adjacent structure by a firewall, the setback from each side property line shall be five (5) feet each side. Where separated by a firewall, the side setback for the shared wall is zero (0) feet. Side yard setback on corner lots shall be ten (10) feet.
- (5) The Medium-Density Residential (R-2) District shall not be located within five hundred (500) feet of a designated McAllen Thoroughfare Plan highway². This distance shall be measured from the right-of-way center line to the nearest residential property line.
- (6) Entrances to a garage or carport shall be a minimum of eighteen (18) feet from streets or alleys unless otherwise specified by the Planning and Zoning Commission.

² This term will align with the largest thoroughfare classification (i.e., highway, freeway, etc.)

Section 140-17. High-Density Residential (R-3) District



- (a) *Purpose.* The High-Density Residential (R-3) District provides for high-density residential development, targeting well-designed multi-family uses serving as a transition between medium-density residential development and commercial nodes. This district encourages multi-family uses with site development characteristics that accommodate open space and access to light and air. This district implements the character and intent of the Comprehensive Plan’s Mixed Density Complete Neighborhood Land Use Category and promotes development of the "missing middle housing" concept.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the High-Density Residential (R-3) District shall follow the standards in *Table 17-1*.

Table 17-1: R-3 District Dimensional Standards

High-Density Residential (R-3) District		
Lot Requirements		
A	Lot Area (min.)	4,000 square feet
B	Lot Width (min.)	25 feet
C	Lot Coverage (max.)	70%

High-Density Residential (R-3) District		
<i>Setback Requirements</i>		
D	Front Yard (min.)	20 feet
E	Rear Yard (min.)	5 feet
F	Side Yard (min.)	5 feet
G	Corner Side Yard (min.)	10 feet
<i>Building Requirements</i>		
H	Building Height (max.)	45 feet
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses		
Article IV. – Development Standards		

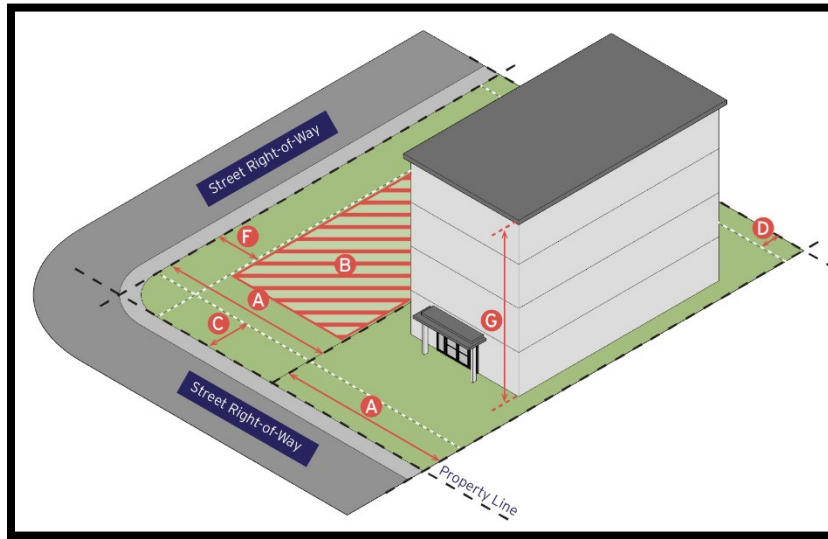
(d) *Special Regulations.*

- (1) The following minimum lot areas apply:
 - a. Duplex: 4,000 square feet
 - b. Townhouse: 2,000 square feet
 - c. Triplex: 6,000 square feet
 - d. Fourplex: 8,000 square feet
 - e. Courtyard Apartment, Bungalow Court, Multiplex: 10,000 square feet
 - f. Multi-Family Dwelling (Apartment): 12,000 square feet
- (2) The minimum lot width for a townhouse shall be fifteen (15) feet.
- (3) Where a townhouse is not separated from an adjacent structure by a firewall, the setback from each side property line shall be five (5) feet each side. Where separated by a firewall, the side setback for the shared wall is zero (0) feet. Side yard setback on corner lots shall be ten (10) feet.
- (4) No townhouse, duplex, or triplex shall be located within two hundred fifty (250) feet of a designated McAllen Thoroughfare Plan highway³. This distance shall be measured from the right-of-way center line to the nearest residential property line.

³ This term will align with the largest thoroughfare classification (i.e., highway, freeway, etc.)

- (5) Entrances to a garage or carport shall be a minimum of eighteen (18) feet from streets and five (5) feet from alleys unless otherwise specified by the Planning and Zoning Commission.
- (6) The maximum building height may be increased per Section 140-26.

Section 140-18. Local Commercial (C-1) District



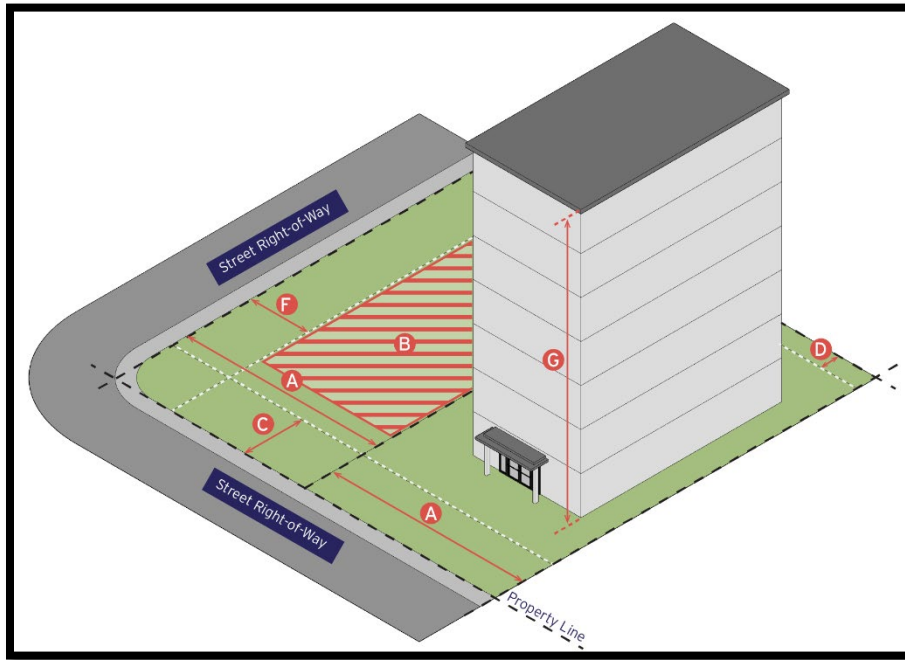
- (a) *Purpose.* The Local Commercial (C-1) District provides for a range of commercial activities, including the development of small-scale neighborhood offices, low-intensity retail and service businesses, restaurants, and public spaces. This district offers a transition between neighborhoods and intensive commercial areas, providing a critical commercial function that serves nearby residential areas. Development in this district is primarily pedestrian-scaled to help improve vehicular circulation and safely accommodate residents and pedestrians. This district implements the character and intent of the Comprehensive Plan’s Mixed Use Corridor Land Use Category.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Local Commercial (C-1) District shall follow the standards in *Table 18-1*.

Table 18-1: C-1 District Dimensional Standards

Local Commercial (C-1) District		
<i>Lot Requirements</i>		
A	Lot Width (min.)	40 feet
B	Lot Coverage (max.)	70%
<i>Setback Requirements</i>		
C	Front Yard (min.)	10 feet

Local Commercial (C-1) District		
D	Rear Yard (min.)	5 feet
E	Side Yard (min.)	0* feet
F	Corner Side Yard (min.)	10 feet
<i>Building Requirements</i>		
G	Building Height (max.)	45 feet
<i>Notes</i>		
* = The side yard requirement may be reduced to zero feet if a side yard setback conforms with the building code, is within the same district or nonresidential use, and a firewall separates the two side yards.		
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses Article IV. – Development Standards		

Section 140-19. Regional Commercial (C-2) District



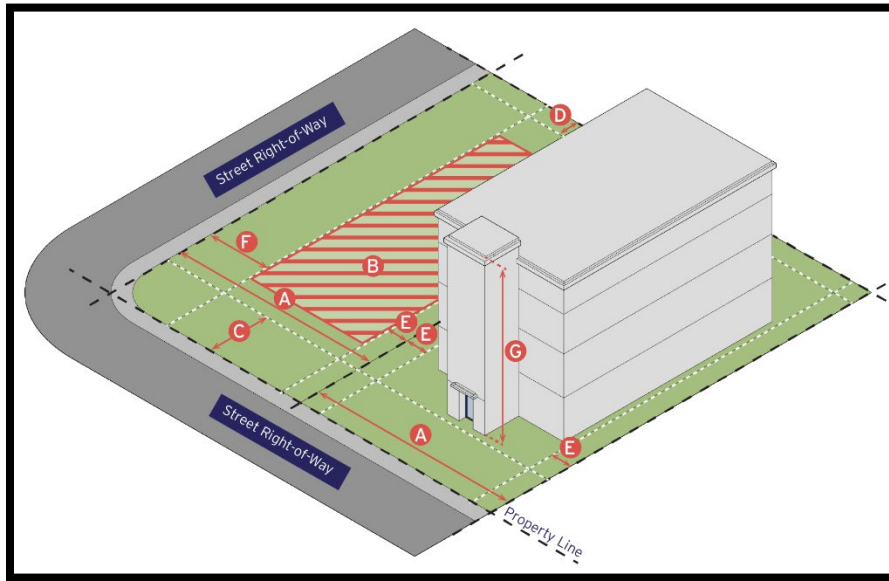
- (a) *Purpose.* The Regional Commercial (C-2) District provides for medium to large-scale development of retail, service, entertainment, office, necessary for a regional market. This district primarily facilitates commercial development, like big box and anchor retailers and intensive shopping strip centers, that are automobile-oriented and generate high traffic counts. This district implements the character and intent of the Comprehensive Plan’s Regional Commercial, Mixed Use Corridor, and Employment Center Land Use Categories.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Regional Commercial (C-2) District shall follow the standards in *Table 19-1*.

Table 19-1: C-2 District Dimensional Standards

Regional Commercial (C-2) District		
<i>Lot Requirements</i>		
A	Lot Width (min.)	50 feet
B	Lot Coverage (max.)	80%
<i>Setback Requirements</i>		

Regional Commercial (C-2) District		
C	Front Yard (min.)	15 feet
D	Rear Yard (min.)	5 feet
E	Side Yard (min.)	0* feet
F	Corner Side Yard (min.)	15 feet
<i>Building Requirements</i>		
G	Building Height (max.)	70 feet
<i>Notes</i>		
* = The side yard requirement may be reduced to zero feet if a side yard setback conforms with the building code, is within the same district or nonresidential use, and a firewall separates the two side yards.		
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses Article IV. – Development Standards		

Section 140-20. Light Industrial (I-1) District



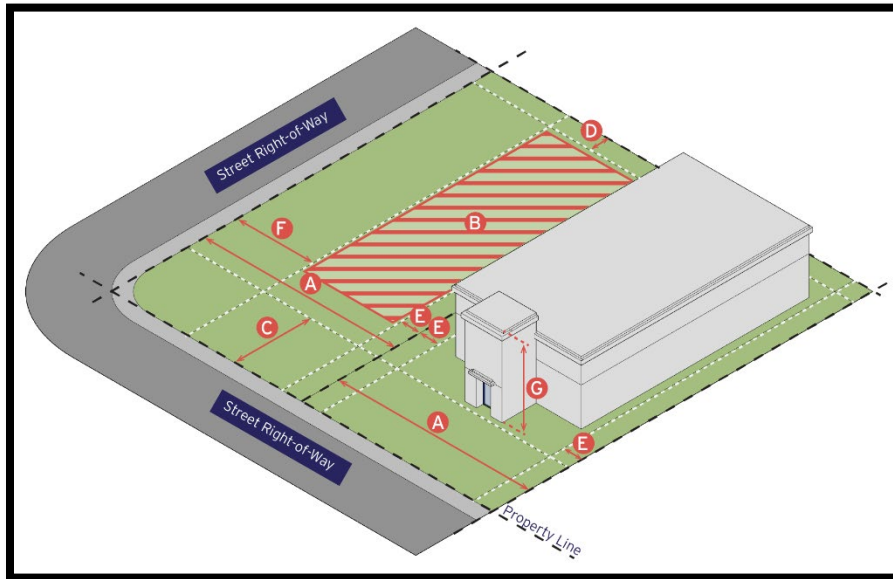
- (a) *Purpose.* The Light Industrial (I-1) District provides for manufacturing, day laborers, commercial uses, wholesale businesses, material fabrication, research facilities, and general industrial uses that are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare. This district provides a transition between heavy industrial uses and other less intensive commercial activity and residential uses. This district implements the character and intent of the Comprehensive Plan’s Employment Center and Industrial Land Use Categories.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Light Industrial (I-1) District shall follow the standards in *Table 20-1*.

Table 20-1: I-1 District Dimensional Standards

Light Industrial (I-1) District		
<i>Lot Requirements</i>		
A	Lot Width (min.)	50 feet
B	Lot Coverage (max.)	70%
<i>Setback Requirements</i>		
C	Front Yard (min.)	15 feet

Light Industrial (I-1) District		
D	Rear Yard (min.)	5 feet
E	Side Yard (min.)	5* feet
F	Corner Side Yard (min.)	15 feet
<i>Building Requirements</i>		
G	Building Height (max.)	45 feet
<i>Notes</i>		
* = The side yard requirement may be reduced to zero feet if a side yard setback conforms with the building code, is within the same district or nonresidential use and a firewall separates the two side yards.		
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses Article IV. – Development Standards		

Section 140-21. Heavy Industrial (I-2) District



- (a) *Purpose.* The Heavy Industrial (I-2) District provides areas for manufacturing, processing, assembling, storing, testing, and industrial uses that are extensive and intensive in character, and require large sites, open storage and service areas, extensive services and facilities, and access to major transportation networks. Development in this district is sometimes incompatible with less intensive uses by reason of traffic, noise, vibration, dust, glare, or emissions, and are intrusive to commercial activity and residential areas. This district implements the Comprehensive Plan’s Employment Center and Industrial Land Use Categories.
- (b) *Uses.* See Table 29-1 and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Heavy Industrial (I-2) District shall follow the standards in Table 21-1.

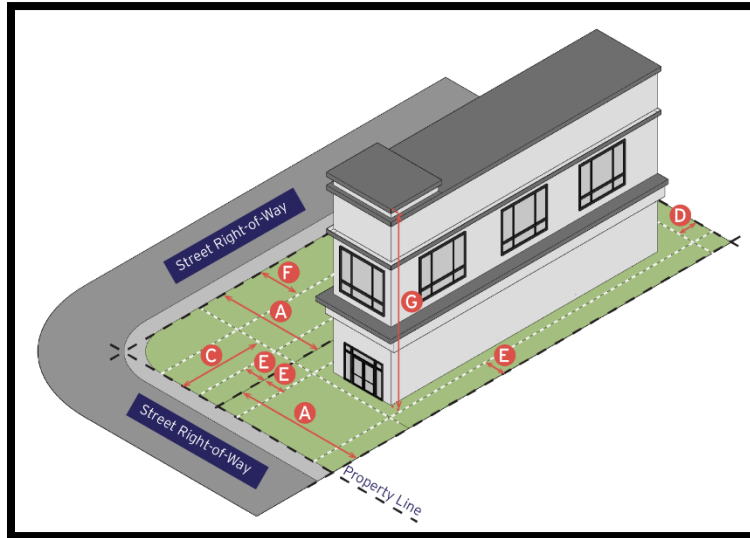
Table 21-1: I-2 District Dimensional Standards

Heavy Industrial (I-2) District		
<i>Lot Requirements</i>		
A	Lot Width (min.)	50 feet
B	Lot Coverage (max.)	70%
<i>Setback Requirements</i>		
C	Front Yard (min.)	20 feet

Heavy Industrial (I-2) District		
D	Rear Yard (min.)	10 feet
E	Side Yard (min.)	5* feet
F	Corner Side Yard (min.)	20 feet
<i>Building Requirements</i>		
G	Building Height (max.)	N/A, but Airport Zoning Regulations shall apply
<i>Notes</i>		
* = The side yard requirement may be reduced to zero feet if a side yard setback conforms with the building code, is within the same district or nonresidential use and a firewall separates the two side yards.		
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses Article IV. – Development Standards		

Division 3. Special Districts

Section 140-22. Local Mixed Use (M-1) District



- (a) *Purpose.* The Local Mixed Use (M-1) District provides for medium to high-density residential development comingled with localized low to medium intensity commercial services, retail, and offices. This district encourages use variety and "missing middle housing" options, emphasizing a cohesive development pattern to achieve housing diversity, accessibility, walkability, and equity. This district implements the Comprehensive Plan's Mixed Density Complete Neighborhood and Mixed Use Nodes Land Use Categories.
- (b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Local Mixed Use (M-1) District shall follow the standards in *Table 22-1*.

Table 22-1: M-1 District Dimensional Standards

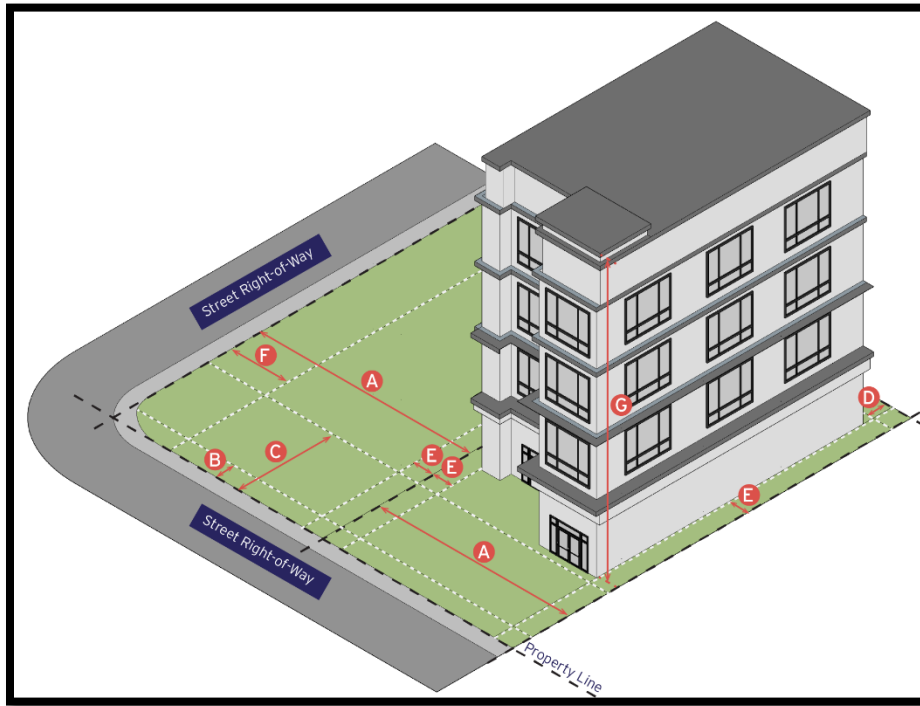
Local Mixed Use (M-1) District		
<i>Lot Requirements</i>		
A	Lot Width (min.)	20 feet
<i>Setback Requirements</i>		
B	Front Yard (min.)	0 feet
C	Front Yard (max.)	20 feet

D	Rear Yard (min.)	5 feet
E	Side Yard (min.)	5 feet
F	Corner Side Yard (min.)	10 feet
<i>Building Requirements</i>		
G	Building Height (max.)	50 feet
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses		
Article IV. – Development Standards		

(d) *Special Regulations.*

- (1) Any building with a footprint greater than fifteen thousand (15,000) square feet may be considered, and require CUP approval.
- (2) Any building greater than fifty (50) feet tall may be considered, and require CUP approval unless modified per Section 140-26.
- (3) Residential dwelling units are limited to no more than fifty percent (50%) of the development’s cumulative building square footage on the ground floor within the Local Mixed Use (M-1) District.

Section 140-23. Regional Mixed Use (M-2) District



- (a) *Purpose.* The Regional Mixed Use (M-2) District provides for development outside of McAllen’s city core that have identifiable centers and edges, a walkable development pattern, accessible community open spaces, and various commercial tenants. This district provides residential, entertainment venues, commercial, and office uses that harmoniously coexist in a higher density, pedestrian-oriented environment. This district implements the Comprehensive Plan’s Mixed Density Complete Neighborhood, Mixed Use Nodes, Mixed Use Corridor, Regional Commercial, and Employment Center Land Use Categories.
- (b) *Uses.* See Table 29-1 and all applicable regulations in Article III.
- (c) *Dimensional Standards.* Development in the Regional Mixed Use (M-2) District shall follow the standards in Table 23-1.

Table 23-1: M-2 District Dimensional Standards

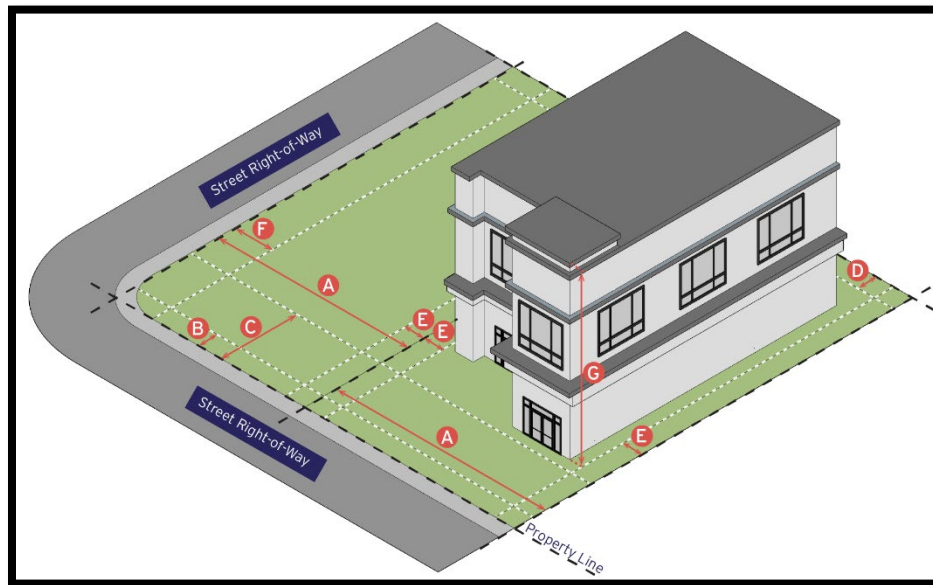
Regional Mixed Use (M-2) District		
<i>Lot Requirements</i>		
A	Lot Width (min.)	20 feet
<i>Setback Requirements</i>		

Regional Mixed Use (M-2) District		
B	Front Yard (min.)	5 feet
C	Front Yard (max.)	25 feet
D	Rear Yard (min.)	5 feet
E	Side Yard (min.)	5 feet
F	Corner Side Yard (min.)	15 feet
<i>Building Requirements</i>		
G	Building Height (max.)	80 feet
<i>Additional Applicable Requirements within the Zoning Regulations</i>		
Article III. – Uses		
Article IV. – Development Standards		

(d) *Special Regulations.*

- (1) Any building greater than eighty (80) feet tall may be considered, and require CUP approval unless modified per Section 140-26.
- (2) Canopies, awnings, galleries, and balconies may encroach over setback areas if the vertical clearance is a minimum of eight (8) feet from the finished sidewalk elevation.
- (3) No encroachment shall be located over on-street parking, a street, or over a side or rear property line.
- (4) Residential dwelling units are limited to no more than fifty percent (50%) of the development’s cumulative building square footage on the ground floor within the Regional Mixed Use (M-2) District.

Section 140-24. City Core (C-C) District



(a) *Purpose.* The purposes of the City Core (C-C) District are to:

- (1) Facilitate pedestrian-oriented, mixed-use, urban infill redevelopment, providing shopping, employment, housing, and business and personal services;
- (2) Promote an efficient, compact, and walkable development pattern;
- (3) Encourage pedestrian activity while reducing the reliance on automobiles;
- (4) Allow development flexibility in land use and site design;
- (5) Effectively regulate downtown and uptown to create attractive and functional development outcomes as envisioned in the Comprehensive Plan's Downtown and Uptown Land Use Categories;
- (6) Revitalize the historic downtown and uptown area while preserving McAllen's history and heritage; and
- (7) Enhance the significance of the City's authentic core to residents, tourists and visitors and serve as a support and stimulus to business and industry.

(b) *Uses.* See *Table 29-1* and all applicable regulations in Article III.

(c) *Dimensional Standards.* Development in the City Core (C-C) District shall follow the standards in *Table 24-1*.

Table 24-1: C-C District Dimensional Standards

City Core (C-C) District			
		Subdistrict	
		Downtown (DT)	Uptown (UT)
<i>Lot Requirements</i>			
A	Lot Width (min.)	N/A	50 feet
<i>Setback Requirements</i>			
B	Front Yard (min.)	0 feet	5 feet
C	Front Yard (max.)	15 feet	20 feet
D	Rear Yard (min.)	0 feet	5 feet
E	Side Yard (min.)	0 feet	5 feet
F	Corner Side Yard (min.)	5 feet	10 feet
<i>Building Requirements</i>			
G	Building Height (max.)	60 feet	35 feet
H	Frontage Buildout (min.)	60%	40%
<i>Encroachments</i>			
I		50% of the depth of the sidewalk or 8' (whichever is less)	35% of the depth of the sidewalk or 6' (whichever is less)
<i>Additional Applicable Requirements within the Zoning Regulations</i>			
Article III. – Uses Article IV. – Development Standards			

(d) *Special Regulations.*

- (1) Canopies, awnings, galleries, and balconies may encroach over setback areas per the standards if the vertical clearance is a minimum of eight (8) feet from the finished sidewalk elevation.
- (2) No encroachment shall be located over on-street parking, a street, or over a side or rear property line.
- (3) Any building with a footprint greater than fifteen (15,000) square feet may be considered, and require CUP approval.
- (4) Any building greater than the required maximum building height may be considered, and require CUP approval unless modified per Section 140-26.

Section 140-25. Planned Unit Development (PUD) District

- (a) *Purpose.* The Planned Unit Development (PUD) district is intended to provide for combining and mixing of uses allowed in various districts with appropriate regulations and to permit flexibility in the use and design of land and buildings in situations where modification of specific provisions of this UDC is not contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the City. A Planned Unit Development (PUD) district may be used to permit new and innovative concepts in land utilization. While great flexibility is given to provide special restrictions that will allow development not otherwise permitted, procedures are established to prevent misuse of the increased flexibility.
- (b) *Uses.* Any use may be considered for approval.
- (c) *Dimensional Standards.* A PUD shall have a minimum area requirement of at least five (5) acres.
- (d) *Special Regulations.* Unless specifically modified by the PUD ordinance, the PUD shall comply with all standards established in Article IV. and any other relevant standards provided in this UDC.

Division 4. Overlay Districts

Section 140-26. Thoroughfare Overlay (T-O) District⁴

- (a) *Purpose.* The Thoroughfare Overlay (T-O) district is intended to allow for development design flexibility along the City's major thoroughfares by allowing height and setback modifications in exchange for development standards that supersede the UDC's minimum requirements.
- (b) *Uses.* These regulations apply to any nonprohibited use within the zoning district in which that use is located.
- (c) *Special Regulations.* A development may increase the maximum building height requirement as established below⁵:
 - (1) Abutting IH-2: 40 feet.
 - (2) Abutting US Highway 83: 25 feet.

⁴ This is a new overlay to consider. The City has a few tall buildings and this overlay accounts for those buildings where an increased height fits an area (i.e., a 10 story building along IH-2). We revised the nonresidential heights but do we want to take that further with any other streets?

⁵ This might be more clear with a map showing the streets/areas these regs could apply to

Article III. Uses

Division 1. Generally

Section 140-27. Purpose and Applicability

Table 29-1 below lists the uses permitted within all zoning districts. All uses are defined in Section 140-215. Approval of a use listed in this Article, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in this Article and approved under the appropriate process is prohibited.

Section 140-28. Organization

The uses allowed in each of the zoning districts established in Table 29-1 are defined as follows:

- (a) *Table Symbology.* Table 29-1 is arranged according to the following symbols established in Table 28-1.

Table 28-1: Use Table Symbology

Symbol	Meaning	Description
P	Permitted by Right	A "P" in a zoning district column indicates that a use is permitted by right, provided that it meets any applicable use-specific standards. These uses are subject to all other applicable regulations of this UDC.
C	Conditional Use Permit Required	An "C" in a zoning district column indicates that a use requires conditional use review and approval by City Commission.
	Not Allowed	A blank cell in a zoning district column indicates that a use is not allowed as a primary use or conditional use in the zoning district.
--	Not Required	A "--" in a zoning district column indicates that a minimum parking ratio is not required for a particular use.

- (b) *Standards Column.* The "Standards" column provides a reference to associated standards for certain uses allowed by right and for conditional uses. Where a blank space is in the column, there is no associated standard. Where there is information in the column, there are associated standards.

- (c) *Unlisted Uses.* If a proposed use is not specifically listed in *Table 29-1*, the Director shall determine whether the use is allowed or not allowed. This determination shall be based upon the similarity in nature and character to one or more uses that are listed in *Table 29-1*.
 - (1) In making this determination, the Director may consider whether the use has similar visual, traffic, environmental, parking, employment, and other impacts as an expressly listed use.
 - (2) The Director may also refer to empirical studies or generally accepted planning or engineering sources (e.g., American Planning Association’s publication, “A Planner’s Dictionary”) in making this determination.
 - (3) *Unauthorized if Prohibited.*
 - a. If the Director determines that a proposed use does not fit within a given use type and is not functionally the same as an allowed, accessory, conditional, or temporary use, then the use is a prohibited use.
 - b. The Director’s determination may be appealed pursuant to Section 140-170.

Section 140-29. Use Table

- (a) *Applicability.* This Division shall follow the requirements established in *Table 29-1*.
- (b) *Use-Specific Standards.* Use-specific standards are established in the following sections as provided in *Table 29-1*.

Table 29-1: Use-Specific References

Reference	Description
Section 140-31.	Residential Use-Specific Regulations
Section 140-32.	Group Living/Lodging Use-Specific Regulations
Section 140-33.	Automotive Use-Specific Regulations
Section 140-34.	Commercial Use-Specific Regulations
Section 140-35.	Recreation Use-Specific Regulations
Section 140-36.	Industrial Use-Specific Regulations
Section 140-37.	Infrastructure Use-Specific Regulations
Section 140-38.	Agriculture Use-Specific Regulations

- (c) *Accessory Uses.* Accessory Uses standards are established in Division 3.
- (d) *Temporary Uses.* Temporary Uses standards are established in Division 4.

Table 29-2: Use Table

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios
Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
											DT	UT		
Residential														
Industrialized Home (Modular Home)	P	P	P	P									Division 2. Section 140-31. (a)	2/DU
Live-Work				P					P	P	P	P	Division 2. Section 140-31. (b)	
Manufactured Home	P			P										
Mobile Home	P													
Multi-Family Dwelling (Apartment)				P					P	P			Division 2. Section 140-31. (c)	
Townhouse			P	P					P	P		P	Division 2. Section 140-31. (d)	
Detached Single-Family Dwelling		P	P									P		
Duplex			P	P								P		
Triplex			P	P								P		
Fourplex			P	P					P	P		P		
Courtyard Apartment			P	P										
Bungalow Court			P	P										
Multiplex				P						P		P		
Lodging / Group Living														
Bed and Breakfast Facility	C	C	C	C									Division 2. Section 140-32. (a)	1 + 1/guestroom

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Boarding / Rooming House				P					P	P			Division 2. Section 140-32. (b)		
Dormitory				P					C	C					
Hotel/Motel					C	P			P	P	C	C			
Automotive															
Auto Dealership						P	P						Division 2. Section 140-33. (a)	1/500 SF Showroom/Waiting/Office Area 1/4,000 SF Storage/Display Area 3/ bay	
Auto Parts Sales						P	P								
Heavy Auto Repair							P	P					Division 2. Section 140-33. (b)		
Light Auto Repair					C	P	P			C			Division 2. Section 140-33. (c)		
Car Wash					C	P	P			C			Division 2. Section 140-33. (d)		
Service Station						P	P	P		P			Division 2. Section 140-33. (e)		
Truck Sales							C	P							
Truck Stop and Repair						C	C	P							
Commercial															
Sexually Oriented Business							C	P					Division 2. Section 140-34. (a)	1/500 SF	
Artist Studio					P				P	P	P	P			

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Bar (51% sales from alcohol)						C	P			P	P	P	P	Division 2. Section 140-34. (b)	
Bar (75% sales from alcohol)						C	C			C	C	C	C	Division 2. Section 140-34. (b)	
Brewpub						C	P	P		C	P	P	C		
Building, Materials, and Landscaping Store							P	P							
Indoor Commercial Amusement							P	P			P	C	C		
Outdoor Commercial Amusement							P				C				
Convenience Store						P	P			P	P	P	P	Division 2. Section 140-34. (c)	
Feed and Farm Supply	P						P	P							
Financial Institution						P	P			P	P	P	P		
Food Preparation and Sales						P	P	P		P	P	P	P		1/200 SF
Food Truck Park						C	P				P	C	P	Division 2. Section 140-34. (d)	
Greenhouse or Nursery	P						P	P							1/500 SF
Grocery Store						P	P			P	P			Division 2. Section 140-34. (e)	
Heavy Equipment Sales and Rental							C	P	P						

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Kennel	P				P	P			P	P					
Mixed-Use Development					P	P			P	P	P	P	Division 2. Section 140-34. (g)		
Nightclub						C				C	P	C		1/200 SF	
Office					P	P	P		P	P	P	P		1/500 SF	
Pawn Shop / Pay Day Loans					C	P			C	C	C				
Personal Services					P	P			P	P	P	P			
Portable Building Sales								P							
Postal Services					P	P	P		P	P	P	P			
Print Shop						P	P			P					
Restaurant					P	P			P	P	P	P	Division 2. Section 140-34. (h)		1/200 SF
Retail Store					P	P	P		P	P	P	P		1/500 SF	
Radio / Television Studio					C	P			C	C	P				
Taxidermist	P					P	P								
Theater						P				P	C			1/4 Fixed Seats 1/100 SF for unfixed seating	
Veterinarian Facility	C				P	P			P	P			Division 2. Section 140-34. (i)	1/500 SF	
Recreation															
Amphitheater		C	C			C				C				1/4 Fixed Seats 1/2,500 SF Outdoor Activity Space	

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Fairgrounds	C						C								1/500 SF Indoor Space 1/2,500 SF Outdoor Activity Space
Public Library, Museum, or Art Gallery		C	C	C	P	P			P	P	P	P			1/1,000 SF GFA
Religious Land Use	P	P	P	P	P	P	P	P	P	P	P	P	P		1/500 SF Indoor Space 1/2,500 SF Outdoor Activity Space
School		P	P	P	P				P	P			P		Elementary/Middle School: 2/1 classroom High School: 4/1 classroom
Technical School						P	P			P					1/1,000 SF
Industrial															
Brewery / Distillery							P	P							1/1,000 SF
Commercial Cleaning Facility								P							
Commercial Kitchen						C	P								
Contractor's Shop and Storage Yard							P	P							
Heavy Industrial and Manufacturing								C							
Light Industrial and Manufacturing							P								
Industrial Park							P	P							
Microbrewery						P	P		P	P	P	P			

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Funeral Services						P	P								2/acre + 1/500 SF Indoor Space
Halfway House			P	P											1/1,000 SF
Medical Care Facility							P				P				1/500 SF
Transportation															
Airport	C														N/A
Bus Terminal							P	P			P				
Parking Facility							C				C	C	C	C	
Railroad Station										C	C	C	C		
Railroad Team Track and Right-of-Way								P	P						
Transit Station							P	P	P	P	P	P	P		
Truck or Motor Freight Terminal									P						
Infrastructure															
Electrical Substation	P	C	C	C	C	C	P								1/1,000 SF
Gas Metering Station	P	C	C	C	C	C	C	P							
Governmental Service Yard	P						P	P							
Power Plant								C							
Eligible Facility	C	C	C	C	C	C	C	C	C	C	C	C	C	Division 2. Section 140-37. (a)	
Recycling Facility							C	P						Division 2. Section 140-37. (b)	

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Solid Waste Facility									C					Division 2. Section 140-37. (c)	
Solid Waste Transfer Station								C	P						
Telephone Exchange								P	P						
Utility Shop								P	P						
Agriculture															
Agriculture	P														N/A
Agritainment	C													Division 2. Section 140-38. (a)	
Feedlot	P														
Commercial Stable	P														
Accessory Uses															
Accessory Building	P	P	P	P	P	P	P	P	P	P	P	P	P		N/A
Accessory Dwelling Unit	P	P	P	P						P			P	Division 3. Section 140-43. (a)	1/DU
Barndominium	P														
Carport		P	P	P											N/A (refer to primary use)
Donation and Collection Bin						P	P	P	P	P	P			Division 3. Section 140-43. (b)	
Fuel Pump	P					P	P	P	P	P	P		P	Division 3. Section 140-43. (c)	
Home Occupation	P	P	P	P						P	P	P	P	Division 3. Section 140-43. (d)	

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Garage		P	P	P					P	P		P			
Outdoor Dining					P	P			P	P	P	P			
Retail Ice and Dispensed Water Sales					P	P	P		P	P		P			
Outdoor Display	P					P	P	P	P	P	P	P	Division 3. Section 140-43. (e)		
Outdoor Storage	P						P	P					Division 3. Section 140-43. (f)		
Private Stable	P														
Private Swimming Pool	P	P	P	P					P	P	P	P			
Service Bay	P				P	P	P	P	P	P			Division 3. Section 140-43. (g)		
Transit Stop	P	P	P	P	P	P	P	P	P	P	P	P			
Wind Energy Conversion Systems	P	P	P	P	P	P	P	P	P	P	P	P	Division 3. Section 140-43. (h)		
Temporary Uses															
Batching Plant	P	P	P	P	P	P	P	P	P	P	P	P	N/A		
Construction Yard	P	P	P	P	P	P	P	P	P	P	P	P			
Field or Sales Office	P	P	P	P	P	P	P	P	P	P	P	P			
Flea Market	P					P				P			1/500 SF		
Itinerant Vendor					P	P	P		P	P	P	P	Division 4. Section 140-47. (a)	N/A	

Key P = Allowed C = Conditional Use	Base Zoning Districts ↓								Special Zoning Districts ↓				Use-Specific Standards	Minimum Parking Ratios	
	Land Use ↓	A-O	R-1	R-2	R-3	C-1	C-2	I-1	I-2	M-1	M-2	C-C			
												DT			UT
Mobile Food Vendor					P	P	P		P	P	P	P	Division 4. Section 140-47. (b)		
Pop-Up Market Vendor						P	P			P	P				
Seasonal Roadside Stand	P				P	P									

Division 2. Use-Specific Regulations

Section 140-30. Purpose

The purpose of use-specific regulations is to further regulate land uses that may create adverse development impacts.

Section 140-31. Residential Use-Specific Regulations

(a) Industrialized Home (Modular Home)

- (1) An Industrialized Home (Modular Home) meets or exceeds all building code requirements that apply to other dwelling units concerning on-site construction.
- (2) An Industrialized Home (Modular Home) conforms to all applicable zoning regulations for its respective zoning district.
- (3) An Industrialized Home (Modular Home) has a value equal to or greater than the median taxable value for each single-family dwelling located within five hundred (500) feet of the lot on which the dwelling is proposed to be located, as determined by the most recent County certified tax appraisal roll.
- (4) An Industrialized Home (Modular Home) has exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within five hundred (500) feet of the lot on which the dwelling is proposed to be located.
- (5) An Industrialized Home (Modular Home) complies with municipal aesthetic standards, setbacks, subdivision control, landscaping, square footage, and other site requirements applicable to single-family dwellings.

(6) An Industrialized Home (Modular Home) is securely fixed to a permanent foundation.

(7) An Industrialized Home (Modular Home) is set on a solid slab structure and/or 18- to 20-inch runners.

(b) Live-Work Unit

(1) The ground or first floor of a Live-Work Unit is reserved for commercial uses, like retail and office uses.

(2) One story Live-Work units are allowed but the required commercial uses must occur in the front of the unit. The residential space shall be located in the rear of the unit.

(c) Multi-Family Dwelling (Apartment)

(1) A Multi-Family Dwelling (Apartment) shall comply with the regulations established in Section 140-63. !

(d) Townhouse

(1) No Townhouse shall exceed eight (8) units from end unit to end unit⁶.

(2) All parking shall occur on the public right-of-way or shall provide rear entry parking garages where alley access exists.

Section 140-32. Group Living/Lodging Use-Specific Regulations

(a) Bed and Breakfast Facility

(1) A Bed and Breakfast Facility is owner-occupied and managed at all times.

(2) The maximum number of rented bedrooms is five (5).

(3) No cooking facilities are allowed in any of the bedrooms.

(4) A Bed and Breakfast Facility shall meet all of the minimum requirements of the City-County Health Department and shall conform in all respects to the requirements of the fire code, building code, electrical code and plumbing code.

(5) A Bed and Breakfast Facility is responsible for the collection of the City hotel/motel tax.

(6) All City-County Health Officers, Building Inspectors, the Fire Marshal and their assistants and other code enforcement officials of the City shall have the right to go on any premises of a Bed and Breakfast Facility during normal business hours for the

⁶ This means that any townhouse structure shall not exceed eight (8) attached dwelling units. Each dwelling unit is designed for single-family occupancy on separate platted lots.

purpose of verifying compliance with this subsection and all other applicable ordinances of the City.

(b) Boarding/Rooming House

- (1) No more than twelve (12) occupants (including any resident staff and family) shall occupy any Boarding/Rooming House at one time.
- (2) The maximum length of stay for any guest is fourteen (14) consecutive days in any one calendar month.
- (3) No meals shall be provided for guests on the premises.
- (4) A Boarding/Rooming House shall not be located within one thousand (1,000) feet of any other Boarding/Rooming House.

Section 140-33. Automotive Use-Specific Regulations

(a) Auto Dealership

- (1) An Auto Dealership shall not be located within one hundred fifty (150) feet of any residential district.
- (2) An Auto Dealership shall not be located within three hundred (300) feet of any other Auto Dealership.
- (3) Inventory spaces shall not count towards the minimum parking requirements.

(b) Heavy Auto Repair

- (1) All Heavy Auto Repair activities shall take place within an enclosed space.
- (2) A Heavy Auto Repair facility shall be located one hundred fifty (150) feet from any residential district or school use.

(c) Light Auto Repair

- (1) All Light Auto Repair activities shall take place within an enclosed space.
- (2) A Light Auto Repair facility shall be located one hundred fifty (150) feet from any residential district or school use.

(d) Car Wash

- (1) Local Commercial (C-1) District.
 - a. A Car Wash shall not be located within one hundred fifty (150) feet of any residential district.
 - b. A Car Wash shall not be located within five hundred (500) feet of any other Car Wash.

- c. A Car Wash shall be closed for business between the hours of 10:00 PM and 7:00 AM.
 - d. A Car Wash shall only be self-service.
 - e. All bays and overhead doors shall be oriented away from any residential district.
- (2) All Other Zoning Districts.
- a. A Car Wash shall not be located within one hundred fifty (150) feet of any residential district.
 - b. All bays and overhead doors shall be oriented away from any residential district.
 - c. A Car Wash shall not be located within one thousand (1,000) feet of any other Car Wash.
- (e) Service Station
- (1) A Service Station shall not be located within one hundred (100) feet of any residential district.
 - (2) A Service Station including fuel pumps shall meet the following requirements and those regulations established in Section 140-43. (c).
 - (3) Any fuel pump island or other structure shall meet the zoning district's applicable minimum setbacks.
 - (4) Overhead canopies or weather protection structures shall be set back a minimum of ten (10) feet from adjacent property lines or street and highway right-of-way lines.

Section 140-34. Commercial Use-Specific Regulations

- (a) Sexually Oriented Business
- (1) A Sexually Oriented Business shall meet the requirements established in *Chapter 54, Article VI – Sexually Oriented Business Regulation*.
- (b) Bar (51% sales from alcohol)
- (1) No Bar shall be located is within three hundred (300) feet of a religious land use, school, or medical care facility except as provided by the Texas Alcoholic Beverage Code.
- (c) Convenience Store
- (1) A Convenience Store including fuel pumps shall meet the following requirements and those regulations established in Section 140-43. (c).
 - (2) Any fuel pump island or other structure shall meet the zoning district's applicable minimum setbacks.

- (3) Overhead canopies or weather protection structures shall be set back a minimum of ten (10) feet from adjacent property lines or street and highway right-of-way lines.

(d) Food Truck Park

- (1) Only mobile food vendors that hold a valid permit from the City may be located at a Food Truck Park.
- (2) A Food Truck Park shall not operate within any residential zoning district unless otherwise approved in writing by the Health Director.
- (3) Each mobile food vendor operating within a Food Truck Park must comply with all of the requirements of mobile food vendors contained in [Sec. 54-51 of the Code of Ordinances](#).
- (4) A Food Truck Park shall not operate between the hours of 2:00 a.m. and 7:00 a.m.
- (5) A Food Truck Park shall provide access to a restroom on or within six hundred (600) feet of the property lines of the tract of land on which it is situated.
- (6) A Food Truck Park shall provide one garbage receptacle, to hold a minimum of thirteen (13) gallons, per vendor located on premises for public use. This requirement is in addition to the receptacles required of each individual vendor.
- (7) A Food Truck Park shall not be placed or parked on unimproved surfaces.
- (8) Adequate lighting, as determined by the Health Director, to enable clear and unobstructed visibility of mobile food vendors and patrons shall be provided at all entrances and exits of the Food Truck Park.
- (9) A Food Truck Park shall provide on-premises parking areas sufficient to accommodate staffing needs and seating areas.
- (10) An application for a Food Truck Park shall provide the following:
 - a. The name, address, phone number and email address of a contact person who shall be available 24 hours per day, seven days per week for the purposes of responding to complaints regarding the operation of the mobile food vendor court and taking remedial action to resolve any such complaints.
 - b. A site plan showing:
 1. The land area included within the site, the zoning classification of adjacent sites, and all public and private rights-of-way and easements bounding and intersecting the site;
 2. A legal description of the platted lots of the proposed site and the boundaries thereof;

3. The location of each proposed permanent structure on the site and pads/proposed locations for mobile vending units, and identification of any proposed outdoor entertainment locations;
 4. The location of fire hydrants;
 5. The dimensions and capacities of parking areas and loading areas;
 6. Landscaping of all street frontages;
 7. All pedestrian walks, patios and open areas for use by tenants or the public;
 8. The location, size, and height of all lighting and signs;
 9. Location and number of provided seating and eating areas, including number of fixed seats and tables; and
 10. Location, height, separation of buildings, including location of restrooms, and open space.
- c. A paid application and registration fee of \$300.00.
- (e) Grocery Store
- (1) Local Commercial (C-1) District⁷.
 - a. The maximum size of a Grocery Store is fifteen thousand (15,000) square feet.
 - b. Drive thrus may be allowed.
- (f) Mixed-Use Development
- (1) No more than fifty percent (50%) of the Mixed-Use Development cumulative building square footage shall consist of dwelling units on the ground floor.
 - (2) At least twenty-five percent (25%) of the Mixed-Use Development shall consist of retail, restaurant, or office uses.
 - (3) A Mixed-Use Development comply with the regulations established in Article IV, Division 3.
- (g) Restaurant
- (1) Local Commercial (C-1) and Local Mixed Use (M-1) Districts.
 - a. A Restaurant with a drive thru is only allowed by CUP.

⁷ Staff commented on prohibiting drive thrus in C-1 district but the prohibition only applies to those grocery stores, not those in C-2 and the mixed use districts. Do we still want to allow drive-thrus in C-1 districts?

- b. Drive thru with individual service speakers shall not be permitted within one hundred fifty (150) feet of any residential district unless the speaker is appropriately screened by a sound abatement system.
 - c. Stacking spaces shall be provided within a stacking lane to access the drive thru.
 - d. An additional lane (escape lane) shall be provided to provide access around the drive thru facility. An escape lane may be part of a circulation aisle.
 - e. The minimum stacking lane for the first vehicle stop shall be one hundred (100) feet and forty (40) feet thereafter for any other stops. An escape lane shall be provided parallel to the drive thru lane from the beginning of the drive thru lane to the pick-up window.
 - f. Accessory outdoor customer seating/dining areas are allowed if they meet the applicable district's dimensional standards.
- (2) Regional Commercial (C-2) District.
- a. Drive Thrus.
 - 1. Drive thrus are allowed.
 - 2. Drive thrus with individual service speakers shall not be permitted within one hundred fifty (150) feet of any residential district unless the speaker is appropriately screened by a sound abatement system.
 - 3. Stacking spaces shall be provided within a stacking lane to access the drive thru.
 - 4. An additional lane (escape lane) shall be provided to provide access around the drive thru facility. An escape lane may be part of a circulation aisle.
 - 5. The minimum stacking lane for the first vehicle stop shall be one hundred (100) feet and forty (40) feet thereafter for any other stops. An escape lane shall be provided parallel to the drive thru lane from the beginning of the drive thru lane to the pick-up window.
 - b. Accessory outdoor customer seating/dining areas are allowed if they meet the applicable district's dimensional standards.
- (3) City Core (C-C) District.
- a. No drive thrus are allowed.
 - b. Accessory outdoor customer seating/dining areas are allowed if they meet the applicable district's dimensional standards.
- (h) Veterinarian Facility
- (1) Local Commercial (C-1) District.

- a. A Veterinarian Facility shall not be located within one hundred (100) feet of any residential district.
 - b. No outside runs are allowed.
- (2) All Other Zoning Districts.
- a. A Veterinarian Facility shall not be located within two hundred fifty (250) feet of any residential district.
 - b. Outside runs are allowed.
 - c. Outside runs shall be operated only with an attendant present on the premises twenty-four (24) hours a day.
 - d. At a minimum, the animals shall be enclosed within a six-foot (6') fence or wall to restrain animals from running at large.

Section 140-35. Recreation Use-Specific Regulations

(a) Sport Shooting Range

- (1) A Sport Shooting Range shall only be allowed in an enclosed building.
- (2) A Sport Shooting Range must be located at least:
 - a. One thousand (1,000) feet from any Public/Institutional use.
 - b. One thousand (1,000) feet from any residential use.
- (3) Firearm shooting lanes must be designed in an orientation where projectiles are fired away from public roadways.
- (4) The applicant shall provide written documentation that the proposed target backstops conform to the standards for indoor ranges per the Environmental Protection Agency (EPA).
- (5) A Sport Shooting Range shall meet all Federal and State regulations regulating firearms and any associated facilities.

Section 140-36. Industrial Use-Specific Regulations

(a) Salvage Yard

- (1) A Salvage Yard shall be located at least one thousand (1,000) feet from any residential use or district.
- (2) No hazardous wastes or hazardous materials shall be accepted or deposited at any salvage yard, except as incidental to the salvage operation.
- (3) Salvage operations shall be conducted to remove hazardous wastes and materials and dispose of them according to state and federal requirements.

- (4) Service trucks for the purpose of loading and unloading materials and equipment or removing wastes shall be restricted to the hours between 7:00 a.m. and 9:00 p.m.
- (5) Screening shall be provided for all disabled or damaged vehicles, tools, and equipment.
- (6) Screening for disabled or damaged vehicles, tools, and equipment shall be constructed from concrete or masonry and be at least six (6) feet tall.
- (7) No screening wall shall exceed twelve (12) feet tall.
- (8) In no instance shall any disabled or damaged vehicles, tools, or equipment be stacked higher than the required concrete or masonry screening wall.

(b) Self-Storage (Mini-Warehouse)

(1) Access

- a. The Self-Storage (Mini-Warehouse) shall be secured so that access is limited to tenants (or owners) and fire, police, or emergency service officials.
- b. A Self-Storage (Mini-Warehouse) shall provide adequate drive aisles between all buildings for vehicle circulation and fire and emergency access.

(2) Storage

- a. A Self-Storage (Mini-Warehouse) unit shall not be used for the storage of explosives, ammunition, hazardous, or flammable materials.
- b. Self-Storage (Mini-Warehouse) units shall be used solely for the purpose of storage of goods and possessions and shall not be used for operation of a business, hobby, band rehearsal, or any type of activity not related to the storage of personal property of the owner or tenant of the unit.
- c. No outdoor storage is permitted in the M-2 zoning district.
- d. Outdoor storage may be allowed within the C-2 and I-1 zoning district in approved on-site areas for vehicles and recreational equipment if they are covered by an awning or canopy structure and in operable condition. The storage of inoperable vehicles and recreational equipment shall constitute as junk and shall not be allowed in a Self-Storage (Mini-Warehouse) facility.

(3) Accessory Office

- a. The Self-Storage (Mini-Warehouse) may include an accessory on-site office.
- b. An office shall not exceed more than five thousand (5,000) square feet.

Section 140-37. Infrastructure Use-Specific Regulations

(a) Eligible Facility

These definitions and related Section 6409 procedures only apply to the City to the extent the FCC's Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd 12865 (2014), ("2014 Infrastructure Order") preempts existing City procedures and to the extent the 2014 Infrastructure Order is effective as federal law.⁸

The City expressly reserves its rights to revise or repeal any or all of these definitions and related Section 6409 procedures to the extent the 2014 Infrastructure Order is interpreted, modified, revised or enjoined on any appeal or reconsideration in a manner inconsistent with the definitions in or procedure in this Subsection.

(1) *Eligible Facilities Request (Section 6409) Definitions.* For the purposes of a personal wireless facilities siting permit under Section 6409(a),⁹ as interpreted by the Federal Communications Commission's ("FCC") in the 2014 Infrastructure Order, which is asserted to be a qualified application for a Section 6409 eligible facilities request¹⁰, the following defined terms shall be used:

- a. *Base Station.* A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in Subsection a.1., below or any equipment associated with a tower. Base station includes, without limitation:
 1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
 2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small-cell networks).

⁸ **Note**— The 2014 Infrastructure Order rules are effective April 8, 2015, except following portions of the Section 6409, (a) FCC rules requiring Office of Management and Budget (OMB) approval before they are effective: 47 C.F.R. §§ 1.40001(c)(3)(i) [30-day time line from date of application filing for city to provide notice of incompleteness and request for supplemental information to toll the 60 days "shot clock"]; 1.40001(c)(3)(iii) [City ten-day review of supplemental information, and subsequent request to submit information to further toll the "shot clock"]; and 1.40001(c)(4) [60-day failure to act "deemed granted"]. The link to the FCC's OMB approval request is: FR Notice. As of April 16, 2015 there has not been a federal register FCC notice of OMB approval. Until there has been OMB approval those identical requirements, deadlines to act, and procedural requirements or limitations, as they are set forth in this section 138-1.A., (b), are not effective.

⁹ **Note**— Middle Class Tax Relief and Job Creation Act of 2012, 112 Pub. L. 96, [Feb. 22, 2012] ("Spectrum Act"), Section 6409 codified at 47 U.S.C. § 1455. ("Section 6409").

¹⁰ **Note**— Section 6409 eligible facility request means the applicant has met all the Section 6409(a) criteria, as set forth in the 2014 Infrastructure Order.

3. Any structure other than a tower that, at the time the relevant application is filed with the City, supports or houses equipment described in Subsections a.1. and a.2., above, that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City, does not support or house equipment described in Subsections a.1. and a.2.

- b. *Collocation.* The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.¹¹
- c. *Eligible Facilities Request.* Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 1. Collocation of new transmission equipment;
 2. Removal of transmission equipment; or
 3. Replacement of transmission equipment.
- d. *Eligible Support Structure.* Any tower or base station, as defined in these Section 6409 Definitions, provided that it is existing at the time the relevant application is filed with the City.
- e. *Existing.* A constructed tower or base station is existing for purposes of Section 6409 if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of Section 6409.
- f. *Site.* For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

¹¹ **Note**— The FCC has clarified that "collocation" includes the first placement of transmission equipment on a wireless tower or base station (as a base station, by definition, already has a wireless device on it). See 2014 Infrastructure Order ¶ 179.

- g. *Substantial Change.* A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:
1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater;¹²
 2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of structure by more than six (6) feet;
 3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any other ground cabinets associated with the structure;
 4. It entails any excavation or deployment outside the current site;
 5. It would defeat the concealment elements of the eligible support structure; or
 6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in Subsection (1)g, above.
- h. *Transmission Equipment.* Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular

¹² **Note**— Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act, Feb. 22, 2012. 47 CFR § 1.40001(b)(7)(i)(A).

and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

- i. *Tower.* Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.
- (2) *Eligible Facilities Request (Section 6409) Application Review.*¹³
- a. *Application.* The City shall prepare and make publicly available an application form which shall be limited to the information necessary for the City to consider whether an application is a qualified eligible facilities request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.
 - b. *Type of Review.* Upon receipt of self-described application for an eligible facilities request, the designated City department shall review such application to determine whether the application qualifies as a Section 6409 eligible facility request, in accordance with the 2014 Infrastructure Order.
 - c. *Timeframe for Review.* Within sixty (60) days of the date on which an applicant submits an application seeking approval, the City shall approve the application unless it determines that the application is not a qualified Section 6409 eligible facilities request.
 - d. *Tolling of the Timeframe for Review.* The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the City and the applicant, or in cases where the City determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.

¹³ **Note**— The 2014 Infrastructure Order rules are effective April 8, 2015, except following portions of the Section 6409, (a) FCC rules requiring Office of Management and Budget (OMB) approval before they are effective: 47 C.F.R. §§ 1.40001(c)(3)(i) [30-day time line from date of application filing for city to provide notice of incompleteness and request for supplemental information to toll the 60 days "shot clock"]; 1.40001(c)(3)(iii) [City ten-day review of supplemental information, and subsequent request to submit information to further toll the "shot clock"]; and 1.40001(c)(4) [60-day failure to act "deemed granted"]. The link to the FCC's OMB approval request is: FR Notice. As of April 16, 2015 there has not been a federal register FCC notice of OMB approval. Until there has been OMB approval those identical requirements, deadlines to act, and procedural requirements or limitations, as they are set forth in this section 138-1.A., (b), are not effective.

1. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application.
 2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.
 3. Following a supplemental submission, the City will notify the applicant within ten days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection (2).d.2. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- e. *Failure to Act.* In the event the City fails to approve or deny a request seeking approval of an eligible facilities request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.¹⁴
- f. *Remedies.* Applicants and the City may bring claims related to Section 6409(a) to any court of competent jurisdiction.
- g. *Interaction with Section 332(c)(7).*¹⁵ If the City determines that the applicant's request is not a Section 6409 eligible facilities request, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order,¹⁶ as interpreted by the 2014 Infrastructure Order,¹⁷ will begin to run from the issuance of the City's decision that the application is not an eligible facilities request. To the extent such information is necessary, as determined by

¹⁴ **Note**— If the city does not act on the application and the application is "deemed granted", that deemed grant shall not be construed to include any granted variance, or other previously or currently required zoning condition, except as to height, width, excavation and cabinets, but only to the extent allowed by the 2014 Infrastructure Order. The deemed grant shall not extend to any other required zoning requirement or constitute as city consent to waive any prior imposed conditions. The deemed grant shall not be deemed a waiver of any of the requirements for information required of owners of the property site in the application, as to either privately owned property or city owned public property or city controlled public property, as set forth in the application. The deemed grant shall not be deemed as consent or a grant or license by the city for the applicant to use or occupy any publicly owned or controlled public property, or as a waiver for the city to require consent or a grant or license by the city to use or occupy any publicly owned or controlled public property.

¹⁵ **Note**— 47 U.S.C. § 332(c)(7).

¹⁶ **Note**— *In re Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance, Declaratory Ruling, 24 FCC Rcd 13994 (2009) ("Shot Clock Ruling").*

¹⁷ **Note**— Set out in 2014 Infrastructure Order ¶¶ 258—260.

the City, the City may request additional information from the applicant to evaluate the application under Section 332(c)(7), pursuant to the limitations applicable to other Section 332(c)(7) reviews.

(3) *Application for a Personal Wireless Service Facility*

- a. The applicant for a personal wireless service facilities site shall complete the application, and any addendum to the application, provided by the planning and zoning department. The application must be completed for all personal wireless service facilities sites, both for those sites which require a conditional use permit and for those sites meet the then current zoning criteria.
- b. The application may be revised from time to time, as reasonably determined by the planning and zoning department to be consistent with state and federal law.¹⁸

(4) *Exemptions.* These regulations do not apply to a building, other structure or land under the control, administration or jurisdiction of state or federal agencies.

(b) Recycling Facility

- (1) A Recycling Facility shall comply with all applicable Hidalgo County, State of Texas, and Federal regulations and permit requirements prior to approval.
- (2) A Recycling Facility shall be located at least one thousand (1,000) feet from any residential use or district.
- (3) A Recycling Facility shall be located on at least ten (10) acres.

(c) Solid Waste Facility

- (1) A Solid Waste Facility shall comply with all applicable Hidalgo County, State of Texas, and Federal regulations and permit requirements prior to approval.
- (2) A Solid Waste Facility shall be located at least one thousand (1,000) feet from any residential use or district.
- (3) A Solid Waste Facility shall be located on at least ten (10) acres.

Section 140-38. Agriculture Use-Specific Regulations

(a) Agritainment

- (1) Noise shall not exceed seventy (70) decibels at the property boundaries.

¹⁸ **Note**— 47 U.S.C. § 332(c)(7), imposes several restrictions on local authority concerning "the placement, construction and modification of personal wireless service facilities", while otherwise preserving municipal regulatory and zoning authority. Section 6409 also imposes certain restrictions on the city. The application assist the city in determining the applicability of 47 U.S.C. § 332(c) and Section 6409.

- (2) An Agritainment use shall provide sanitary and waste services for participants and spectators.
- (3) An Agritainment use shall provide paved emergency medical services and fire lanes as part of the facility's operations.
- (4) The fire lane shall be at least twenty-eight (28) foot wide.

Division 3. Accessory Use Regulations

Section 140-39. Purpose

This division authorizes the establishment of accessory uses and buildings that are incidental and customarily subordinate to principal uses. An accessory use is "incidental and customarily subordinate" to a principal use if it complies with the standards established in this division. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, buildings, and activities typically associated with the use, unless specifically prohibited in this division.

Section 140-40. Approval Procedure

- (a) *Generally.* Any of the accessory uses identified in this Article may be allowed as accessory to an authorized principal use provided that:
 - (1) The proposed accessory use is allowed as a principal or accessory use in the base district where proposed; and
 - (2) The proposed accessory use or building is consistent with the general and specific standards for accessory uses in this division.
- (b) *Simultaneously with a Principal Use.* Accessory uses or buildings may be reviewed as part of review of an associated principal use. In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with an approved Conditional Use Permit.
- (c) *Subsequent to a Principal Use*
 - (1) Unless exempted, a building permit shall be required in cases where an accessory use or building is proposed subsequent to a principal use.
 - (2) In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with the provisions in Article VI.

Section 140-41. Interpretation of Unidentified Accessory Uses

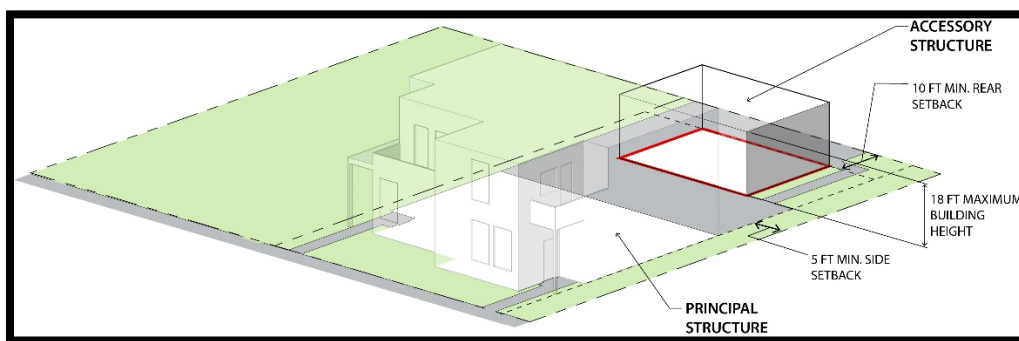
The Director shall evaluate applications for accessory uses that are not identified in this division on a case-by-case basis, based on the following standards:

- (a) The definition of "accessory use" in Article X. , and the general accessory use standards and limitations established in this division;
- (b) The purpose and intent of the base districts in which the accessory use is located;
- (c) Potential adverse effects the accessory use or building may have on other lots, compared with other accessory uses permitted in the district; and
- (d) The compatibility of the accessory use with other principal and accessory uses permitted in the district.

Section 140-42. General Standards for all Accessory Uses

All accessory uses and buildings shall be subject to the general standards in this Section, as well as any applicable supplemental standards in Section 140-44. and all standards applicable to the associated principal use as set forth in Article III.

Figure 42.1: Accessory Structure Dimensional Illustration



- (a) *Size.* All accessory uses shall:
 - (1) Be clearly subordinate in area, extent, and purpose to the principal use or structure; and
 - (2) Not violate the bulk, density, parking, landscaping, or open space standards of this UDC when taken together with the principal use or structure.
 - (3) The floor area of any detached accessory building shall not exceed fifty percent (50%) of the floor area of the principal structure. The total combined floor area of all buildings shall not exceed the maximum lot coverage for the zoning district in which it is located. The Director may authorize a building to exceed this percentage if the building is used as a guest house, or is used for animal production or crop production associated with an agricultural use.
- (b) *Function.* All accessory uses shall directly serve the principal use or building, and be accessory and clearly incidental to the principal use or building.

- (c) *Timing.* Accessory uses shall not be constructed or established prior to the start of construction of the principal use or building. An accessory building shall not be used until the construction of the primary building is complete.
- (d) *Height.* Accessory buildings shall be limited to a maximum height of fifteen (15) feet unless exempted from the height requirements in this UDC.
- (e) *Location.*
 - (1) Accessory uses or buildings shall be located on the same lot as the principal use or building.
 - (2) Accessory buildings shall not be located within platted or recorded easements.
 - (3) Accessory buildings shall be set back at least five (5) feet from any side and ten (10) feet from any rear property line.
 - (4) The Director may authorize an accessory building on a vacant lot if the structure is used for animal production or crop production associated with an agricultural use, or used in conjunction with a park.
 - (5) Accessory buildings shall be set back at least five (5) feet from the principal use or building on all sides.

Section 140-43. Accessory Use-Specific Regulations

- (a) *Accessory Dwelling Unit*
 - (1) A Detached Accessory Dwelling Unit shall only be located in the rear of a lot.
 - (2) Only one Accessory Dwelling Unit is allowed on a lot.
 - (3) An Accessory Dwelling Unit must comply with the required setbacks of the zoning district in which the unit is located.
 - (4) An Accessory Dwelling Unit must comply with the zoning district's height requirements.
 - (5) An Accessory Dwelling Unit must not exceed the height of the primary dwelling.
 - (6) An Accessory Dwelling Unit must connect utilities to those of the primary dwelling.
 - (7) The property owner must occupy the principal dwelling or Accessory Dwelling Unit as the owner's permanent residence.
 - (8) An Accessory Dwelling Unit must comply with the requirements established in Table 43-1.

Table 43-1: ADU Requirement Matrix

ADU Requirement Matrix						
Primary Use on Lot	ADU Type Allowed			Minimum Lot Size (square feet)	Minimum ADU Size (square feet)	Maximum ADU Size (square feet)
	Detached	Attached				
		To Primary Dwelling	To Above Garage			
<i>Detached Single-Family Dwelling</i>	Yes	Yes	Yes	None	450	650 (for lots 5,000 s.f. or less) No maximum for lots greater than 5,000 s.f.
<i>Townhouse</i>	No	No	Yes	5,000	450	500
<i>Duplex</i>	Yes	No	Yes	9,000	450	900
<i>Triplex</i>	Yes	No	Yes	12,000	450	700
<i>Fourplex</i>	Yes	No	Yes	12,000	450	600
<i>Multiplex</i>	Yes	No	Yes	13,500	450	500

(b) *Donation and Collection Bin*

- (1) A Donation and Collection Bin shall meet all required zoning district setbacks.
- (2) A Donation and Collection Bin may be located in parking spaces as long as the required parking minimums are met.
- (3) For any single Donation and Collection Bin, the maximum:
 - a. Size is forty (40) square feet.
 - b. Height is five (5) feet.
- (4) The maximum total for all Donation and Collection Bins on a lot is fifty (50) square feet.

(c) *Fuel Pumps*

- (1) A fuel pump shall not be located within one hundred fifty (150) feet of a residential district.

(d) *Home Occupation*

- (1) The use of the residential dwelling for the Home Occupation shall be clearly incidental and subordinate to its use for residential purposes and shall never exceed 40% of the total of the floor area of the residential dwelling.
- (2) The residential dwelling shall maintain its residential character and shall not be altered or remodeled in order to create any type of exterior commercial appeal.
- (3) There shall be no mechanical equipment used or operations that create or make dust, odor, vibration, noise, or other effects detectable at the property line of the property in which the Home Occupation is located.
- (4) There shall be no products sold on the premises except artist's originals or products individually made to order on the premises, or as part of electronic commerce. Products that are not artist's originals or individually made to order may be constructed on site, using equipment normally found in a residence; however, these products may only be sold at a permitted commercial location.
- (5) There shall be no display of products produced by occupants of the dwelling that are visible in any manner from the outside of the dwelling unit.
- (6) The use shall not generate vehicular traffic beyond that which is normal in a residential district.
- (7) There shall be no storage of material, products, or supplies out of doors.
- (8) Visitors and customers shall not exceed those normally and reasonably occurring for a residence, including no more than two (2) at any given time.

(e) *Outdoor Display*

- (1) Outdoor Display shall be designated on an approved site plan.
- (2) Outdoor Display is limited to five percent (5%) of the total lot area or twenty percent (20%) of the primary building's gross floor area, whichever is more restrictive.
- (3) Outdoor Display shall be placed within ten (10) feet of the front facade of the primary building and shall not exceed four (4) feet in height.
- (4) If the items are placed on a sidewalk or other pedestrian area, a 6-foot wide pedestrian path must be maintained through and adjacent to the Outdoor Display area. The pedestrian path must be concrete or asphalt and may not be located within off-street parking areas, including parking spaces, fire lanes, easements, maneuvering aisles, customer pick-up lanes, and loading zones.

- (5) The temporary storage of merchandise for display and sale during a sidewalk sale shall not be prohibited. A 4-foot wide clearance shall be provided along the public sidewalk and a 6-foot clearance shall be provided on the sidewalk around the building.

(f) *Outdoor Storage*

- (1) Outdoor Storage shall be designated on an approved site plan.
- (2) Outdoor Storage shall not be placed:
 - a. Within any required setbacks;
 - b. Within parking spaces, fire lanes, easements, maneuvering aisles, or loading areas;
 - c. On the roof of any structure;
 - d. To exceed the required screening height; and
 - e. At the front of any primary building.
- (3) Outdoor Storage is limited to five percent (5%) of the total lot area or twenty percent (20%) of the primary building's gross floor area, whichever is more restrictive.
- (4) Outdoor Storage items shall be stored on a paved surface, and associated access and maneuvering drives shall be constructed of a paved surface, except for in the A-O, I-1, and I-2 zoning districts where items, may be placed on a gravel, dirt, or grass surface or similar permeable surface.

(g) *Service Bays*

- (1) All service bays within one hundred fifty (150) feet of a residential district shall face away from adjacent residential districts unless separated by a building or permanent architectural feature that functions to screen at least to a height matching the height of the service bays.
- (2) Service bays shall orient away from street frontage.

(h) *Wind Energy Conversion Systems*

- (1) *Purpose.* In order to balance the need for clean, renewable energy resources with the protection of the health, safety and welfare of the community, the purpose of this section is to regulate private use wind energy conversion systems for the production of electricity for use on a lot.
- (2) *Standards.* All wind energy conversion systems are subject to and must comply with the following provisions:
 - a. *Setbacks.* Minimum setbacks for wind turbines shall be:

1. A minimum of 1.1 times the total extended height of the wind turbine – as measured from average ground level of the lot to the uppermost part of the wind turbine – from the project property lines.
 2. Guy wire anchors may not extend closer than ten (10) feet from any property line.
- b. *Number per Lot or Parcel.* A maximum of two wind turbines per lot or parcel is permitted on lots or parcels less than one-half acre in size; a maximum of four wind turbines per acre are permitted on lots or parcels at least one-half acre in size.
- c. *Height.* Subject to the above-referenced setback requirements, the maximum total extended height of tower-mounted wind energy conversion systems – as measured from average ground level of the lot to the uppermost part of the wind turbine – is thirty-five (35) feet on parcels less than five (5) acres exceed ten (10) feet above the roof ridge and in no case be higher than thirty-five (35) feet.
- d. *Lighting.* Wind system towers shall not be artificially lighted unless required, in writing, by the FAA or other applicable authority that regulates air safety. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations; the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground; and no strobe lighting shall be permitted, unless expressly required by the FAA.
- e. *Access.* All tower-mounted wind energy conversion systems must comply with the following provisions:
1. The tower shall be designed and installed so that there shall be no exterior step bolts or a ladder on the tower readily accessible to the public for a minimum height of twelve (12) feet above the ground. For lattice or guyed towers, sheets of metal or wood or other barrier shall be fastened to the bottom tower section such that it cannot readily be climbed; and
 2. All ground-mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
- f. *Rotor Safety.* All wind turbines shall comply with the following rotor safety requirements.
1. Each wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. An external, manual shut off switch shall be included with the installation.

2. The minimum distance between the ground and any protruding blades utilized on a private wind turbine shall be ten (10) feet as measured at the lowest point of the arc of the blades.
 3. All blades of a wind turbine are required to be within a shroud.
- g. *Noise.* All wind turbines shall comply with these noise requirements and restrictions. These levels may not be exceeded at any time, including short-term events such as utility outages and severe wind storms. A manufacturer's sound report shall be required with a building permit application.
1. No wind energy conversion system or combination of wind energy conversion systems on a single lot or parcel shall create noise that exceeds a maximum of thirty-five (35) decibels (dBA) at any property line where the property on which the wind energy conversion system(s) is located or the abutting property is less than one (1) acre; or, a maximum of fifty (50) decibels (dBA) at any other property line. Measurement of sound levels shall not be adjusted for, or averaged with, non-operating periods.
 2. Any wind energy conversion system(s) exceeding these levels shall immediately cease operation upon notification by the building official and may not resume operation until the noise levels have been reduced and verified by an independent third-party inspector, approved by the building official, at the property owner's expense. Upon review and acceptance of the third-party noise level report, the building official will allow operation of the affected wind energy conversion system(s). Wind energy conversion system(s) unable to comply with these noise level restrictions shall be shut down immediately and removed upon notification by the Building Official, after a period established by the Building Official.
- h. *Aesthetics and Maintenance.*
1. *Appearance.* Wind turbines, unless subject to any applicable standards of the FAA, shall be a non-obtrusive color such as tan, sand, gray, black or similar colors. The painting or coating shall be kept in good repair for the life of the wind turbine. In addition, any changes to the approved color shall result in notification by the Building Official that the affected wind turbine(s) shall cease operation until a color correction has been made. If the affected wind turbine(s) are not repainted, using an approved color, within the period established by the building official, the owner shall remove the affected wind energy conversion system(s).
 2. *Electrical Wires.* All electrical wires leading from the tower to electrical control facilities shall be located underground.

3. *Maintenance.* Wind turbines shall be maintained in good repair, as recommended by the manufacturer's scheduled maintenance or industry standards.
 - i. *Signs.* Only one sign is allowed on the wind turbine and it shall not exceed one square foot in size.
 - j. *Compliance with FAA Regulations.* All wind turbines shall comply with applicable FAA regulations, including any necessary approvals for installations.
 - k. *Certified Safe.* A Texas professional engineer sealed drawing or statement shall accompany a building permit application confirming that the wind energy conversion system(s) has been designed and is planned to be constructed in accordance with accepted industry standards and certified safe.
- (3) *Repair and Removal of Wind Turbines.*
- a. Any wind turbine found to be unsafe by the Building Official or fire department shall immediately cease operation upon notification by the Building Official or fire department and shall be repaired by the owner to meet federal, state, and local safety standards or be removed within six (6) months. Wind turbines that are not operated for a continuous period of twelve (12) months shall be removed by the owner of the wind turbine.
 - b. When a wind turbine is removed from a site, all associated and ancillary equipment, batteries, devices, structures or support(s) for that system shall also be removed. For the purposes of this section, non-operation shall be deemed to include, but shall not be limited to, the blades of the wind turbine remaining stationary so that wind resources are not being converted into electric or mechanical energy, or the wind turbine is no longer connected to the public utility electricity distribution system.
- (4) *Mounting of Wind Turbines.* Attachment of the wind turbine, including any support or structural components, to any building or structure shall be in strict compliance with building codes and fire codes. Galvanized steel or metal is the acceptable system for the support structures.
- (5) *Compliance with Regulations.*
- a. All wind energy conversion systems shall comply with applicable fire codes and building codes.
 - b. All standards and regulations under this subsection and other applicable fire and building codes are mandatory. Once wind turbines are permitted, the owners have the option of compliance with the standards or discontinuation of operations. If the operation of the wind turbine(s) does not comply with the

provisions of this Section, the operator shall promptly take all measures necessary to comply with these regulations, including, but not limited to, discontinued operation of one or more wind turbines.

Division 4. Temporary Use Regulations

Section 140-44. Purpose

This division allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this division and are discontinued upon the expiration of a set time period.

Section 140-45. Approval Procedure

Any use listed in this Article may be permitted as a temporary use provided:

- (a) Where indicated in *Table 29-2*; and
- (b) The proposed temporary use is consistent with the general and specific standards for temporary uses and structures in this division.

Section 140-46. General Standards for all Temporary Uses

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this UDC:

- (a) The temporary use or structure shall not be detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare.
- (b) The temporary use shall comply with all applicable general and specific regulations of this division, unless otherwise expressly stated.
- (c) Permanent alterations to the site are prohibited.
- (d) All temporary signs associated with the temporary use or structure shall be properly permitted and removed when the activity ends or permit expires, whichever occurs first.
- (e) Temporary permits for construction yards, field offices, and batching plants and conditional use permits or variances regulating temporary buildings shall be issued for a period of time not to exceed eighteen (18) months. Temporary permits for Itinerant Vendors and Seasonal Roadside Stands shall be issued for a period of time not to exceed forty-five (45) calendar days. Extensions may be granted by the City Commission. Upon due notice and hearing before the City Commission, any such permit may be revoked if the City Commission finds the use of the building or structure is contrary to the intent of this UDC or results in increased noise, traffic, or other conditions considered to be a nuisance or hazard.

- (f) The temporary use or structure shall not violate any applicable conditions of approval that apply to a principal use on the site.
- (g) The temporary use regulations of this division do not exempt the applicant or operator from any other required permits, such as health or building permits.
- (h) If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic circulation as required that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers, 100-year floodplains, river protection setbacks, and required landscaping. At the conclusion of the temporary use or at expiration of the permit, whichever occurs first, all disturbed areas of the site shall be restored or improved to the condition that existed prior to the use.
- (i) If the property is developed, the temporary use shall be located in an area that is not actively used by an existing approved principal use, and that would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
- (j) Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property, shall be anchored, and meet the requirements of the Director or Fire Marshal, including fire rating.
- (k) Off-street parking shall be adequate to accommodate the proposed temporary use.

Section 140-47. Temporary Use-Specific Regulations

(a) Itinerant Vendors

- (1) Itinerant Vendors shall comply with the regulations established in [Chapter 78](#) of the Code of Ordinances.

(b) Mobile Food Vendor

- (1) Mobile Food Vendors shall comply with the regulations established in [Chapter 78](#) and [Sec. 54-51 of the Code of Ordinances](#).

(c) Pop-Up Market

- (1) Pop-Up Market requires a special permit where it is unlawful to operate a pop-up market:
 - a. Without a valid pop-up market permit; or
 - b. In violation of any provision of a pop-up market permit, this article, or any other applicable city ordinance or other law.
- (2) A one-time permit fee shall be charged at the time of issuing the permit.

- (3) The permit fee amount shall be determined by the total number of vendors present at the pop-up market.
- (4) Permit fees are nonrefundable and shall be set by the City Commission.
- (5) A permit issued pursuant to this Subsection shall not be issued for more than one pop-up market per calendar month for each specific address listed.
- (6) A Pop-Up Market shall not operate after 9 PM nor shall any pop-up market operate for more than twelve (12) hours in any twenty-four (24) hour period.
- (7) If a proposed pop-up market location is within any multi-tenant plaza, then an applicant must first obtain written consent of approval from at least 75% of all owners of that plaza before a permit is issued.
- (8) While the main use of any designated plaza or location is open for business, not more than twenty-five percent (25%) of the total parking lot may be used for purposes of a pop-up market. At all other times, no more than one-third (33.3%) of the total parking lot may be used for purposes of a pop-up market.
- (9) All tents, stalls, and merchandise must be immediately removed from the property upon expiration of the pop-up market's permitted operating hours. at the end of the pop-up market designated time period.
- (10) Issuance of a permit under the provisions of this Subsection does not waive or satisfy the requirement to obtain any other permit, zoning, or other license that may be required under the McAllen Code of Ordinances or applicable federal and state laws or regulations.
- (11) The City Manager shall have the authority to immediately revoke or suspend a permit issued under this Subsection if:
 - a. The applicant or permit holder has violated or failed to meet any of the provisions of this article for issuance of the permit;
 - b. The applicant or permit holder has violated or failed to meet any of the conditions of the permit;
 - c. Any required licenses have been suspended, revoked, or canceled;
 - d. The permittee has violated any federal, state, or city law or regulation;
 - e. The chief of the police department or the chief of the fire department has determined that the pop-up market would pose a serious threat to the public health, safety, or welfare; or
 - f. The applicant has made a false statement of material fact on an application for a pop-up market permit.

Article IV. Development Standards

Division 1. Generally

Section 140-48. Purpose

This Article establishes uniform standards for the development and improvement of property throughout McAllen to ensure quality development that is consistent with the Comprehensive Plan.

Section 140-49. Organization

This Article is organized into the following divisions for each development standard as summarized in Table 49-1. . Specific regulations and standards apply as provided in this Article.

Table 49-1: Development Standards Overview

Development Standard	Article Location	Overview
Dimensional Standards	Division 2.	Addresses the various yards, setbacks, and dimensional requirements that apply to a lot or development
Site Design Requirements	Division 3.	Provides a set of architectural design requirements to produce attractive development (these requirements are not applicable for single-family residential development)
Parking	Division 4.	Provides for when parking is required and how a site manages parking accommodations
Loading	Division 5.	Regulates when loading is required and how a site has to accommodate loading areas
Landscaping	Division 6.	Regulates the necessary landscaping requirements to improve the development aesthetic and maintain the City’s natural feel
Screening and Fencing	Division 7.	Provides regulations where more intensive development needs to buffer from less intensive development. It also accounts for those instances where fencing may be applied to protect privacy
Outdoor Lighting	Division 8.	Regulates site lighting to minimize light pollution while balancing the desire for safely lit properties
Refuse Containers and Enclosures	Division 9.	Provides requirements for on-site trash and refuse facilities that improves the development aesthetic
Signs	Division 10.	Regulates the various sign types and prescribes allowances based on zoning districts
Infill Development Standards	Division 11.	Addresses instances where redevelopment is to occur on previously developed lots
Performance Standards	Division 12.	Mitigates a development’s potential to create public nuisances (smoke, odor, dust, noise, etc.)

Development Standard	Article Location	Overview

Section 140-50. Applicability

This Article applies to all new development, expansions, and redevelopment within the corporate limits of McAllen unless otherwise specified. Each division in this Article establishes when and how a particular standard applies.

Division 2. Dimensional Standards

Section 140-51. Purpose

The purpose of this Division is to establish clear guidelines for measuring and applying required lots, yards, setbacks, height, and other dimensional features.

Section 140-52. Applicability

This Division applies to any lot, yard, setback, or height required by this UDC within the City's corporate limits.

Section 140-53. Yards and Setbacks

(a) Generally

- (1) The Planning and Zoning Commission shall have the authority to accept and approve any building setback lines established by a plat, even if such building setback lines may not be in compliance with the requirements set forth below.
- (2) Where setbacks have been established by an approved plat that deviates from the setback that is prescribed by this UDC, the required setback shall comply with the building setback line established by that plat.
- (3) The ordinary projections of sills, eaves, cornices and other architectural features may extend to a distance not to exceed twenty-four (24) inches into a required yard and shall not project over utility easements.
- (4) This UDC's required yards and setbacks are summarized in Figure 53.1: Yards and Setbacks Summary, Figure 53.2: Yards and Setbacks Summary (Street Perspective), and Table 53-1.

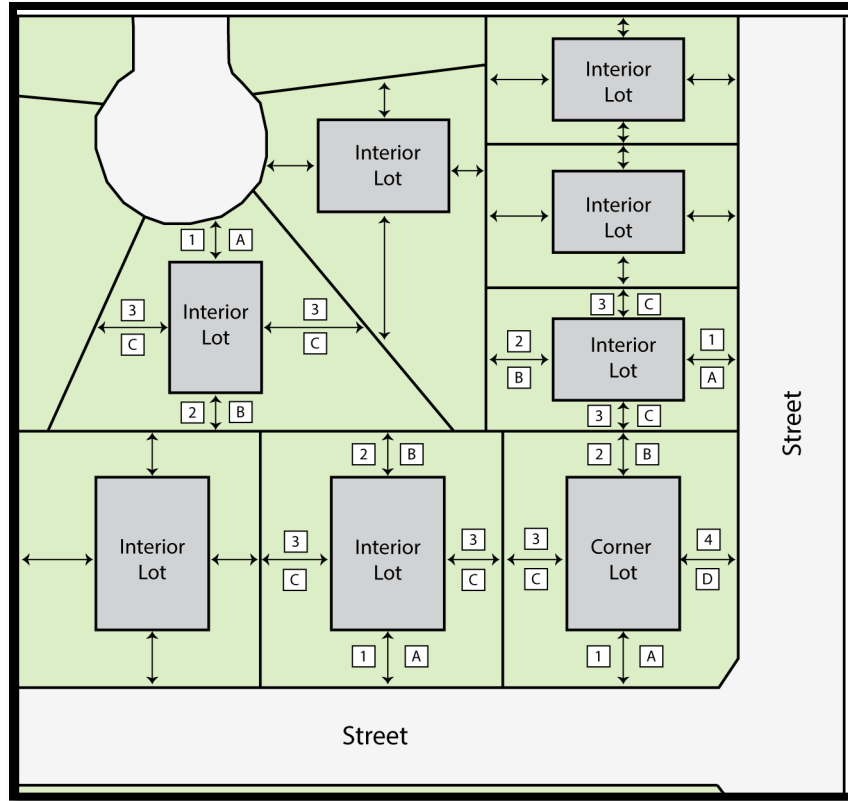
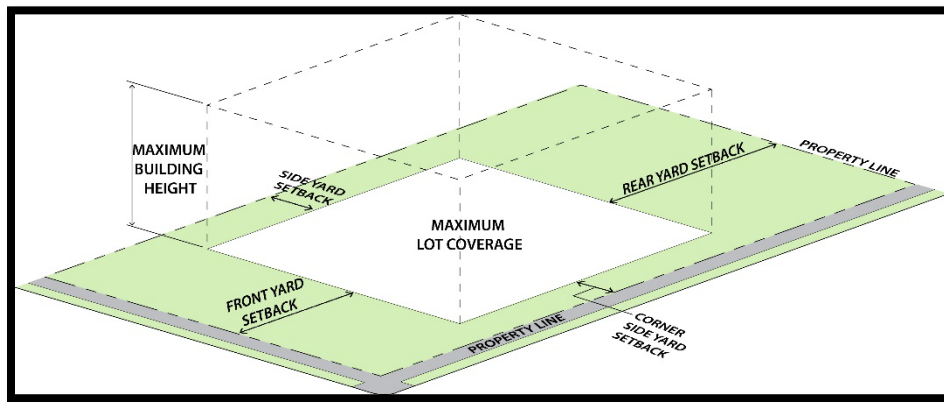


Figure 53.1: Yards and Setbacks Summary (Aerial Perspective)

Table 53-1: Yards and Setbacks Key

Symbol	Description
1	Front Yard
2	Rear Yard
3	Side Yard
4	Corner Side Yard
A	Front Yard Setback
B	Rear Yard Setback
C	Side Yard Setback
D	Corner Side Yard Setback

Figure 53.2: Yards and Setbacks Summary (Street Perspective)



(b) Front Yards

- (1) A front yard is a yard extending across the front of a lot between the side property lines and being the minimum horizontal distance between the right-of-way line and wall of the main building.
- (2) The front yard shall be open and unobstructed from a point forty (40) inches above the general ground level of the graded lot. Eaves and roof extensions or a porch may project into the required front yard for a distance not to exceed four (4) feet and subsurface structures, platforms, or slabs may not project into the front yard to a height greater than forty (40) inches above the grade of the yard.

(c) Side Yards

- (1) A side yard is a yard between the primary building and the adjacent side property line and extending entirely from a front yard to the rear yard.
- (2) Mechanical equipment such as air-conditioning compressors, swimming pool pumps and filters, and similar devices may be installed in the side yard a maximum height of sixty (60) inches above the ground level of the graded lot.
- (3) Where a side property line divides a nonresidential district from a residential district, a minimum ten (10) foot side yard is required for the nonresidential lot side adjacent to that residential district.

(d) Rear Yards

- (1) A rear yard is a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear property line and the rear of the main building.
- (2) Every part of a rear yard shall be open and unobstructed from a point forty (40) inches above the ground level of the graded lot, except for permitted accessory buildings and the ordinary projects stated above.

(e) Corner Side Yards

- (1) On a corner lot, the street where the building's primary entrance is located, or designated to be located, is the front yard. Any streets perpendicular to the building's primary entrance are corner side yards.

Section 140-54. Building Height

- (a) *Height Measurement.* The vertical distance from the grade to the highest point of the coping of a flat roof, the declivity of a mansard roof, and the mean height level between eaves and ridge for hip, gable or gambrel roofs.
- (b) In measuring the height of a building or structure, the following are excluded:
 - (1) Chimneys;
 - (2) Cooling towers;
 - (3) Elevator bulkheads;
 - (4) Mechanical rooms;
 - (5) Tanks;
 - (6) Water towers;
 - (7) Radio towers;
 - (8) Television antennas;
 - (9) Ornamental cupolas, domes or spires; and
 - (10) Parapet walls less than four (4) feet in height.
- (c) Heights authorized in this UDC are subordinate to those established in [Appendix A – Airport Zoning Regulations](#).

Section 140-55. Frontage Buildout

The frontage buildout is the required location where a building, or portion of a building must front. Frontage buildout is depicted in Figure¹⁹.

Section 140-56. Lot Area

- (a) No lot shall be created or reduced in area, width, or depth below the minimum requirements established in Article II.

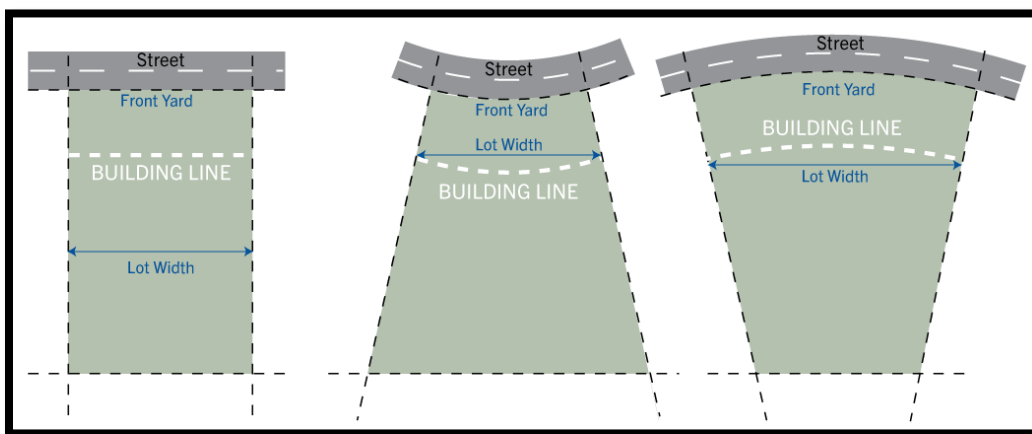
¹⁹ Figure pending

- (b) A lot that was legally created prior to the adoption of this UDC may be redeveloped, but any deviations from the dimensional standards other than minimum lot area shall require a Variance.
- (c) The total space required for a lot is calculated by multiplying the lot's depth by its width.

Section 140-57. Lot Width

- (1) Lot width is the distance parallel to the front property line, measured at the front setback line.
- (2) Lot width on a curving front line means the distance parallel to the tangent of the front property line at the building setback line.
- (3) The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
- (4) Refer to Figure 57.1: Lot Width Summary to clarify lot width measurements.

Figure 57.1: Lot Width Summary



Section 140-58. Lot Coverage

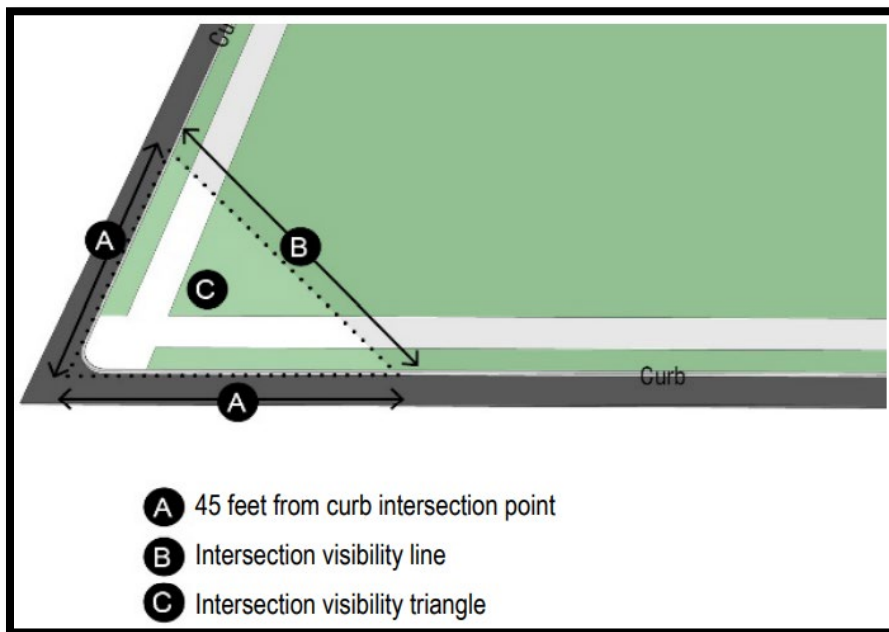
Lot coverage is the percentage of the lot that is occupied by the ground area of a building and its accessory buildings.

Section 140-59. Sight Visibility Triangle

- (a) Generally.
 - (1) These provisions apply to all new development or proposed expansions into the sight visibility triangle. However, these provisions do not apply to or otherwise interfere with the: placement and maintenance of traffic control devices under

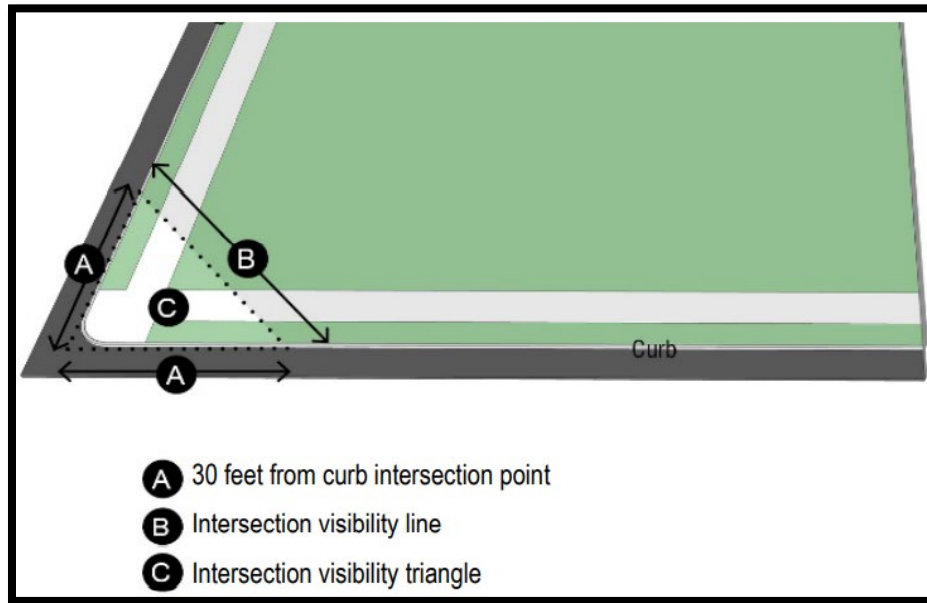
- governmental authority and control and public utilities; existing screening and fencing requirements; and existing and future City, state, and federal regulations.
- (2) Obstructions are prohibited at elevations between two and one-half (2½) feet and nine (9) feet above the average street grade within the sight visibility triangle. Prohibited obstructions include any fence, wall, screen, billboard, sign, structure, foliage, or any other object.
 - (3) At intersections where streets do not intersect at or near right angles, the Director shall have the authority to increase the minimum sight distances required above as they deem necessary to provide safety for both vehicular and pedestrian traffic.
- (b) *Arterials and Collector Intersections.* At intersections where arterials and collectors intersect at or near right angles, the Sight Visibility Triangle shall be the area formed by extending the two curb lines from their point of intersection forty-five (45) feet along the curb and connecting these points with an imaginary line, creating a triangle (see Figure 59.1: 45' Sight Visibility Triangle).

Figure 59.1: 45' Sight Visibility Triangle



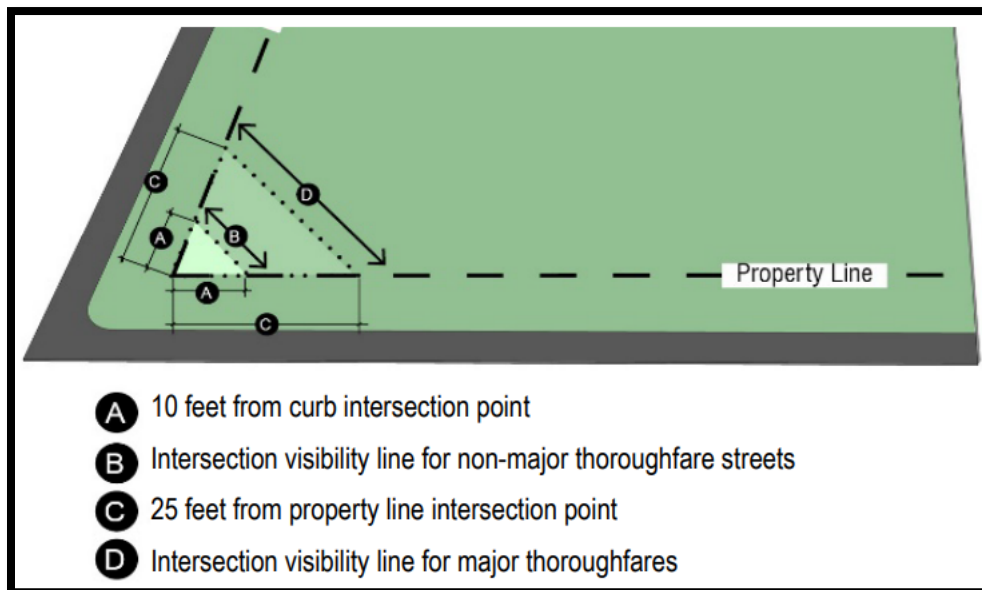
- (c) *Intersections at Local Streets.* At all intersections where local streets intersect at or near right angles, the Sight Visibility Triangle shall be the area formed by extending the two curb lines from their point of intersection thirty (30) feet along the curb and connecting these points with an imaginary line, creating a triangle (see Figure 59.2: 30' Sight Visibility Triangle).

Figure 59.2: 30' Sight Visibility Triangle



(d) *No Curb Intersections.* If there are no curbs existing, the triangular area shall be formed by extending the property lines from their point of intersection twenty-five (25) feet on arterials and collectors and ten (10) feet on local streets, and connecting these points with an imaginary line, creating a triangle (see Figure 59.3: Other Sight Visibility Triangles).

Figure 59.3: Other Sight Visibility Triangles



Division 3. Site Design Requirements

Section 140-60. Purpose

The purposes of this Division are to:

- (a) Establish minimum standards for the appearance of development and corresponding architectural design and site elements that enhance property values, reflecting the interest of the City's general welfare;
- (b) Promote variety, visual interest, and pedestrian-oriented streets in residential development;
- (c) Encourage the design of a developed environment that is built to human scale;
- (d) Ensure buildings are compatible with its surrounding area and contributes to the unique community character of McAllen; and
- (e) Encourage high quality design supportive of the Comprehensive Plan vision, goals, objectives and recommendations by establishing a system to achieve greater regulatory flexibility for development through provision of certain desirable design and performance characteristics.

Section 140-61. Applicability

- (a) Anyone using the provisions of this Division for regulatory flexibility does so voluntarily and in a binding manner. The City may require execution of agreements to document the use of these provisions and recording in the public records of the County.
- (b) This Division applies to all development within the City's corporate limits.

Section 140-62. Single-Family and Duplex Design

- (a) Establishment of Scoring System and Associated Regulatory Incentives
 - (1) *Level 1 High-Quality Design*. A cumulative score of sixty (60) points, as described below, shall result in the following changes to development regulations applicable to the subject property:
 - a. The granting of an additional ten (10) feet of maximum height
 - b. The granting of an additional ten percent (10%) of building coverage
 - c. The granting of an additional ten percent (10%) impervious cover
 - d. The granting of a ten percent (10%) reduction in minimum lot size and a ten percent (10%) increase in maximum dwelling units per acre
 - (2) *Level 2 High-Quality Design*. A cumulative score of eighty (80) points, as described below, shall result in the following bonuses applicable to the subject property:

- a. The granting of an additional twenty (20) feet of maximum height
 - b. The granting of an additional twenty percent (20%) of building coverage
 - c. The granting of an additional twenty percent (20%) of impervious cover
 - d. The granting of a twenty-five percent (25%) reduction in minimum lot size and a twenty-five percent (25%) increase in maximum dwelling units per acre.
- (b) *High-Quality Design Actions and Associated Scoring Values*. The following characteristics are determined to constitute evidence of high-quality design. The presence of each characteristic shall have an associated scoring value for the purposes of establishing whether a project achieves Level 1 or Level 2 High-Quality Design.
- (1) *Use of Building Materials Reflective of the City's Geographic Context*. A project may receive a maximum of twenty (20) points for the use of building materials reflective of the City's geographic context, as follows:
 - a. Use of Building Materials, Class 1 and Building Materials, Class 2 on one hundred percent (100%) of the exterior façade: **fifteen (15) points**
 - b. Use of Building Materials, Class 1 on one hundred percent (100%) of the exterior façade: **twenty (20) points**
 - (2) *Maintaining and Enhancing the Natural Environment*. A project may receive a maximum of twenty (20) points for maintaining and enhancing the natural environment, as follows:
 - a. Preserving at least thirty-five percent (35%) of the subject property unaltered in its natural state: **ten (10) points**
 - b. Certification of at least fifty percent (50%) of the subject property as a certified Texas Wildscape, Monarch Waystation or similar third-party designation approved by the Planning Director as indicating consistency with City goals to encourage native and adaptive plants, discourage invasive and disease-prone plants, and support wildlife habitat: **ten (10) points**
 - (3) *Promotion of Conversation and Low-Impact Development Best Practices*. A project may receive a maximum of thirty (30) points for development characteristics promoting conservation and low-impact development best practices, as follows:
 - a. Incorporation of rainwater harvesting system capable of capturing a one (1) inch rainfall event for twenty-five percent (25%) of the roof area, with a minimum of one-thousand (1,000) gallons: **fifteen (15) points**
 - b. Incorporation of Low Impact Development (LID) stormwater management practices subject to the approval of the Planning Director and City Engineer: **fifteen (15) points**

- c. Use of improved permeable surface for at least fifty percent (50%) of paved areas of driveways, parking and sidewalks (excluding the building footprint) with performance characteristics indicating at least fifty percent (50%) of water infiltrates through the surface and requiring minimal maintenance intervention, subject to Planning Director and City Engineer approval: **fifteen (15) points**
- (4) *Enhanced Building and Site Design Characteristics*. A project may receive a maximum of thirty (30) points for certain building design characteristics, as follows:
- a. Use of clay tile, slate or metal roof materials for the entire roof surface: **ten (10) points**
 - b. Use of a vegetative “green” roof for at least fifty percent (50%) of the entire roof surface (this may also count toward credit for the roof materials listed in ©, above, if project is seeking points for both): **twenty (20) points**
 - c. Use of enhanced paving for all driveways, sidewalks and other paved surfaces, including but not limited to earth-tone colored concrete (stain integral; not applied afterward), stamped or patterned concrete, brick or paver units, exposed aggregate or improved permeable surface (excluding dirt, grass or gravel): **ten (10) points**
 - d. Use of at least two (2) of the following element options: **ten (10) points**
 1. Front wall articulation to offset the floorplate every fifteen (15) feet along any front façade of the dwelling unit.
 2. The garage be placed behind the rear building face.
 3. A covered front porch or portico along at least fifty percent (50%) of the front façade, with a minimum depth of eight (8) feet.
 4. The use of window and door enhancements on all facades visible from the street, including but not limited to transoms, bay windows, raised muntins on windows, shutters, or other similar enhancements.

Section 140-63. Multi-Family, Mixed-Use, and Nonresidential Design

(a) Building Design and Orientation

- (1) All buildings shall be finished on all four sides with the same materials, detailing, and features and with a higher level of finish on the front facades (as set forth in the requirements below). The intent is not to limit materials but rather to ensure consistency in their use.
- (2) Any building visible from a public Right-of-Way shall either face such Right-of-Way or shall have a façade facing such Right-of-Way consistent with the character of the front façade.

- (b) *Required Design Element Options.* The following is a list of design elements that, based upon the size of a building (see 3 below), must be incorporated into a building's design:
- (1) Canopies, awnings or porticos;
 - (2) Overhangs;
 - (3) Recesses or projections;
 - (4) Arcades;
 - (5) Peaked roof forms;
 - (6) Arches;
 - (7) Outdoor patios;
 - (8) Display windows;
 - (9) Architectural details (e.g., tile work or moldings integrated into the building façade);
 - (10) Integrated planters or wing walls that incorporate landscape and sitting areas;
 - (11) Offsets, reveals, or projecting ribs used to express architectural or structural bays.
- (c) *Minimum Use of Design Elements.* A building's floor area shall determine the minimum number of required design elements implemented in its construction as set forth below:
- (1) A building square footage between 0 and 20,000 square feet shall have at least three (3) design elements listed in Subsection (b) above.
 - (2) A building square footage between 20,001 and 50,000 square feet shall have at least five (5) design elements listed in Subsection (b) above, and shall be designed to appear as separate but attached buildings through the use of building material changes, wall plane/horizontal articulation, and roofline/vertical articulation.
 - (3) A building square footage exceeding 50,000 square feet shall have at least seven (7) design elements listed in Subsection (b) above, and shall be designed to appear as separate but attached buildings through the use of building material changes, wall plane/horizontal articulation, and roofline/vertical articulation.
- (d) *Front Façade Entry Requirements*
- (1) A front façade shall be articulated and designed to present a distinctive entry presence, emphasizing the building's entry point along the façade.
 - (2) Entry design shall consist of at least three of the following design elements at the primary entrance, so that the primary entrance is architecturally prominent and clearly visible from the abutting street and parking:
 - a. Architectural details such as arches, friezes, tile work, murals or moldings.
 - b. Integral planters or wing walls that incorporate landscape or seating.

- c. Enhanced exterior light fixtures such as wall sconces, light covers with concealed light sources, ground-mounted accent lights, or decorative pedestal lights.
 - d. Prominent three-dimensional features, such as belfries, chimneys, clock towers, domes, spires, steeples, towers or turrets.
 - e. A repeating pattern of pilasters projecting from the façade wall by a minimum of eight inches or architectural or decorative columns.
- (e) *Pedestrian Shelter*. Facades shall provide shelter integrated into building form alongside at least twenty-five percent (25%) of all building frontages adjacent to or facing the principal street or adjacent parking with a maximum shelter height of fifteen (15) feet.
- (f) *Building Articulation*. Façade depth and height articulation shall be required on the front façade of a building, per the following:
- (1) Depth articulation of at least three (3) feet shall be required for every thirty (30) feet of building façade length. Depth articulation applies only below the roofline.
 - (2) Height articulation for flat roofs of at least five (5) feet shall be required for every fifty (50) feet of building façade length. Pitched roofs do not require height articulation.
- (g) *Roof Design Standards*. All structures shall be constructed with a pitched roof, flat roof (pitch less than or equal to 2:12) with a parapet, true mansard roof, or any combination thereof.
- (1) All flat roof surfaces shall be screened from ground level views so that such roof surfaces are not visible.
 - (2) Roofs or stairwells and elevator machine rooms and other similar spaces shall be exempt from roofing design standards so long as they are not visible from ground level. For the purpose of this paragraph, visible shall be defined as capable of being seen at a height of six (6) feet while standing at the highest grades on the property line.
- (h) *Windows*
- (1) Reflective glass shall not be permitted; glass shall not have solar reflectance that exceeds twenty percent (20%).
 - (2) Glass shall have a character of transparency. Tinted glass may be used, however, the tinting shall not reduce the light transmission to less than thirty-five percent (35%).
 - (3) Buildings shall provide glazing on a minimum of thirty-five percent (35%) of the ground floor front façade.
 - (4) Side elevations shall contain a minimum of ten percent (10%) glazing of the ground floor side façade.

(5) Windows shall be individually defined with detail elements such as frames, sills and lintels, and be placed to visually define the building stories.

(i) High-Quality Design Incentive

(1) Establishment of Scoring System and Associated Regulatory Incentives

a. *Level 1 High-Quality Design.* A cumulative score of sixty (60) points, as described below, shall result in the following changes to development regulations in Article II. applicable to the subject property:

1. The granting of an additional ten (10) feet of maximum height
2. The granting of an additional ten percent (10%) of impervious cover
3. The granting of an additional ten percent (10%) of dwelling units per acre

b. *Level 2 High-Quality Design.* A cumulative score of eighty (80) points, as described below, shall result in the following changes to development regulations in Article II. . Applicable to the subject property:

1. The granting of an additional twenty (20) feet of maximum height
2. The granting of an additional twenty percent (20%) of impervious cover
3. The granting of an additional twenty percent (20%) of dwelling units per acre

(2) *High-Quality Design Actions and Associated Scoring Values.* The following characteristics are determined to constitute evidence of high-quality design. The presence of each characteristic shall have an associated scoring value for the purposes of establishing whether a project achieves Level 1 or Level 2 High-Quality Design.

a. *Use of Building Materials Reflective of the City's Geographic Context.* A project may receive a maximum of twenty (20) points for the use of building materials reflective of the City's geographic context, as follows:

1. Use of context materials on eighty-five percent (85%) of the exterior façade: **fifteen (15) points**
2. Use of context materials on one hundred percent (100%) of the exterior façade: **twenty (20) points**

b. *Maintaining and Enhancing the Natural Environment.* A project may receive a maximum of thirty (30) points for maintaining and enhancing the natural environment, as follows:

1. Altering the topography and elevation by no more than four (4) feet for at least eighty percent (80%) of the subject property, and preserving any natural

- channel or drainage way (including associated 100-year floodplain): **ten (10) points**
2. Preserving at least thirty-five percent (35%) of the subject property unaltered in its natural state: **ten (10) points**
 3. Certification of at least fifty percent (50%) of the subject property as a certified Texas Wildscape, Monarch Waystation or similar third-party designation approved by the Director as indicating consistency with City goals to encourage native and adaptive plants, discourage invasive and disease-prone plants, and support wildlife habitat: **ten (10) points**
- (3) *Promotion of Conversation and Low-Impact Development Best Practices.* A project may receive a maximum of thirty (30) points for development characteristics promoting conservation and low-impact development best practices, as follows:
- a. Incorporation of rainwater harvesting system capable of capturing a one (1) inch rainfall event for twenty-five percent (25%) of the roof area: **fifteen (15) points**
 - b. Incorporation of Low Impact Development (LID) stormwater management practices subject to the approval of the Planning Director and City Engineer: **fifteen (15) points**
 - c. Use of improved permeable surface for at least fifty percent (50%) of paved areas of driveways, parking and sidewalks (excluding the building footprint) with performance characteristics indicating at least fifty percent (50%) of water infiltrates through the surface and requiring minimal maintenance intervention, subject to the Planning Director and City Engineer approval: **fifteen (15) points**
- (4) *Enhanced Building and Site Design Characteristics.* A project may receive a maximum of 30 points for certain building design characteristics, as follows:
- a. Use of high-albedo roof materials to reduce heat island effects, defined as use of roof products for at least seventy-five percent (75%) of the entire roof surface that reflect at least seventy-eight percent (78%) of sunlight (solar reflectivity index of 78) for roofs with a pitch less than or equal to 2:12 or twenty-nine percent (29%) of sunlight (solar reflectivity index of 29) for roofs with a pitch greater than 2:12: **ten (10) points**
 - b. Use of a vegetative “green” roof to reduce heat island effects for at least fifty percent (50%) of the entire roof surface (this may also count toward credit for high-albedo roof materials if project is seeking points for both): **twenty (20) points**
 - c. Placement of at least fifty percent (50%) of the parking to the side or rear of the main building: **ten (10) points**

- d. Increasing the glazing requirements for each façade by an additional twenty percent (20%): **ten (10) points**
- e. Use of at least five (5) of the following element options on the front and side façade: **fifteen (15) points** for forty percent (40%) of the front and side façade, or **twenty (20) points** for sixty percent (60%) of the front and side façade
 1. Canopies, awnings or porticos;
 2. Overhangs;
 3. Recesses or projections;
 4. Arcades;
 5. Peaked roof forms;
 6. Arches;
 7. Outdoor patios;
 8. Display windows;
 9. Architectural details (e.g., tile work or moldings integrated into the façade);
 10. Integrated planters or wing walls that incorporate landscape and sitting areas;
 11. Offsets, reveals or projecting ribs used to express architectural or structural bays;
 12. Use of classic tripartite building design (e.g., a building design with a distinct base, middle and top similar to historic buildings found in small downtowns throughout Texas).
- (j) *Minor Modification*. The Director may approve elements not listed in this Division if an equal or greater level of design and quality is provided.
 - (1) Design Element Options
 - a. Alternatives to the design elements listed in Subsection e above.
 - b. Alternatives shall produce a similar or greater level of architectural design than the elements listed in Subsection e above.
 - (2) *Building Articulation*. Alternative articulation standards which differ from the requirements found in Subsection e above may be approved.
 - (3) *Glazing Alternatives*. Walls that must be blank for security or other requirements shall be enhanced by the use of plant materials, artwork, canopies, special lighting, or a combination of façade articulation and material changes.

Division 4. Parking

Section 140-64. Purpose

The purposes of this Division are to:

- (a) Ensure that adequate off-street parking is provided for new land uses and changes in use;
- (b) Minimize the negative environmental and development design impacts that can result from excessive parking, driveways, and drive aisles within parking areas;
- (c) Establish standards and regulations for safe and well-designed parking and vehicle circulation areas that minimize conflicts between pedestrians and vehicles within parking areas and surrounding land uses;
- (d) To regulate off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety, and welfare of the City;
- (e) Offer flexible means of minimizing the amount of area devoted to vehicle parking by allowing reductions in the number of required spaces in context-sensitive locations;
- (f) Ensure compliance with provisions of the Americans with Disabilities Act (ADA);
- (g) Minimize the visual impact of off-street parking areas; and
- (h) Ensure that adequate off-street bicycle parking facilities are provided in walkable areas and promote parking that offers safe and attractive pedestrian routes.

Section 140-65. Applicability

- (a) Any new building, structure, use, redeveloped site, or enlarged or expanded existing building or use, must meet this Division's parking requirements. These developments require permanent parking. Parking spaces may be provided in a garage or surfaced open area.
- (b) When a change in intensity of use of any building or structure would increase the required parking by more than five (5) spaces or ten percent (10%), whichever is greater, through an addition or change in the number of dwelling units, gross floor area, or other specified units of measurements, the increment of additional required parking is provided in accordance with this Division unless an adjustment is permitted in Section 140-68. If less than five (5) spaces or ten percent (10%), whichever is greater, are required by a change or series of changes in use, the Director may waive up to the incremental required number of parking spaces after determining that the granting of the waiver will not be detrimental to the public welfare and will be consistent with the Comprehensive Plan.

Section 140-66. Compliance Required

- (a) *Off-Street Parking Review.* Each application for a site plan, building permit, or certificate of occupancy shall include information as to the location and dimensions of parking spaces, and the means of ingress and egress to those spaces. This information is in sufficient detail to determine the requirements of this UDC are met and shall contain necessary information required by applicable provisions of this UDC.
- (b) *ADA Compliance.* All ADA parking spaces and related ADA accessibility features are required to be installed in accordance with the current edition of the ADA Standards for Accessible Design (the “ADA Standards”) as published by the Department of Justice. Where discrepancies exist between this UDC and the ADA Standards, the ADA Standards shall apply. All required parking shall meet the ADA Standards.
- (c) *Parking Reduction Procedures.* No existing or proposed parking shall be reduced or eliminated unless otherwise specified. Reductions in parking spaces may be permitted where spaces are no longer required by these regulations or alternative spaces meeting the requirements of these regulations are provided.
- (d) *Off-Street Parking Requirements.* Minimum off-street parking shall follow the requirements established in *Table 29-1*.

Section 140-67. Measurements and Interpretations

- (a) Generally
- (1) *Square Footage (Floor Area).* The total or gross building square footage.
- (2) *Fraction of a Space.* When the calculation of the number of required parking spaces results in a requirement of a fractional space, any fraction is interpreted as one (1) whole parking space.
- (b) *Parking Specific Metrics.* *Table 67-1* summarizes the various parking metrics used to determine required parking.

Table 67-1: Parking Specific Metrics

Metric	Example	Interpretation
Square Footage	1/1,000 SF	1 parking space for each 1,000 square feet of the building's floor area
Dwelling Unit	1/DU	1 parking space for each dwelling unit
Bedroom(s)/Guestroom(s)	1 + (0.75) bedrooms	1 parking space plus the number of parking spaces from calculating 0.75 times all bedrooms
Bedroom Unit	1.5/1 BRU	1.5 parking spaces for a single bedroom apartment unit
Acres	1/5 acres	1 parking space for every 5 acres
Site	5/site	5 parking spaces for the entire site

Metric	Example	Interpretation
Bay	1/bay	1 parking space for every bay
Pumps	½ pumps	1 parking space for every 2 pumps

Section 140-68. ½Reductions to Parking Requirements

(a) Generally

- (1) In specific instances established below, a reduction in required parking spaces may be approved by the Director or Planning and Zoning Commission. Applications for a reduction shall include the following information:
 - a. A parking study that substantiates the need for a reduced number of spaces, and
 - b. A plan showing how the parking spaces are provided on the site.
- (2) Multiple parking adjustments and reductions may be used.
- (3) The maximum required parking reduction shall not exceed forty percent (40%) unless specifically authorized in this Section.

(b) Director Approved Adjustments and Reductions

- (1) *Joint Parking Facilities.* Joint parking allows parking spaces to be shared among two or more uses that typically experience peak parking demands at different times and are located on the same lot or on lots within six hundred (600) feet. Because parking spaces are shared, the total number of parking spaces that would otherwise be required may be reduced. In addition to all other applicable requirements of this Section, the following requirements apply to joint parking:
 - a. *Authority to Reduce Parking*
 - 1. The Director may reduce the total minimum number of required parking spaces, provided that each use participating in shared parking experiences peak parking demands at different times.
 - 2. The Director shall base this decision on the criteria established for each parking reduction.
 - b. *Parking Study.* The Director may require the applicant to submit a parking study to determine the peak parking demand periods or other information needed to determine the viability of joint parking.

(2) On-Street Parking



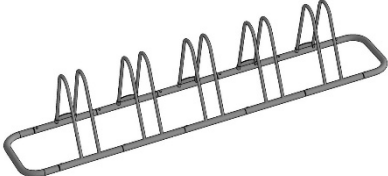
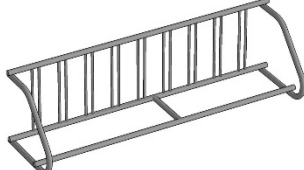
- a. On-street parking consists of parking spaces located in a public right-of-way.

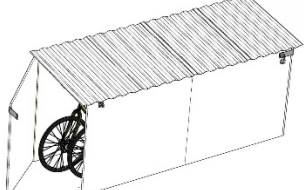
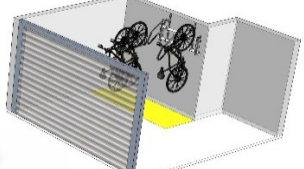
- b. Each parking space that is in a public right-of-way abutting the lot may count as a required parking space other than residential uses for the purpose of meeting the requirements in *Table 29-1*.
 - c. Each parking space must be on a paved area abutting or within the public right-of-way. If it is in a public right-of-way, then it shall not prohibit or limit access for emergency service vehicles as required by the Fire Marshal.
- (3) *Captive Market*. Parking requirements for retail and restaurant uses may be reduced up to twenty-five percent (25%) where it can be determined that some portion of the patronage of these businesses comes from other uses (i.e., employees of area offices patronizing restaurants) located within the same building or a maximum walking distance of five hundred (500) feet.
- (4) Availability of Public Parking
- a. Parking requirements may be reduced up to twenty percent (20%) if a property has available to it a sufficient supply of existing underutilized public parking spaces in off-street public parking lots or on-street public parking spaces.
 - b. Parking must be within a maximum walking distance of five hundred (500) feet from the proposed use.
- (5) Structured Parking
- a. Parking reductions may be applied for providing parking in a parking structure in addition to any reduction in this Subsection.
 - b. For every one hundred (100) parking spaces located in an above-grade parking structure, a twenty percent (20%) reduction in required parking may be applied.
- (6) *M-1 and M-2 District Parking*. Any new development in the M-1 and M-2 districts may apply a twenty-five (25%) reduction to the required parking ratio established in *Table 29-1* for that particular use.
- (7) Downton McAllen C-C District Parking
- a. Required parking ratios do not apply in the Downtown (DT) Subdistrict.
 - b. Any new development or redevelopment in the Downtown Uptown (UT) Subdistrict may apply a fifty percent (50%) reduction to the required parking ratio established in *Table 29-1* for that particular use.
- (8) *Infill Development Parking*. Any new infill development may apply a thirty percent (30%) reduction to the required parking ratio established in *Table 29-1* for that particular use.

Section 140-69. Bicycle Parking Facilities

- (a) Generally
 - (1) Bicycle parking is required for certain uses in the C-C, M-1, and M-2 zoning districts to encourage the use of bicycles by providing secure and convenient places to park bicycles.
 - (2) Required bicycle parking is designed so people of all ages and abilities can access the bicycle parking and securely lock their bicycle without inconvenience.
 - (3) Bicycle spaces are measured as the ability for a facility to store one bicycle. One bicycle space equals one stored bicycle.
 - (4) A bicycle parking facility shall not obstruct pedestrian traffic or interfere with the use of the pedestrian area.
 - (5) Bicycle parking shall be required and comply with the City’s Hike and Bike Master Plan.
- (b) *Required Minimums.* Minimum bicycle parking shall follow the requirements established in *Table 29-1*.
- (c) *Bicycle Parking Facility Types.* Where bicycle parking is required, one of the following bicycle parking facility types established in *Table 69-1* shall be provided.

Table 69-1: Bicycle Parking Facility Types

Facility Type	Description	Graphic
U-Rack	A “U-shaped” bicycle facility affixed to pavement that’s stores up to two (2) bicycles which are locked from the outside	
Bollard Rack	A bicycle facility affixed to pavement that stores up to two (2) bicycles which are locked from the outside	
Low-Profile Rack	A low-lying bicycle facility affixed to pavement that stores multiple (1 to 20) bicycles which are locked from the outside	
Grid Rack	A dual-sided bicycle facility affixed to pavement that stores multiple (1 to 20) bicycles which are locked from the outside	

Facility Type	Description	Graphic
Bicycle Locker	A locker or box in which multiple bicycles can be placed, stored, and locked	
Secure Bicycle Parking Area	A weather-protected, standalone bicycling parking structure or building extension with shared racks and access control	

(d) Bicycle Facilities

(1) *Generally.* A bicycle facility shall:

- a. Allow a bicycle frame and one wheel to be locked to the rack with a high-security lock;
- b. Allow a bicycle to be securely held with its frame supported in at least one place;
- c. Be durable and securely anchored;
- d. Have a locking surface thin enough to allow standard u-locks to be used, but thick enough so the rack cannot be cut with bolt cutters; and
- e. Not include any elements, impediments, or features within the interior space.

(2) *Installation.* A bicycle facility shall be:

- a. Available to the public;
- b. Located in a convenient, well-lit area that is clearly visible to both a visitor to the building and a person who is on the sidewalk that access the building’s primary entrance;
- c. Within one hundred fifty (150) feet of:
 - 1. The primary entrance of each building, and closer than the nearest vehicle parking space; or
 - 2. At least one primary entrance of a building with multiple entrances; unless an alternative location during the site plan process is approved; and
- d. Outfitted to where a bicycle can be safely and securely locked.

Division 5. Loading

Section 140-70. Purpose

The purposes of this Division are to:

- (a) Ensure that adequate loading facilities are provided for new land uses;
- (b) Establish standards and regulations for safe and well-designed loading and unloading to minimize conflicts between pedestrians and vehicles within parking areas and surrounding land uses; and
- (c) Minimize the impact of improperly planned loading areas.

Section 140-71. Applicability

- (a) Any new commercial, industrial, or public/civic/institutional building, structure, use, redeveloped site, or enlarged or expanded existing building or use as identified in *Table 29-1*, must meet this Division's requirements unless specifically exempted.
- (b) This Division does not apply to residential, accessory, and temporary uses.

Section 140-72. Compliance Required

Each application for a site plan, building permit, or certificate of occupancy shall include information as to the location and dimensions of loading facilities, and the means of ingress and egress to those facilities. This information is in sufficient detail to determine the requirements of this UDC are met and shall contain the necessary information required by applicable provisions of this UDC.

Section 140-73. Standards

- (a) *Generally.* The required number of off-street loading spaces is determined by gross floor area. Outdoor storage, sales, or display areas must be added to gross floor area if these areas contain materials that are received or distributed by trucks. If a development has more than two uses, the off-street loading space requirement is the highest number of spaces required by any one use. Required loading spaces follow the standards provided in *Table 73-1*.

Table 73-1: Required Loading

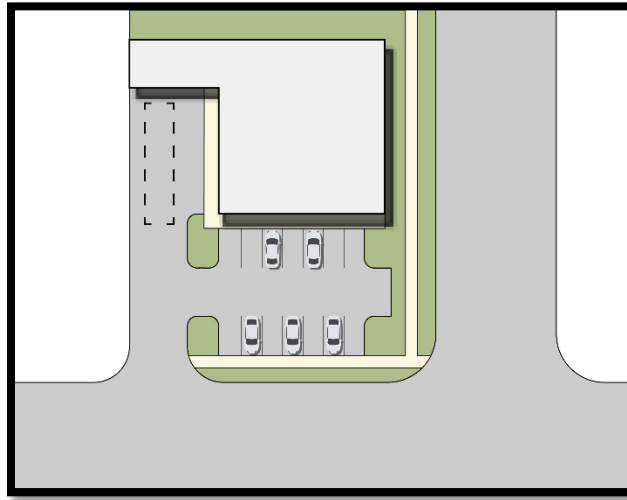
Minimum Required Number of Spaces by Land Use Category						
Floor Area Square Footage	Automotive	Commercial	Public/Institutional	Industrial	Transportation	Infrastructure
0 – 10,000	0	0	0	0	0	0

Minimum Required Number of Spaces by Land Use Category						
Floor Area Square Footage	Automotive	Commercial	Public/Institutional	Industrial	Transportation	Infrastructure
10,001 – 15,000	1	1	0	1	1	1
15,001 – 25,000	2	1	1	2	2	2
25,001 – 50,000	2	2	2	3	2	2
50,001 – 100,000	3	3	3	4	3	3
100,000 +	4 + 1 for each additional 100,000 sf	4 + 1 for each additional 75,000 sf	4 + 1 for each additional 100,000 sf	5 + 1 for each additional 50,000 sf	4 + 1 for each additional 100,000 sf	4 + 1 for each additional 100,000 sf

(b) *Location.* A loading space is:

- (1) Located within the same development as the building or use served;
- (2) Prohibited from projecting into a sidewalk, street, or public right-of-way;
- (3) Prohibited from being located between the front building line and the front property line;
- (4) Located to the rear or side of buildings and is visually unobtrusive;
- (5) Set back a minimum distance of one hundred (100) feet from any adjacent residential zoning district or use unless completely enclosed by building walls, a uniformly solid wall, or any combination of the two;
- (6) Set back a minimum distance of forty (40) feet from any public street, nearest point of intersection on any two streets or highway, or front property line; and
- (7) Oriented away from the street frontage.

Figure 73.1: Loading Space Illustration



(c) *Dimensions.*

- (1) Unless otherwise specified, all off-street loading spaces shall have a minimum dimension of twelve (12) feet by sixty (60) feet and an overhead clearance of fifteen (15) feet.
- (2) In no case shall required off-street loading spaces encroach upon off-street parking spaces required by this Division, or on public right-of-way.

(d) *Maneuvering.*

- (1) The size of delivery vehicles intending to serve the site determines maneuvering area size.
- (2) Each maneuvering area for loading spaces must not conflict with parking spaces or with the maneuvering areas for spaces.
- (3) A maneuvering area must be located on-site and have a minimum of sixty-five (65) feet for spaces serving delivery vehicles.

(e) *Design.*

- (1) Each loading space must minimize conflicts with other vehicular, bicycle, and pedestrian traffic.
- (2) Loading spaces shall be designed so that vehicles shall maneuver entirely within the property lines of the premises and not on public right-of-way.
- (3) Unenclosed off-street loading areas shall be permanently paved with hard-surfaced pavement.

- (4) Landscaping and screening requirements, provided in Division 6. and Division 7. of this Article, apply to loading facilities and shall prevent direct views of the loading facilities and their driveways from adjacent properties and public right-of-way.

Division 6. Landscaping

Section 140-74. Purpose

The purpose of this Division is to preserve McAllen's unique character and integrate and enhance new development by promoting landscape design that:

- (a) Reinforces the identity of the community;
- (b) Appropriately situates new buildings in the landscape;
- (c) Provides adequate vegetation for screening and buffering between land uses;
- (d) Provides tree canopies to reduce urban heat island effect;
- (e) Preserves the existing native trees and other physical site values where possible;
- (f) Reduce soil erosion and reduce stormwater runoff;
- (g) Aid in energy conservation for structures;
- (h) Balances water demand and use;
- (i) Soften the visual impact of paved areas, parking lots, and adjoining right-of-way;
- (j) Identifies climate-appropriate landscape material; and
- (k) Protects natural resources.

Section 140-75. Applicability

(a) *Generally.* The Division applies to:

- (1) All nonresidential, multi-family, and mixed-use developments for new construction within McAllen's corporate limits except for the exemptions listed below.
- (2) The following landscaping standards apply to all new nonresidential development and to the expansion by more than twenty five percent (25%) of an existing building mass or site in any zone.
- (3) If a principal nonresidential use and some or all of the parking area (required or otherwise provided) serving the principal nonresidential use are located on separate lots or parcels, the landscape installation required in this Division shall apply.

(b) *Exemptions.* This Division does not apply to:

- (1) Any property with a site plan that was approved prior to the adoption of this UDC, unless an amended site plan is required by the requirements in the submittal checklist.
- (2) Properties containing only single-family or two-family land uses unless otherwise specified.

- (3) Properties in the City Core (C-C) Districts unless otherwise specified.
- (4) Any development that utilizes zero property line setbacks as permitted by applicable zoning specifications shall be exempt from landscaping requirements for each applicable yard area.

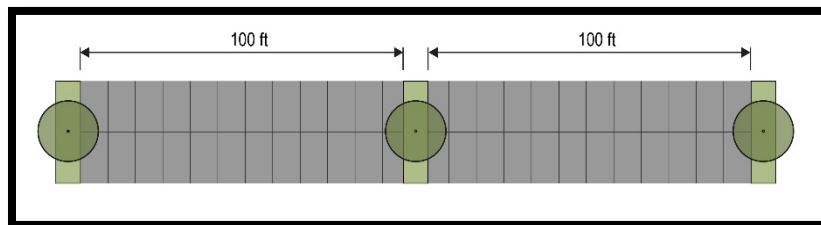
Section 140-76. Compliance Required

- (a) Each application for a site plan or building permit shall include information as to the location, dimensions, and types of trees and landscaping required. This information is in sufficient detail to determine the requirements of this Division are met and shall contain necessary information required by applicable provisions of this Division.
- (b) A landscape plan is required and shall be shown as part of the site plan or building permit. Landscape plans shall meet the requirements established in the submittal checklist.
- (c) No permits shall be issued for building, paving, grading, or construction until a landscape plan is approved. Prior to the issuance of a certificate of occupancy for any building or structure, all landscaping shall be in place in accordance with the landscape plan.
- (d) If a certificate of occupancy is sought at a season of the year in which the Director determines that it would be impractical to plant trees, shrubs, or grass, or to lay turf, a temporary certificate of occupancy may be issued if a letter of agreement from the property owner is provided stating when the installation shall occur. All landscaping required by the landscape plan shall be installed within six (6) months of the date of issuance of the temporary certificate of occupancy or the site shall be deemed to be in violation of this UDC and the temporary certificate of occupancy shall be revoked.

Section 140-77. Standards

- (a) Required Landscape Area.
 - (1) A minimum of ten percent (10%) of the area of any lot or parcel shall be devoted to landscape material and comply with the intent and purpose of this Division and fifty percent (50%) of such landscaped area for nonresidential lots shall be visible from the street fronting the developed property.
 - (2) Landscape areas located within the street and alley rights-of-way shall not be credited towards meeting the minimum landscape area requirement, however, right-of-way areas shall be landscaped.
 - (3) Landscape areas associated with drainage detention facilities located on the lot or parcel may be credited towards the landscape area requirement.

- (4) A minimum of fifty percent (50%) of the area within the required front yard of any residential parcel shall be devoted to landscape material.
- (5) The portion of the front yard for any residential parcel located between the property line and the extension of the side yard setback line shall be devoted to landscape material.
- (6) Treed landscape areas shall be located within one hundred (100) feet of any parking space.



- (7) Landscape areas within public and private rights-of-way, stormwater detention facilities, medians and islands shall comply with the specifications of the department of engineering. Landscape areas within rights-of-way shall be maintained in perpetuity by the property owners as common area. Trees located in landscape areas within street rights-of-way shall not be planted closer than six (6) feet from the back of the curb, or three (3) feet from the edge of an existing or future sidewalk.
- (b) Landscape Buffers.
- (1) A buffer shall be provided where a nonresidential use has a side or rear area property line in common with any residential use or zoning district. A masonry screen eight (8) feet in height shall be required where a commercial, industrial or multi-family use has a side or rear property line in common with a single-family use or zoning district. Where such use has two hundred (200) feet or less in common with any residential use or zoning district, the buffer shall be eight (8) feet in height but may be cedar planks.
 - (2) A buffer shall be provided where a multi-family use of four (4) or more dwelling units per structure has a side or rear area property line in common with any single-family residential use.
 - (3) A buffer shall be no closer to the street than the property line or landscape strip area, whichever is greater. Section 140-59. concerning sight obstructions at intersections shall be applicable to the screen where it is intersected by a street or alley.
 - (4) A landscape strip area with a minimum width of ten (10) feet shall be provided along and within the property lines of all nonresidential and multi-family uses contiguous to a public street, excluding driveway entrances and exits. For properties having a lot depth of less than two hundred (200) feet, the landscaped strip may be

reduced to a minimum width of five (5) feet with a landscape hedge not exceeding three (3) feet in height.

- (5) A wood or masonry or combination of wood and masonry buffer shall be provided along rear property lines of residential uses contiguous to a public street. Rear access to a residential use from a public street is prohibited where such residential use has access to a public street along the front property line. The buffer shall be constructed prior to final acceptance of the subdivision development improvements or prior to issuance of a certificate of occupancy for properties with an approved subdivision plat prior to the effective date of this ordinance. The buffer is required to be maintained by property owners of the subdivision or by the subdivision homeowners association.
- (6) A buffer shall be provided to screen refuse areas (including refuse dumpsters, compactors and contained compactors), outdoor storage areas and loading docks from public streets.

(c) Planting Criteria

- (1) *Trees*. Trees planted for credit under Section 140-78. shall be a minimum of ten (10) feet in height from ground level to top of crown when measured immediately after planting. In the case of palms, the required measurement shall be six (6) feet from ground level to base of live palm fronds. Trees shall be of a species having an average mature crown spread of greater than fifteen (15) feet in the Lower Rio Grande Valley (except palms) and having trunks which can be maintained in a clean condition for over six (6) feet of clear wood measured from the ground. Trees having an average mature crown spread less than fifteen (15) feet may be substituted by grouping such trees so as to create the equivalent of a fifteen (15) foot crown spread.
- (2) *Shrubs*. Shrubs shall be a minimum of one (1) foot in height when measured immediately after planting.
- (3) *Vines*. Vines shall be a minimum of thirty (30) inches in height one (1) year after planting and may be used in conjunction with fences, screens or walls to meet buffer requirements and specifications.
- (4) *Ground Covers*. Ground covers other than grass shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one (1) year after planting.
- (5) *Lawn Grass*. Grass areas shall be planted in species normally grown as permanent lawns in the City. Grass areas may be sodded, plugged, sprigged, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
- (6) *Synthetic Lawns or Plants*. Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this Division.

- (7) *Architectural Planters*. The use of architectural planters may be permitted in fulfillment of landscape requirements but may not be allowed in right-of-way, unless permitted by a license agreement.
- (8) A list of trees, shrubs, vines, and ground covers native to the Lower Rio Grande Valley shall be prepared by the Department of Parks and Recreation and provided by the Planning Department.
- (9) *Landscape irrigation requirements for nonresidential and multi-family uses*:
 - a. The owner shall be responsible for the irrigation of all landscape areas and plant materials, utilizing one (1) or a combination of the following methods:
 1. An automatic underground irrigation system (conventional spray, bubbler, and the like); or
 2. An automatic water-saving irrigation system (drip, porous pipe, leaky pipe, and the like).
 - b. The irrigation method used shall:
 1. Provide a moisture level in an amount and frequency adequate to sustain growth of the plant materials on a permanent basis;
 2. Be in place and operational at the time of the landscape inspection for certificate of occupancy unless an alternative method is approved; and
 3. Be maintained and kept operational at all times to provide for efficient water distribution.
 - c. Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses and wildflowers, may use a temporary and aboveground system and shall be required to provide irrigation for the first two (2) growing seasons and thereafter must maintain viability of plant material.
 - d. Landscape plans shall indicate, by a detail, a drawing, or by specification in a note on the site plan, the nature and location of irrigation which will be used; these should be specific enough to show that adequate irrigation will be provided to all required landscape areas and plant material.
 - e. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
- (10) Xeriscape areas shall provide a minimum of fifty percent (50%) of the landscaped areas with ground cover or grasses. Xeriscape areas not covered by grasses or ground cover shall be mulched or use another approved ground cover. A list of indigenous plant species for xeriscape areas shall be prepared by the Department of Parks and Recreation and provided by the Planning Department.

- (11) When landscaped areas are used for stormwater detention, tree and shrub plantings shall not adversely affect volumetric and/or conveyance characteristics.

Section 140-78. Tree Credits

For all non-single-family residential development, a minimum of one tree of at least two and one-half (2.5) inch caliper in size and ten (10) feet in height shall be included and replaced as necessary as per the following ratios:

- (a) When the required area being landscaped is from one (1) to two thousand (2,000) square feet, a minimum of one (1) tree for every two hundred (200) square feet of landscape area shall be required.
- (b) When the required area being landscaped is from two thousand one (2,001) to ten thousand (10,000) square feet, a minimum of ten (10) trees for the first two thousand (2,000) square feet and one (1) tree for every five hundred (500) square feet over two thousand (2,000) square feet of landscape area shall be required.
- (c) When the required area being landscaped is from ten thousand one (10,001) or greater square feet a minimum of twenty-six (26) trees for the first ten thousand (10,000) square feet and one (1) tree for every eight hundred (800) square feet over ten thousand (10,000) square feet of landscape area shall be required.
- (d) Three palm trees with a minimum of six (6) feet of clear trunk is the equivalent of one two and one-half-inch (2.5) caliper tree. The number of palms trees shall not exceed fifty percent (50%) of the total number of trees required.
- (e) Credit for trees (excluding palm trees):

Table 78-1: Tree Credits

Tree Credits	
Caliper	Number of Trees
≥ 8 inch caliper	6 tree credits
≥ 6 inch caliper	4 tree credits
≥ 4 inch caliper	2 tree credits

- (f) In order to encourage the preservation of existing trees, credit shall be given to existing trees (excluding palm trees) according to the following schedule:

Table 78-2: Existing Tree Credits

Existing Tree Credits	
Caliper	Number of Trees
≥ 20 inch caliper	12 tree credits
≥ 16 inch caliper	10 tree credits
≥ 12 inch caliper	8 tree credits
≥ 8 inch caliper	6 tree credits
≥ 4 inch caliper	4 tree credits

- (g) The minimum planting area shall be one-half (0.5) the radius of the crown spread for an existing tree measured from the trunk center, or not less than a radius of two and one-half (2.5) feet, measured from the center of the tree trunk to the near edge of the planting area whichever is greater. The ground surface within the planting areas shall be maintained in a porous or vegetative cover. Plastic underliners shall not be permitted.
- (h) Single-family residential development shall provide a minimum of one non-palm tree for the first fifty (50) feet of lot frontage and one additional non-palm tree for each additional twenty-five (25) feet of lot frontage. Trees required for single-family residential development shall be located within the front yard.
- (i) For single-family residential development, three (3) palm trees with a minimum of six (6) feet of clear trunk is the equivalent of one two and one-half-inch (2.5) caliper tree. The number of palms trees shall not exceed fifty percent (50%) of the total number of trees required.
- (j) A native, non-palm tree, as listed in Section 140-77. © with a minimum caliper of two inches and a minimum height of six (6) feet shall be the equivalent of one and one-half (1.5) required trees. Native tree credit is in addition to credit for large caliper and existing tree credit. Of the vegetation required by this Division, the use of ten percent (10%) native plant material may be 108ermitted.

Section 140-79. Tree Removal

- (a) The owner of the lot or parcel or the manager or agent, shall be responsible for the maintenance of all landscape areas, which shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free from refuse and debris. All landscaped areas shall be irrigated and shall be watered regularly to ensure

continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material.

- (b) No trees over twenty (20) inches in DBH (diameter at breast height) shall be removed without, in the case of any existing or proposed commercial development, submitting to the Director for review a survey of the property in question which includes all trees with a DBH of over twenty (20) inches.
- (c) The Director shall expeditiously review the submitted survey and work with the applicant in a pre-development conference to preserve as many existing trees over twenty (20) inches DBH which said preserved trees shall serve as a credit to the applicant's total aggregate number of caliper inches that they are required to plant as per this Division.
- (d) In the case of an existing commercial development, no trees may be removed from the development's existing landscape plan without first submitting a replacement landscaping plan for review, consideration and approval by the City; or, in the case of an issue involving three trees or less, the submission of a one page application to remove any tree that has become a hazard to the existing development with a plan to immediately replace it with another tree or trees of an equivalent caliper inch. Applications to remove and replace three trees or less shall be deemed automatically approved unless the City objects in writing within ten (10) business days of filing.
- (e) Nothing in this Division shall require any application from or permit to any public utility provider prior to removing a tree whenever it has determined the tree poses a hazard, or interferes with restoration or continuation of utility services.
- (f) Violations of this Section shall be punishable by a fine not to exceed \$1,000.00 per occurrence.

Section 140-80. Minor Modifications

- (a) In special cases where the paved area is less than ten thousand (10,000) square feet and where there are unusual and practical difficulties requirement established in this Division may be reduced through a minor modification approved by the Director.
- (b) The Director shall find that the minor modification:
 - (1) Is appropriate and necessary for the development;
 - (2) Does not adversely affect surrounding properties; and
 - (3) Is consistent with the purpose of this Division.
- (c) Any modification seeking more reduction relief requires a variance.

Division 7. Screening and Fencing

Section 140-81. Purpose

The purposes of this Division are to:

- (a) Minimize conflicts between potentially incompatible land uses and development on abutting property;
- (b) Ensure that screening devices and fences are attractive and in character with the neighborhood;
- (c) Maintain fences by recognizing their use to create privacy; and
- (d) Distinguish screening devices and fences from each other by clearly defining the two terms and applying specific standards to each term.

Section 140-82. Applicability

This Division applies to all development within the City's corporate limits. This Division does not apply to residential development unless otherwise specified.

Section 140-83. Screening Device Standards

- (a) Generally
 - (1) All required screening devices must be equally finished on both sides.
 - (2) All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics specified below, but need not be of the same material as the main fence or wall.
 - (3) Where a screening device is constructed, placed or planted on uneven terrain, there shall be no gap under the device, and the device must be composed of the same material throughout.
 - (4) No screening device comprised of brick, masonry, concrete, or solid metal shall be erected or placed that would interfere with the installation or maintenance of any public utility line, service, or drainage way within a dedicated easement unless approved by the Director.
 - (5) No screening device shall conflict with the sight visibility triangle requirements of Section 140-59.
 - (6) Any required screening device provided by a more intensive use abutting a residential use or district shall be permanently and adequately maintained by the more intensive use's property owner.
 - (7) If there is an existing screening device or fence along a residential property line and a nonresidential use is proposed, the required screening device shall be a living plant screen that complies with the requirements established in Section 140-77. © and is

deemed acceptable by the Director. However, this requirement may be waived if a 5-foot minimum space between two screening devices and fences is provided for maintenance access. The intent of these requirements is to eliminate screening situations where two screening walls or fences abut each other.

- (8) Before certificate of occupancy permit issuance, all approved screening devices must be in place.
- (9) All screening devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The occupancy permit may be revoked by the Director for failure to adequately maintain such screening device.

(b) *Exceptions.* Required screening devices are not required if:

- (1) An approved screening device already exists along the property line.
- (2) The portion of the subject property to be screened contains a wooded area that shall be maintained for the life of the project and a tree survey indicates that a majority of the trees in the wooded area on the subject property are found on the approved plant list maintained by the Planning Department; or
- (3) The portion of the subject property to be screened is adjacent to a floodplain containing existing trees that provide natural screening.
- (4) If a shared access easement is agreed upon between developing property and undeveloped property and recorded by plat or separate instrument.

(c) *Design Requirements.* A screening device shall be erected or placed in all locations and follow all provisions specified below:

- (1) *Height.* The minimum and maximum screening device height follow the requirements established in *Table 83-1*.

Table 83-1: Screening Height Requirements

Screening Type	Minimum Height (ft)	Maximum Height (ft)
<i>Refuse</i>	8	12
<i>Outdoor Storage</i>	6	10
<i>Multi-family</i>	8	10
<i>Industrial</i>	8	12
<i>Automotive</i>	6	10
<i>Other Required Screening</i>	6	8

- (2) *Materials*. The materials shall consist of one or more of the following unless specified elsewhere in this UDC (See *Figure 83.1: Acceptable Screening Devices*):
- a. Brick masonry, stone masonry, concrete block, or other architectural masonry finish;
 - b. Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of twenty (20) feet on center with structural supports spaced every ten (10) feet, and with sufficient evergreen landscaping to create a solid screening effect;
 - c. Living plant screens (evergreen shrubs with a minimum of three feet in height at the time of planting) that will not be detrimental to adjacent property and will provide sufficient visual screening based on the proposed location and characteristics of the project. A living plant screen shall comply with the requirements established in Section 140-77. ©; or
 - d. Alternate equivalent screening that provides an exceptional screening aesthetic, meets sound structural practices and engineering design criteria, and meets the intent and function of this Division at the discretion of the Director.

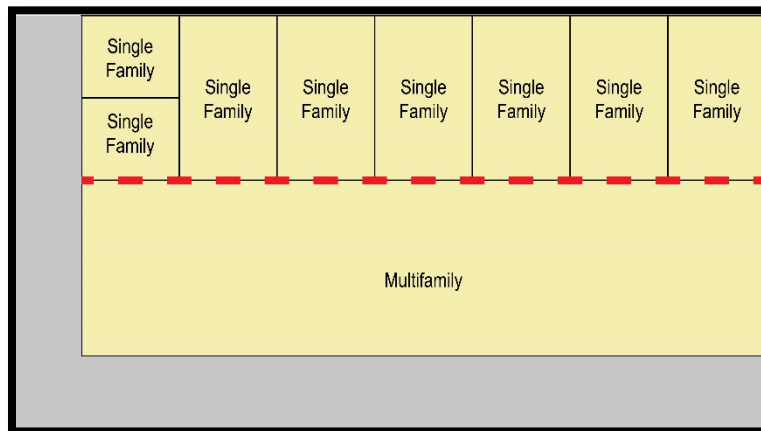
Figure 83.1: Acceptable Screening Devices



- (3) *Locational Requirements*. The following locational requirements apply:
- a. All allowed open storage of materials, equipment, or commodities shall be screened from view from all streets and any residential properties. Materials, equipment, or commodities shall be stacked no higher than one foot below the top of the screening device or visual barrier.

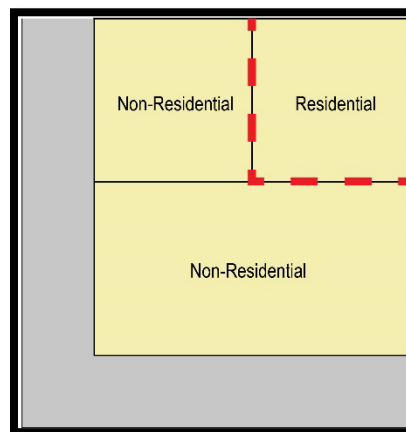
- b. Garbage, trash, or refuse containers shall meet the requirements established in Article IV. Division 9.
- c. All wrecking yards, junkyards, or salvage yards shall be contained on all sides and shall be screened from view from the public right-of-way and from adjacent residential property.
- d. Ground mechanical and heating and air conditioning equipment in nonresidential and multi-family uses shall be screened from view from the public right-of-way and from adjacent residential property.
- e. Roof-mounted mechanical units shall be screened from view at a point of four (4) feet above the property line with a parapet wall, mansard roof, or alternative architectural element. The height of the screening device shall be equal to or greater than the height of the mechanical unit provided that the device shall not extend more than six (6) feet above the roof on a one- or two-story building or more than twelve (12) feet above the roof on a building of three (3) or more stories. A mechanical unit that is taller than the maximum permitted height of the screening feature shall be set back from the screen three feet plus one foot for each foot exceeding the height of the screen. Screening for mechanical units shall apply to new building construction only.
- f. For commercial and industrial uses, vehicles and equipment awaiting repair for more than 24 hours or after the close of business shall be screened from view from public right-of-way and from adjacent residential property.
- g. A screening device meeting the standards established in *Table 83-1* shall be constructed on nonresidential property adjacent to residential property lines.
- h. Nonresidential uses in a residential district shall be screened from view of any adjacent residential lot or dwelling use along the side and rear property lines of that nonresidential use. These screening requirements are not required for public schools, parks, or religious land uses, except where a parking lot or active outdoor intensive use area (such as a playground) is adjacent to a residential lot or dwelling.
- i. Off-street loading areas of any nonresidential use shall be screened from view of any residential dwelling or lot or of any other adjacent public land use.
- j. Where a multi-family residential use abuts a single-family or two-family residential use or district, the side and rear property lines of that multi-family use shall be screened from view of adjacent dwelling(s) (see the red dashed line in Figure 83.2: Required Multi-Family Screening Abutting a Residential Lot or Use).

Figure 83.2: Required Multi-Family Screening Abutting a Residential Lot or Use



- k. No screening device or fence shall be erected, placed, or planted beyond the front building line of any permitted building in a residential district, either on a corner lot or interior lot, unless otherwise allowed by the Zoning Board of Adjustment through a variance request.
- l. Where a nonresidential use abuts a residential lot or use, the side and rear property lines abutting that residential lot or use shall be suitably screened by the nonresidential use so as to obscure the view from the residential lot, use, or district to the nonresidential use to a height not less than six (6) feet (see the red dashed line in Figure 83.2: Required Screening Abutting a Residential Lot or Use).

Figure 83.3: Required Nonresidential Screening Abutting a Residential Lot or Use






- m. Where a district boundary separating a residential district from a nonresidential district is along a street or alley, and a parking area is located in the front yard of the nonresidential use, then the parking area facing the residential lot, use, or district shall be suitably screened to a height of at least than three (3) feet.

Section 140-84. Fencing Standards

(a) Generally

- (1) Fences are not required for any property within the corporate limits.
- (2) No fences exceeding three (3) feet in height shall be allowed in the required front yard in any residential district.
- (3) No fence shall be allowed in the required right-of-way.
- (4) No fence shall conflict with the sight visibility triangle requirements of Section 140-59.
- (5) Every fenced enclosure constructed under the provisions of this Section shall have at least one (1) gate in its perimeter.
- (6) All fences constructed under the provisions of this Section shall be maintained so as to comply with the requirements of this Section at all times. The Director may order the repair or removal of a fence if it is more than five percent (5%) damaged or leaning ten (10) degrees from vertical. Fences shall be repaired in compliance with the provisions of this Section.

(b) Corner Lots

- (1) On all corner lots in residential districts that have opposing rear property lines, fences may be constructed not to exceed eight (8) feet in height along the side and rear property lines, as indicated in **Figure**. 
- (2) On all residential district corner lots where the rear property line is opposed to a side property line across an alley from that side property line, no fence exceeding three (3) feet in height shall be constructed upon or within the side yard that is next to the street at a distance from the side building line greater than the minimum side yard requirement, as indicated in **Figure**. 
- (3) On all residential district corner lots that are key lots, the corner lot shall have a front building line on both streets, unless that key lot is separated from other lots by a dedicated street or alley. Where the property lines are opposed to a side property line of an adjoining lot, no fence exceeding three (3) feet in height shall be constructed between the front building lines and the side yard line of the abutting lot, as indicated in **Figure**. 

(c) Design Requirements

- (1) The minimum fence height is six (6) feet from average lot grade with a maximum height of eight (8) feet, unless otherwise specified.
- (2) Treated lumber is attached with galvanized screws to galvanized poles installed in premixed concrete.

(d) Security Fencing

- (1) Barbed wire fences used in conjunction with permitted agricultural and related activities are permitted without restrictions, but are expressly prohibited in all other districts except as provided below.
- (2) In residential areas, barbed wire, razor wire, electrified fencing, or other hazardous material are not allowed in the construction of fencing.
- (3) No fence that conducts an electrical current is allowed in any district or for any use except for those uses in an agricultural zoning district or for a correctional facility.
- (4) Barbed wire strands may be placed on top of permitted fences and screening devices in any nonresidential district for the purpose of security from theft, entry, and hazard around public utility substations and uses of a similar nature, provided the top strand is not higher than twelve (12) feet nor the bottom strand lower than eight (8) feet from the adjacent grade line.
- (5) Barbed wire may be placed on gate arms, fences, and screening devices in industrial zoning districts.

Division 8. Outdoor Lighting

Section 140-85. Purpose

The purposes of this Division are to:

- (a) Allow the use of outdoor lighting for night-time safety, utility, security, productivity, enjoyment, and commerce;
- (b) Minimize adverse off-site impacts of lighting;
- (c) Curtail light pollution, reduce skyglow, and improve the nighttime environment for astronomy;
- (d) Help protect the natural environment from the adverse effects of night lighting from gas or electric sources;
- (e) Conserve energy and resources to the greatest extent possible; and
- (f) Encourage outdoor lighting that is functional, aesthetically pleasing, and complementary to the architectural style of buildings or settings.

Section 140-86. Applicability

This Division applies to all outdoor lighting within the corporate limits. All outdoor lighting installed after the effective date of this UDC shall comply with this Division.

Section 140-87. Exemptions

The following are exempt from the regulations in this Division unless noted otherwise:

- (a) Single-family residential uses are exempt from the lighting plan requirements, but when lighting is provided, it is subject to the standards of this Division.
- (b) Public street lighting, providing that new street lighting shall be approved by the Traffic Department.
- (c) Temporary holiday displays.
- (d) Emergency/warning lights.
- (e) City-owned facilities, provided these uses meet the following standards:
 - (1) The luminaire angle from a lighting source that illuminates a recreational use may exceed an angle of zero degrees only to the extent necessary for lighting the use, provided that the luminaire is shielded to minimize spillover to surrounding properties;
 - (2) Maximum permitted illumination at the property line for a recreational use shall be two footcandles; and

- (3) Exterior lighting for a recreational use shall be extinguished as soon as possible after the event.

Section 140-88. Compliance Required

- (a) Site plans prepared under this UDC shall include an acknowledgement that the applicant and designer have reviewed Article IV, Division 8 and that the site, as designed, complies.
- (b) Before certificate of occupancy issuance for any building or structure, all lighting shall be in place in compliance with this Article IV, Division 8.

Section 140-89. Standards

- (a) Generally
 - (1) The direct or reflected light from any light fixture shall not create a traffic hazard to operators of motor vehicles on public streets or to operators of aircraft, and no colored lights may be used in such a way as to be confused or construed as street-traffic or air traffic control devices.
 - (2) No blinking, flashing, or fluttering lights, or other illuminated device that has a changing light intensity, brightness, or color, is permitted in any zoning district.
 - (3) The Director may require modifications to outdoor lighting after installation upon finding that the lighting, as installed, does not comply with these standards.

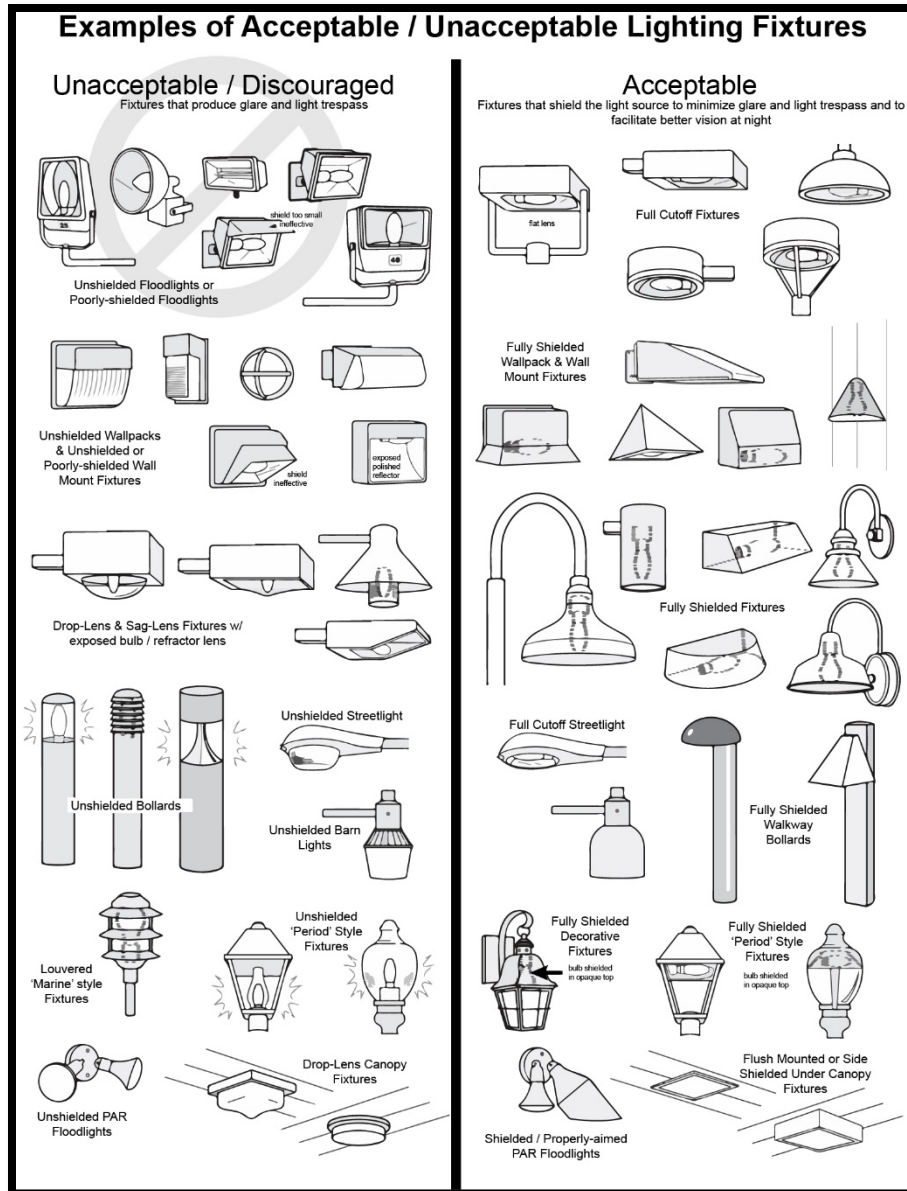


Figure 89.1: Light Fixture Examples

(b) Lighting Design

(1) All outdoor lighting shall meet the functional security needs of the proposed land use without adversely affecting surrounding properties and the natural environment.

Figures pending

(2) All new and replacement light fixtures shall be full cutoff, except that light sources not exceeding five hundred (500) lumens for individual light fixtures, one hundred fifty (150) lumens for individual lights in a light string (e.g., patio lights), and three thousand (3,000) Kelvin in color temperature are not required to be full cutoff. For cutoff light fixtures, refer to Figure 89.1: Light Fixture Examples.

- (3) Light sources shall be concealed or shielded to minimize the potential for glare and light pollution.
 - (4) Light fixtures shall be installed so that the luminaire angle is zero degrees (vertical to the ground).
 - (5) Lights that shine outward and create direct glare are prohibited.
 - (6) The amount of light trespass projected onto a residential use from another property shall not exceed 0.1 footcandles at the property line.
 - (7) Lighting shall be distributed evenly to minimize extremes in luminance levels.
 - (8) Light types of limited spectral emission, such as low-pressure sodium or mercury vapor lights, are prohibited in all areas.
 - (9) Energy efficient lighting shall be used to the maximum extent practicable.
 - (10) Light sources in residential zoning districts shall not exceed three thousand (3,000) Kelvin in color temperature.
 - (11) Light sources in nonresidential zoning districts shall not exceed five thousand (5,000) Kelvin in color temperature.
 - (12) Light fixtures used to illuminate flags, statues, or any other objects shall minimize glare beyond the illuminated object.
- (c) Lighting Height
- (1) Light fixtures mounted to a building or structure shall not exceed the height of the building or structure.
 - (2) Freestanding light fixtures located in residential zoning districts shall be mounted no higher than twenty (20) feet from the ground.
 - (3) Freestanding light fixtures located in other zoning districts shall be mounted no higher than thirty-five (35) feet from the ground.
 - (4) Light fixtures higher than the maximum heights specified in this subsection, but not exceeding the maximum structure height in the applicable zoning district, are prohibited unless the Director finds that such lighting is appropriate and necessary for the development, shall not adversely affect surrounding properties and is consistent with the purpose of the lighting standards.

Section 140-90. Minor Modifications

- (a) Lighting fixture heights greater than those established in this Division may be heightened by five feet through a minor modification approved by the Director.
- (b) The Director shall find that the heightened lighting fixture:

- (1) Is appropriate and necessary for the development;
 - (2) Does not adversely affect surrounding properties; and
 - (3) Is consistent with the purposes of this Division.
- (c) Any lighting fixture height greater than those granted through a minor modification requires a variance.

Division 9. Refuse Containers and Enclosures

Section 140-91. Purpose

The purpose of this Division is to provide standards for the property placement and screening for refuse containers for the health and safety of the City of McAllen.

Section 140-92. Applicability

This Division applies to all nonresidential development within McAllen's corporate limits. This Division does not apply to residential development unless otherwise specified.

Section 140-93. Standards

(a) Design

- (1) Refuse containers shall be screened by a masonry enclosure on three sides.
- (2) The enclosure shall extend at least one (1) foot above the container top.
- (3) Enclosure materials shall be masonry or concrete block and the same color as the exterior walls of the main structure.
- (4) A maximum eight (8) foot solid metal gate is required.
- (5) Gates shall remain closed except when in use for access and when open, is not allowed to encroach within any fire lane.
- (6) Enclosures and refuse containers shall comply with the specifications provided by the Texas Commission on environmental Quality Office of Waste.
- (7) All enclosures shall provide a 24-foot vertical clear zone, unless otherwise approved by the Public Works Department.

(b) Location

- (1) Refuse containers shall not be located in front of the main building unless no other option is available.
- (2) Refuse containers shall not be located within the required parking area or setback.
- (3) Refuse containers shall be located in such a manner that they can be serviced by a refuse hauling vehicle without such vehicle encroaching on or interfering with the public use of streets or sidewalks, and without such vehicle backing out of the property onto public right-of-way.
- (4) All enclosure approaches shall provide a minimum of forty (40) feet of straight backing, as measured from the front gates of the enclosure, to accommodate a sanitation truck's maneuverability. If special circumstances prevent straight backing

- from being provided, the Public Works Department shall have the authority to approve angled or alternative backing movements.
- (5) The sanitation truck approach and pad shall be paved to withstand the weight of a sanitation truck and fully loaded refuse container.
- (c) *Rolling Carts*. Within the C-C, M-1 and M-2 Districts, City contractor approved rolling carts (CARDS carts, etc.) may be used to meet this Division's requirements.
- (d) Shared Refuse Containers and Enclosures
- (1) Any nonresidential use, except for automotive and industrial uses, may share a refuse container or enclosure with another nonresidential use by providing a shared refuse container agreement to the Director.
- (2) The refuse container agreement shall be filed with the Hidalgo County Clerk.
- (3) A refuse container agreement shall be approved by the Director before filing with the County.
- (4) The refuse container agreement shall include:
- a. All parties involved, including the property owners or agents and site owners or agents;
 - b. Duration and time of use; and
 - c. An exhibit indicating the:
 1. Location of the refuse container on a site plan; and
 2. Distance of the refuse container to the use, building, or site.

Section 140-94. Minor Modifications

- (a) The 40-foot straight backing requirement established in this Division may be reduced by ten (10) feet through a minor modification approved by the Director.
- (b) The Director shall find that the minor modification:
- (1) Is appropriate and necessary for the development,
 - (2) Does not adversely affect surrounding properties, and
 - (3) Is consistent with the purpose of this Division.
- (c) Any modification seeking more than a 10-foot reduction requires a variance.

Division 10. Signs

Section 140-95. Purpose

The purpose of this Division is to regulate signs of all types (permanent and temporary) in a manner that:

- (a) Protects constitutional rights to free speech by providing ample opportunities for expression through signs, while avoiding content-based distinctions, and providing clear approval standards;
- (b) Protects public health and safety by:
 - (1) Minimizing visual traffic hazards, distractions and obstructions for motorists, cyclists, and pedestrians, or signs causing confusion by virtue of visual similarity to traffic control signs;
 - (2) Reducing hazards caused by collapse, fire, collision, decay or abandonment;
 - (3) Not obstructing firefighting or police surveillance; and
 - (4) Encouraging the upgrading, updating, or removal of signs that are poorly maintained, or do not conform to this Division, and preventing signs that are potentially dangerous due to structural deficiencies and disrepair.
- (c) Enhances the appearance and economic value of the landscape, by providing that signs:
 - (1) Do not interfere with scenic views;
 - (2) Do not create a nuisance to persons using the public rights-of-way;
 - (3) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement; and
 - (4) Are not detrimental to land or property values.
- (d) Promotes the community's appearance, character, quality, and business climate by encouraging signs that are attractive and functional for their intended purpose, and that are in scale and harmony with the development site and building(s) and with surrounding areas;
- (e) Reduces and prevents visual clutter or potential deterioration of the community's appearance and attractiveness; and
- (f) Implements the goals and policies of the City's adopted planning policies by establishing uniform standards and procedures to regulate the size, type, number, design, placement, illumination, timeframe for display, and maintenance of signs.

Section 140-96. Applicability

(a) Generally

- (1) This Division applies everywhere within the City's corporate limits and its extraterritorial jurisdiction, except as specifically stated otherwise in this Division.
- (2) This Division does not prohibit signs required by state or federal law and does not authorize signs that state or federal law prohibits.
- (3) A person shall not erect, operate, display, or otherwise use any sign that this Division prohibits.
- (4) A person shall not erect, operate, display, or otherwise use any sign at a time, place, or manner that this Division prohibits.
- (5) .

(b) Message Neutrality

- (1) *Content Neutrality.* Despite any other provision of this Division, no sign is subject to any limitation based on the content of its message.
- (2) *Substitution Allowed.* Any sign authorized in this Division may contain any noncommercial copy or messages instead of a commercial or another noncommercial message.

Section 140-97. Prohibited Signs

The following signs and related objects are prohibited from being installed or publicly displayed at any location within the City's corporate limits and its extraterritorial jurisdiction, except as otherwise specifically provided within this Division, and if only after authorized issuance of a City-issued sign permit required by this Division.

- (a) Moving and flashing signs, including signs that flash, revolve, rotate, swing, undulate or otherwise attract attention through the movement or flashing of lights, LEDs, or other parts, or through the impression of movement or flashing. However, this prohibition shall not apply to:
 - (1) Noncommercial message(s); and
 - (2) Signs that are fully located within an enclosed building that are not observable from the exterior of that building.
- (b) Signs which employ a motion picture machine, or which display moving images, or images which give the impression of motion, including those using digital display.
- (c) Signs which are of a size, location, movement, content, coloring, or manner of illumination, which may be confused with or construed as a traffic-control device or which hide from view any traffic or street sign or signal, or which obstruct the view in any direction at a street or road intersection.

- (d) Signs placed on or affixed to vehicles, trailers, or equipment that are parked on a public right-of-way, public property or private property so as to be visible from a public right-of-way where the apparent purpose is to direct people to another property.
- (e) Signs displaying “hate speech” as defined by American Case Law.
- (f) No person shall attach any sign, paper or other material to, or paint, stencil or write anything on, or otherwise mark on any sidewalk, curb, gutter, street utility pole, tree, public building or structure unless authorized by this Division or by the City Commission or its delegated representatives. This prohibition does not apply to signs in the C-C district as permitted by license under this Division.
- (g) No person shall erect or allow to be erected any sign in, on or over public rights-of-way and easements, railroad right-of-way or designated fire lanes unless specifically exempted by this Division or unless erected under a valid, unexpired permit as specifically set forth elsewhere in this Division.
- (h) No person shall paint a sign or attach a sign to the exterior of a fence or railing.
- (i) No person shall hold, display, or wear a sign unless on private property and not in the right-of-way.
- (j) Signs which do not comply with any applicable provision of a building code, electrical code or other applicable code or ordinance of the City.
- (k) Messages displayed from searchlights.
- (l) Signs that are in disrepair to the extent that the cost of repair would exceed fifty percent (50%) of the value of a similar sign if purchased new and signs in danger of falling or that are otherwise unsafe to the public.
- (m) Signs that display multidimensional projections of diffracted light are prohibited.
- (n) Signs that are located on or that interfere with the use of public sidewalks, required off-street parking areas, or vehicle maneuvering areas unless specifically regulated in this Division.
- (o) A sign other than a traffic control sign or signal, in a sight visibility triangle as provided in Section 140-59.
- (p) Any unauthorized sign on or attached to a public streetlight, utility pole, hydrant, bridge, traffic-control device, street sign or other public structure or building, or any sign located in, on, over or within a public street, sidewalk, alley, easement or right-of-way.
- (q) Signs (illuminated from within or without) that are illuminated in such a manner, to such intensity, or without shielding, so as to constitute a hazard to the operation of

motor vehicles upon a street or substantially interfere with the reasonable enjoyment of property.

- (r) Signs located on private property without the consent of that property owner.
- (s) Signs that use a revolving beam or beacon resembling any emergency vehicle, or are located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of at least 250 feet along the street.
- (t) All signs not expressly allowed, exempted, or permitted under this Division.

Section 140-98. Exempt Signs

The following signs and related objects are generally allowed to be erected and publicly displayed at any location within the City's corporate limits and its extraterritorial jurisdiction, except as otherwise specifically provided within this Division, and a city-issued sign permit is not required in order to erect and display any of the following signs unless specifically set forth in this Section. This Division shall not apply to:

- (a) Any signs and signals properly authorized by law, signs authorized by statute or a state agency in accordance with the Texas Manual of Uniform Traffic Control Devices, and other traffic signals, public warnings, or legal notices provided that such objects are installed in a location and in a manner and condition required by federal or state statute, a state agency, or a City ordinance or authorized authority.
- (b) Nonconforming signs and existing billboards as defined in this UDC.
- (c) Signs required by governmental bodies or agencies having proper jurisdiction for a public purpose by law, statute or ordinance. This also includes any signs the City Commission decides by ordinance or resolution to erect within its corporate limits, extraterritorial jurisdiction, or any real property that it may own or control.
- (d) Signs on vehicles, trailers, or equipment are exempted only to the extent such signs are incidental to the primary use of the vehicle, trailer, or equipment, provided that the vehicle, trailer, or equipment is in good mechanical repair and is not left in one place for more than 72 hours without being moved.
- (e) Signs erected by the City that direct vehicular and/or pedestrian traffic, which may display arrows, words, or other symbols to indicate directions of facilities.
- (f) Address numerals and other similar information required to be maintained by law or governmental order, rule or regulation, provided that the size of the sign may not exceed the requirements of such law, order, rule or regulation.
- (g) Signs contained within a walled, fenced, or secured property or area.

- (h) Signs which are located in or adjacent to entrances or foyers.
- (i) Signs erected by governmental bodies or agencies serving the public, that are less than thirty-two (32) square feet in area.
- (j) Decorations, lights, pennants and similar devices on public property with the permission and under the supervision of the City.
- (k) Seasonal lights and decorations customarily displayed during federally recognized holidays.
- (l) Signs in plaza or public space structures located in the City's right-of-way, that are installed and maintained by the City or a contractor authorized by the City.

Section 140-99. General Requirements

(a) Installation

- (1) Signs and sign structures shall comply with the City's Building Code and all other regulatory requirements. An applicant shall obtain all applicable plans and permits before installing a sign.
- (2) For wall signs, the sign installation area on the building wall shall be cleaned, patched, and painted upon sign removal.

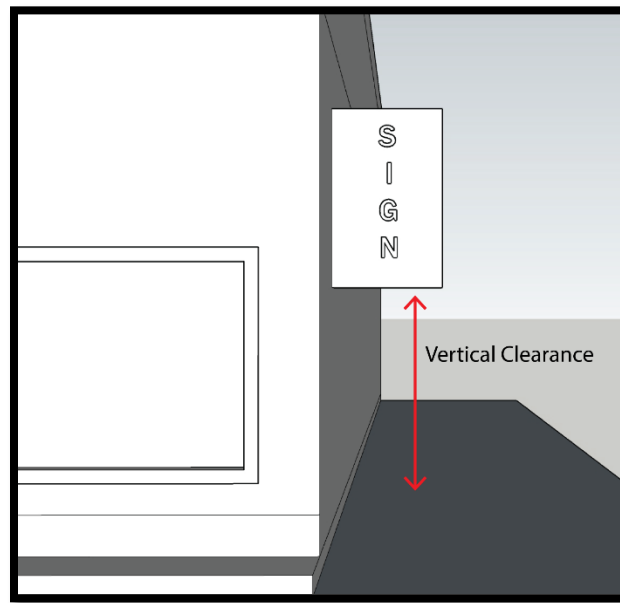
(b) Maintenance

- (1) All signs, together with any supports, braces, guys and anchors, and colors, shall remain in good repair and be properly maintained.
- (2) Any defective signs or damaged parts or components of a sign shall be replaced and keep the adjacent properties free of debris, weeds, trash, or other public nuisances.
- (3) The Director may enforce the standards as provided in this UDC.

(c) Vertical Clearance for Signs Projecting over Sidewalks, Walkways, and Driveways

- (1) The bottom edge of any projecting sign, attached awning/canopy sign, hanging sign, marquee sign, and any other sign that extends or projects over a sidewalk, walkway, or driveway shall be at least seven (7) feet from the back of the curb or highest point as shown in *Figure 99.1: Sign Vertical Clearance* unless specified elsewhere in this Division.

Figure 99.1: Sign Vertical Clearance



- (2) Projecting signs, attached awning/canopy signs, hanging signs, marquee signs, and any other sign that extends or projects over public sidewalks shall not extend into or occupy more than half (1/2) the width of the sidewalk or five (5) feet (whichever is less), as measured from the building wall.

(d) Right-of-Way and Sight Distances

- (1) *Signs Prohibited in Right-of-Way*. No person shall place or install a sign within the right-of-way of any public street except as provided below.
- (2) Signs in the Sight Visibility Triangle
 - a. No person shall place or install a sign in a location established as a sight visibility triangle except as provided below.
 - b. The Director may approve a sign permit for placement of a sign in a required sight visibility triangle if this Division allows the sign type, and the sign cannot be located outside the sight visibility triangle due to unusual circumstances. The Director shall perform an on-site inspection and determine that a safe and adequate intersection visibility exists based on the following factors:
 1. Generally accepted traffic engineering best practices, as recognized by the American Association of State Highway and Transportation Officials (AASHTO);
 2. Sign design;
 3. Traffic conditions; and

4. Driveway or street design.

Section 140-100. Computations and Interpretations

- (a) *Sign Faces and Sign Application.* When a sign has multiple faces, the sign area shall be calculated as follows:
- (1) *One-Sided Sign.* The area will be the area of the one face.
 - (2) *Two-Sided Sign, Front and Back.* The sign area is calculated separately for each side. The area of each side shall not exceed the maximum permitted sign area.
 - (3) *Signs Faces on Different Planes of an Architectural Sign Structure*
 - a. Two sign faces where the interior angle between the two faces is forty-five (45) degrees or less. The sign area is calculated separately for each sign face. The maximum permitted sign area applies to each sign face.
 - b. Two sign faces where the interior angle between the two faces is greater than forty-five (45) degrees. The sign area is the sum of the individual sign faces. The combined sign area of the two faces shall not exceed the maximum permitted sign area.
 - c. Where more than two sign faces exist on a single architectural structure, the sign area is the sum of the individual sign faces. The combined sign area of the faces shall not exceed the maximum permitted sign area.
 - (4) All signs on a single supporting structure, that is not an architectural sign structure, shall be measured together as though they were one sign to determine the total sign area, except that signs separated by more than thirty-six (36) inches of air space at every point between the signs, and not separated by being located on different planes of an architectural sign structure, shall be measured separately and added together to determine the total effective area.
 - (5) *Irregular Shaped Signs.* The sign area is the area enclosed by the smallest imaginary regular shape, or combination of shapes, which would fully contain all portions of the sign when rotated horizontally around the sign. Marquee signs are not considered freeform if information is only displayed on the front and back.
- (b) *Manner of Measurement.* The measurement required for signs by this Division shall be made using the following procedures:
- (1) *Setback.* To apply the setback provisions of this Division for signs at any one point, the following measuring procedure shall be used:
 - a. Draw an imaginary vertical extending upwards from the curb-line of the premises;

- b. Beginning at any point on the vertical line, draw an imaginary horizontal line perpendicular to the vertical line and curb-line extending toward the premises; and
 - c. Beginning at the point where the vertical line intersects the horizontal line, measure along the horizontal line for the required setback.
- (2) *Height*. The maximum height of a sign mounted to the ground shall be determined by the method of measurement that allows the greater height, as follows:
- a. *Curb-line Measurement*
 1. Measure along a vertical line extended upward from the nearest curb-line of the public street fronting the premises where the sign is to be located, to the maximum height allowed for the sign.
 2. From that point, extend a horizontal line to where the sign is to be located.
 3. The horizontal line is the maximum height allowed at that location.
 - b. *Street Level Measurement*
 1. Along elevated roadways, the height of a sign may be measured from the principal lane, the frontage road, or the ground, whichever allows the greatest height.
 2. At the highest point of the sign, draw a horizontal line to the outer extremities of the sign.
 3. At the center of the horizontal line, draw a vertical line to the street level (the level of the principal lane, the frontage road or the ground).
 4. The vertical line may not exceed the height allowed for a sign at that location for that particular district.
 - c. *Natural Ground Level Measurement*
 1. At the highest point of the sign, draw a horizontal line to the outer extremities of the sign.
 2. At the center of the horizontal line, draw a vertical line to the natural ground level below (the “natural ground level” shall include any changes in topography necessary for development of the property).
 3. The vertical line may not exceed the height allowed for the sign at that location.
- (3) *Sign Area*
- a. Sign area means the area enclosed by the smallest imaginary regular shape (e.g. parallelogram, triangle, circle, trapezoid) or combination of regular shapes that

will encompass the extreme limits of the writing, representation, emblem, or other display, or combination thereof, together with any material or color forming an integral part of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

- b. Sign area includes such features as decorative or ornamental elements or features, borders, trims, but not including the architectural enclosure or supporting structure which is used solely for support of the sign, such as poles columns and cables, pylons, or architectural enclosures.
- (c) *Sign Measurement Variables*²⁰. Signs may be allocated by (*note: this is not an inclusive list*):
 - (1) Lot;
 - (2) Storefront;
 - (3) Entrance;
 - (4) Grounded Canopy;
 - (5) Window; or
 - (6) Building.

Section 140-101. Sign Features

Signs may incorporate the following features established below; however, these features shall only be allowed as established in the tables in Section 140-104. through Section 140-108.

- (a) Illumination
 - (1) Generally
 - a. A sign that is "illuminated" means any sign that incorporates illumination on or in the sign, or that directs illumination toward or over all or part of the sign, or that is created by the projection of illuminations onto a surface (such as a building wall).
 - b. Permanent signs may be illuminated by static and continuous internal, external, and halo illumination configurations as indicated in the tables in Section 140-104. through Section 140-108. for each sign type. Figure 101.1: Sign Illumination Examples shows the various illumination configurations (from top left to bottom right: halo illumination, external illumination, external illumination, internal illumination).
 - c. Temporary signs shall not be illuminated.

²⁰ Graphic pending showing all of the variables similar to the bike parking graphic.

Figure 101.1: Sign Illumination Examples



- (2) *Standards.* The standards below apply to all signs that are illuminated.
- a. Signs that are illuminated shall not operate at brightness levels of more than 0.5 foot-candles above ambient light conditions at the property line, as measured using a foot-candle meter. Illumination levels shall be measured in foot-candles with a meter sensor in a horizontal position at an approximate height of three (3) feet above grade.
 - b. Illumination shall not include animation, moving video, or flashing, scrolling, intermittent, moving lights, rotating beams or flashing beacon lights.
 - c. Signs that are illuminated shall not be illuminated by flashing, intermittent, or moving lights, or lights that consist of an image projected upon a stationary object.
 - d. The illumination source for a sign or building shall be shielded from view from any point on the ground by either an opaque or translucent material.
 - e. Illumination shall comply with all applicable provisions of the City's Electrical Code.

- f. Signs with illumination in or within one hundred (100) feet of a residential area shall be reduced to fifty percent (50%) of the maximum brightness level allowed by this Section between the hours of 12:00 AM and 6:00 AM.

(b) Electronic Message Centers

(1) Generally

- a. A sign that incorporates an electronic message center (EMC) means a sign that displays a digital copy, including any illuminated sign on which the illumination is not kept stationary or constant in intensity and color when the sign is in use, including any light emitting diode (LED) or digital panel, and which varies in color or intensity (Figure 101.1: EMC Sign Examples shows examples of signs that incorporate EMCs).
- b. Permanent signs may incorporate EMCs as indicated in the tables in Section 140-104. through Section 140-108. for each sign type.
- c. Temporary signs shall not incorporate EMCs.

Figure 101.2: EMC Sign Examples



(2) Standards

- a. Hold Time

1. Each message on the sign must be displayed for at least fifteen (15) seconds duration.
 2. Message changes shall be completed instantaneously and shall be imperceptible.
- b. Electronic Copy
1. Signs incorporating EMCs shall only contain static messages changed exclusively by dissolve or fade transitions, and shall not have movement or the appearance or optical illusion of movement during the static display period of any part of the sign.
 2. A static message shall not include any flashing or varying of light intensity, and the message shall not scroll.
 3. The change of message using dissolve or fade transition shall not exceed two (2) seconds of time between each message displayed on the sign.
- c. Brightness
1. The intensity of the light source for an EMC shall not produce glare, the effect of which constitutes a traffic hazard or is otherwise detrimental to the public health, safety or welfare.
 2. An EMC shall not operate at brightness levels of more than 0.5 foot-candles above ambient light conditions at the property line, as measured using a foot-candle meter. Illumination levels shall be measured in foot-candles with a meter sensor in a horizontal position at an approximate height of three (3) feet above grade.
 3. Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 0.5 foot-candles above ambient light and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Director.
- d. *Light Sensing Device*. Each digital sign must have a light-sensing device that will adjust the brightness as ambient light conditions change.
- e. Technology
1. The technology currently being deployed for EMCs is LED (light emitting diode), but there may be alternate, preferred, and superior technology available in the future.

2. Any other technology that complies with the performance standards for EMCs, including the maximum brightness levels as stated in c above, is permitted.

f. *Automatic Shutoff*. An EMC shall:

1. Have automatic dimmer software or solar sensors to control brightness for nighttime viewing and variations in daytime ambient light.
2. Include systems and monitoring to either turn the display off, show "full black" on the display, or include a default mechanism that freezes the sign in one position if a malfunction occurs, and
3. Be designed so that a catastrophic power surge will cause the sign to go dark or to deploy the maximum brightness limitations, and
4. Automatically adjust the intensity of its display according to natural ambient light conditions.

g. Resolution

1. EMC faces shall have a pixel pitch of no more than 16 millimeters.
 - a) "Pixel pitch" means a measurement of the resolution of a digital display, in terms of the distance (generally in millimeters) between the center of a light-emitting diode (LED) cluster (pixel) and the center of the next LED pixel.
 - b) A lower pixel pitch measurement indicates a higher display resolution.
2. The requirements of Subsection g above applies only to signs that are constructed, rebuilt, or replaced after the effective date of this UDC.

(3) Maintenance

- a. The sign owner shall provide the Director with the phone number and email address of a person who is available to be contacted at any time and who is able to turn off the EMC promptly after a malfunction occurs.
- b. The light modules on EMCs shall be repaired or replaced if they become broken, burned-out, or substantially dimmed.

(c) Channel Letters

(1) Generally

- a. Permanent signs may incorporate channel letters as indicated in the tables in Section 140-104. through Section 140-108. for each sign type (Figure 101.2: Channel Letter Examples shows examples of channel letters used as signs).
- b. Temporary signs shall not incorporate channel letters.

Figure 101.3: Channel Letter Examples



(2) *Standards.* The standards below apply to signs incorporating channel letters.

- a. Where allowed, channel letters are limited to the required sign face area maximums.
- b. Channel letters may be illuminated if illumination is allowed for the sign type in that sign district.
- c. Channel letters shall affix flush against the wall of the building to which it is attached.
- d. Channel letters shall not extend more than sixteen (16) inches from the surface of the wall to which it is attached.
- e. Channel letters shall not project above the roofline of the building to which it is attached.

(d) Changeable Copy

- (1) *Generally.* Permanent signs may incorporate changeable copy as indicated in the tables in Section 140-104. through Section 140-108. for each sign type (Figure 101.2: Changeable Copy Sign Examples shows examples of signs that incorporate changeable copies).

Figure 101.4: Changeable Copy Sign Examples



- (2) *Standards.* Changeable copies may be illuminated if the dimensions and standards allow illumination for the sign type in the district.

Section 140-102. Sign Types

(a) Purpose

- (1) This Division establishes the required standards for signs from the following sign categories:
 - a. Detached signs;
 - b. Attached signs;
 - c. Incidental signs;
 - d. Temporary signs; and
 - e. Special signs;
- (2) This classification system provides flexibility for persons and businesses who display signs, avoids sign distinctions that depend on a sign's message, supports the communities' aesthetic goals, and avoids potential traffic hazards and clutter.

(b) *Generally*. This Division establishes standards for individual sign types. Sections and subsections on each sign type addresses the following standards:

- (1) An introductory paragraph defining the sign type;
- (2) Images or graphics that illustrate the sign type; and
- (3) A table summarizing the applicable sign standards, including:
 - a. If the sign type is allowed in the designated areas provided in the tables in Section 140-104. through Section 140-108.;
 - b. If a sign permit is required;
 - c. The maximum number of signs of each type;
 - d. Maximum sign dimensions, including:
 1. Sign area;
 2. Height;
 3. Location/setbacks; and
 4. Other requirements.
 - e. If the sign features provided in Section 140-101. are allowed or required:
 1. Electronic message centers;
 2. Illumination features;
 3. Channel letters; and
 4. Changeable copies.

Section 140-103. Sign Allocation System

This Division regulates signs by zoning districts. This Division's permitting requirements for each sign type references the subsections that apply to that sign type.

Section 140-104. Detached Signs

Detached signs are classified into one of the following sign types: monument signs, pole signs, or subdivision entry signs. Their associated regulations are established in this Section. A lot may have one detached sign, but not multiple unless specified elsewhere in this Section.

- (a) Monument Signs

Figure 104.1: Monument Sign Examples



- (1) *Definition.* A permanent detached or freestanding sign with a low profile, a base, and a support structure with a solid appearance that is at least 50% of the width of the widest part of the sign’s face.
- (2) Standards
 - a. *Generally.* Table 104-1 establishes the standards for Monument Signs.

Table 104-1: Monument Sign Standards

Monument Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	✘	✘	✓	✓	✘	✓
Permit Required?	✓	--	--	✓	✓	--	✓
Number per Lot (max.)	1	--	--	1	1	--	1
<u>Dimensions</u>							
Sign Height (max.)	10 ft	--	--	20 ft	15 ft	--	20 ft
Sign Area (max.)	50 sf	--	--	200 sf	150 sf	--	200 sf
<u>Setbacks</u>							
From Front Property Line	10 ft	--	--	10 ft	5 ft	--	10 ft

Monument Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
From Adjacent Property Line	10 ft	--	--	10 ft	10 ft	--	10 ft
From Another Detached Sign	50 ft	--	--	100 ft	50 ft	--	100 ft
Features							
Electronic Message Center	✘	--	--	✓	✓	--	✓
Changeable Copy	NR	--	--	✓	✓	--	✓
Internal Illumination	NR	--	--	✓	✓	--	✓
External Illumination	NR	--	--	✓	✓	--	✓
Halo Illumination	NR	--	--	✓	✓	--	✓
Additional Information							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply signs must be outside of sight visibility triangle						

b. Number

1. This Subsection generally allows one (1) double-sided monument sign for each lot fronting a street for the districts shown in *Table 104-1* unless the lot fronts multiple streets, in which an additional monument sign is allowed for each street frontage.
2. No monument sign is allowed on a lot without frontage on to a street.

c. Multi-Tenant Allowances

1. The maximum sign area for a monument sign on a lot with multiple tenants may be increased by twenty-five percent (25%).
2. No monument sign on a lot with multiple tenants with an increased maximum sign area allowance shall be located within two hundred (200) feet of another monument sign.

3. No monument sign on a lot with multiple tenants with an increased maximum sign area allowance shall be located within five hundred (500) feet of a residential use.
4. A monument sign on a lot with multiple tenants shall be set back at least fifteen (15) feet from the front property line.

d. Design and Installation

1. No monument sign shall be located within a sight visibility triangle as provided in Section 140-59. unless exempt pursuant to Section 140-99. (d).
2. Any electrical service provided to a monument sign shall be underground.
3. Monument signs shall be designed to withstand wind loads established by the Building Code.
4. All monument signs shall be placed in concrete bases or footings.
5. Monument signs shall be landscaped around the base of the sign in an area equal to three feet for each square foot of sign and base area.
6. An individual monument sign shall contain at a minimum a three-foot masonry base around all sides of the sign.
7. A monument sign may incorporate a changeable copy or an electronic message center based on the standards of Section 140-101. and the allowances established in *Table 104-1*.

(b) Pole Signs

Figure 104.2: Pole Sign Examples



(1) *Definition.* A permanent detached or freestanding sign in which the sign face is mounted on one (1) or more poles and the base of the sign face is situated more than 12 inches above the ground.

(2) Standards

a. *Generally.* Table 104-2 establishes the standards for Pole Signs.

Table 104-2: Pole Sign Standards

Pole Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	✘	✘	✓	✘	✘	✓
Permit Required?	✓	--	--	✓	--	--	✓
Number per Lot (max.)	1	--	--	1	--	--	1
<u>Dimensions</u>							
Sign Height (max.)	15 ft	--	--	35 ft	--	--	35 ft
Sign Area (max.)	50 sf	--	--	200 sf	--	--	200 sf
<u>Setbacks</u>							
From Front Property Line	10 ft	--	--	10 ft	--	--	10 ft
From Adjacent Property Line	10 ft	--	--	10 ft	--	--	10 ft
From Another Detached Sign	50 ft	--	--	100 ft	--	--	100 ft
<u>Features</u>							
Electronic Message Center	✘	--	--	✓	--	--	✓
Changeable Copy	NR	--	--	✓	--	--	✓
Internal Illumination	NR	--	--	✓	--	--	✓
External Illumination	NR	--	--	✓	--	--	✓
Halo Illumination	✘	--	--	✓	--	--	✓

Pole Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply if pole falls within the sight visibility triangle then an eight (8) ft. clearance from ground to sign shall be required						

b. Number

1. This Subsection allows one (1) double-sided pole sign for each lot fronting a street for the sign districts shown in *Table 104-2* unless the lot fronts multiple streets, in which an additional pole sign is allowed for each street frontage.
2. No pole sign is allowed on a lot without frontage on to a street.

c. *Location*²¹. Pole signs are only allowed if:

1. A lot fronts Interstate Highway 2, U.S. Highway 83, State Highway 336, 23rd Street North (FM 1926), and 23rd Street South (TX-115 SPUR).
2. Located within a distance of one hundred (100) feet from the right-of-way line of the linear segment of that thoroughfare and situated so as to be viewed from that thoroughfare.

d. Multi-Tenant Allowances

1. The maximum sign area for a pole sign on a lot with multiple tenants may be increased by twenty-five percent (25%).
2. No pole sign on a lot with multiple tenants with an increased maximum sign area allowance shall be located within two hundred (200) feet of another pole sign.
3. No pole sign on a lot with multiple tenants with an increased maximum sign area allowance shall be located within five hundred (500) feet of a residential use.
4. A pole sign on a lot with multiple tenants shall be set back at least fifteen (15) feet from the front property line.

²¹ Would it be helpful if we show these roadways on a map?

e. Design and Installation

1. A pole sign may be located within a sight visibility triangle but shall provide an eight (8) foot vertical clearance from the ground to the bottom of the sign's face as depicted in Figure 99.1: Sign Vertical Clearance.
2. Any electrical service provided to a pole sign shall be underground.
3. Pole signs shall be designed to withstand wind loads established by the Building Code.
4. All pole signs shall be placed in concrete bases or footings.
5. All pole signs shall be landscaped around the base of the sign in an area equal to three square feet for each square foot of sign area.
6. Pole signs shall not have attached any guys or braces.
7. A pole sign may incorporate a changeable copy or an electronic message center based on the standards of Section 140-101. and the allowances established in *Table 104-2*.

(c) Subdivision Entry Signs

Figure 104.3: Subdivision Entry Sign Examples



- (1) *Definition.* A specific monument sign located at the entry of a platted subdivision from a local, collector, or arterial street.
- (2) Standards
 - a. *Generally.* *Table 104-3* establishes the standards for Subdivision Entry Signs.

Table 104-3: Subdivision Entry Sign Standards

Subdivision Entry Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	✓	✓	✓	✗	✗	✗	✗
Permit Required?	✓	✓	✓	--	--	--	--
Number per Entry (max.)	1	1	1	--	--	--	--
<u>Dimensions</u>							
Sign Height (max.)	6 ft	8 ft	8 ft	--	--	--	--
Sign Area (max.)	150 sf	150 sf	150 sf	--	--	--	--
<u>Features</u>							
Electronic Message Center	✗	✗	✗	--	--	--	--
Changeable Copy	✗	✗	✗	--	--	--	--
Internal Illumination	✗	✗	✗	--	--	--	--
External Illumination	✓	✓	✓	--	--	--	--
Halo Illumination	✓	✓	✓	--	--	--	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

- b. *Number and Location.* Two (2) subdivision entry signs may be located at the intersection of a local, collector, or arterial street and an entry street or private driveway into a subdivision. The signs shall be configured as follows:
1. Two (2) signs with one (1) sign face each located on opposite sides of the entry street or private driveway;
 2. One (1) sign with two (2) faces located within a landscaped area dividing two (2) one-way entry streets or private driveways; or
 3. One (1) sign located on one (1) side of the entry street or private driveway.

c. Design and Installation

1. Subdivision entry signs shall be constructed with stone, brick, concrete, metal, routed wood planks or beams, or similar durable, weatherproof materials.
2. All subdivision entry signs shall be landscaped around the base of the sign in an area equal to three square feet for each square foot of sign area.
3. When electrical service is provided to a subdivision entry sign, all electrical service shall be underground.

Section 140-105. Attached Signs

Attached signs are classified into one of the following sign types: wall signs, attached awning/canopy signs, hanging signs, grounded canopy signs, marquee signs, projecting signs, roof signs, skyline signs, or window signs. Their associated regulations are established in this Section. A building may have multiple attached signs, unless specified elsewhere in this Section.

(a) Wall Signs

Figure 105.1: Wall Sign Examples



- (1) *Definition.* An attached sign painted on or attached to the wall or surface of a building or display surface which is parallel to the supporting surface.
- (2) Standards
 - a. *Generally.* Table 105-1 establishes the standards for Wall Signs.

Table 105-1: Wall Sign Standards

Wall Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	NR	NR	✓	✓	✓	✓
Permit Required?	✓	✓	✓	✓	✓	✓	✓
Number per Storefront (max.)	1	1	1	1	1	1	1
<u>Dimensions</u>							
Sign Area (max.)	50 sf	50 sf	50 sf	100 sf	75 sf	75 sf	100 sf
<u>Features</u>							
Electronic Message Center	✗	✗	✗	✗	✗	✗	✗
Changeable Copy	✗	✗	✗	✗	✗	✗	✗
Internal Illumination	NR	NR	NR	✓	✓	✓	✓
External Illumination	NR	NR	NR	✓	✓	✓	✓
Halo Illumination	NR	NR	NR	✓	✓	✓	✓
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

b. Wall Signs for Multi-Tenant Buildings with Separate Storefronts

1. Tenants in multi-tenant buildings with separate storefronts may each display wall signs on the storefront wall where the primary public entrance is located.
2. Wall signs shall be placed directly over the primary public entrance of the storefront.
3. The above requirements apply to multi-tenant buildings with multiple stories.

c. Design and Installation

1. A wall sign shall affix flush against the wall of the building or as flush as possible while allowing the plane of the face of the sign to remain perpendicular to the ground.
2. The wall sign's face shall not extend more than eighteen (18) inches from the surface of the wall to which it is attached.
3. A wall sign shall be located below the building's roof line.

(b) Attached Awning/Canopy Signs

Figure 105.2: Attached Awning/Canopy Sign Examples



(1) *Definition.* A permanent sign painted, printed, attached, or otherwise applied to any facet of the covering or frame structure of an awning or attached structural canopy.

(2) Standards

- a. *Generally.* Table 105-2 establishes the standards for Attached Awning/Canopy Signs.

Table 105-2: Attached Awning/Canopy Sign Standards

Attached Awning/Canopy Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	NR	NR	✓	✓	✓	✓

Attached Awning/Canopy Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Permit Required?	✓	✓	✓	✓	✓	✓	✓
Number per Storefront (max.)	1	1	1	1	1	1	1
<u>Dimensions</u>							
Sign Area (max.)	25 sf	25 sf	25 sf	75 sf	50 sf	50 sf	75 sf
<u>Features</u>							
Electronic Message Center	✗	✗	✗	✗	✗	✗	✗
Changeable Copy	✗	✗	✗	✗	✗	✗	✗
Internal Illumination	NR	NR	NR	✓	✓	✓	✓
External Illumination	NR	NR	NR	✓	✓	✓	✓
Halo Illumination	NR	NR	NR	✓	✓	✓	✓
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

b. Instead of Wall Sign

1. Attached awning/canopy signs may be displayed instead of a wall sign on any exterior wall on which a wall sign is allowed under this Section.
2. An attached awning/canopy sign shall not be displayed on the same wall as a wall sign.

c. Attached Awning/Canopy Signs for Multi-Tenant Buildings with Separate Storefronts

1. Tenants in multi-tenant buildings with separate storefronts may each display one (1) attached awning/canopy sign on the frontage where the primary public entrance is located.
2. Attached awning/canopy signs shall be placed directly over the primary public entrance of the storefront.

d. Design and Installation

1. Attached awning/canopy signs may be printed, attached, or directly applied to the surface of the awning/canopy covering.
2. An attached awning/canopy sign shall not extend from the surface of the awning/canopy to which it is affixed.

(c) Grounded Canopy Signs

Figure 105.3: Grounded Canopy Sign Examples



(1) *Definition.* A permanent attached sign that is affixed to a grounded canopy.

(2) Standards

a. *Generally.* Table 105-3 establishes the standards for Grounded Canopy Signs.

Table 105-3: Grounded Canopy Sign Standards

Grounded Canopy Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	×	×	✓	✓	×	✓
Permit Required?	✓	--	--	✓	✓	--	✓

Grounded Canopy Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Number per Grounded Canopy (max.)	2	--	--	4	4	--	4
<u>Dimensions</u>							
Sign Area (cumulative max. per grounded canopy)	50 sf	--	--	200 sf	100 sf	--	200 sf
<u>Features</u>							
Electronic Message Center	✘	--	--	✓	✓	--	✓
Changeable Copy	NR	--	--	✓	✓	--	✓
Internal Illumination	NR	--	--	✓	✓	--	✓
External Illumination	✘	--	--	✘	✘	--	✘
Halo Illumination	✘	--	--	✓	✓	--	✓
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

b. Number

1. If a grounded canopy is allowed for the zoning district, one sign may be displayed on each frontage in which that grounded canopy is located.
2. Grounded canopy signs are an additional allowance for signs provided by this Subsection.

c. Design and Installation

1. A grounded canopy sign shall affix flush against the surface of the face of the grounded canopy or as flush as possible while still allowing the plane of the face of the sign to remain perpendicular to the ground.
2. The face of a grounded canopy sign cannot extend above the top surface of the face of the grounded canopy to which it is attached.

(d) Hanging Signs

Figure 105.4: Hanging Sign Examples



(1) *Definition.* A sign suspended from the underside of a canopy, awning, ceiling, marquee, roof overhang, a covered porch, or walkway.

(2) Standards

a. *Generally.* Table 105-4 establishes the standards for Hanging Signs.

Table 105-4: Hanging Sign Standards

Hanging Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	×	×	×	✓	✓	✓	×
Permit Required?	--	--	--	✓	✓	✓	--
Number per Storefront (max.)	--	--	--	1	1	1	--
<u>Dimensions</u>							
Sign Area (max.)	--	--	--	16 sf	16 sf	16 sf	--
Sign Projection (max.)	--	--	--	3 ft	4 ft	4 ft	--
<u>Features</u>							
Electronic Message Center	--	--	--	×	×	×	--

Hanging Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Changeable Copy	--	--	--	✘	✘	✘	--
Internal Illumination	--	--	--	✓	✓	✓	--
External Illumination	--	--	--	✓	✓	✓	--
Halo Illumination	--	--	--	✓	✓	✓	--
Additional Information							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

b. Design and Installation

1. A hanging sign shall affix to the surface of the wall so that the face of the sign remains perpendicular to the ground.
2. No hanging sign shall project above a street.

(e) Marquee Signs

Figure 105.5: Marquee Sign Examples



- (1) *Definition.* A permanent attached sign affixed to a marquee.
- (2) Standards

a. Generally, Table 105-5 establishes the standards for Marquee Signs.

Table 105-5: Marquee Sign Standards

Marquee Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	✘	✘	✘	✘	✘	✓	✘
Permit Required?	--	--	--	--	--	✓	--
Number per Building (max.)	--	--	--	--	--	1	--
<u>Dimensions</u>							
Sign Area (max.)	--	--	--	--	--	100 sf	--
Sign Projection (max.)	--	--	--	--	--	8 ft	--
<u>Features</u>							
Electronic Message Center	--	--	--	--	--	✘	--
Changeable Copy	--	--	--	--	--	✓	--
Internal Illumination	--	--	--	--	--	✓	--
External Illumination	--	--	--	--	--	✓	--
Halo Illumination	--	--	--	--	--	✓	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

- b. *Number.* One (1) marquee sign may be displayed in addition to other signs allowed in this Subsection.
- c. *Design and Installation*
1. A marquee sign shall be located above the primary public entrance of a building.
 2. No marquee sign shall project above a street.

(f) Projecting Signs

Figure 105.6: Projecting Sign Examples



- (1) *Definition.* A permanent attached sign type that is affixed to and projects 18 inches or more from the wall of a building and is generally perpendicular to the building façade. A projecting sign does not include signs located on an attached canopy/awning, marquee, or roof.
- (2) Standards
- a. *Generally.* Table 105-6 establishes the standards for Projecting Signs.

Table 105-6: Projecting Sign Standards

Projecting Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	×	×	×	×	✓	✓	×
Permit Required?	--	--	--	--	✓	✓	--
Number per Storefront (max.)	--	--	--	--	1	1	--
<u>Dimensions</u>							
Sign Area (max.)	--	--	--	--	30 sf	30 sf	--

Projecting Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Sign Projection (max.)	--	--	--	--	4 ft	4 ft	--
<u>Features</u>							
Electronic Message Center	--	--	--	--	✘	✘	--
Changeable Copy	--	--	--	--	✘	✘	--
Internal Illumination	--	--	--	--	✓	✓	--
External Illumination	--	--	--	--	✓	✓	--
Halo Illumination	--	--	--	--	✓	✓	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

b. Design and Installation

1. A projecting sign shall affix to the surface of the wall so that the face of the sign remains perpendicular to the ground.
2. No projecting sign shall project above a street.

(g) Skyline Signs

Figure 105.7: Skyline Sign Examples



(1) *Definition.* A sign that is placed above the windows of the highest floor of a building that is at least multiple stories and taller than thirty-five (35) feet in height.

(2) Standards

a. *Generally.* Table 105-7 establishes the standards for Skyline Signs.

Table 105-7: Skyline Sign Standards

Skyline Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	×	×	×	✓	✓	✓	×
Permit Required?	--	--	--	✓	✓	✓	--
Number per Building (max.)	--	--	--	4	4	2	--
<u>Dimensions</u>							
Sign Area (cumulative max. per building)	--	--	--	400 sf	400 sf	200 sf	--
<u>Features</u>							
Electronic Message Center	--	--	--	×	×	×	--

Skyline Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Changeable Copy	--	--	--	✘	✘	✘	--
Internal Illumination	--	--	--	✓	✓	✓	--
External Illumination	--	--	--	✓	✓	✓	--
Halo Illumination	--	--	--	✓	✓	✓	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

b. Design and Installation

1. A skyline sign shall affix flush against the wall of the building or as flush as possible while allowing the plane of the face of the sign to remain perpendicular to the ground.
2. The skyline sign’s face shall not extend more than two (2) feet from the surface of the wall to which it is attached.
3. Skyline signs shall not project above the roofline of the building.

(h) Window Signs

Figure 105.8: Window Sign Examples



- (1) *Definition.* A sign posted, printed, placed, or affixed to a window or glass door. A window sign includes any sign that is located inside a building, that is three feet or

less from a window or glass door, and that is clearly visible from outside the building.

(2) Standards

a. *Generally.* Table 105-8 establishes the standards for Window Signs.

Table 105-8: Window Sign Standards

Window Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	NR	NR	✓	✓	✓	✓
Permit Required?	✗	✗	✗	✗	✗	✗	✗
Number per Window Facing Street (max.)	1	1	1	1	2	2	1
<u>Dimensions</u>							
Sign Area (max. percentage of window area)	15%	15%	15%	25%	50%	50%	25%
<u>Features</u>							
Electronic Message Center	✗	✗	✗	✗	✗	✗	✗
Changeable Copy	✗	✗	✗	✗	✗	✗	✗
Internal Illumination	✗	✗	✗	✗	✗	✗	✗
External Illumination	NR	NR	NR	✓	✓	✓	✓
Halo Illumination	✗	✗	✗	✗	✗	✗	✗
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

b. Design and Installation

1. Window signs shall be posted or affixed to the window.
2. No window sign shall be drawn or painted onto the window.

Section 140-106. Incidental Signs

Incidental signs are classified into one of the following sign types: general incidental signs, flags, speaker boards, or walk-up boards. Their associated regulations are established in this Section. A building or lot may have multiple incidental signs as allowed in this Section.

(a) General Incidental Signs

Figure 106.1: General Incidental Sign Examples



(1) *Definition.* A small permanent sign other than a flag, speaker board, or walk-up board, that is freestanding or attached to a building that is in addition to the primary sign types for the property, such as detached signs and attached signs, and that has a height and scale that is clearly subordinate to the primary sign types allowed for the property. Examples of typical General Incidental Signs include house numbers, occupant directories, property or tenant identification names or numbers, wayfinding signs, and directional signs, and signs warning the public against trespassing or danger from animals.

(2) Standards

a. *Generally.* Table 106-1 establishes the standards for General Incidental Signs.

Table 106-1: General Incidental Sign Standards

General Incidental Sign Standards							
Zoning District →	ETJ	R-1		C-1	M-1		I-1
Requirement ↓	A-O	R-2	R-3	C-2	M-2	C-C	I-2
<u>General</u>							

General Incidental Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Allowed?	NR	NR	NR	✓	✓	✓	✓
Permit Required?	✓	✓	✓	✓	✓	✓	✓
<u>Dimensions</u>							
Sign Height (max. per sign)	6 ft	4 ft	4 ft	6 ft	6 ft	4 ft	6 ft
Sign Area (cumulative max. per lot)	50 sf	50 sf	50 sf	100 sf	75 sf	50 sf	100 sf
<u>Setbacks</u>							
From Front Property Line	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	10 ft
From Adjacent Property Lines	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft
From Other Detached and Incidental Signs	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
<u>Features</u>							
Electronic Message Center	✗	✗	✗	✗	✗	✗	✗
Changeable Copy	✗	✗	✗	✗	✗	✗	✗
Internal Illumination	NR	NR	NR	✓	✓	✓	✓
External Illumination	NR	NR	NR	✓	✓	✓	✓
Halo Illumination	✗	✗	✗	✗	✗	✗	✗
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

b. Number

1. There is no maximum general incidental sign per lot allowance.
2. The sum of the general incidental sign area on a lot shall not exceed those established in Table 10.12.

c. Design and Installation

1. An attached general incidental sign shall affix flush against the wall of the building in which it is located.
2. A detached general incidental sign shall have an enclosed base and be securely and firmly embedded in the ground.
3. Incidental signs constructed in conjunction with a detached sign shall be consistent with the building elements and materials of those established on the same lot and within the development.

(b) Speaker Boards

Figure 106.2: Speaker Board Example



(1) *Definition.* A professionally constructed and installed sign made of a durable, weather-resistant product such as metal or high-density plastic and may include a two-way speaker system for ordering from a vehicle in a drive-thru lane provided the volume of the speaker does not exceed ambient noise conditions as measured at the property line.

(2) Standards

a. *Generally.* Table 106-2 establishes the standards for Speaker Boards.

Table 106-2: Speaker Board Standards

Speaker Board Standards							
Zoning District →	ETJ	R-1		C-1	M-1		I-1
Requirement ↓	A-O	R-2	R-3	C-2	M-2	C-C	I-2
<u>General</u>							

Speaker Board Standards							
Zoning District → Requirement ↓	ETJ A-O	R-1 R-2	R-3	C-1 C-2	M-1 M-2	C-C	I-1 I-2
Allowed?	NR	✘	✘	✓	✓	✘	✘
Permit Required?	✓	--	--	✓	✓	--	--
Number per Lot (max.)	2	--	--	2	2	--	--
<u>Dimensions</u>							
Sign Height (max.)	8 ft	--	--	8 ft	8 ft	--	--
Sign Area (max.)	75 sf	--	--	75 sf	75 sf	--	--
<u>Setbacks</u>							
From Front Property Line	40 ft	--	--	40 ft	40 ft	--	--
From Adjacent Property Lines	10 ft	--	--	10 ft	10 ft	--	--
From a Residential District or Use	100 ft	--	--	100 ft	100 ft	--	--
<u>Features</u>							
Electronic Message Center	--	--	--	✓	✓	--	--
Changeable Copy	--	--	--	✓	✓	--	--
Internal Illumination	--	--	--	✓	✓	--	--
External Illumination	--	--	--	✓	✓	--	--
Halo Illumination	--	--	--	✘	✘	--	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

b. Design and Installation

1. A speaker board shall provide no more than 3 feet and no less than 18 inches of horizontal separation from the curb or edge of the driveway the speaker board faces.

2. Speaker boards shall provide a minimum landscaped area of two square feet per one square foot of sign area abutting the sign base.

(c) Walk-Up Boards

Figure 106.3: Walk-Up Board Example



- (1) *Definition.* A sign mounted near the sidewalk entrance to a building or affixed to a building wall where the sign is visible to pedestrian traffic.
- (2) Standards
 - a. *Generally.* Table 106-3 establishes the standards for Walk-Up Boards.

Table 106-3: Walk-Up Board Standards

Walk-Up Board Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	×	×	×	×	✓	✓	×
Permit Required?	--	--	--	--	×	×	--
Number per Storefront (max.)	--	--	--	--	1	1	--
<u>Dimensions</u>							
Sign Area (max.)	--	--	--	--	12 sf	12 sf	--
<u>Features</u>							

Walk-Up Board Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Electronic Message Center	--	--	--	--	✘	✘	--
Changeable Copy	--	--	--	--	✓	✓	--
Internal Illumination	--	--	--	--	✓	✓	--
External Illumination	--	--	--	--	✓	✓	--
Halo Illumination	--	--	--	--	✘	✘	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

- b. *Design and Installation.* No walk-up board is allowed more than 3 feet from the public sidewalk adjacent to the side of the building to which it is affixed.

Section 140-107. Temporary Signs

Temporary signs are classified into one of the following sign types: general temporary signs, sidewalk signs, attached banners, detached banners, feather signs, or balloon signs. Their associated regulations are established in this Section. A building or lot may have multiple temporary signs as allowed in this Section. A temporary sign shall not be used as a placeholder for permanent signs (detached and attached signs) unless specified elsewhere in this Division.

- (a) General Temporary Signs

GRAPHIC PLACEHOLDER – INSERT HERE

Figures pending

- (1) *Definition.* A sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, which is intended to be displayed for a limited period of time only. Examples of typical General Temporary Signs include political signs, public demonstrations, grand opening signs, contractor signs, real estate signs, garage sale signs, and signs that announce an event such as a carnival, circus, or similar event. The list of examples is not exhaustive and is provided to clarify the regulations and does not limit the content of General Temporary Signs.

- (2) Standards

- a. *Generally.* Table 107-1 establishes the standards for General Temporary Signs.

Table 107-1: General Temporary Sign Standards

General Temporary Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	✓	✓	✓	✓	✓	✓	✓
Permit Required?	✗	✓	✓	✓	✓	✓	✓
Number per Lot (max.)	1	1	1	1	1	1	1
<u>Dimensions</u>							
Sign Height (max.)	4 ft	4 ft	4 ft	6 ft	6 ft	4 ft	6 ft
Sign Area (max.)	35 sf	35 sf	35 sf	50 sf	35 sf	35 sf	50 sf
<u>Setbacks</u>							
From All Property Lines	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
From Other Detached and Incidental Signs	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
<u>Features</u>							
Electronic Message Center	✗	✗	✗	✗	✗	✗	✗
Changeable Copy	✗	✗	✗	✗	✗	✗	✗
Internal Illumination	✗	✗	✗	✗	✗	✗	✗
External Illumination	✗	✗	✗	✓	✓	✓	✓
Halo Illumination	✗	✗	✗	✗	✗	✗	✗
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✗ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

- b. *Duration.* A general temporary sign may be displayed for:
1. Ninety (90) consecutive days over one calendar year, or

2. Thirty (30) consecutive days three times during a calendar year, with each thirty (30) day period separated by at least fourteen (14) calendar days.
- c. Design and Installation
1. A detached general temporary sign shall be securely and firmly embedded in or on the ground.
 2. A detached general temporary sign shall not use sandbags or other weighted objects to secure the sign to or in the ground.
 3. A general temporary sign shall not use an adhesive (tape, glue, etc.) to affix the sign to any surface.

(b) Sidewalk Signs

Figure 107.1: Sidewalk Sign Example



(1) *Definition.* A temporary and portable sign that is ordinarily in the shape of an “A” or inverted “T” with back-to-back sign faces, an easel, or a similar configuration to be located on a sidewalk or walkway.

(2) Standards

a. *Generally.* Table 107-2 establishes the standards for Sidewalk Signs.

Table 107-2: Sidewalk Sign Standards

Sidewalk Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	×	×	×	✓	✓	✓	×

Sidewalk Sign Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
Permit Required?	--	--	--	✘	✘	✘	--
Number per Storefront (max.)	--	--	--	1	1	1	--
<u>Dimensions</u>							
Sign Area (max.)	--	--	--	12 sf	12 sf	12 sf	--
<u>Features</u>							
Electronic Message Center	--	--	--	✘	✘	✘	--
Changeable Copy	--	--	--	✓	✓	✓	--
Internal Illumination	--	--	--	✘	✘	✘	--
External Illumination	--	--	--	✘	✘	✘	--
Halo Illumination	--	--	--	✘	✘	✘	--
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "--" = the standard does not apply						

- b. *Duration.* All sidewalk signs shall only be displayed during a use’s business hours.
- c. *Design and Installation*
 1. Sidewalk signs are not allowed in planter beds.
 2. Sidewalk signs are allowed only where a building is within a maximum setback, or where a front façade that includes an entryway open to the general public during normal business hours is within ten (10) feet of the edge of a public sidewalk.
 3. Sidewalk signs shall leave a 5 ft minimum, unobstructed sidewalk clearance or as otherwise required by the ADA and City fire lane requirements, whichever is greater.
 4. Sidewalk signs shall have no permanent attachments to the sidewalk.

5. Sidewalk signs shall be composed of wood, medium-density fiberboard, metal (iron or steel) frames, or other materials with equivalent weight and density. Sidewalk signs shall not be composed of plastic or similar materials.
6. The sign face of a sidewalk sign may include a chalkboard or dry-erase board.

(c) Attached Banners

Figure 107.2: Attached Banner Example



(1) *Definition.* A temporary sign made of fabric, cloth, bunting, plastic, paper, or any other non-rigid material with no enclosing framework that is attached, mounted, tied, or otherwise placed on a building or pole attached to a building. This definition does not include flags, pennants, or streamers.

(2) Standards

a. *Generally.* Table 107-3 establishes the standards for Attached Banners.

Table 107-3: Attached Banner Standards

Attached Banner Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	NR	NR	✓	✓	✓	✓
Permit Required?	✓	✓	✓	✓	✓	✓	✓
Number per Storefront (max.)	1	1	1	1	1	1	1

Attached Banner Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>Dimensions</u>							
Sign Area (max.)	35 sf	35 sf	35 sf	50 sf	35 sf	35 sf	50 sf
<u>Features</u>							
Electronic Message Center	✘	✘	✘	✘	✘	✘	✘
Changeable Copy	✘	✘	✘	✘	✘	✘	✘
Internal Illumination	✘	✘	✘	✘	✘	✘	✘
External Illumination	✘	✘	✘	✘	✘	✘	✘
Halo Illumination	✘	✘	✘	✘	✘	✘	✘
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

- b. *Duration.* All attached banners shall meet the requirements established in Section 140-107. (a)(2)b.
- c. *Design and Installation*
 - 1. Attached banners shall not be attached to any window, door, or other sign.
 - 2. Attached banners shall not use an adhesive (tape, glue, etc.) to affix the attached banner to any surface.
- (d) Detached Banners

Figure 107.3: Detached Banner Example



(1) *Definition.* A temporary, freestanding sign made of fabric, cloth, bunting, plastic, paper, or any other non-rigid material with no enclosing framework that affixes to the ground. This definition does not include flags, pennants, or streamers.

(2) *Standards*

a. *Generally.* Table 107-4 establishes the standards for Detached Banners.

Table 107-4: Detached Banner Standards

Detached Banner Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	NR	NR	✓	✓	✓	✓
Permit Required?	✓	✓	✓	✓	✓	✓	✓
Number per Lot (max.)	1	1	1	1	1	1	1
<u>Dimensions</u>							
Sign Height (max.)	6 ft	4 ft	4 ft	6 ft	6 ft	6 ft	6 ft
Sign Area (max.)	75 sf	50 sf	50 sf	75 sf	50 sf	50 sf	75 sf
<u>Setbacks</u>							

Detached Banner Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
From All Property Lines	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
From Other Detached and Incidental Signs	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
<u>Features</u>							
Electronic Message Center	✘	✘	✘	✘	✘	✘	✘
Changeable Copy	✘	✘	✘	✘	✘	✘	✘
Internal Illumination	✘	✘	✘	✘	✘	✘	✘
External Illumination	✘	✘	✘	✘	✘	✘	✘
Halo Illumination	✘	✘	✘	✘	✘	✘	✘
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

- b. *Duration.* All detached banners shall meet the requirements established in Section 140-107. (a)(2)b.
- c. *Design and Installation.* All detached banners shall meet the requirements established in Section 140-107. (a)(2)c.

Section 140-108. Special Signs

Special signs are classified into one sign type – murals. Their associated regulations are established in this Section.

- (a) Murals

Figure 108.1: Mural Example



(1) *Definition.* A hand-produced work in which paint is applied by hand directly on an exterior wall of a building or structure. A mural does not include:

- Mechanically produced or computer-generated prints or images, including digitally printed vinyl sheets and wraps;
- Works containing electrical or mechanical components; or
- Works that involve changing or moving images or components.

(2) Standards

a. *Generally.* Table 108-1 establishes the standards for Murals.

Table 108-1: Mural Standards

Mural Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>General</u>							
Allowed?	NR	NR	NR	✓	✓	✓	✓
Permit Required?	✓	✓	✓	✓	✓	✓	✓
Number per Building (max.)	1	1	1	1	1	1	1
<u>Dimensions</u>							
Sign Area (max.)	50% of the building wall, excluding doors and windows			85% of the building wall, excluding doors and windows			

Mural Standards							
Zoning District →	ETJ	R-1	R-3	C-1	M-1	C-C	I-1
Requirement ↓	A-O	R-2		C-2	M-2		I-2
<u>Features</u>							
Electronic Message Center	✘	✘	✘	✘	✘	✘	✘
Changeable Copy	✘	✘	✘	✘	✘	✘	✘
Internal Illumination	✘	✘	✘	✘	✘	✘	✘
External Illumination	NR	NR	NR	✓	✓	✓	✓
Halo Illumination	✘	✘	✘	✘	✘	✘	✘
<u>Additional Information</u>							
Key	✓ = yes, a permit is required or the feature is allowed ✘ = no/not allowed NR = the sign type or characteristic is allowed for nonresidential uses only sf = square feet ft = feet "-" = the standard does not apply						

- b. *Number.* One mural may be displayed on a building in addition to other signs allowed in this Division.
- c. *Additional Approval Requirements*
 1. Due to murals providing unique design elements, murals viewable from public rights-of-way in A-O, R-1, R-2, and R-3 districts may only be approved by Planning and Zoning Commission. Any mural proposed in these districts shall meet the requirements of *Table 108-1*, and the requirements of this Subsection, below.
 2. The Planning and Zoning Commission’s review of proposed murals located in A-O, R-1, R-2, and R-3 districts, shall review the proposed mural based on the following factors:
 - a) The mural uses durable, exterior grade paints and materials and weatherproof and ultraviolet-protective coatings;
 - b) The mural uses colors that coordinate with the colors of the building;
 - c) The mural is directed at and scaled to pedestrians;
 - d) The mural does not overwhelm or hide character-defining features of a building;
 - e) The mural is placed and sized to reinforce the building's architecture and its surroundings; and

- f) The mural is placed at similar heights and façade locations as adjacent buildings or tenants to provide an integrated block appearance.

Division 11. Infill Development Standards

Section 140-109. Purpose

The purpose of this Division is to accommodate and encourage compatible development in existing developed areas, while reinforcing the established character of those areas and mitigating adverse impacts on adjacent properties.

Section 140-110. Applicability

This Division applies to all development and redevelopment within McAllen's corporate limits unless otherwise specified.

Section 140-111. Standards

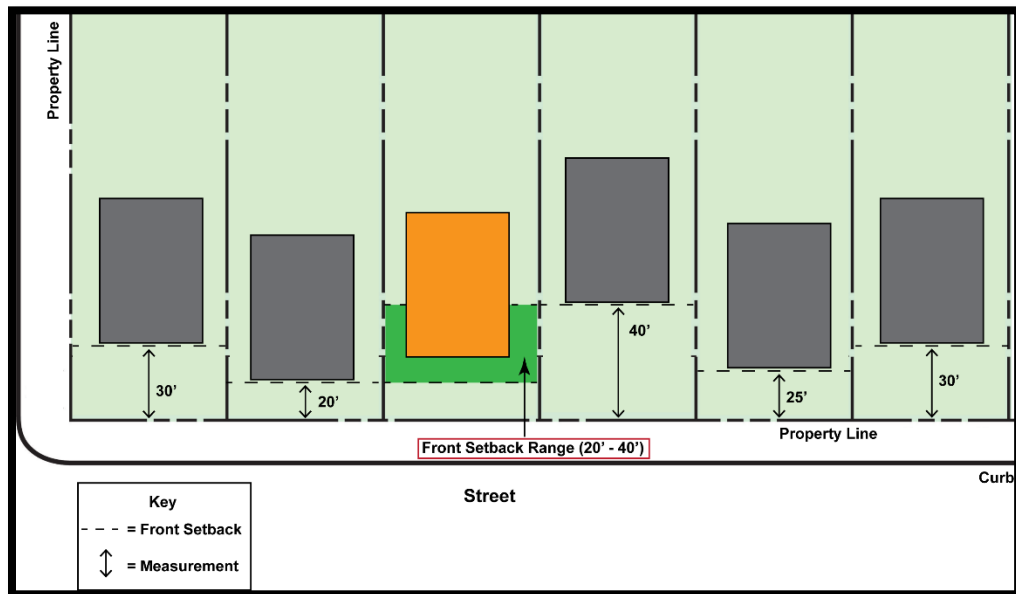
(a) Generally

- (1) Infill development shall share a similar height to surrounding buildings.
- (2) The infill development shall reflect the architectural styles on either side along the block face.
- (3) The relationship between height, width, material, and style of existing facades shall be respected.
- (4) The infill development shall have consistent setbacks with the buildings on its block face.

(b) Setbacks

- (1) The front setback for infill development shall be determined by assessing the as-built setbacks on the block face (see Figure 111.1: Infill Development Setback Range).
- (2) The infill development may be placed anywhere between the smallest and largest front setbacks on the block face (see Figure 111.1: Infill Development Setback Range).
- (3) All other setbacks shall meet the zoning district's dimensional standards unless specified otherwise.

Figure 111.1: Infill Development Setback Range



(c) Form Requirements

- (1) Buildings shall either be similar in size or, if larger, be articulated and subdivided into massing that is proportional to the mass and scale of other structures, if any, on the same block face, abutting or adjacent to the subject property, opposing block face or cater-corner block face at the nearest intersection.
- (2) Color shades shall be used to facilitate blending the infill development into the block face. The color shades of building materials shall draw from the range of color shades that already exist on the block or in the adjacent neighborhood. If no specified range can be determined, then the infill development shall utilize earth tones.
- (3) The use of high-intensity colors, metallic colors, or fluorescent colors is prohibited.
- (4) Building materials and windows shall not create excessive glare nor create a significant adverse impact on the adjacent property owners, neighborhood or community in terms of vehicular and pedestrian safety and enjoyment of views.

(d) Building Height²²

- (1) The building height for infill development shall be determined by assessing the as-built building heights on the block face (see **Figure**).

²² Graphic pending showing height measurement similar to that of the setback graphic.

- (2) The building height for infill development may be placed anywhere between the shortest and tallest building height on the block face (see **Figure**).

Section 140-112. Minor Modifications

- (a) If any rear, side, or corner side yard setbacks cannot be met due to site constraints, then a twenty-five percent (25%) setback reduction may be granted by a minor modification approved by the Director.
- (b) The Director shall find that the minor modification:
 - (1) Is appropriate and necessary for the development,
 - (2) Does not adversely affect surrounding properties, and
 - (3) Is consistent with the purpose of this Division.
- (c) Any reduction greater than twenty-five percent (25%) of the zoning district's required dimensional standards requires a variance.

Division 12. Performance Standards

Section 140-113. Purpose

The purpose of this Division is to establish regulations that protect the public from the potential negative effects of certain development by regulating the transmission of noise, vibration, odor, and harmful substances and emissions.

Section 140-114. Applicability

- (a) The following regulations related to performance standards shall apply in addition to any other regulations and ordinances adopted by the City.
- (b) This Division applies to all properties in the City unless otherwise specified.
- (c) If this section conflicts with any other division of this UDC or the Code of Ordinances of the City of McAllen, the most restrictive standard will govern.

Section 140-115. Noise

- (a) It shall be unlawful for any person to willfully make, cause to be made, or continue any unreasonable noise within the City.
- (b) Any unreasonable noise that is plainly audible as indicated below shall be considered prima-facie evidence of a violation of this section.
 - (1) At the property line of a property;
 - (2) Within thirty-five (35) feet of the noise source when the noise source is within a vehicle or on the public right-of-way; or
 - (3) Through the common wall in a building.
- (c) Exemptions
 - (1) Activities directly connected with the abatement of an emergency, including construction activities and authorized emergency vehicles when such vehicles are responding to an emergency call or when in pursuit of an actual or a suspended violator of the law or when responding to, but not returning from a fire;
 - (2) Bells and chimes, or any device for the production or reproduction of the sound of bells or chimes from any religious land use, school, or clock, operated between the hours of 7:00 a.m. and 10:00 p.m; or
 - (3) Firework displays, which otherwise comply with the McAllen code.

Section 140-116. Water and Waste Pollution

- (a) In accordance with Chapter 120 of the Code of Ordinances, no operation or activity shall discharge or cause to be discharged, liquid or solid waste into public waters unless in conformance with the provisions of the Texas Water Quality Board.
- (b) In accordance with Chapter 120 of the Code of Ordinances, no discharge at any point will be allowed into any public sewer, private sewer disposal system, or stream or into the ground, except in accordance with standards approved by the state health department or standards equivalent to those approved by such department, for similar uses, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment or otherwise cause the emission of dangerous or offensive elements. All discharge shall comply with all applicable City ordinances.

Article V. Subdivision Regulations

Division 1. Generally

Section 140-117. Purpose

The purposes of this Article are to:

- (a) Protect and provide for the public health, safety, and general welfare of the City.
- (b) Ensure new development meets the goals and conforms to the objectives and policies of the City's Comprehensive Plan.
- (c) Provide for orderly growth and land development.
- (d) Provide for adequate light, air, and privacy to secure safety from fire, flood, and other danger and to prevent overcrowding of the land and undue congestion of population.
- (e) Provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, with particular regard to the avoidance of congestion on the roads and highways, and provide for the proper location and width of roads and building lines.
- (f) Establish reasonable standards for subdivisions in order to further the orderly layout and use of land and to ensure proper legal descriptions of subdivided land.
- (g) Facilitate the creation of accurate records of the separate interests created and conveyed by the subdivision of land, helping to protect private property rights.
- (h) Ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision.
- (i) Provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in this UDC.
- (j) Promote sustainable land development practices.

Section 140-118. Subdivision Policy

- (a) Land shall not be subdivided or developed until proper provision has been made for drainage, water, wastewater, transportation, and other facilities required by these regulations.
- (b) All public and private facilities and improvements shall be of at least a minimum capacity necessary to adequately serve the development and shall conform to the City's Comprehensive Plan and applicable technical manuals, codes, and checklists, such as the *SDG*, which is maintained separately from the UDC.

- (c) In addition to these regulations, a development subject to these regulations must comply with all other applicable ordinances, laws, and regulations adopted by the City expressly including:
- (1) Building codes, zoning codes, flood protection regulations, and all other applicable laws and standards of the City and County;
 - (2) All applicable laws, rules and regulations of the federal government and the State of Texas and their duly constituted agencies; however, these references do not imply any responsibility for the City or the City's boards and commissions to enforce regulations imposed by other governmental authorities; and
 - (3) The Model Subdivision Rules as granted by the Texas Administrative Code, Title 31, Part 10, Chapter 364, and included in Section 140-124. of the UDC.

Section 140-119. Model Subdivision Rules

- (a) *Purpose.* Model Subdivision Rules (MSRs) were developed by the Texas Water Development Board to ensure that an adequate supply of drinking water and sewer facilities are available to residential areas in accordance with state standards established by the Texas Department of Health and the Texas Commission on environmental Quality.
- (b) *Compliance Required.*
- (1) Since enacted by the Texas Legislature in 1989, all counties adjacent to the Texas-Mexico border, including Hidalgo County, are required to adopt and enforce the Model Subdivision Rules.
 - (2) The Model Subdivision Rules enable the City and the County to apply for grants and loans from the Texas Water Development Board's Economically Distressed Areas Program (EDAP), which encourages cost-effective water and wastewater systems to maximize long-term economic development of eligible areas.
 - (3) Noncompliance can result in the loss of funding for future water and wastewater projects administered by the Retail Public Utility provider.
- (c) *Program Goals.* MSRs are intended to achieve the following goals:
- (1) Empower cities and counties to prevent the growth of substandard residential developments lacking water and wastewater infrastructures, roadways, gas and electricity;
 - (2) Prevent residential lots from being sold if utilities are not in place; and
 - (3) Assist economically distressed areas to obtain the necessary infrastructure for water and wastewater services.

(d) Applicability.

- (1) The MSRs apply to a subdivision that creates two (2) or more lots of five (5) acres or less intended for residential purposes.
- (2) Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

(e) Minimum Standards for Water Facilities.

- (1) The Director shall not approve a final plat or other plat type that creates two (2) or more lots of five (5) acres or less intended for residential purposes without confirming connection to an adequate and existing water facility permitted in Section 140-124. (f).
- (2) A final plat or other plat type that is subject to the Model Subdivision Rules shall not be recorded with the County Clerk until the Director receives the required documentation for the water facility that will be used for the subdivision as required in Section 140-124. (f).
- (3) The Director may include the following condition of approval for any plat required to comply with the Model Subdivision Rules.
 - a. "The property owner shall not be allowed to record the plat subject to the Model Subdivision Rules without having an executed service agreement with the respective Retail Public Utility."

(f) Acceptable Forms of Water Facilities.

(1) Public Water Facility.

- a. Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility provider.
- b. The service agreement must provide that the Retail Public Utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years.
- c. The service agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is available to each lot upon completion of construction of the water facilities described on the final plat.
- d. Service agreements are administered by the Retail Public Utility provider.

(g) Minimum Standards for Wastewater Facilities.

- (1) The Director shall not approve a final plat or other plat type that creates two (2) or more lots of five (5) acres or less intended for residential purposes without confirming connection to an adequate and existing wastewater facility permitted in Section 140-124. (h).
- (2) A final plat or other plat type that is subject to the Model Subdivision Rules shall not be recorded with the County Clerk until the Director receives the required documentation for the wastewater facility that will be used for the subdivision as required in Section 140-124. (h).
- (3) The Director may include the following condition of approval for any plat required to comply with the Model Subdivision Rules.
 - a. "The property owner shall not be allowed to record the plat subject to the Model Subdivision Rules without having an executed service agreement with the respective Retail Public Utility or having received approval of an on-site sewage facility permit from the Hidalgo Health Official."

(h) Acceptable Forms of Wastewater Facilities.

(1) Public Wastewater Facility.

- a. Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement with the Retail Public Utility provider.
- b. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years.
- c. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is available to each lot upon completion of construction of the wastewater facilities described on the final plat. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC Chapter 317.
- d. Service agreements are administered by the Retail Public Utility provider.

(2) On-Site Sewage Facility.

- a. On-site sewage facilities that serve single-family or multi-family residential dwellings with anticipated wastewater generations of no greater than 5,000 gallons per day must comply with 30 TAC Chapter 285, and any Hidalgo County on-site septic system facility standards.

- b. Proposals for sewerage facilities for the disposal of sewage in the amount of 5,000 gallons per day or greater must comply with 30 TAC Chapter 317 and any Hidalgo County on-site septic system facility standards.
 - c. The Hidalgo County Health Official shall review proposals for on-site sewage facilities and make inspections of such systems as necessary to assure that the system is in compliance with the Texas Health and Safety Code, Chapter 366, rules in 30 TAC Chapter 285, in particular §§285.4, 285.5 and 285.30-285.39, and any Hidalgo County on-site septic system facility standards.
 - d. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC §285.3(i), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.
 - e. An applicant proposing to use an on-site sewage facility must receive approval of such system by the Hidalgo County Health Official before final plat or other plat type is recorded with the County Clerk.
- (i) **Minimum Standards for Greywater Systems for Reuse of Treated Wastewater.**
- (1) The Director shall not approve a final plat or other plat type that creates two (2) or more lots of five (5) acres or less intended for residential purposes without receiving confirmation from the applicant that the greywater system was reviewed and approved by TCEQ.
 - (2) Any proposal for sewage collection, treatment and disposal that includes greywater reuse shall meet minimum criteria of 30 TAC Chapter 210 promulgated and administered by TCEQ.
 - (3) Any proposal for on-site sewage disposal that includes provisions for greywater use shall meet the minimum criteria of 30 TAC Chapter 285.
- (j) *Plat Note Requirements.* Plats subject to the Model Subdivision Rules must include the following information on the plat.
- (1) **Dwelling Units Restriction Plat Note.**
 - a. No more than one single-family detached dwelling shall be located on each lot. A notation of this restriction shall be placed on the face of the final plat or other proposed plat type.
 - b. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Proposals that include multi-family residential shall include adequate, detailed planning materials as required for determination of proper water and wastewater utility type and design.
- (k) *Plat Application Requirements.* Per TAC, Title 31, Part 10, Chapter 364, Subchapter B, Division 3, a plat subject to the Model Subdivision Rules will require a final engineering

report and financial guarantee of improvements (if applicable) with the initial submittal of a plat application as listed below.

(1) Final Engineering Report.

- a. The engineering report will be signed and sealed by a professional engineer registered in the State of Texas.
- b. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment to individual lots within the subdivision as described in Section 140-124. (e) and Section 140-124. (g) of the UDC, and any other methodologies granted by the MSRs in TAC, Title 31, Part 10, Chapter 364, Subchapter B, Division 2.
- c. A detailed cost estimate per lot acceptable to the utility service provider or the city shall be provided for those unconstructed water supply and distribution facilities and wastewater collection and treatment facilities that are necessary to serve each lot of the subdivision.
- d. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under TAC, Title 31, Part 10, Chapter 364, Rule 364.54, the schedule shall include the start dates and completion dates.

(2) Financial Guarantee for Improvements.

- a. If an adequate public or non-public water or wastewater system is not available from a retail public utility, or is not constructed by the subdivider to serve the residential development at the time final plat approval is sought, then the City shall require the owner to execute an agreement with the City and provide a financial guarantee through either a bond, irrevocable letter of credit, or other financial guarantee. The agreement shall be reviewed and approved by the City Attorney before the final plat is recorded with the County Clerk.
- b. A financial guarantee required by this section shall be in a form approved by the City complying with the criteria in TAC, Title 31, Part 10, Chapter 364, Rule 364.54.
- c. The City may establish and require a financial guarantee form to meet the requirements of this section.

- (l) *Review and Approval Criteria for Plats.* The City shall not approve a plat that does not comply with this Section of the UDC, or any other provisions granted in Texas Administrative Code (TAC), Title 31, Part 10, Chapter 364. All documentation for adequate water and wastewater facilities is required before a plat is recorded with the County Clerk.

Division 2. Platting

Section 140-120. Requirements to Plat for the Subdivision of Land

- (a) Per Texas Local Government Code Section 212.004, the owner of a tract of land located within the City's corporate limits or in the extraterritorial jurisdiction (ETJ) shall prepare a plat and record the plat with the County Clerk if they intend to divide the tract in two (2) or more parts to lay out a subdivision, lots, buildings, streets, alleys, squares, parks, or other parts of the tract for public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks dedicated for public use.
- (b) Any division of land subject to the provisions in Section 140-125. (a) requires a plat regardless of how the division of land was originally processed including:
 - (1) A division land made by using a metes and bounds description in a deed of conveyance; or
 - (2) A division of land made in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

Section 140-121. Platting Process

- (a) Applicability.
 - (1) This Article applies to all Applications for Platting of property within the City of McAllen and its Extraterritorial Jurisdiction (ETJ);
 - (2) This UDC intends to establish a process and procedure that complies with state law and provides both the City and the applicant to exercise their rights and responsibilities under Texas Local Government Code Chapter 212.
- (b) *Zoning Regulations Requirements.* All requirements contained under Article II, Article III, and Article IV. apply to development and Subdivision under this UDC. All plats must meet the requirements of zoning and applicable portions of the Comprehensive Plan and be compatible with surrounding development.
- (c) *Procedural Requirements.* All subdivision applications shall follow the procedures and requirements as provided in Article VI.
- (d) Park Dedication.
 - (1) Park dedication shall be made to the City with each final plat phase in proportion to the size of the phase being platted, unless an alternate scenario is approved by the City with approval of the preliminary plat.
 - (2) All land proposed for park dedication must provide a means for public access, such as a public access easement or dedicated public roadway. If the land proposed for park dedication is not within the boundaries of the final plat, the required public

access must be provided via separate instrument or other means acceptable to the City, prior to the recordation of the final plat.

- (3) If the City has determined that money shall be paid in lieu of park land dedication, then the payments shall be made with each phase in proportion to the size of the phase being platted.
 - (4) See Section 140-143. for minimum requirements for parkland dedication.
- (e) *Drainage*. If provisions are necessary for drainage facilities on the unplatted future phases of the development or subdivision, then the final plat must include easement by separate instruments for off-site drainage and include appropriate notes and descriptions providing the City permission to access, and if requested by the City, maintain and improve the drainage system.
- (f) *Phased Development*.
- (1) All phased developments shall be in accordance with the purpose of the Comprehensive Plan.
 - (2) The City may establish maximum lot size limits and requirements for individual phases of a phased development in addition to limits based on the ability of the City, applicant, or other utility provider to provide to each phase. This includes, but is not limited to, adequate streets, water, wastewater, drainage facilities, water quality ponds, and parkland.
 - (3) The preliminary plat shall reflect the planned phasing of the development. The Director may require a phasing plan indicating the anticipated sequencing of final plats.
 - (4) The Director is authorized to approve changes to the phasing plan in consultation with the City Engineer if the changes will not directly or indirectly result in major revisions or substantial changes.
 - (5) Phased development shall be compatible with the surrounding land use plan and existing developments.
 - (6) Each phase of development requires a final plat. Substantial changes to the development at the final plat phase may require a revised preliminary plat prior to approval of final plats for future phases.

Section 140-122. Platting in the Extraterritorial Jurisdiction (ETJ)

- (a) *Generally*.
- (1) This Article as amended, extends to all of the area lying within the ETJ of the City of McAllen from and after the date this UDC is adopted, and as the ETJ may be modified through annexation or changes to the laws of the State of Texas.

- (2) The City shall not establish or enforce zoning regulations within the ETJ. However, the City may enforce development agreements in the ETJ.
- (b) *Subdividing*. No person shall subdivide or plat any tract of land within the ETJ of the City except in conformity with the provisions of this Article.
- (c) Water and Wastewater Utility Extensions.
 - (1) *Applicability*. A petition for approval to extend water or wastewater utility facilities under this Division applies only to land located within the City's ETJ and not already served by utilities.
 - (2) Procedure.
 - a. A petition for approval to extend water or wastewater utility facilities must be submitted to the applicable Public Utility Agency ("PUA"), or their successor or designee on a standard form issued by the PUA.
 - b. Upon granting of the petition, and concurrent with the filing of any application for development, the applicant must furnish to the City a certified letter from the PUA stating the minimum standards have been met.

Section 140-123. Platting Exemptions

- (a) Generally.
 - (1) The Director may exempt a property from platting through approval of a determination certificate if it complies with the platting exemptions in Section 140-128. (b).
 - (2) Unmanned facilities, such as wireless communication facilities, or any type of use that is autonomous and does not require the use of water or wastewater may not be exempted from platting, unless they qualify with the platting exemptions in Section 140-128. (b).
- (b) *Exemptions*. A property is exempted from platting if it complies with one of the following exemptions.
 - (1) *5 Acres or Greater with Adequate Public Facilities Exemption*. Per Texas Local Government Code Section 212.004, division of land that is five (5) acres or greater where each part has access to an existing and improved public road and public improvements are being dedicated for public use.
 - (2) *Grandfather Clause Exemption*. The grandfather clause, authorized by Texas Local Government Code Section 212.0045(a), exempts a property from platting if it complies with the following provisions:

- a. The boundaries of such parcel were fully described by one (1) or more title transfer instruments executed before October 15, 1973; and
 - b. On or after such date, there has been no executions of title transfer instruments such that these instruments could subject such parcel to boundary alterations.
- (3) *Public Utility Well Exemption.* A property owner is exempted from platting if their sole purpose for platting is to convey land to the Rio Grande Regional Water Authority, the City, or the City's public utility board, and complies with the following provisions:
- a. A minimum two (2) acres or greater;
 - b. The conveyance of the property is for the exclusive use of drilling or maintaining any water well used to produce potable water at any offsite reverse osmosis treatment plant; and
 - c. Each driveway leading to the property is gated and locked to the public at the point where such driveway intersects a street for the exclusive use of the grantee.
- (4) *Determination Certificate Requirements.*
- a. The application for a determination certificate will require:
 1. A property survey signed and sealed by a registered surveyor licensed to practice in the state of Texas;
 2. A title report dated no more than 30-days before the date the application is submitted to the city; and
 3. A certified tax certificate from the Tax Appraisal District.
 - b. A determination certification will not be approved unless a property has at least twenty (20) feet of frontage on a public right-of-way or right-of-way easement that is at least forty (40) feet wide and is improved to an extent sufficient to allow reasonable usage by typical passenger vehicles.
 1. A property shall have at least twelve (12) feet of frontage onto a public right-of-way or right-of-way easement that is at least thirty (30) feet wide.

Section 140-124. Plat Types

This UDC establishes multiple plat types to effectively subdivide land in the City's corporate limits and extraterritorial jurisdiction. These plat types are established below and their subsequent processes for approval are located in Article VI, Division 3.

Table 124-1: Plat Type Summary

Plat Type Summary

UDC Section	Plat Type	Use	Notes
Section 140-181.	<i>Preliminary Plat</i>	Required before a Final Plat where infrastructure is required	
Section 140-182.	<i>Final Plat</i>	Required to record subdivision of property	A Final Plat cannot be recorded until improvements have been properly installed and accepted or the appropriate surety for construction of the improvements has been filed with the City.
Section 140-183.	<i>Minor Plat</i>	Final plats that already have the necessary infrastructure in place	
Section 140-184.	<i>Amending Plat</i>	Minor revisions to a recorded Plat	
Section 140-185.	<i>Replat</i>	Replat of currently platted lots without a Plat Vacation	
Section 140-186.	<i>Conveyance Plat</i>	Plat remainder tracts into sellable lots	A conveyance plat does not authorize development and is not the first stage of the development process
Section 140-187.	<i>Plat Vacation</i>	Vacate a previously recorded Plat	

Division 3. Subdivision Design Standards and Required Improvements

Section 140-125. Minimum Standards

(a) Generally.

- (1) No subdivision shall occur unless, and until it provides the minimum levels of service required by this UDC.
- (2) The applicant shall dedicate, construct, or upgrade required public facilities to a capacity that meets the standards in Section 140-132.
- (3) For each category of public facilities, the City requires a minimum standard of infrastructure based upon historic studies and construction projects of the City and other cities, which the City may publish and update from time to time in its technical manuals, such as the *SDG*.
- (4) The minimum standards reflect the minimum public facilities required to protect or promote the public health, safety, and welfare and to ensure the quality of life currently enjoyed by McAllen citizens.
- (5) All private facilities must be designed to public facilities standards.

- (b) *Applicability.* These standards apply to any development as required in this UDC unless specified otherwise. These standards also apply to those developments in the ETJ.

Section 140-126. Rough Proportionality and Fair Share Policy

- (a) The City requires that each subdivision contribute a fair and proportional share of the costs of providing adequate public facilities, consistent with Texas Local Government Code Section 212.904.
- (b) The City finds a direct correlation between increased demand on public facilities created by new a subdivision and the City's requirements to dedicate public right-of-way and easements, and to construct a fair and proportional share of public facilities.
- (c) A fair and proportional share is the applicant's portion of the costs of public facilities as determined by the City Engineer in conformance with State Law, which may be satisfied through dedication of public right-of-way or easements, the payment of fees, or payment of construction costs.
- (d) The intent of this Article is to provide standards for construction and dedication of public facilities that are roughly proportional to the nature and extent of the impacts created by the proposed subdivision on public facilities, including roadway, storm drainage, or parks systems.
- (e) For relief to the requirements of this Article, see Section 140-192.

Section 140-127. Adequate Public Facilities

- (a) *Services Required.* Land proposed for subdivision in the City and in the City's extraterritorial jurisdiction (ETJ) must provide adequate public facilities, including water facilities, wastewater facilities, roadway and pedestrian facilities, drainage facilities, and park and open space facilities.
- (b) *Adequate Public Facilities not Exclusive to City-Owned Facilities.* The term "Adequate Public Facilities" may refer to any public or private facility, which may be owned by the City or another public or private entity, so long as the facility is designed, constructed, and maintained to the standards of this UDC and the City's Technical Manuals.
- (c) *Approval Timing.* The City will not approve a subdivision unless the applicant provides adequate public facilities.

Section 140-128. Conformance to Plans and Codes

Design and construction of public facilities must conform to the standards, criteria, and requirements of the following, as they may from time to time be amended by those responsible for their promulgation.

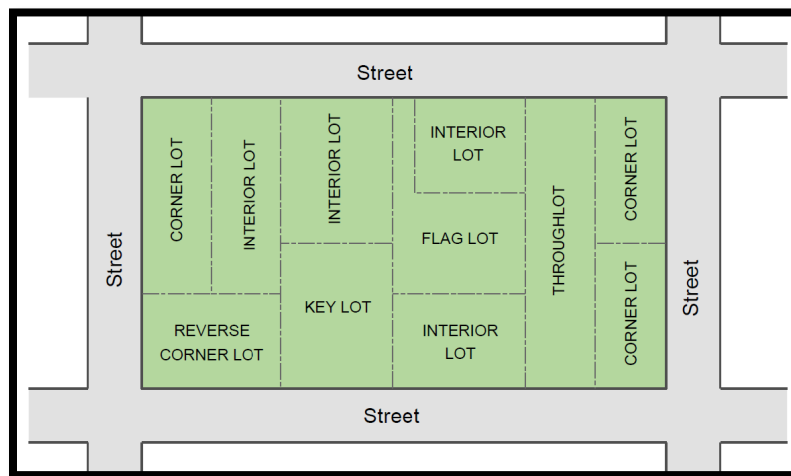
- (a) The City's Thoroughfare Plan;

- (b) The Texas Uniform Traffic Control Device Manual;
- (c) American Association of State Highway Transportation Officials Design Manual;
- (d) Texas Health Code;
- (e) The City's Engineering Criteria Manual;
- (f) Texas Water Code; and
- (g) All other adopted codes and ordinances of the City.

Section 140-129. Lots

- (a) Lot Design.
 - (1) Lot design shall provide adequate width, depth, and shape to provide open area, to eliminate overcrowding, and to be appropriate for the type of development and use contemplated, and shall meet the requirements of the Article II. of this UDC.
 - (2) Figure 129.1: Lot Types is provided for illustrative purposes only and is not intended to represent examples of conforming lots under this UDC.

Figure 129.1: Lot Types



- (b) *Lot Frontage*. Every lot shall have frontage on, and access to, a public street or private street (including alleys) meeting right-of-way standards. Refer to Article II. for frontage requirements within the City. The minimum frontage within the ETJ shall be thirty (30) feet.
- (c) *Lot Frontage Restrictions for Single-Family Lots on Arterial and Collector Streets*. If a property with frontage along an arterial street (or greater street section) is proposed to be subdivided or developed, the City is authorized to restrict access to the respective street and require that the developer create lots that back onto the arterial street and front onto and take access from a local or collector street in conjunction with the installation of a

fence, wall, or vegetative visual screen satisfying the requirements of Article IV. Division 6. and Article IV. Division 7. along the arterial street frontage to buffer the residential lots from the arterial street.

- (d) *Right Angles for Side Property lines.* All side lines of lots shall be at approximately right angles to straight street lines and radial to curved street lines except where a variation to this rule will provide an improved street and lot layout, as determined by the City Engineer.
- (e) *Through Lots, Corner Lots, Reverse Corner Lots, and Flag Lots.*
- (1) Through lots and reverse corner lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
 - (2) A double frontage lot shall be permitted one driveway along a local or collector street. A driveway along an arterial street is prohibited.
 - (3) Through lots require front setbacks on both frontages established in accordance with the underlying dimensions established in Article II.
 - (4) Proposed through lots meeting the criteria of this Section 140-134. (e) may be approved by waiver pursuant to Section 140-191.
 - (5) Sidewalks are required along each street frontage (refer to **Figure²³**).
 - (6) Flag Lots are prohibited.
- (f) *Double Frontage Lots.* A front yard building setback shall be provided along each side of the lot fronting onto a street in accordance with the governing zoning district.
- (g) *Lots with Septic Tanks.*
- (1) Lot served by a septic system shall be a minimum one (1) acre in size or the minimum lot area required by the Hidalgo County Health Official to accommodate adequate drainage fields and to meet the standards set forth by the state.
 - (2) Any lot or subdivision proposing to use a septic system must receive approval of an on-site sewage facility permit from the Hidalgo County Health Official and McAllen Public Utilities.
- (h) *Land Subject to a 100-year Flood.*
- (1) Any land that, in its natural state, is subject to a 100-year flood or that cannot be properly drained shall not be subdivided, re-subdivided or developed until receipt of evidence that the construction of specific improvements proposed by the

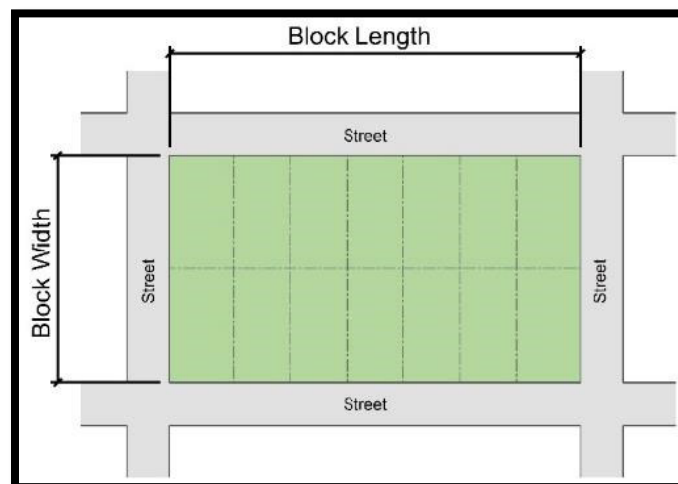
²³ Make a graphic with sidewalks on all sides fronting streets

- developer can be expected to yield a usable building site (i.e., Flood Study and FEMA Conditional Letter of Map Revision).
- (2) Thereafter, the responsible approval authority (refer to *Table 155-1*) may recommend approval of the plat; however, building construction upon that land shall be prohibited until the specific drainage improvements have been planned, construction completed, received approval from Public Utilities, and a Letter of Map Revision been received from FEMA.
- (i) Lots Under Common Ownership.
- (1) The Director may approve lots intended to function under common property ownership if the lots are dedicated on a final plat for the use, ownership, and management of a Property Owners' or Homeowners' Association as provided in Section 140-136.
- (2) Condominium development, on a legal lot of record, may divide property in a manner consistent with the UDC, Section 140-136. , and Texas Property Code Chapter 82.

Section 140-130. Blocks

- (a) *Generally.* The size and shape of blocks must be suitable for the proposed development and be laid out in a pattern that ensures the connectivity of streets and nonmotorized travel routes and provides for efficient provision of public and safety services.
- (b) Block Measurement.

Figure 130.1: Block Measurements



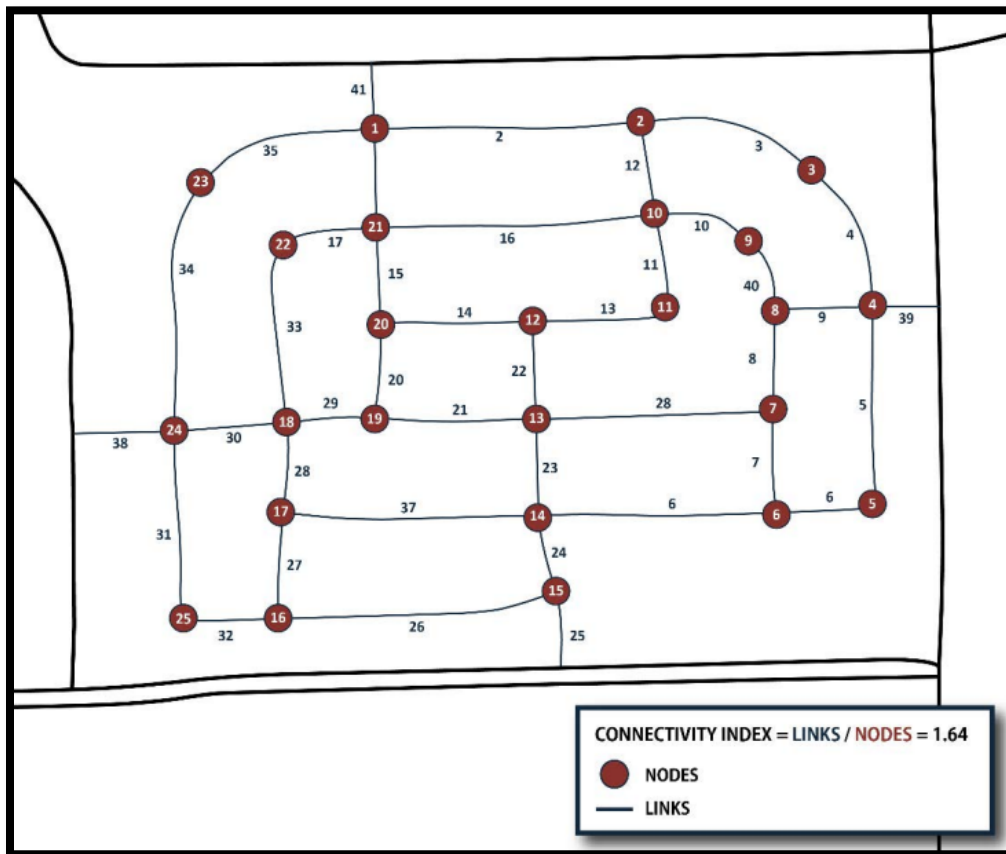
- (1) *Block Length.* The length of a block shall be the distance from property corner to property corner measured along the property line of the block face (see Figure 130.1: Block Measurements).

- a. Of greatest dimension; or
 - b. On which the greatest number of lots face.
- (2) *Block Width*. The width of a block shall be the distance from property corner to property corner measured along the property line of the block face (see Figure 130.1: Block Measurements):
- a. Of least dimension; or
 - b. On which the fewest number of lots face.
- (3) *Block Measurement Factors*. The length, width, and shapes of blocks shall be determined with due regard to:
- a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
 - b. Zoning district requirements for lot sizes and dimensions;
 - c. Needs for convenient access, circulation, control, and safety of street traffic;
 - d. Limitations of topography; and
 - e. Compatibility with efficient development of public facilities as established by surrounding developments.
- (c) *Block Length*.
- (1) *Nonresidential Block Length*. Block length in nonresidential zoning districts shall not exceed one thousand (1,000) feet or ten (10) times the minimum lot width permitted in that district, whichever is greater.
 - (2) *High Density Residential and Mixed-Use Development Block Length*. Block lengths in the R-3, M-1, M-2, and C-C districts shall not exceed six hundred (600) feet.
 - (3) *Low Density Residential Block Length*
 - a. Block length in the R-1 and R-2 districts and in the ETJ shall be between two hundred (200) and eight hundred (800) feet or twelve (12) lots, whichever is less.
 - b. If residential lots back up to a commercial use, drainage area, or to an arterial street, then there is no restriction on the block length or the maximum number of lots. However, there shall be pedestrian walkways to connect the commercial lots unless determined they are impractical by the City Engineer. Block length and number of lot requirements apply to the opposite side of the residential street, stub-outs, as well as the remainder of the subdivision including the perimeter of the subdivision.
 1. If the residential lots back up to a commercial use, the subdivision must provide at least one (1) pedestrian walkway to connect the commercial lots to

the residential lots, unless the City Engineer determines a connection is impractical. The walkway may be gated to prevent two-way access.

2. Where residential development faces both sides of a street, the required block length and restriction on the number of lots along the block applies to the opposite side of the residential street, including stubbed-out streets.
 - (4) In cases where physical barriers, property ownership, adjacent development, or individual usage creates conditions where it is appropriate that these standards be varied then, upon approval by the Director, the length may be increased or decreased to meet existing conditions, having due regard for connecting streets, circulation of traffic, and public safety.
- (d) Connectivity Index.
- (1) The connectivity index of a development indicates the level of connectedness within a subdivision. Higher numbers result in more accessible and walkable neighborhoods; lower numbers result in fewer connections and more dead-end streets.
 - (2) A new subdivision shall have a connectivity index of 1.40 or higher.
 - (3) *Connectivity Index Calculation.* The connectivity index is determined by the number of links divided by the number of nodes (refer to Figure 130.2: Connectivity Index Example).

Figure 130.2: Connectivity Index Example



- a. Links are non-arterial roadway segment connecting that connect the nodes (excludes alleys).
- b. Nodes are the intersection and terminus of non-arterial streets.
 1. Nodes include any location where a street name changes; and
 2. Any curve that exceeds seventy-five (75) degrees.

Section 140-131. Property or Homeowners Association

- (a) *Applicability.* When a subdivision contains common areas, common property, or other improvements not intended to be dedicated to the City for public use, a Homeowners' or Property Owners' Association shall be created, and the duties and responsibilities shall be established in a declaration consistent with state laws.
- (b) *Dedication of Common Areas.* The common areas shall be shown on the final plat along with an adequate form for dedication. This dedication form shall:
 - (1) Save the title to common area properties for the benefit of the Homeowners' or Property Owners' Association; and

- (2) Express a definite undertaking by the subdivider to convey the common properties to the Homeowners' or Property Owners' Association.
- (c) *Membership.* A Homeowners' or Property Owners' Association shall be an incorporated nonprofit organization operating under recorded land declarations through which:
- (1) Each lot owner in a described land area is automatically a member; and
 - (2) Each lot is automatically subject to a charge for a proportionate share of the expenses for the Homeowners' or Property Owners' Association's activities, such as maintenance of common areas, common open spaces or the provision and upkeep of common recreational facilities.
 - (3) All maintenance of street lights and right-of-way pavement, financially and physically, is the responsibility of the Homeowners' or Property Owners' Association.
- (d) *Legal Requirements.* To ensure the establishment of a permanent Homeowners' or Property Owners' Association including its financing and the rights and responsibilities of the homeowners in relation to the use, management and ownership of common areas or common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:
- (1) Legally create an automatic membership, nonprofit Homeowners' or Property Owners' Association;
 - (2) Place title to the common property in the Homeowners' or Property Owners' Association or give definite assurance that it automatically will be so placed within a reasonable, definite time;
 - (3) Appropriately limit the uses of the common property;
 - (4) Give each lot owner the right to the use and enjoyment of the common property;
 - (5) Place responsibility for operation and maintenance of the common property in with the Homeowners' or Property Owners' Association;
 - (6) Provide for or place an association charge or assessment on each lot in a manner that will assure enough association funds to maintain the common property or improvements;
 - (7) Give each lot owner voting rights in the association; and
 - (8) Identify the land area within the association's authority including, but not limited to, the following:
 - a. The property to be transferred to public agencies;
 - b. The individual residential lots;

- c. The common properties to be transferred by the developer to the Homeowners' or Property Owners' Association; and
- d. Other parcels.
- (e) *Protective Covenants*. Protective covenants shall be developed that, including, but not limited to, shall make the Homeowners' or Property Owners' Association responsible for the maintenance and operation of all common property, and include provisions for assessments, to be enforced by lien.
- (f) *Procedure*. Prior to recording the plat, the applicant shall:
 - (1) Draft the articles of incorporation of the Homeowners' or Property Owners' Association, its bylaws, and the restrictive covenants;
 - (2) Submit draft articles, bylaws, and covenants to the Director for approval;
 - (3) After approval, create an incorporated nonprofit corporation;
 - (4) Record approved covenants, at the County Clerk's office, which automatically make every lot owner a member of the association, give the owners the right to use the common property, and establish voting rights and obligations to pay assessments;
 - (5) Provide evidence of the recorded articles, bylaws, and the restrictive covenants prior to final plat approval; and
 - (6) Pay attorney fees for document review.
- (g) *Maintenance, Repair, or Capital Improvements*. Any maintenance, repair, or capital improvement effort made to Homeowners' or Property Owners' Association property or facilities by the City as a result of non-performance or negligence on the part of the association shall be assessed between the various association members in proportion to the taxable value of their properties.

Section 140-132. Sidewalks

- (a) Purpose.
 - (1) Promote the mobility, health, safety, and welfare of residents, property owners, and visitors to the City;
 - (2) Implement the objectives and strategies of the Comprehensive Plan and other adopted plans;
 - (3) Require subdivisions to connect to existing and proposed City trail systems to enhance city-wide connectivity;
 - (4) Require sidewalks with new development and redevelopment of infill sites where sidewalks do not currently exist; and

- (5) Incorporate the flexibility for a property owner to either construct a sidewalk or pay a fee-in-lieu into the City's sidewalk fund when a subdivision plat is approved.

(b) Minimum Sidewalk Requirements.

- (1) Sidewalks shall comply with the sidewalk design requirements provided in the *SDG*.
- (2) All sidewalks shall conform to American with Disabilities Act (ADA) and Public Right-of-Way Accessibility Guidelines (PROWAG) requirements and barrier free ramps shall be provided for access to the street.
- (3) All sidewalks shall be constructed in the public right-of-way and set back a minimum of five (5) feet from the street curb. The City Engineer may alter the alignment and minimum sidewalk setback to address geographical site constraints and enhance safety as established in the *SDG* and in conformance with standard engineering practices.
- (4) If the available right of way between the curb and adjacent property line is of insufficient size to accommodate the requirements of this Section, the City Engineer may approve an alternative sidewalk design.
- (5) If the reconfiguration of a sidewalk makes the sidewalk to be partially located on private property, the applicant shall dedicate a pedestrian access easement for the portion of the sidewalk on private property to ensure it is accessible to the public.
- (6) Sidewalks shall be designed to meet the minimum dimensions provided in the *SDG*. The City Engineer may require the end(s) of a proposed sidewalk be tapered when connecting to an existing sidewalk to allow for a better transition from the new sidewalk to the existing sidewalk.
- (7) The City shall require a sidewalk along the entire street frontage of the lot when the property owner submits:
 - a. An application to subdivide or plat their property;
 - b. A building permit application to construct a new structure or modify an existing structure on a lot that currently does not have a sidewalk; or
 - c. An application or permit for a property modifying or expanding an existing structure by more than twenty-five (25%) percent of the existing gross floor area.
- (8) A sidewalk shall be required along the entire street frontage of a lot, including those lots with double or multiple frontages where sidewalks shall be provided along each street frontage.
- (9) When a stubout is provided to an adjoining property the applicant shall extend the sidewalk along the entire length of the stubout. A multi-lot or master planned subdivision where the applicant is constructing the entire width of the internal

- subdivision street or stubout the sidewalk shall be constructed on both sides of the street.
- (10) Sidewalks shall be required along state facilities and shall meet the minimum dimensions provided in the *SDG*.
- (11) Sidewalks shall be constructed in accordance with the requirements of Section 140-137. (e).
- (12) The property owner shall assume the responsibility of installation, maintenance, and repair of the required sidewalks along the frontage(s) upon occupying the structure on the lot. The City shall not be liable for any sidewalk implementation or construction costs.
- (13) The maintenance and repair of sidewalks is the responsibility of each individual property owner. The City reserves the right to inspect all sidewalks within City rights-of-way and to notify property owners to make repairs when their sidewalks become unsafe.
- (c) *Exemptions*. An applicant may be exempt from constructing a sidewalk by paying a fee-in-lieu if they satisfy the conditions in which the fee-in-lieu option may be used as expressed in Section 140-137. (h).
- (d) *Sidewalks for Multi-Lot Subdivisions*. In addition to the provisions in Section 140-137. (b), multi-lot and master planned subdivisions shall comply with the following provisions.
- (1) Sidewalks shall be constructed on both sides of all internal subdivision streets (refer to [Figure²⁴](#)).
- (2) Sidewalks shall be constructed along the perimeter streets of the subdivision (refer to [Figure²⁵](#)).
- (3) The applicant shall provide a connection to the City's existing trails system from internal subdivision sidewalk(s) whenever an existing City trail system is near the proposed subdivision ([refer to Figure²⁶](#)).
- (e) Timing of Sidewalk Construction.
- (1) Multi-Lot and Master Planned Subdivisions.
- a. Sidewalks may be constructed by the applicant, builder, or property owner on an individual lot basis with the construction of the residential structure on each lot.

²⁴ Graphic pending

²⁵ Graphic pending

²⁶ Graphic pending

- b. The Building Official shall not approve a residential building permit until the applicant, builder or property owner has provided a sidewalk plan or plot plan in the building plan set showing compliance with the applicable provisions of the City's sidewalk requirements.
 - c. An applicant, builder or property owner may not pay a sidewalk fee-in-lieu when the development of the residential lot is a part of a multi-lot or master planned subdivision.
 - d. The sidewalk shall be constructed before a residential certificate of occupancy is issued by the Building Official.
- (2) Commercial and Residential Infill and Redevelopment.
- a. New sidewalk construction, modification, or rehabilitation of existing sidewalks for commercial and residential infill lots shall comply with the Section 140-137. (b); and
 - b. Shall be shown on a sidewalk plan or plot plan that is included in the building plan set submitted as part of a building permit application reviewed and approved by the Building Official.
 - c. In limited circumstances, as noted in Section 140-137. (h) may a property owner be exempt from constructing a sidewalk at the time the lot is developed or redeveloped for commercial or residential purposes.
 - d. If the applicant is eligible to pay sidewalk fee-in-lieu as noted in Section 140-137. (h) , the applicant shall pay for the sidewalk fee-in-lieu before the building permit application is approved by the Building Official.
 - e. Except for lots that pay a sidewalk fee-in-lieu, a sidewalk shall be constructed and fully installed to the City's specifications before a certificate of occupancy is issued by the Building Official.
- (f) Sidewalk Compliance During the Platting Process.
- (1) All subdivision applications shall include a sidewalk plan with the initial submittal of a plat application.
 - a. If the applicant is eligible to pay sidewalk fee-in-lieu as noted in Section 140-137. (h), the applicant shall submit a letter signed by the property owner confirming the desire to pay a sidewalk fee-in-lieu with the initial submittal of a plat application.
 - (2) The purpose of the sidewalk plan is to ensure that the required sidewalk is placed and constructed in conformance with the minimum sidewalk requirements of Section 140-137. (b) of and any other applicable provisions of the City's sidewalk requirements.

- a. If the applicant is exempt from constructing a sidewalk and is eligible to pay a sidewalk fee-in-lieu as noted in Section 140-137. (h), the applicant will be required to pay the sidewalk fee-in-lieu before the plat is recorded with the County Clerk.
- (3) A sidewalk plan submitted with a building permit application, as expressed in Section 140-137. (e), shall comply with the sidewalk plan originally approved with the associated plat application.
- a. Minor adjustments to sidewalk placement may be administratively approved with the building permit application if the proposed changes were incorporated to address geographical site constraints or safety concerns, subject to review and approval of the Building Official in coordination with the City Engineer.
 - b. The applicant shall submit a sidewalk plan in compliance with all applicable provisions of the City's sidewalk requirements of the associated plat approval did not included a sidewalk plan.
- (g) *Sidewalk Plan Criteria.* A sidewalk plan shall show the following information:
- (1) All lots reflected on the associated plat with accurate bearings and distances, lot numbering and subdivision information.
 - (2) The entire width of the public right-of-way(s) in which the sidewalk(s) is proposed.
 - (3) Location of right-of-way pavement in reference to proposed sidewalk(s).
 - (4) Sidewalk width, length, landings and curb ramps.
 - (5) Sidewalk design specifications and construction details; and
 - (6) Identify the party responsible for the construction of the sidewalk(s), and the timeframe in which the sidewalk will be constructed by the responsible party.
 - (7) The following notes shall be included on the sidewalk plan:
 - a. There shall be no vertical obstructions within the sidewalk.
 - b. The contractor shall contact the Building Official for an on-site inspection before pouring concrete.
 - c. All construction within the right-of-way shall comply with the Americans with Disabilities Act (ADA) and Public Right-of-Way Accessibility Guidelines (PROWAG) requirements in effect at the time activities are performed.
- (h) *Sidewalk Fee-In-Lieu.* A fee-in-lieu shall only be accepted by the City in the following circumstances:
- (1) There are no existing sidewalks within one thousand (1,000) feet of the subject property in which the property owner could connect the new sidewalk; or

- (2) Unique topography, natural resource constraints or other factors exist on the subject property that make the installation of a sidewalk impractical subject to review and approval of the City Engineer.
- (3) The fee and the value of the sidewalk improvement shall be assessed by the City Engineer and shall constitute the cost of constructing a sidewalk along the entire street frontage of a lot per the City's sidewalk design standards.

Section 140-133. Street Design Standards

- (a) *Purpose.* The purpose of this Section is to ensure adequate and safe pedestrian and vehicle circulation within the City and ETJ, and into adjoining areas.
- (b) Generally.
 - (1) All lots shall have access to a public street or a private street.
 - (2) The applicant shall be responsible for the costs of right-of-way and street improvements, in accordance with the policies and standards of this Section.
 - (3) The construction of new streets or the modification of existing streets shall comply with the minimum right-of-way dedication requirements in Section 140-138. (c).
 - (4) New sidewalks shall connect to existing sidewalks or trails.
 - (5) The City may prescribe vertical or horizontal geometric design features to streets to facilitate bike and pedestrian traffic and to slow auto traffic in areas intended for bike and pedestrian traffic. These features may include speed tables, horizontal curves, medians, chicanes, curbs, drive aprons, or other measures as approved by the City Engineer.
- (c) Minimum Right-of-Way Dedication.
 - (1) All streets within the City and the ETJ shall be designed and constructed complete streets with curb and gutter, unless specified otherwise, in accordance with this Section and the City's specifications in the *SDG*.
 - (2) All new development within the City and ETJ are subject to the requirements in Section 140-138. (e) and shall dedicate the minimum public right-of-way pursuant to the requirements provided in this Section.
 - (3) These regulations do not apply to those streets owned and maintained by the State.
- (d) *Right-of-Way Dimension.* The minimum right-of-way dedication for subdivisions abutting an existing street shall comply with the following provisions:
 - (1) The applicant shall dedicate at least half of the ultimate right-of-way width required for the existing adjacent street in accordance with the requirements of Section 140-138. (c).

- (2) The minimum right-of-way dedication for the adjacent street shall be based on the geometric centerline of the right-of-way.
- (3) The City Engineer may require additional right-of-way for substandard perimeter streets to address safety, design, topography, or additional design features for traffic management considerations.

(e) Street Typology

- (1) Generally.
 - a. This Section allows for the flexible development of street types set apart from the street types implemented through the Transportation and Mobility Chapter of the Comprehensive Plan shown in this Subsection.
 - b. The street types established in this Section must also comply with the provisions of this Article.
 - c. The intent of the new street types is to provide a palette of street typologies and design elements that reflect the character of different areas within McAllen.
 - d. The new street types provide adequate travel lanes for vehicles, cyclists, and pedestrians.
 - e. All streets shall meet the streetscaping standards as established in this Subsection and Section 140-138. (f), unless specified otherwise.
 - f. The City supports the use of context, sensitive design solutions and complete streets and will review projects on a case by case basis for conformance with these concepts.
 - g. The street typical cross-sections displayed in this section provide a guide to balancing the needs of all modes of travel. Modifications to these typical cross sections may be made by the designated approval authority.
 - h. The appropriate street typical cross section will be approved by the designated approval authority based on both engineering and land use context factors, including anticipated vehicle volumes.
 - i. Administrative design adjustments approved by the designated approval authority may be appropriate when an existing building would impede roadway expansion when transitioning from a different street section, or where strict compliance with this UDC would pose a safety hazard.
- (2) *Context Summary.* Street types are designed based on zoning district context. The following contexts are established in *Table 138-1*.

Table 133-1: Context Summary

Context Summary	
Context	Zoning District
Urban	M-1
	M-2
	C-C
Suburban	R-1
	R-2
	R-3
	C-1
	C-2
	I-1
	I-2
Rural	A-O

(3) *Street Types by Context.* Streets shall meet the requirements in their given context as established in *Table 133-2, Table 133-3, and Table 133-4.*

a. Urban Context.

Table 133-2: Urban Context Streets

Street Typology								
Street Type	ROW					Streetscape		
	A	B	C	D	E	F	G	H
	Min. ROW Width	Min. Pavement Width	Number of Travel Lanes	Min. Travel Lane Width	Median	Min. Streetscape Width	On-Street Parking	Sidewalk
High Speed Arterial	150'	48'	4	12'	O (14')	60'	N	R
Principal Arterial	100'	44'	4	12'	O (14')	40'	N	R

Street Typology								
Street Type	ROW					Streetscape		
	A	B	C	D	E	F	G	H
	Min. ROW Width	Min. Pavement Width	Number of Travel Lanes	Min. Travel Lane Width	Median	Min. Streetscape Width	On-Street Parking	Sidewalk
Minor Arterial	80'	44'	4	12'	O (14')	30'	N	R
Collector	60'	30'	2	12'	O (14')	24'	N	R
Parkway	60'	30'	2	12'	O (10')	24'	O	R
Green Street	60'	30'	2	12'	O (10')	24'	O	R
Local (Residential)	28'	30'	2	12'	O	12'	O	R
Local (Nonresidential)	32'	30'	2	12'	O (10')	12'	O	R
Key	N = Not Allowed R = Required O = Optional							

b. Suburban Context.

Table 133-3: Suburban Context Streets

Street Typology								
Street Type	ROW					Streetscape		
	A	B	C	D	E	F	G	H
	Min. ROW Width	Min. Pavement Width	Number of Travel Lanes	Min. Travel Lane Width	Median	Min. Streetscape Width	On-Street Parking	Sidewalk
High Speed Arterial	150'	48'	4	12'	O (14')	40'	N	R
Principal Arterial	120'	48'	4	12'	O (14')	40'	N	R
Minor Arterial	100'	44'	4	12'	O (14')	30'	N	R
Collector	80'	30'	2	12'	O (14')	20'	N	R

Street Typology								
Street Type	ROW					Streetscape		
	A	B	C	D	E	F	G	H
	Min. ROW Width	Min. Pavement Width	Number of Travel Lanes	Min. Travel Lane Width	Median	Min. Streetscape Width	On-Street Parking	Sidewalk
Parkway	80'	30'	2	12'	O (10')	20'	N	R
Green Street	80'	30'	2	12'	O (10')	24'	N	R
Local (Residential)	32'	30'	2	12'	O	12'	N	R
Local (Nonresidential)	38'	30'	2	12'	O (10')	12'	N	R
Key	N = Not Allowed R = Required O = Optional							

c. Rural Context.

Table 133-4: Rural Context Streets

Street Typology								
Street Type	ROW					Streetscape		
	A	B	C	D	E	F	G	H
	Min. ROW Width	Min. Pavement Width	Number of Travel Lanes	Min. Travel Lane Width	Median	Min. Streetscape Width	On-Street Parking	Sidewalk
High Speed Arterial	150'	48'	4	12'	O (14')	40'	N	R
Principal Arterial	100'	48'	4	12'	O (14')	30'	N	R
Minor Arterial	90'	48'	4	12'	O (14')	20'	N	R
Collector	60'	30'	2	12'	O (14')	20'	N	R
Parkway	60'	30'	2	12'	O (10')	20'	N	R
Green Street	60'	30'	2	12'	O (10')	20'	N	R

Street Typology								
Street Type	ROW					Streetscape		
	A	B	C	D	E	F	G	H
	Min. ROW Width	Min. Pavement Width	Number of Travel Lanes	Min. Travel Lane Width	Median	Min. Streetscape Width	On-Street Parking	Sidewalk
Local (Residential)	32'	30'	2	12'	O	10'	N	R
Local (Nonresidential)	38'	30'	2	12'	O (10')	10'	N	R
Key	N = Not Allowed R = Required O = Optional							

(f) Streetscaping Standards.

- (1) All streets shall meet the streetscape requirements as established in *Table 138-2*, *Table 138-3*, and *Table 138-4*, and may provide the following streetscape elements:
 - a. On-street parking spaces at either a parallel or angled arrangement;
 - b. Pedestrian facilities such as sidewalks, multi-use paths, and cycle tracks;
 - c. Landscaped strips with living plants;
 - d. Street furniture such as patio chairs, benches, and tables;
 - e. Green infrastructure or low-impact development mechanisms such as bioswales, rain gardens, planter boxes, permeable pavement; or
 - f. Any other unspecified streetscape element that promotes safe pedestrian interactions with the street.
- (2) Liability of streetscape maintenance shall be addressed in a license agreement.

(g) Street Connectivity.

- (1) All residential subdivisions shall design street configurations that comply with the minimum Connectivity Index in Section 140-135. (d).
- (2) A residential and nonresidential subdivision shall provide a stub out to undeveloped land adjacent to the subdivision.
 - a. Stub-out connections to adjoining residential properties shall occur at least every nine hundred (900) feet or in alignment with abutting subdivision streets along each boundary of the subdivision.

- b. The stubout shall require a temporary turnaround at the terminus of the stubout of a minimum of eight (80) feet in diameter.
 - c. The applicant shall extend the sidewalk along the entire length of the stubout on both sides of the street if constructing the entire width of the internal subdivision street to dead end or stubout to the adjacent property (refer to Section 140-137. (b)(9)).
- (3) A new subdivision shall connect to an existing stub out adjacent to the proposed subdivision.
 - (4) Permanent cul-de-sacs and dead-end streets shall not exceed three hundred (300) feet in length unless no other alternative is available as determined by the City Engineer.
 - (5) A cul-de-sac street shall be platted and constructed with a concrete paved cul-de-sac at the closed end having a turnaround with a minimum outside paving diameter of at least one hundred (100) feet and a minimum street right-of-way diameter of at least one hundred twenty (120) feet.
- (h) Secondary Ingress and Egress.
- (1) All multi-family residential and nonresidential development shall provide at least one secondary form of ingress and egress to a public street.
 - (2) A multi-lot or master planned subdivision requires a secondary form of ingress and egress to a public street for each phase.
 - (3) All single-family development shall provide a minimum number of access points as required by *Table 138-5*. When the calculation of access points results in a fraction, the number of required access points shall be rounded up to the next whole number.

Table 133-5: Required Minimum Access Points

Required Minimum Access Points	
Number of Residential Units	Minimum Number of Access Points
1-30 units	1
31+ units	2

- (4) Access points shall be to a local or collector street, and in certain situations where inefficient traffic flow is probable and access options are limited, to an arterial street.
- (5) Each phase will comply with the minimum number of access points.
- (6) The City Engineer may require additional access points if the configuration, number of lots, or other consideration creates the need for additional access.

- (7) The City Engineer may reduce the number of access points due to topography, natural features, or the configuration of adjacent development.
- (i) Street Names, Signs, Lighting, and Pavement Marking.
 - (1) Streets shall be named to provide continuity with existing streets.
 - (2) Names of new streets shall not duplicate or cause confusion with the names of existing streets.
 - (3) Street signs shall be furnished and installed by the applicant for all intersections within or abutting the subdivision.
 - (4) Street signs shall be of a type approved by the City and include the block number and block direction.
 - (5) Street signs shall be installed in accordance with the prescribed type currently in use by the Texas Manual on Uniform Traffic Control Devices.
 - (6) Street marking shall be applied by the applicant in compliance with the City's specifications and the most recent edition of the Texas Manual on Uniform Traffic Control Devices.
 - (7) Streetlights shall be installed by the applicant at major street intersections and all public rights-of-way within the subdivision or site development, and at major intersections and all public rights-of-way on the boundaries of the subdivision in accordance with the requirements in Section 140-145.
 - (8) Pavement markings shall be required by Traffic Operations Department based on functionality of roadway.
 - (9) Street name signs and pavement markings shall be installed as per City's standards details.

Section 140-134. Access Management

- (a) *Purpose.* The purpose of this Section is to:
 - (1) Prohibit the indiscriminate location and spacing of driveways while maintaining reasonable vehicular access to and from the public street system;
 - (2) Reduce conflicting turning movements and congestion and thereby reducing vehicular accidents; and
 - (3) Maintain and enhance a positive image for the attraction of new, high-quality developments in the City.
- (b) *Applicability.* No driveway shall be allowed or permitted if, in the determination of the City Engineer, it is detrimental to the public health, safety, and welfare of the community.

(c) Common Access.

- (1) A common access easement is required between adjacent lots used, zoned, or planned for nonresidential and multi-family uses fronting on any street section unless the City Engineer authorizes an exemption due to site constraints.
- (2) The use of common driveways shall require the dedication of a joint-use perpetual private access easement on each affected property.
- (3) The dedication shall be provided on the final plat of the subject properties, or be filed by separate instrument, subject to review and approval by the City Engineer.
- (4) The plat shall state that the property owner shall maintain the easement.
- (5) The common access easement shall encompass the entire width of the planned driveway plus an additional width of one foot on both sides of the drive.

(d) Driveway Design for Non-State Maintained Roadways.

- (1) Development shall meet the standards and specifications regulating the design and construction of driveways, including but not limited to driveway dimensions and spacing (non-State maintained roadways) and deceleration lanes for driveways on streets required (non-State maintained roadways), as established in this Section and in the *SDG*.
- (2) The following standards shall be followed in the design and construction of driveways. The values in the following tables represent minimum standards to be applied in designing and locating driveways on non-state maintained streets.
 - a. *Driveway Dimensions and Spacing (Non-State Maintained Roadways)*. Table 134-1 indicates the minimum dimensional values required for driveways along City/County-maintained roadways (local streets, collector streets, arterial streets). **Figure: illustrates driveway spacing²⁷**.
 - b. State Maintained Roadways will require separate spacing but shall at least conform to the standards in *Table 134-1*.

Table 134-1: Driveway Dimensions and Spacing

Driveway Dimensions and Spacing (Non-State Maintained Roadways)			
Criteria	Street Classification	Nonresidential Driveway	Service Driveway
Minimum Distance to	High Speed Arterial	425'	200'
	Principal Arterial	360'	200'

²⁷ Graphic pending

Driveway Dimensions and Spacing (Non-State Maintained Roadways)			
Criteria	Street Classification	Nonresidential Driveway	Service Driveway
Intersection along Roadway	Minor Arterial	250'	200'
	Collector	200'	150'
	Parkway	100'	100'
	Green Street	100'	100'
	Local (includes all types)	50'	100'
Minimum Edge to Edge Driveway Spacing Along Roadway	High Speed Arterial	250'	250'
	Principal Arterial	250'	250'
	Minor Arterial	200'	200'
	Collector	150'	150'
	Parkway	150'	150'
	Green Street	100'	100'
	Local (includes all types)	100'	100'
Notes	<ul style="list-style-type: none"> • Nonresidential driveways include multi-family uses. • The requirements for driveway throat width and driveway curb radius are for standard undivided two-way operation and may be varied by the City Engineer if traffic volumes, truck usage, common driveways, and other factors warrant such. • Minimum centerline spacing does not implicitly determine the number of driveways allowed. Driveways served by deceleration lanes may be spaced at closer intervals if approved by the City Engineer. • Distance measured from the intersection right-of-way line to the centerline of the proposed driveway. • Nonresidential, multi-family and service driveways shall not be permitted on local streets unless approved by the City Engineer. 		

c. Deceleration Lanes for Driveways on Arterial Streets Required (Non-State Maintained Roadways).

1. When the turning volume for a driveway exceeds 60 vehicles per hour during the peak hour, a deceleration lane shall be provided on arterial streets with a posted speed of 40 mph to 45 mph.

2. When the turning volume for a driveway exceeds 50 vehicles per hour during the peak hour, a deceleration lane shall be provided on arterial streets with a posted speed greater than 45 mph.

(e) Required Internal Storage (Minimum Throat Length/Stacking).

- (1) *Minimum Throat Length.* The driveway for any multi-family or nonresidential property that connects to an arterial street, collector street, or local street shall extend onto private property a minimum distance of thirty (30) feet, but not less than the required front landscape edge width, from the right-of-way line before intersecting any internal circulation drive. The driveway for any commercial property that connects to an arterial street, collector street, or local street shall extend onto private property a minimum distance of eighty (80) feet if the determination by the traffic department that the development is an internal roadway network.
- (2) *Driveway Stacking.* Driveway stacking shall be provided on multi-family or nonresidential properties for corresponding driveways in accordance with *Table 134-2*. Required driveway stacking for driveways that provide ingress/egress based on use.

Table 134-2: Required Driveway Stacking

Required Driveway Stacking		
Average # of Parking Spaces Per Driveway	Total # of Parking Spaces and Drive-Thru Queuing Spaces	Minimum Stacking Length
20 - 49	20 – 49	Landscape Edge + 20'
	50 – 199	50'
	200 +	75'
50 - 199	50 – 199	75'
	200 +	100'
200 +	200 +	100'
Notes	<ul style="list-style-type: none"> • The average number of parking spaces per driveway is calculated by dividing the total number of parking spaces by the number of commercial and multi-family driveways. (Service driveways are not included in the calculation.) • The total number of parking spaces is the sum of all spaces accessible by a driveway or driveways both on-site and off-site. The internal storage shall be separated from parking areas by a five-foot (5') wide, raised curb island or median. Planting requirements for the island or median shall be one (1) tree and one (1) five-gallon (5 Gal.) shrub for every fifteen (15) linear feet. Appropriate signage (e.g. stop, yield, 	

Required Driveway Stacking		
Average # of Parking Spaces Per Driveway	Total # of Parking Spaces and Drive-Thru Queuing Spaces	Minimum Stacking Length
	etc.) shall be placed for any vehicular cross movement or internal circulation that intersects the ingress/egress circulation beyond the required internal storage.	

- (f) Adequate Sight Distance.
 - (1) Driveways shall be prohibited where adequate sight distance is not available for the established speed limit.
 - (2) Sight distances shall be calculated in accordance with the latest edition of the AASHTO “A Policy on Geometric Design of Highways and Streets.”
 - (3) If a field inspection indicates that driveway sight distance may be insufficient, the applicant will be required to submit vertical and horizontal information prepared by a registered professional engineer to the City Engineer that verifies adequate sight distance is available for the proposed driveway location.
- (g) *Sight Visibility*. Sight visibility easements shall be provided at all intersections with a public street (see Section 140-59.).
- (h) *Trip Generation Worksheet*. The trip generation worksheet is a worksheet required new subdivisions and site plan submittals, for the purposes of determining Traffic Impact Analysis applicability and scope, based on:
 - (1) Change of use (redevelopment); and
 - (2) Development along major thoroughfares.
- (i) Traffic Impact Analysis (TIA).
 - (1) The City Engineer may request a traffic impact analysis when 101 or more daily vehicle trips are anticipated to be generated by the development or if the development is anticipated to cause severe impacts on either the roadways system or the internal circulation of an adjoining development. Based on the trip generation worksheet that is submitted to the Traffic Department, it will determine if a TIA is required.
 - (2) A traffic impact analysis shall be prepared in accordance with the City’s traffic study procedures, traffic circulation analysis guidelines, current available traffic counts, and those specifications provided in the *SDG*.
 - (3) The City Engineer may require a pre-submittal meeting with the property owner or developer after the submission of a development application, such as a plat or site plan, to define the scope of the TIA if deemed necessary for the project.

Section 140-135. Easements, Dedications, and Restrictive Covenants

(a) Generally.

- (1) The purpose of this Section is to identify and require easements and fee simple dedication of all property needed for the construction of adequate public facilities, including streets, alleys, common access easements, sidewalks, paths, storm drainage facilities, floodways, water mains, wastewater mains, franchise utilities and other public and private utilities, retaining walls and any other property necessary to serve the plat and to implement the requirements of the UDC, the *SDG*, and other approved technical manuals.
- (2) Easements must be provided on a final plat, or by separate instrument, and maintained by the property owner.

(b) Utility Easements.

- (1) Where not adjacent to a public right-of-way, easements at least fifteen (15) feet wide or as required by the utility, must be provided for utility construction, service, and maintenance must be provided where necessary.
- (2) Easements for water and wastewater (sewer) facilities and easements accommodating both public utilities and franchise utilities must be at least twenty (20) feet wide or as required by the utility.
- (3) Additional easements or additional easement width may be required by the Planning and Zoning Commission if deemed necessary by the Director or City Engineer.
- (4) Easements at least sixteen (16) feet wide or as required by the utility, for utility construction, service, and maintenance must be provided within the front yard of lots that have frontage along state highways, and other arterials as identified on the Future Thoroughfare Map. These easements shall be provided along all public right-of-way except where otherwise approved by the City Engineer.
- (5) Easements having greater width dimensions may also be required along or across lots where engineering design or special conditions make it necessary for the installation of utilities and drainage facilities outside public right-of-way.
- (6) The following statement of restrictions must appear in the dedication instrument on the face of the plat:
 - a. Easements.
 1. Any public utility, including the City, shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction,

maintenance, or efficiency of its respective system on any of the easements or right-of-way shown on the plat (or filed by separate instrument that is associated with that property); and any public utility, including the City, shall have the right at all times of ingress and egress to and from and upon said easements for the purpose of construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or part of its respective system without the necessity at any time of procuring the permission of anyone.

2. Easements shall be maintained by property owners.
3. The City can move trees or any other improvements and does not have the responsibility to replace them.

(c) Fire Lane.

- (1) Emergency access and fire lanes must be provided in locations required by the City and meet the requirements of the Fire Code.
- (2) Fire lanes must have a minimum width of twenty-five (25) feet and a minimum height clearance of fourteen (14) feet. Internal drives within parking lots are not required to be curbed.
- (3) Fire lanes must have a minimum inside radius of twenty-five (25) feet and a minimum outside radius of fifty (50) feet.
- (4) Fire lanes that are more than one hundred fifty (150) feet in length must either connect at each end to a dedicated public or private street or to an access easement or built with a turnaround in accordance with adopted Fire Code.
- (5) Fire lanes must be maintained by the property owner or Property Owners' Association.

(d) *Roadway Easements*. See Section 140-138.

(e) *Sight Visibility Zone Easements*. See [Chapter 94, Article IV](#).

(f) Drainage Easements.

- (1) Easements for storm drainage facilities must be provided at locations containing existing or proposed drainage ways in accordance with this Article, the *SDG*, and other approved technical manuals.
- (2) Storm drainage easements must be provided for existing and proposed enclosed drainage systems as specified in this Article, the *SDG*, and other approved technical manuals.
 - a. Easements must be centered over the drainage systems unless approved by the City Engineer.

- b. Easements exceeding the width specified in this Article, the *SDG*, and other approved technical manuals, where necessary, must be provided as directed by the City Engineer.
- (3) Where lot-to-lot drainage occurs, *SDG* standards apply.
 - (4) Storm drainage easements must be provided for emergency overflow drainage ways with enough width to contain stormwater resulting from a 50-year frequency storm, less the amount of stormwater carried in an enclosed system of a capacity required by the City.
 - (5) Where a subdivision is bounded by a watercourse, drainage way, channel, or stream, a stormwater easement conforming to the lines of such water course shall be provided, and of such width to provide for increased drainage from anticipated future upstream developments, plus a minimum of ten (10) feet on each side.
 - (6) As required by the City, drainage easements must be dedicated up to the full width necessary to accommodate the ultimate drainage facility (culvert, channel, etc.) to be constructed within the easement, including provisions for access ingress and egress by crews and equipment for maintenance purposes.
- (g) *Water Quality Infrastructure Easements*. Easements for water quality infrastructure must be provided at locations required by this Article, the *SDG*, and approved technical manuals.
- (h) *Floodplain Easements*.
- (1) Floodplain easements must be provided along natural drainage ways and lakes and reservoirs.
 - (2) Floodplain easements must be provided in accordance with the recommendation of the City Engineer and the Director to accommodate the fully-developed 100-year storm peak flow rates or the flow of the flood of record, whichever is greater.
 - (3) Floodplain easements must encompass all areas beneath the water surface elevation of the base flood, plus such additional width as may be required to provide ingress and egress to allow maintenance of the banks and for the protection of adjacent property, as determined by the City Engineer.
 - (4) The following full statement of structures shall be placed in the dedication instrument of the plat:
 - a. *Floodplain Easement Restriction*.
 1. Construction within the floodplain may only occur with the written approval of the City. A request for construction within the floodplain easement must be accompanied with detailed subdivision construction plans and studies indicating that the construction will cause no adverse impact, that no

obstruction to the natural flow of water will result; and subject to all owners or the property affected by such construction becoming a party to the request. Where construction is permitted, all finished floor elevations shall be a minimum of two (2) feet above the 100-year flood elevation as determined by analyzing the ultimate build-out conditions of the entire drainage basin.

2. Existing creeks, lakes, reservoirs, or drainage channels traversing along or across portions of this addition, will remain as an open channel at all times and will be maintained by the individual owners of the lot or lots that are traversed by the drainage courses along or across said lots. The City will not be responsible for the maintenance and operation of said drainage ways or for the control of erosion. Each property owner shall keep the natural drainage channels traversing their property clean and free of debris, silt, or any substance, which would result in unsanitary conditions. The City shall have the right of ingress and egress for the purpose of inspection and supervision of maintenance work by the property owner to alleviate any undesirable conditions, which may occur.

(i) Retaining Wall Easements.

- (1) If, in the opinion of the City Engineer, the grading plans submitted with the subdivision construction plans for approval of a final plat indicate the need for the construction of one or more retaining walls, the City Engineer may, at their discretion, require a private retaining wall easement showing the location of the retaining wall(s) and the no-build zone to be dedicated and shown on the preliminary plat and the final plat.
- (2) The City will have the right, but not the obligation, to enter the easement for the purpose of maintaining or repairing the retaining wall.
- (3) The width of the retaining wall easement and the no-building zone will be as established by the applicant's structural engineer and approved by the City Engineer.
- (4) The retaining wall easement shall include a no-building zone extending from the retaining wall on both sides, within which any additional load from future construction would exceed the design capacity of the retaining wall.
- (5) No structure (other than the retaining wall), swimming pool, or any other feature which adds load to the retaining wall, shall be constructed within the no-building zone.
- (6) A retaining wall easement must be located entirely on one lot and not straddle property lines, unless the wall is constructed within a retaining wall easement

- dedicated to the Property Owners' Association in accordance with Section 140-140. (i)(7).
- (7) The property owner, or the Property Owners' Association for the subdivision, as applicable, shall be responsible for maintenance of the retaining wall, and a note shall be included to this effect on the final plat.
- (j) Needs/Benefits Determination.
- (1) No dedication otherwise required by this UDC may be imposed upon a property owner unless the City determines that the dedication is related to the impact of the proposed development; is roughly proportional to the needs created by the proposed development; and provides a benefit to the development.
- (2) An applicant may appeal a staff recommendation that a dedication be required in accordance with the provisions of Section 140-192.
- (k) Maintenance of Easement.
- (1) Easements required in this Section are areas established for public purposes on private property upon which the City shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of City systems.
- (2) The City shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time or procuring the permission of anyone.
- (3) The property owner shall be responsible for maintaining the easement.

Section 140-136. Water Utility

- (a) Generally.
- (1) All subdivisions in the City's corporate limits and ETJ shall provide an adequate water distribution system and connect to a public water system in conformance with the standards of the public water service provider.
- a. The City's corporate limits and ETJ are serviced by various public water providers and it is the responsibility of the applicant to determine the public water provider that services their property.
- (2) Any new water main(s) must be designed and installed by the applicant's engineer prior to public water provider accepting such water facility or facilities for maintenance.

- a. The applicant's engineer will coordinate with both the City Engineer and public water provider to receive construction plan approval for the construction or modification of water facilities.
- (3) The public water provider can prohibit a connection to an existing or proposed water system when they determine that a connection will exceed capacity or overload the water system to serve the anticipated water demand of the proposed development.
- (4) In the absence of specific standards, all water supply, distribution, pumping, and storage improvements shall be designed in accordance with the most current standards of the American Water Works Association and the most current criteria included in the Texas Administrative Code (Title 30, Part 1, Chapter 290), Public Drinking Water.
- (5) The public water provider shall make the final determination of the adequacy of the proposed system.
- (6) The public water provider in coordination with the City Engineer may require the phasing of development or improvements to maintain adequate water capacity.
- (7) All water mains shall be constructed within the street right-of-way and easements will be dedicated to the public water provider.
- (8) The public water provider shall determine placement and width of water easements.
- (b) *Water Line Extension to Subdivision Perimeters.* All water lines installed within a subdivision must extend to the border and perimeter of the subdivision to allow for future water extensions to adjacent properties, regardless of whether those extensions are required for service within the subdivision.
- (c) Fire Hydrants²⁸.
 - (1) Fire hydrants shall be placed on block corners or near the center of the block to place all or every lot within a radius of five hundred (500) feet in residential areas, but under no circumstances shall a hose lay for more than five hundred (500) feet be made from the fire hydrant to cover all of every lot within the subdivision or tract under development.
 - (2) Fire hydrants shall be located in commercial and industrial areas so that all of every lot shall be within a radius of three hundred (300) feet, but under no circumstances

²⁸ Staff prefers to retain the existing fire hydrant spacing, but where can we find those standards?

shall a hose-lay of more than three hundred (300) feet be made in order to adequately afford fire protection to the building or buildings.

- (3) A fire hydrant shall be placed at the entrance or at the end of all cul-de-sacs subject to review of the fire marshal in coordination with the public water service provider.
- (4) Hydrants shall provide enough pressure for fire protection in accordance with the City's adopted fire codes subject to review and approval of the Fire Marshal in coordination with the public water service provider.

Section 140-137. Wastewater Utility

(a) Generally.

- (1) All subdivisions in the City's corporate limits and ETJ shall provide an approved means for wastewater collection and treatment and connection to an adequate public wastewater system in conformance with the standards of the public wastewater provider.
 - a. The City's corporate limits and ETJ are serviced by various public wastewater providers and it is the responsibility of the applicant to determine the public water provider that services their property.
- (2) Any new wastewater main(s) must be designed and installed by the applicant's engineer prior to the public wastewater provider accepting the wastewater facility or facilities for maintenance.
- (3) The applicant's engineer will coordinate with both the City Engineer and public wastewater provider to receive construction plan approval for the construction or modification of wastewater facilities.
- (4) The public wastewater provider may prohibit a connection to an existing or proposed wastewater system that they determine will exceed the capacity or overload the system to serve the anticipated wastewater demand of the proposed development.
- (5) The public wastewater provider in coordination with the City Engineer may require the phasing of development or improvements to maintain adequate wastewater capacity.
- (6) The public wastewater provider in coordination with the City Engineer shall make the final determination of the adequacy of the proposed system.
- (7) The public wastewater provider shall determine placement and width of wastewater easements.

(b) Wastewater Connection.

- (1) Any development occurring within five hundred (500) feet or less of an existing or proposed wastewater line shall extend and connect to the City's facilities (or to other public utility as determined by CCN).
 - (2) A development may only use an on-site sewage facility (OSSF) if subject to one of the following provisions:
 - a. The closest corner of the proposed subdivision shall be at a distance of more than five hundred (500) feet, as measured along the proposed sewer line, from a public gravity sanitary sewer system, and the proposed subdivision shall contain no more than one parcel for each 50-foot length of that distance beyond 500 feet including any fractions of such 50-foot lengths; or
 - b. A connection to such sewer shall involve unusual costs, such as a lift station or street boring, and the initial cost of providing centralized sewer service shall be at least \$20,000.00 per parcel, with such initial cost being calculated by the public utilities board and the City Engineer and being the sum of public and private costs.
 - (3) Any on-site sewage facility (OSSF) that is permitted will be constructed in accordance with the Texas Administrative Code (Title 30, Part 1, Chapter 285), On-Site Sewage Facilities.
 - (4) The Hidalgo County Health Official or the City's designated representative will review and approve all septic system permits for any property in both the city limits, ETJ and the County.
- (c) Wastewater Line Extension to Subdivision Perimeters.
- (1) All laterals and wastewater mains installed within a subdivision must extend to the borders of the subdivision as required for future extensions of the collection system, regardless of whether such extensions are required for service within the subdivision.
 - (2) If due to physical constraints, a new subdivision will never be constructed beyond a developing subdivision, the City Commission may approve a subdivision waiver (see Section 140-191.) for this requirement prior to action on the construction plans or prior to action on any plat.

Section 140-138. Preliminary Utility Plan

- (a) Applicability.
- (1) A preliminary utility plan shall detail both Section 140-141. And Section 140-142. Requirements and may be required as part the following plat applications in which the modification or extension of utilities is required for the proposed development:

- a. Preliminary Plat
 - b. Final Plat
 - c. Replat
- (2) Preliminary utility plans shall comply with the criteria contained in the City's standard applications forms and checklists.
 - (3) Preliminary utility plans are subject to the review processes established in Article VI. Required for plat and development applications.
- (b) Plan Criteria.
- (1) Concurrent with the submission of a preliminary plat, final plat, or any other plan in which the modification of public utilities is required, the applicant shall submit a map or plan showing the location and size of water utility and wastewater utility mains, which will be required to provide adequate service to the lots specified in the proposed plat.
 - (2) Preliminary utility plans shall show existing and proposed fire hydrant systems to show adequate fire protection as required in the UDC and the City's fire code.
- (c) Coordination with Other Utility Providers.
- (1) When the subdivision is in an area served by a utility provider other than the City, the applicant is still required to provide a water system analysis, indicating adequate water supply and water quality for review by the City Engineer.
 - (2) When a subdivision is in an area served by a utility provider other than the City, the applicant must provide a letter from the utility provider stating that facilities exist in the area to provide adequate domestic service and fire protection.
 - (3) If the City has reason to believe that there may be water supply or pressure concerns the City may require, a water system analysis, indicating adequate water supply and water quality.
 - (4) A plat will not be approved until a letter has been provided from the utility provider stating that they have accepted the plans for construction.

Section 140-139. Private Street Regulations

- (a) *Purpose.* The purpose of this Section is to:
- (1) Allow private street developments to occur within the City on a limited and restrictive basis;
 - (2) Provide for diverse housing options that help the City remain competitive in the development market and meet the needs of residents;

- (3) Ensure private streets are constructed to the quality standards of public streets; and
- (4) Ensure private street developments are accessible by safety and emergency services of the City.

(b) Generally.

- (1) A private street development shall comply with all provisions of the UDC including the subdivision (Article V.), zoning (Article II.), and pertinent development (Article IV.) standards.
- (2) A private street development shall be subject to impact fees, parkland dedication or fee-in-lieu parkland fees.
- (3) There shall be no required minimum or maximum acreage size and or number of lots within private street developments.
- (4) The location of the private street development among other criteria required in this Section is subject to the approval of the City Commission.
- (5) A private street development shall not impede the current or future street circulation needs of the City, such as obstructing a street designated as a collector or arterial connection in the City's Future Throughfare Map.
- (6) A private street development shall not disrupt an existing or proposed City pedestrian, bike, or trail pathway.
- (7) Except where substantial existing natural or humanmade barriers would render the requirement unreasonable, each private development shall have direct access to a collector street and meet all other connectivity and access requirements of this Article.
- (8) There shall not be an overconcentration of gated and private street developments that may negatively impact neighborhood development pattern.

(c) Development Guidelines.

- (1) Private streets shall be constructed to the street design standards contained in the UDC and any other construction specifications for public right-of-way required by the City.
- (2) A private street development must provide access for emergency vehicles, public and private utility maintenance and service personnel, service of street lights and maintenance, the US Postal Service, and other government governmental employees in pursuit of their official duties.
- (3) A private street development that has an access control gate or cross arm must have a minimum uninterrupted pavement width of twenty-two (22) feet at the location of

- an access control device. If an overhead barrier is used, it must be a minimum of 14 feet in height above the road surface.
- (4) A private street development that has an access control gate shall also provide a turnout or turnaround area outside the gated perimeter pursuant to the City's transportation design criteria and specifications.
 - (5) A private street development that has an access control gate shall also provide two and a half (2.5) stacking spaces dimensioned at the location of the keypad to the right-of-way line. Vehicles waiting to enter the private street development cannot stack in the public right-of-way.
 - (6) The Fire Marshal shall approve the installation of access gates, which shall meet the City's fire code requirements for emergency operation. The type of gate or control access mechanism is subject to review and approval by the Fire Marshal and shall be maintained by the property or homeowners association.
 - (7) The property or homeowners association shall provide keypads and codes, as well as a receiver and mechanism designed to open gates automatically in response to a remote traffic signal preemption device meeting the specifications of emergency service providers, at all gates into the community.
 - (8) If at any time any gate does not promptly and automatically open for an emergency vehicle utilizing a traffic signal preemption device, the emergency responders shall be privileged to remove, disable or destroy any locking device, gate or piece of a gate in order to gain access. The deed restrictions shall recognize and incorporate this requirement, and further hold the City and its emergency providers harmless from any and all claims or damages arising from the property or homeowners association's failure to maintain the gate to this standard or for the removal or destruction of such gates or devices.
 - (9) Street lighting and street signage on private streets are required to meet the City's specifications and shall be installed and maintained by the property or homeowners associations at no cost to the City as per Section 134-168 of the Code of Ordinances.
 - (10) The applicant is responsible for the installing and designing water and wastewater utilities to the City's specifications (or to other public utility as determined by CCN). All water and wastewater mains and associated appurtenances shall be publicly owned and maintained by the service provider.
 - (11) The applicant is responsible for installing, designing, and operating all electrical facilities to the utility provider's standards. All electric facilities shall be owned and maintained by the utility provider.

(12) The applicant is responsible for the installation of the stormwater system to the City's standards, and the HOA is responsible for maintenance of the stormwater system.

(d) *Review Criteria for a Subdivision Plat Involving a Private Street Development.* Plats shall provide the following information:

(1) Private street subdivisions shall provide the following note on the face of the plat:

- a. "The streets have not been dedicated to the public for public access nor been accepted by the City as public improvements, and the streets shall be maintained by the property or homeowners association within the subdivision. The street shall always be open to emergency vehicles, public and private utility service personnel, the U.S. Postal Service and governmental employees in pursuit of this official duties."
- (2) Private streets shall be dimensioned, named, and designated as a common area, but not public right-of-way.
- (3) The plat shall show pre-existing easements unaffected by the platting process.
- (4) The plat shall provide utility and drainage easements containing utilities or drainage improvements.
- (5) The plat shall provide an access easement for utility service providers, safety and emergency services, postal service, and any other service personnel that may need to access the development to perform routine maintenance.

(e) *Perpetual Maintenance of Private Streets.*

(1) *Formation of Property or Homeowners Association.*

- a. Subdivisions with private streets shall have a property or homeowners association that will own and maintain the private streets and appurtenances.
 - b. The property or homeowners association shall provide for the payment of dues and assessments required to maintain the private streets.
 - c. The property or homeowners' association documents must be reviewed and approved by the City Attorney and recorded with the County Clerk prior to the associated final plat being recorded with the County.
- (2) *Property or Homeowners Association Membership Disclosures.* Every owner of a lot within the private street development shall be a member of the property owners association and shall be made aware of the following provisions.
- a. The property or homeowners association documents must indicate that the streets within the development are private, owned and maintained by the

property or homeowners association and that the City has no obligations to maintain or reconstruct the private streets.

- b. The property or homeowners association documents shall include a statement indicating that the City may, but is not obligated to, inspect private streets, and require repairs necessary to ensure that they are maintained to City standards.
 - c. The property or homeowners association may not be dissolved without approval of the City Commission and written consent of the City.
 - d. The property or homeowners association documents shall note that certain City services shall not be provided on private street, such as routine police patrol, enforcement of traffic and parking ordinances. Depending on the characteristics of the proposed development other services may not be provided.
 - e. The property or homeowners association documents shall contain a provision that requires access to emergency vehicles, utility personnel, the U.S. Postal service, and governmental employees in pursuit of their official duties.
 - f. The outlining criteria for conversion of private streets to public streets contained in Section 140-144. (h) shall be included in the property or homeowners association documentation to increase awareness of voluntary and mandatory process for converting private streets to public streets.
- (3) *Assignment of Property or Homeowners Association Lien Rights.* The property or homeowners association shall provide the City the authority to file a lien or to secure payment from homeowners for the maintenance, repair and replacement in part or in whole of all privately held common areas, including but not limited to streets, drainage, street lighting or other appurtenances or associated ancillary items. No portion of the property owners association documents pertaining to maintenance of the private streets may be amended without the written consent of the City.
- (f) Conversion of Private Streets to Public Streets.
- (1) *Voluntary Conversion.* The City may but is not obligated to accept public streets for public access and maintenance. The procedure must conform to all the following provisions:
 - a. The property or homeowners associations must submit a petition signed by at least seventy-five percent (75%) of its members.
 - b. All the infrastructure must be in a condition that acceptable to the City.
 - c. All security stations, gates, and other structures no consistent with a public street development must be removed.
 - d. All funds in the reserve fund must be transferred to the City.

- e. The request to convert the private street to public streets must be considered by the Planning and Zoning Commission and approved by the City Commission. An ordinance converting the private streets to public streets must be approved by the City Commission prior to the recording of the subdivision plat.
 - f. A revised subdivision plat shall be submitted to the Director after the City Commission has approved the request to convert existing private streets to public streets.
 - g. Prior to the revised subdivision plat being recorded with the County the property or homeowners association documents shall be revised and refiled to remove requirements specific to private street subdivisions.
- (2) Mandatory Conversion.
- a. The City will notify the property or homeowners association of violations of the private street regulations. Failure to bring the subdivision into compliance with the regulations may cause the City to revoke the planned development district for the private streets.
 - b. If the planned development district is revoked, the City may correct all remaining violations, remove the security stations, and unilaterally refile the subdivision plat thereby dedicating the streets to the public.
 - c. If the planned development district is revoked, all funds in the reserve fund will become property of the City and will be used to offset any costs associated with converting the private streets to public streets. In the event the balance is not enough to cover all expenses, the property or homeowners association will be responsible for unpaid work.

Section 140-140. Street Lighting

(a) Generally.

- (1) The City may establish a standard specification for all aspects of the streetlight structure within a separate technical manual such as the *SDG*.
- (2) Installation of streetlights, typically decorative in nature, that exceed the specification requires a written and recorded agreement with the Homeowners' or Property Owners' Association establishing the means of long-term maintenance and replacement. All bases must be compatible with the City's standard pole design.
- (3) The City may choose to exceed its own standard specification at its discretion for special programs and districts (such as historic districts and similar) for streetlights, decorative street signs, and decorative traffic control devices.

(b) Street Lighting Requirements.

- (1) Street Lighting shall be reviewed by both the City and the electric service provider. It is the responsibility of the applicant to receive the necessary plan approvals from both the City and the electric service provider. All arterial and collector roads require LED streetlights with a spacing of one hundred fifty (150) feet. Internal (local) roads require LED streetlights with a spacing of two hundred fifty (250) feet. Based on the width of the street, the Traffic Department may require street lights on both sides of the street to ensure adequate lighting. Approval of street light layout must come from the City before proceeding with the electric service provider with an approval letter from the City attached with the stamped approved street light layout.
- (2) The minimum streetlight spacing and type of street light used in the development shall comply with the City's design criteria for streetlights, and be subject to Traffic Department's final approval of location..
- (3) Cost of installation of street Lighting shall be borne by the applicant. Escrow or receipt of payment for all proposed street lights is required before recordation of subdivision. Street light sketches provided by the electric service company must comply with the approved street light layout approved by the City if not the City will require relocation of poles at the applicant's expense.

Section 140-141. Other Underground Utilities

(a) Generally.

- (1) All distribution lines, cables, or utilities shall be installed below ground within the subdivision to eliminate the necessity for disturbing the street, curb and gutter, sidewalk and other services and structures when making connections.
 - a. When a new subdivision is developed in an area with existing above ground utility lines, the applicant shall be responsible for locating the lines within the subdivision and along its perimeter underground.
 - b. Transmission lines or major cables to provide utilities such as electric, telephone, and cable television to the area may be located above ground on the perimeter of the subdivision being served, subject to discretion of the City Engineer.
 - c. The installation of these utilities shall conform to commonly accepted construction standards, subject to discretion of the City Engineer.
- (2) The applicant or property owner shall provide separate service lines for water and wastewater to each lot or point of metering.
- (3) The applicant or property owner shall coordinate with all other appropriate utility companies for the extension of their respective utility lines and service to and within the addition and for any costs or refunds of such cost.

- (4) All plats and site plans for residential and multi-family developments shall require all internal telephone lines, cable television lines, electric lines, and utility lateral and services lines and wires to be placed underground except as otherwise provided in this UDC.
 - a. In special or unique circumstances or to avoid undue hardships, a subdivision waiver may be approved by the City Engineer to permit the construction and maintenance of overhead electric utility lateral or services lines and of overhead telephone and cable tv lines and may approve any plat or site plan with such approved variances, waivers, or exceptions.
 - b. All final plats for residential and multi-family subdivisions submitted for approval by the City must display signature approval by utility companies prior to submittal.
 1. All multi-family site plans must display signature approval by utility companies before any building permits are issued.
 2. No final plat or site plan shall be approved, and no building permit will be issued without such approval.
 - c. Where electrical service is to be placed underground, street or site facilities shall also be placed underground.
 - d. All electrical, cable television, and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations in subdivisions shall be pad mounted or placed underground.
 - e. Unless specifically stated otherwise, temporary construction service may be provided by overhead utility lines and facilities without obtaining a waiver.
- (5) All installations regulated by the provisions of this Article shall be in conformance with the intent of this UDC and shall conform to any regulations or specifications that the various public utility companies may have in force from time to time.
- (6) Nothing in this UDC shall be construed to require any existing facilities to be placed underground when no development is proposed.

(b) *Company Notification to City.* All utility companies will notify the City, in writing, at least forty-eight (48) hours before digging, boring, drilling, etc.

Section 140-142. Parkland Dedication

(a) Generally

- (1) *Purpose.* This Section ensures that new development allocates resources for accessible and useable parks, open space, and recreational facilities in proportion to the impact of the development and its contribution to increased demand for such facilities.

(2) Applicability

- a. This Section applies to the following development:
 1. Any new plat (including preliminary and final plats) for development on a property zoned in a R-1, R-2, or R-3 district.
 2. Any new multi-family residential development.
 3. Any new mixed-use development.
 4. Any new development on a property zoned in a C-1, C-2, I-1, M-1, M-2, or CC district.
- b. The following development is exempt from the requirements of this Section:
 1. Property platted prior to the adoption of this UDC that has already satisfied parkland dedication requirements.
 2. Replats of property if no increase in dwelling units will occur.
 3. Property zoned in an A-O district.
 4. Property zoned in an I-2 district.
- c. All dedications or payments in lieu of dedication are due at the time of Final Plat approval.

(b) Dedication Requirements

- (1) Development in properties zoned in a R-1, R-2, or R-3 district shall dedicate public parkland at the rate of one (1) acre of parkland per one hundred (100) dwelling units or prorated portion thereof as depicted on the approved plat or site plan.
- (2) Multi-family residential and mixed-use development shall dedicate parkland at the rate of one (1) acre of parkland per one hundred (100) dwelling units or prorated portion thereof based on one of the following:
 - a. The number of units shown on the site plan, if the property is a single-phase, does not require a preliminary plat, or is already platted but has not already satisfied parkland dedication requirements; or
 - b. The number of units projected at ultimate build-out of a multi-phase development at the time of preliminary plat; or
 - c. If the number of units is unknown at the time of preliminary plat, the highest number of units allowable for a multi-family residential or mixed-use development under the zoning district.

- (3) Future amendments or replats to an approved plat or site plan that increase the number of dwelling units will increase the dedication required in accordance with the City Commission-approved rate in place at the time of the amendment.

(c) Parkland Property Standards

- (1) Land dedicated for park, open space, and recreation purposes must, at a minimum, comply with the following area and location standards:
 - a. The land must be a minimum of one (1) contiguous acre in size;
 - b. The land must provide a minimum of two hundred (200) feet of street frontage;
 - c. The land must have a minimum width of fifty (50) feet;
 - d. The land must be centrally located to the population of the neighborhood, community, or phase of development it will serve;
 - e. The land must be situated to allow convenient pedestrian and bicycle access in addition to facilities for vehicle parking; and
 - f. The land must be well-drained and relatively level with no more than thirty percent (30%) subject to inundation by a 100-year flood. Drainage areas or areas with undulating topography or slopes exceeding five percent (5%) are acceptable if the areas are to remain in their natural state and will preserve one or more significant features such as creeks, watersheds, viewsheds, native clusters of trees, or habitat for native or migratory species.
- (2) Land dedicated must be shown as dedicated on a final plat and be free from any of the following:
 - a. Human inhabitants;
 - b. Hazards, including scrap material, junk, vehicles or equipment, above-ground or below-ground environmental contaminants or holding tanks;
 - c. Encumbrances of any kind, including deed restrictions, liens, or easements, unless they confer to the benefit of the City or will not interfere with the use of the property as a park; or
 - d. Other undesirable objects or features that may accrue to the liability of the City based upon an inspection the City conducts at its discretion prior to accepting the land for dedication.
- (3) Land dedicated must be preserved in its pre-developed state and may not be used for construction activities or storage of materials or equipment during construction of the subdivision or development, unless otherwise specified in a development agreement or PUD.

- (4) The City Commission may, at its sole discretion, modify these standards for land dedication that furthers the City's goals.
- (d) *Required Improvements to Parkland Property.* The following are the minimum designed elements to be included in dedicated parkland (to the City as public parkland or a property owners' association park) and must be reflected on associated construction plans or site plan at the time of construction release:
 - (1) Curb and gutter along all streets abutting the boundary of the parkland.
 - (2) The same level of utilities provided within the abutting subdivision or development must extend to the boundary of the parkland or as approved by the City Engineer (utilities include, but are not limited to, water, wastewater, electricity, and cable or fiber optic communication lines).
 - (3) Above-ground survey markers installed at the corners of all property lines.
 - (4) Any improvements required under a development agreement, PUD, or otherwise agreed to in writing between the developer and the City.
 - (5) Construction of the improvements must be completed within three (3) years of the City's approval of the first final plat of the subdivision or development.
 - (6) Where the developer is to provide improvements within parkland or abutting the parkland, the developer must provide fiscal security consistent with this Article.
- (e) *Fee-in-Lieu of Parkland Dedication*
 - (1) City Commission may refuse any offered parkland dedication and require that a fee-in-lieu of dedication be paid in accordance with this Subsection or require that the dedicated parkland be privately owned and maintained by a Property Owners' Association.
 - (2) If suitable land for park dedication is not available, the developer may propose one or more of the following payments in lieu of dedication:
 - a. A fee set by the City Commission based on the market value of the required acreage;
 - b. Providing private parkland equal to the required public parkland dedication, provided that the private parkland conforms to the following:
 1. The property is deed restricted for use as a park;
 2. The property is platted as a lot(s) and noted on the final plat as parkland;
 3. The parkland is improved to the standards of Subsection (d), above;
 4. The parkland is developed with one or more of the following amenities:
 - a) Community swimming pool;

- b) Sports field;
 - c) Sports courts;
 - d) Playgrounds;
 - e) Dog park; or
 - f) Other amenities approved by City Commission; and
5. The parkland is owned and maintained by a Property Owners' Association.
- (3) The City shall determine the amount of the fee at the time of the first final plat application and the Developer must pay all fees prior to recording the first final plat.
- (4) The City will reserve the contributed fees for the purpose of land acquisition, construction of improvements associated with parkland, and purchase of equipment to the most direct benefit possible to the residents of the subdivision.
- (5) If the City fails to expend all of the contributed funds on parks or improvements to parks within eight (8) years from the recording date of the most recent final plat, the developer may request in writing that the City refund any remaining funds.

Division 4. Construction of Public Improvements

Section 140-143. Minimum Standards

This UDC identifies certain minimum requirements and sizes for utilities, roadways, parks, and other facilities necessary to protect or promote the public health, safety, and welfare of the community.

- (a) It is the intent of this UDC that no development occurs until these minimum levels of service are met.
- (b) Therefore, each subdivision in the City shall be required to dedicate, construct or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.
- (c) It is the responsibility of the applicant to coordinate and receive the necessary plan approval approvals for water and wastewater services from the designated public utility service provider.

Section 140-144. Construction Process

- (a) Timing of when Public Improvements are Constructed.
 - (1) Public Improvements are constructed after the applicant has received approval of the construction plans, attended a Pre-Construction Meeting (refer to Section 140-

150.) and has been released for construction by both the City Engineer and the public utility service provider (refer to Section 140-151.).
- (2) Public improvements will be constructed and inspected (refer to Section 140-152.) by the City Engineer and the public utility service provider before the applicant submits a final plat application to the City (unless a development agreement is executed in accordance with the requirements of Section 140-154.).
 - (3) The City Engineer and public utility service provider will issue a letter of final acceptance after the final inspection to confirm that public improvements were constructed to the City's and public utility's standards.
 - (4) The applicant will submit to the City and the public utility service provider record drawings (refer to Section 140-152. (e)) and a **maintenance bond** (refer to Section 140-153.) after receiving the letter of final acceptance.
- (b) *Recording of the Final Plat.* The applicant can submit a final plat application to the City after:
- (1) Submitting record drawings to the City Engineer and the public utility service provider; and
 - (2) The City Attorney has reviewed and approved the Maintenance Bond.
- (c) *Acceptance of Public Improvement.*
- (1) Public improvements are accepted for maintenance by the City and the public utility service provider when the plat is recorded with the County Clerk except as otherwise noted on the plat.
 - (2) A note shall be placed on the plat to address the maintenance of certain infrastructure or Public Improvements by either the City, the public utility service provider, or the property owner.
- (d) *Release of the **Maintenance Bond**.*
- (1) The applicant shall submit a request to the City Engineer and the public utility service provider to release the Maintenance Bond two (2) years from the date the maintenance bond (refer to Section 140-153. (e)) became effective.
 - (2) The City Engineer and the public utility service provider shall conduct a two-year maintenance inspection (refer to Section 140-153. (g)) to evaluate the condition of the public improvements. The City Engineer and the public utility service provider will release the maintenance bond if the City Engineer and the public utility service provider determine that the public improvements are in good repair and are to the satisfaction of the City and the public utility service provider.

(a) Generally.

- (1) Except as otherwise expressly stated, the applicant or property owner is responsible for constructing and installing infrastructure and public improvements in accordance with the provisions of either the City's or the public utility service provider's design criteria for public infrastructure.
 - a. Water and wastewater infrastructure shall comply with standards of the public utility service provider.
 - b. Any ornamental or standard light poles shall comply with the standards of the electric service provider.
- (2) The applicant or the property owner shall be responsible for paying for all material testing.
- (3) All public improvements must be designed and installed to provide for an interconnected system of infrastructure and to create continuity of improvements that will facilitate land development on adjacent properties.
- (4) Unless otherwise expressly stated, the applicant is responsible for maintenance of all required infrastructure and improvements, including rights-of-way, to the standards of these regulations until the City, another unit of government, a property owners association, or other legal entity assumes actual responsibility for maintenance of the infrastructure and improvements.
- (5) All water, wastewater, drainage, and roadways improvements necessary to support a proposed development shall be designed by a professional engineer licensed in the State of Texas.

(b) *Applicability.* Construction plans are required for any project involving the construction of roads, drainage improvements, utility installation and any other site improvements deemed necessary to serve to the proposed development that is subject to the review and approval by the City Engineer.

(c) Review Process.

- (1) Construction plans shall be submitted and reviewed in accordance with this Division of this Article and the City's standard submittal procedures in Article VI.
- (2) It is the responsibility of the applicant to coordinate with the public utility service provider to receive construction plan approval by the public utility service provider. The construction plan review process for the City is separate from the construction plan review process for the public utility service provider.
- (3) The preliminary utility plan set and the construction plan set requirements may vary between the City and the public utility service provider. It is the responsibility of the

- applicant to have construction plans approved by the public utility service provider and the City.
- (d) *Prerequisites.* Construction plans shall be submitted for formal review after a preliminary plat has been approved and prior to the approval and recordation of a final plat as shown in **Figure: Construction Process**²⁹.
- (e) Construction Plan Set Requirements.
- (1) A construction plan set shall generally consist of the following sheets:
- a. Cover Sheet
 - b. General Notes
 - c. Preliminary Plat (if applicable)
 - d. Final Plat
 - e. Existing Topographic Map
 - f. Master Drainage Plan
 - g. Grading Plan
 - h. Pavement Plan with Profiles
 - i. Master Sanitary Sewer Plan
 - j. Sanitary Sewer Plan with Profiles
 - k. Master Water Plan
 - l. Water Plan and Profiles
 - m. Sidewalk Plan
 - n. Street Light Plan
- (2) The City Engineer may request additional information be included in each construction set to address other pertinent details.
- (f) *Compliance with City Plans and Other Regulations.* It is the responsibility of the applicant's engineer to ensure the final design of site improvements conform with the following:
- (1) Any transportation or mobility plan adopted by the City of McAllen;
 - (2) City of McAllen's SDG;
 - (3) Texas Department of Transportation (TxDOT) Access Management Manual;

²⁹ Graphic to be provide once financing preference confirmed

- (4) Texas Administrative Code, Title 30 (Texas Commission of Environmental Quality), Chapter 285 (On-Site Sewage Facilities);
 - (5) Texas Water Code; and
 - (6) All other codes and ordinances of the City.
- (g) *Easements*. All easements shall be provided and meet the requirements as established in Section 140-140.

Section 140-146. Pre-Construction Meeting

- (a) Purpose.
- (1) The purpose of the pre-construction meeting is to discuss administrative, communication, and operating procedures for project construction prior to construction release.
 - (2) A list of typical inspection items, procedures, and acceptance criteria for items in public right-of-way and easements will also be furnished to the applicant.
- (b) Meeting Procedures.
- (1) The applicant shall attend a pre-construction meeting with the City Engineer if Public Improvements are to be constructed with the project.
 - (2) The pre-construction meeting shall be scheduled following the approval of the construction plans and prior to commencement of any construction on the property.
 - (3) The applicant shall be responsible for contacting the City Engineer, requesting a meeting time, and notifying all participants of the meeting.
 - (4) After receiving a meeting request from the applicant, the City Engineer shall promptly schedule a pre-construction meeting.
- (c) *Effect*. Following the pre-construction meeting and full compliance with all pre-construction requirements, the City Engineer shall release the project for construction.

Section 140-147. Construction Release

- (a) Requirements for Construction Release.
- (1) Upon approval of the construction plans, receipt of all required documentation, fees (if applicable), and after the pre-construction meeting with City staff, the City Engineer shall release the plans for the construction of Public Improvements if all City requirements pertaining to construction have been met.
 - (2) The construction release shall remain in effect for a period of one (1) year from the date of issuance, or for the duration of construction of the project if progress or development of the project continues to be demonstrated.

- (b) *Construction Release Expiration and Extension.* Expiration and possible extension of the construction release shall comply with the submittal and approval procedures for the construction plans (refer to Section 140-149.).

Section 140-148. Inspection of Public Improvements

- (a) Conformance with Approved Construction Plans.
 - (1) Construction shall be in accordance with the approved plans and City standards.
 - (2) Any significant change in design required during construction shall be made by the applicant's engineer, funded by the applicant and shall be subject to approval by the City Engineer.
- (b) Preliminary Inspection Required.
 - (1) The applicant, upon completion of drainage, roads, streets, and other facilities intended for the use of the public, or purchasers or owners of lots fronting or adjacent there to, shall request a preliminary inspection from the City Engineer.
 - (2) After preliminary inspection, the City Engineer will notify and provide the applicant with a written punch list of any issues the applicant must rectify in order for the public improvements to be in accordance with the approved construction plans and City standards.
- (c) Final Inspection.
 - (1) The applicant, upon rectifying any issues identified in the preliminary inspection punch list (if applicable), shall request from the City Engineer a final inspection.
 - (2) The City will provide letter of final acceptance after the final inspection if the applicant has properly addressed any issues identified in the preliminary inspection and documented in the associated punch list, and are now installed in accordance with the approved construction plans and City standards.
- (d) Letter of Final Acceptance.
 - (1) If all improvements are completed, inspected, tested (if applicable), and determined by the City Engineer to be in conformance with the provisions of the UDC and the City's standards and all inspection fees have been paid, then the City Engineer shall issue a letter of final acceptance to the applicant.
 - (2) Dedication and acceptance language shall be recorded with the final plat or provided by a separate document if requested and approved by the City Engineer.
 - (3) A note will be placed on the plat to address the maintenance of public improvements by either the City, the public utility service provider or the property owner.

- (4) The applicant will submit to the City record drawings (refer to Section 140-152. (e)) and a maintenance bond (refer to Section 140-153.) after receiving the letter of final acceptance.
- (5) A final plat application will not be accepted by the City until the applicant submits to the City Engineer the record drawings and received approval of the maintenance bond by the City Attorney.
- (6) A letter of final acceptance shall mean that the applicant has transferred all rights to all the public improvements to the City for title, use, and maintenance, this shall not release the applicant from the maintenance bond (refer to Section 140-153.).

(e) Record Drawings.

- (1) The purpose of the City requiring record drawings is to have a record of how public improvements were constructed in the field.
- (2) The applicant must submit the record drawing after receiving a letter of final acceptance by the City Engineer.
- (3) All sheets for the record drawings shall show all changes made in the construction plans during construction, and on each sheet, there shall be a “record” stamp bearing the signature of the engineer and date.
- (4) Digital files of all the record drawings shall be submitted by the applicant in AutoCAD and Adobe PDF formats, as required by the City.

(f) Inspection Fees.

- (1) Inspection fees shall be established by the City and set forth in the adopted fee schedule.
- (2) The applicant may be charged an additional inspection fee to reimburse the City the actual inspection cost if the City is required to have third party inspections of the public infrastructure in each subdivision or development.

Section 140-149. Maintenance Bond

(a) Purpose.

- (1) A maintenance bond is submitted by the applicant to the City after the City Engineer issues a letter of final acceptance. The City Attorney must review and approve the maintenance bond before the applicant submits a final plat application.
- (2) A maintenance bond is required to ensure streets, street signs, underground utilities, required drainage structures and all other construction are maintained to the satisfaction of the City for a certain period of time after public improvements have been constructed.

- (3) A maintenance bond shall be executed by a surety company authorized to do business in the State of Texas and made payable to the City.

(b) Duration.

- (1) The conditions of the maintenance bond shall stipulate that the applicant shall guarantee to maintain, to the satisfaction the City all of the streets, street signs, underground utilities, required drainage structures and all other construction is maintained to City specifications and is in a good state of repair for a period of two (2) years from the date of the letter of final acceptance (refer to Section 140-152.).

(c) Maintenance Bond Amount.

- (1) The maintenance bond amount shall be equal to twenty (percent (20%) of the estimated cost of streets, street signs, underground utilities, required drainage structures and all other construction.

(d) Periodic Inspections.

- (1) Periodic inspection of streets, street signs, underground utilities, required drainage structures and all other construction for which the maintenance bond is held will be made by the City Engineer during the period of liability covered by the maintenance bond.

(e) City Redemption of Maintenance Bond.

- (1) In the event of any or all of the streets, street signs, underground utilities, required drainage structures and all other construction are not being maintained in a good state of repair, the applicant will be so advised in writing and, if after a reasonable time, they fail or refuse to repair those items, the maintenance and repair of public improvements shall be completed by the City using the maintenance bond provided.

(f) Request for Maintenance Bond Release.

- (1) The applicant may request the release of the maintenance bond two (2) years from the date the City Engineer issued the letter of final acceptance.
- (2) The applicant who posted the original maintenance bond shall submit a written request to the City Engineer to release the maintenance bond. The request shall include a copy of the letter of final acceptance and a set of record drawings (refer to Section 140-152. (e)).
- (3) The City Engineer will be responsible for authorizing release of the maintenance bond.
- (4) Release of the maintenance bond shall depend on the condition of public improvements during the two-year maintenance inspection described in Section 140-153. (g).

(g) Two-Year Maintenance Inspection.

- (1) Two (2) years from the date that the maintenance bond became effective, a two (2) year maintenance inspection shall be performed by the City Engineer to ensure all of the streets, street signs, underground utilities, required drainage structures and all other construction have been maintained to City specifications and are in a good state of repair.
 - a. If the two (2) year maintenance inspection finds that all improvements are completed, in good repair, and in conformance with City standards, the City Engineer shall issue authorization to release the maintenance bond; or
 - b. If the two (2) year maintenance inspection finds that all or some of the public improvements fail to comply with the City's standards and specifications, the City shall have the authority to enforce the maintenance bond or financial surety posted by the applicant to ensure public improvements are maintained or brought up to the City's standards.

(h) Acceptance Disclaimer.

- (1) Approval of a preliminary plat, final plat, or construction plans shall not constitute acceptance of any of the public improvements required to serve the subdivision or development.
- (2) No public improvements shall be accepted for dedication to the City except in accordance with this Section.

Section 140-150. Development Agreement and Financial Surety for Completion

- (a) *Development Agreement and Surety for Completion of Delayed Public Improvements.* When any of the required public improvements will be postponed and constructed after final plat recordation, the final plat shall not be accepted for recording unless and until the applicant enters into a development agreement of standardized format approved by the City by which the applicant:
- (1) Guarantees completion of all the public improvements;
 - (2) Provides financial provisions for the completion of all public improvements (e.g., surety, performance, and payment bonds) by securing the obligations of the development agreement consistent with Section 140-155. ;
 - (3) Provides a maintenance bond to warranty the improvements for a period of two (2) years following issuance of a letter of final acceptance by the City Engineer; and
 - (4) Outlines other terms and conditions as are agreed to by the applicant and the City, or as may be required by this Article, including insurance requirements and covenants to comply with other City ordinances.

- (b) Development Agreement for City Participation in Public Facilities.
 - (1) If the City participates in construction or financing of construction of public improvements, then a development agreement shall be required.
 - (2) The development agreement shall provide that the covenants and other items of agreement contained within shall run with the land and shall bind all successors, heirs, and assignees of the current property owner.
 - (3) All existing owners and lienholders shall be required to execute the agreement or provide written consent to the covenants and other items contained in the agreement.
- (c) *General Content of a Development Agreement.* The development agreement shall contain:
 - (1) As appropriate, provisions for pro rata payments, City participation in community facilities, escrow deposits or other payments for future facilities, any waivers or variances granted, and other aspects of the UDC;
 - (2) Authority for the City to withhold building permits, and/or put a hold on construction and inspections in the event of breach by the applicant; and
 - (3) For financial security:
 - a. Insurance requirements in accordance with the City's requirements for public works projects; and
 - b. An indemnification clause by which the applicant shall agree to hold the City harmless against any claim arising out of the proposed subdivision or any actions taken therein.
- (d) Authorization Required by the City Commission.
 - (1) The City Engineer shall review all development agreements.
 - (2) The City Engineer shall recommend an action to the City Commission for all development agreements.

Section 140-151. Financial Surety

- (a) Types of Financial Surety.
 - (1) Surety, Performance, and Payment Bonds.
 - a. When any of the required public improvements will be constructed after approval and recordation of the final plat, the applicant shall guarantee proper construction of such postponed improvements and payment of all claimants supplying labor and materials for the construction of the improvements, in accordance with the City's standards and with this Article, by a bond executed

by a surety company holding a license to do business in the State of Texas, and acceptable to the City, on the form provided by the City.

- b. The surety, performance, and payment bonds shall be approved as to form by the City Attorney.
- (2) *Irrevocable Letter of Credit*. An irrevocable letter of credit (ILOC) may be accepted and approved as to form by the City Attorney.
 - (3) *Escrow*. At the discretion of the City Engineer and agreement with Section 140-155.
 - (c), escrow may be allowed as a security for completion.
- (b) Estimated Cost and Security Approval.
- (1) Security shall be issued in the amount of one hundred percent (100%) of the cost to construct and complete all required public improvements to the City's standards as estimated by the applicant's professional engineer, and as approved by the City Engineer.
 - (2) Security shall be subject to the review and approval of the City Attorney.
 - (3) The applicant shall reimburse the City for all related legal costs for review (this reimbursement shall be paid in full prior to recording of the final plat).
- (c) Escrow Policies and Procedures.
- (1) Request for Escrow.
 - a. The City may require the deferment of, or the applicant may petition the City to defer, required improvements in exchange for a deposit of escrow (an example may include a timing issue due to pending street improvements by another agency such as TxDOT).
 - b. The City may require studies and other information to support the applicant's request to escrow.
 - (2) City Escrow Deposit.
 - a. When the City Engineer requires or agrees to accept escrow deposits, the developer shall deposit in escrow with the City an amount equal to one hundred twenty-five percent (125%) of the total "turnkey" costs including, but not limited to, the design, permitting, acceptance and inflation costs related to the improvement(s). The full amount of escrow shall remain deposited with the City until completion of the project.
 - b. The City Engineer shall review and approve the amount, which shall be approved and paid prior to recordation of the final plat.

- (3) *City Usage of Escrow Fees.* The City may also use the escrowed funds in participation with another entity (such as TxDOT or the County, etc.) to jointly construct the public improvement(s).
- (4) *Termination of Escrow.*
 - a. Escrows, or portions of escrowed amounts, which remain unused after a period of ten (10) years following the date of such payment shall, upon written request, be returned to the applicant.
 - b. Such return of escrowed funds does not remove any obligations of the applicant for construction of the required improvement(s).
- (5) *Refund for Escrow.* If all or a portion of a street or other type of public improvement for which escrow is deposited is constructed by a party other than the City, the remaining unused escrowed funds, upon written request shall be refunded to the applicant after completion and City's acceptance of the street or public improvement. The City shall require thirty (30) days from the request to process the refund.
- (6) *Interest on Escrow Funds.* When escrowed funds are returned or refunded to the escrowing developer, the City shall retain all the interest accrued by the funds.
- (7) *Escrow Fund Agreement.* The City Engineer, at their discretion, may require an escrow fee agreement be executed.

Article VI. Procedures

Division 1. General Procedures

Section 140-152. Purpose

The purposes of this Article are to:

- (a) Establish the appropriate workflows associated with each land development process;
- (b) Ensure that processes comply with state law;
- (c) Assign decision-making authority, completeness review, and deadlines to ensure that the processes are efficient and fair to applicants; and
- (d) For discretionary or legislative decisions, provide notice and an opportunity to be heard by persons affected by the application.

Section 140-153. Applicability

This Article establishes rules and procedures for specific land use decisions under the jurisdiction of the City Commission, Planning and Zoning Commission, Zoning Board of Adjustment, Historic Preservation Council, and City Staff (where applicable).

Section 140-154. Procedural Components

This Article sets up rules for procedures, such as notices and public hearings. It then describes the process for specific land use decisions. The procedures have a common workflow and description per *Table 154-1*.

Table 154-1: Procedural Components

Procedural Components	
Component	Meaning
Applicability	The type of development or situation that is subject to the process.
Initiation	This is how the applicant begins the process, including which department or official receives the application.
Completeness	This is how the City determines that the application has sufficient information to be processed.
Notice and Hearing(s)	This describes the type of notice, how it is provided, and the conditions of any applicable required public hearings.

Decision	This states who approves the application and the type of proceeding that leads to the decision.
Standards	These are any standards that apply to the application. All applications are subject to the regulations of this UDC.
Subsequent Applications	If an application is denied, some processes have a waiting period before that type of application can be resubmitted for the property.
Appeals	This provides a way to review an application that is denied or that has conditions that the applicant disagrees with.
Scope of Approval	This indicates what activity the application authorizes. For example, some approvals send the applicant to the next step in the overall process, while others authorize construction or use.
Recordation	This states how the formal approval decision is maintained.

Section 140-155. Authority

Table 155-1 summarizes the major review procedures for land use applications and development activity in the City’s corporate limits (and ETJ, where applicable) and who acts on those applications. Not all procedures addressed in this Division are summarized in this table (see subsequent sections of this Article for additional details on each procedure).

Table 155-1: Authority Table

Authority Table											
UDC Section	Application Type	PAM	Notice	Approval Authority							
				Administrative Bodies ↓				Quasi-Legislative Bodies ↓			
				D	C	B	H	PZ	CC	HP	BA
Zoning and Development Procedures											
Section 140-171.	<i>Comprehensive Plan Amendment</i>	✘	✓	r				r	d		
Section 140-172.	<i>UDC Text Amendment</i>	✘	✓	r				r	d		
Section 140-173.	<i>Application for Utility Extension</i>	✓							d		
Section 140-174.	<i>Rezoning</i>	✓	✓	r				r	d		

Authority Table											
UDC Section	Application Type	PAM	Notice	Approval Authority							
				Administrative Bodies ↓				Quasi-Legislative Bodies ↓			
				D	C	B	H	PZ	CC	HP	BA
Section 140-175.	<i>Conditional Use Permit</i>			r					d		
Section 140-176.	<i>Site Plan</i>	×	×	d					a		
Section 140-177.	<i>Sign Permit</i>	×	×	d							
Section 140-178.	<i>Certificate of Appropriateness</i>	×					d			d ¹	
Section 140-179.	<i>Building Permit</i>	×	×			d					
Section 140-180.	<i>Certificate of Occupancy</i>	×	×			d					
Subdivision Procedures											
Section 140-181.	<i>Preliminary Plat</i>	×	✓	d							
Section 140-182.	<i>Final Plat</i>	×	×	d					a		
Section 140-183.	<i>Minor Plat</i>	×	×	d					a		
Section 140-184.	<i>Amending Plat</i>	×	×	d					a		
Section 140-185.	<i>Replat</i>	×	✓	r					d		
Section 140-186.	<i>Conveyance Plat</i>	×	×	d							
Section 140-187.	<i>Plat Vacation</i>	×		r					r	d	
See Article V. Division 4. for more specifics	<i>Construction Plans</i>	×	×		d						
	<i>Development Agreement</i>	✓	×		r					d	

Authority Table											
UDC Section	Application Type	PAM	Notice	Approval Authority							
				Administrative Bodies ↓				Quasi-Legislative Bodies ↓			
				D	C	B	H	PZ	CC	HP	BA
Relief Procedures											
Section 140-188.	<i>Variances</i>	✗		r							d
Section 140-189.	<i>Special Exceptions</i>	✗		r							d
Section 140-190.	<i>Minor Modifications</i>	✗		d				a			
Section 140-191.	<i>Subdivision Waiver</i>				r			d			
Section 140-192.	<i>Subdivision Proportionality</i>				r			r	d		
Section 140-193.	<i>Economic Hardship Waiver</i>						r			d	a
Section 140-194.	<i>Interpretation</i>	✗		d							
Notes	¹ = The Historic Preservation Council may approve the certificate of appropriateness if outside of the scope of the Historic Preservation Officer's authority										
Key	✗ = Not Required ✓ = Required r = Review and Recommend d = Decision (a decision includes the review of the application) a = Appeal Decision PAM = Pre-Application Meeting D = Director C = City Engineer B = Building Official H = Historic Preservation Officer PZ = Planning & Zoning Commission CC = City Commission HP = Historic Preservation Council BA = Zoning Board of Adjustment										

Section 140-156. Pre-Application

- (a) *Applicability.* These requirements apply to any application if the applicant elects to request a pre-application meeting with the City.
- (b) *Initiation.* Before submitting an application subject to this Article, the applicant may request a meeting with the Staff Review Committee concerning the plans and data as specified in this UDC.
- (c) *Staff Review Committee.* The purpose of the Staff Review Committee is to assist an applicant prior to the submittal of an application, to coordinate the technical aspects of development, and to advise the City Manager concerning planning and development issues.

- (1) The Staff Review Committee is composed of the following departments, members, or their representatives:
 - a. The Director
 - b. The City Engineer
 - c. The Building Official
 - d. The Fire Marshal
 - e. The Public Works Director
 - f. The McAllen Public Utilities General Manager
 - (2) The Staff Review Committee may request the assistance other staff members and agency representatives.
- (d) *Scheduling*. Any applicants wishing to discuss a development proposal with the Staff Review Committee may advise the Director at least seven (7) calendar days prior to the meeting.
- (e) Pre-Application Meeting (PAM).
- (1) The pre-application meeting shall include the following:
 - a. A discussion of technical studies, plans and other information deemed relevant to the specific application request;
 - b. Discussion of the anticipated level of citizen interest;
 - c. A discussion of the general project consistency with this UDC and the Comprehensive Plan.
 - (2) The applicant shall provide a brief overview of the project, including proposed location, uses, densities, project layout, and design features.
 - (3) The Director will provide information and comments at the pre-application meeting, but will not take formal action on the application. In addition to provision of verbal information, the Director may provide a pre-application meeting checklist.
 - (4) The applicant's and Director's comments are for purposes of information, but are not binding on either the City or the applicant.
- (f) Documentation.
- (1) During the meeting, the Director may review and complete an informational checklist, based on the scope of the application.
 - (2) The Director will record in writing and provide the applicant any pertinent information concerning the project scope, as described by the applicant, as well as verbal guidance provided by City staff.

Section 140-157. Submitting Applications

(a) General Requirements.

- (1) Applications filed under this UDC must include the information required in Appendix ***. All applications shall be made on forms prepared by the Director.
- (2) The City Commission may establish fees for all applications required in this UDC by resolution.

(b) Review for Completeness.

- (1) The Director will not process incomplete applications.
- (2) An application is not complete until all required items are submitted (see Appendix ***).
- (3) When applications are submitted, the Director will review them for completeness.
- (4) The time period to process an application does not commence until the Director determines that the application is properly submitted and the applicant has corrected any deficiencies in the application.
- (5) Review for completeness of application forms is solely to determine whether information required for submission with the application is sufficient to allow further processing.
- (6) The Director will determine whether the application is complete and will transmit the determination to the applicant. If the Director determines that the application is not complete, the Director will specify those parts of the application that are incomplete and will indicate how they can be made complete, including a list and description of the information needed to complete the application. The Director and any other approval authority are not obligated to further review the application until the required information is corrected. For applications subject to Article VI, Division 3. , the application is not considered submitted and is denied.
- (7) The Director or the approving authority may provide submittal deadlines for materials required in support of any application provided for in Appendix ***. Compliance with those deadlines is required to have the application placed on an agenda to be heard by the approving authority.

Section 140-158. Noticing

(a) Generally.

- (1) This UDC, in conjunction with those regulations set by State law, establishes various requirements for public notice.

- (2) Noticing shall meet the minimum requirements established in Texas Local Government Code § 211.007(c), including the 200-foot notification and twenty percent (20%) protest requirements.
- (3) *Table 158-1*, along with *Table 158-2*, describes the various types of notice and their contents.

Table 158-1: Notice Types

Notice Types	
Notice Type	Description
Publication	The type of development or situation that is subject to the process. The Director will publish in an official newspaper or a newspaper of general circulation in the City.
Mail	The Director will mail the notices. Notice is served by its deposit in the City, properly addressed with postage paid, in the United States mail. Regular mail is sufficient, unless certified mail is required by a specific process or state law.
Electronic	<ul style="list-style-type: none"> • The City may communicate with the applicant or persons requesting notice by electronic transmission. • Electronic transmission may include email, or communication through social media or online notification procedures established by the Director.

- (4) Specific notice requirements are established in *Table 158-2*. Additional notice requirements may apply in each procedural section.

Updated with SB 929 guidance and *Acuna v. Austin* guidance. Recommend review by legal.

Table 158-2: Application-Specific Noticing Requirements

Application-Specific Noticing Requirements			
Application	Notice	When	Where/To Whom/Additional Requirements
Comprehensive Plan	Website	> 15 days before the Planning and Zoning Commission hearing	Not applicable
UDC Text Amendment	Publication	> 15 days before the Planning and Zoning Commission hearing	Not applicable
	Mail	When affecting the applicability of Zoning Districts or standards for those districts under Article II or uses under Article III, > 10 days before Planning and Zoning Commission hearing	<ul style="list-style-type: none"> • All owners of property, or to the person rendering the property for taxes, located within 200 feet of any property affected. • The owners of the subject property, including necessary content and specifications under Texas Local

Application-Specific Noticing Requirements			
Application	Notice	When	Where/To Whom/Additional Requirements
			Government Code Section 211.006 <ul style="list-style-type: none"> If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given by publication. If the rezoning affects residential or multi-family zoning, to each school district in which the property for which the change in classification is proposed is located.
	Website	Any time before the initial hearing	Not applicable
Rezoning	Publication	> 15 days before the Planning and Zoning Commission hearing	Not applicable
	Mail	> 10 days before Planning and Zoning Commission hearing	<ul style="list-style-type: none"> All owners of property, or to the person rendering the property for taxes, located within 200 feet of any property affected. The owners of the subject property, including necessary content and specifications under Texas Local Government Code Section 211.006 If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given by publication. If the rezoning affects residential or multi-family zoning, to each school district in which the property for which the change in

Application-Specific Noticing Requirements			
Application	Notice	When	Where/To Whom/Additional Requirements
			classification is proposed is located.
	Website	Any time before the initial hearing	Not applicable
Conditional Use Permit	Publication	> 15 days before the Planning and Zoning Commission hearing	Not applicable
	Mail	> 10 days before City Commission appeal hearing (if applicable)	<ul style="list-style-type: none"> All owners of property, or to the person rendering the property for taxes, located within 200 feet of any property affected. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given by publication. The owners of the subject property, including necessary content and specifications under Texas Local Government Code Section 211.006
	Website	Any time before the initial hearing	Not applicable
Replat		<i>If the replat requires a variance or exception:</i> > 15 days before the Planning and Zoning Commission hearing	<ul style="list-style-type: none"> Owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository

Application-Specific Noticing Requirements			
Application	Notice	When	Where/To Whom/Additional Requirements
			within the boundaries of the municipality.
		<i>If the replat does not require a variance or exception:</i> < 15 days after the Planning and Zoning Commission hearing	<ul style="list-style-type: none"> Each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This does not apply to a proposed replat if the Planning and Zoning Commission holds a public hearing and gives notice of the hearing in the manner above.
Variance	Mail	> 10 days before Zoning Board of Adjustment hearing	<ul style="list-style-type: none"> Applicant, appellant, or other parties in interest. May include regular mail or email
	Website	Any time before the initial hearing	Not applicable
Economic Hardship Waiver	Mail	> 5 days before Historic Preservation Council hearing	<ul style="list-style-type: none"> Applicant May include regular mail or email

(5) In those instances, where an application requires multiple public hearings, noticing may be provided jointly stating the specifications for those public hearings.

(b) *Required Information.* Notice shall include the following information, unless the process includes a different requirement:

- (1) A synopsis of the proposed ordinance or application;
- (2) Time, date, and place of the public hearing or meeting;
- (3) The type of land use or development decision that is being considered;
- (4) If a public hearing is required, a statement that at the time and place of the hearing all persons who desire will have an opportunity to be heard in opposition to or in favor of the ordinance or application;
- (5) A point of contact within Planning Department; and
- (6) Planning Department’s [website](#) address.

(c) Notice Sign Posting.

- (1) One sign of at least four (4) square feet shall be posted on the property for residential development applications requiring noticing and sign posting.

- (2) One sign at least sixteen (16) square feet shall be posted on the property for nonresidential development applications requiring noticing and sign posting.
 - (3) This sign(s) shall, if possible, be located adjacent to streets.
 - (4) This sign(s) shall be erected on or before the first date of the first notice to property owners and shall be removed immediately after final action by the City Commission or when the applicant withdraws the request, whichever comes first.
 - (5) The erection or continued maintenance of signs shall not be deemed a condition precedent to the granting of any zoning change or holding of any public hearing.
- (d) *Failure to Provide Notice.* The failure to provide any notice not otherwise required under State law does not affect the validity of any action undertaken pursuant to this UDC, and no person may challenge an action for lack of notice where the City has complied with the applicable State law governing notice.

Section 140-159. Staff Review

- (a) *Review by Other Departments and Entities.* The staff may forward copies of the application to various local, state and/or federal entities and departments for their review and comment. The Director may ask the reviewers to respond in writing or attend an application review meeting with the staff.
- (b) *Staff Review.* The staff shall review the application and supporting information. This may occur in a meeting with the applicant and representatives of other entities or departments, as described in Section 140-163. (a). After reviewing the information, staff shall prepare a report summarizing the information for the reviewing bodies and providing a recommendation for action and any proposed conditions. The applicant or other interested parties may obtain a copy of the staff report from the department before the hearing at which the application is scheduled to be heard.
- (c) *Staff Report.* If an individual section of this Article (and where permitted by state law) delegates to staff the authority to approve, approve with conditions, or deny/disapprove an application, the staff report may include a written decision to that effect.

Section 140-160. Decision-Making and Public Hearings

- (a) *Purpose.* The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application, and to rebut evidence presented by others.
- (b) *Rules of Procedure.* The City Commission and Planning and Zoning Commission may adopt rules of procedure for public hearings.
- (c) *Action.* Reviewing bodies shall hold regularly scheduled public hearings to receive and review public input on items required by this UDC. Decisions and recommendations

should be rendered in a timely manner, based upon the specific requirements of these regulations and following:

- (1) Conformance with these regulations, the comprehensive plan, and other adopted plans, design guidelines and policies;
 - (2) Recommendations of staff and recommending bodies;
 - (3) Input of reviewing agencies and departments;
 - (4) Public comment and testimony received at the hearing; and
 - (5) Effects of the proposal on the neighborhood, area, and community-at-large.
- (d) Authority to Condition Development Approvals.
- (1) After review of the application, other pertinent information or documents, and any evidence made part of the public record, the recommending and decision-making bodies may impose conditions that are reasonably necessary to assure compliance with applicable general or specific standards expressed in these regulations.
 - (2) The Director shall include a copy of the conditions with the record of decision.
 - (3) The applicant shall be notified of any conditions imposed on the application.

Section 140-161. Tabling

- (a) *Purpose.* This Section allows for the tabling of applications as needed to collect additional information, or to engage in further review.
- (b) *Applicant Request.* An applicant may request to table any application for a future meeting date. If the application was noticed, re-noticing will be at the applicant's expense.
- (c) *Director Request.* The Director may request to table any application for further review and consideration. In that case, the Director shall provide notice and explanation to the applicant before the meeting at which the application is scheduled for hearing. Notice of the tabling will be given at the beginning of the scheduled meeting.

Section 140-162. Application Withdrawal

- (a) *Generally.* An application may be withdrawn at any time prior to formal consideration by the reviewing body.
- (b) *Fees.* Withdrawal of an application after the determination of completeness results in the forfeiture of fees.
- (c) *No Public Hearing Required.* If no public hearing is required, the applicant should give notice of the withdrawal to the Director at the earliest possible time. This allows the Director to notify other applicants of an agenda change.

- (d) *Public Hearing Required.* If a public hearing is required, an applicant may request a withdrawal from the Director at any time prior to opening of the hearing. Once the public hearing is opened, the reviewing body shall decide whether to approve the request and may instead act on the application.

Section 140-163. Scope of Approval

- (a) *Generally.* The approval authority may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval of the application, or denial of the application.
- (b) *Amendments.* The approval authority may allow amendments to the application if the effect of the amendment is to reduce the density or intensity of the original application, reduce the impact of the development, or reduce the amount of land involved from that indicated in the notices of the hearing. The approval authority may not permit a greater amount of development, a more intensive use, a larger area of land than indicated in the original application, or a greater variance than was indicated in the notice.

Section 140-164. Protest Against Change

In case of a protest against a change signed by the owners of twenty percent (20%) or more either of the land included in the proposed change, or of the land within two hundred (200) feet of the subject property, excluding any intervening public street, an amendment shall not become effective unless by a favorable vote of $\frac{3}{4}$ of all the members of the City Commission present and qualified to vote.

Section 140-165. Post-Decision Proceedings

- (a) *Minor Revisions.*
- (1) The Director may approve minor revisions to the terms of an application approval. "Minor revisions" are those that are necessary in light of technical considerations discovered after the decision on the development application, and which do not substantively change the character of the development approval.
 - (2) Minor revisions must be authorized in writing.
 - (3) Minor revisions are subject to appeal to the Planning and Zoning Commission. On appeal, no further action will be taken to process the application, and/or issued permits are stayed pending the Planning and Zoning Commission's determination.
- (b) *Major Revisions.*
- (1) A major revision is any revisions that the Director determines is not a minor revision.

- (2) A major revision is approved by the original decision-maker is required in accordance with the procedures established for original consideration of the application.
- (3) In making a determination, the Director may seek a recommendation from any recommending body involved in the original application process.

Section 140-166. Appeals

(a) Generally.

- (1) Any decision may be appealed.
- (2) A party with standing may seek judicial review pursuant to Texas Local Government Code § 211.011.
- (3) Certain decisions may be appealed to a specific approval authority as established in this Article.

(b) Appeals to the Zoning Board of Adjustment.

- (1) Appeals may be taken to and before Zoning Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau in the City.
- (2) An appeal shall be made by submitting to the Director a notice of appeal and specifying the appeal's grounds.
- (3) The office or department from which the appeal is taken shall transmit to the board all of the papers constituting the record from which the action appealed was taken.
- (4) An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector shall certify to the Zoning Board of Adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted or by a court of equity, after notice to the office from whom the appeal.
- (5) The Zoning Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of that hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which an appeal is desired, and to all other persons deemed by the board to be affected by the appeal. These owners and persons shall be determined according to the current tax rolls of the City.

(c) Subdivision Plat Appeals of Director Decision to the Planning and Zoning Commission.

- (1) Appeals may be taken to and before the Planning and Zoning Commission by any applicant aggrieved, or by any officer, department, board, or bureau in the City.

- (2) An appeal shall be made by submitting to the City Secretary a notice of appeal and specifying the appeal's grounds.
- (3) The office or department from which the appeal is taken shall transmit to the Planning and Zoning Commission all of the papers constituting the record from which the action appealed was taken.
- (4) An appeal shall stay all proceedings in furtherance of the action appealed from.
- (5) The Planning and Zoning Commission shall fix a reasonable time for the hearing of the appeal no more than 30 days after the date the appeal was submitted to the City Secretary. Notice of the appeal shall be made to the applicant and owner of the subject property according to the current tax rolls of the City.

Language added to support an appeal process given that subdivision plat approval is administrative. It could not be the BOA since that is inherently a zoning board, and because the P&Z is the other common authority for plats. Also, platting is a function in both the city limits and ETJ

Division 2. Zoning and Development Procedures

Section 140-167. Comprehensive Plan Amendment

(a) *Applicability.* This Section applies to any action to adopt or modify the City’s comprehensive plan, consistent with the City Charter, and Chapter 213 of the Texas Local Government Code.

(b) *Initiation.* The City Commission, the Director, or the owner or agent of the subject property may submit a proposed comprehensive plan or proposed modification of the existing plan to the City Commission.

(c) *Completeness.* Not applicable.

(d) Notice.

(1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.

(2) Any required public hearings shall comply with Section 140-164.

(e) Decision.

(1) Referral.

- a. The City Commission shall refer the proposed plan or modification to the Planning and Zoning Commission.
- b. The referral may specify a deadline for the Planning and Zoning Commission to report its recommendations.

(2) Planning and Zoning Commission Recommendation.

- a. The Planning and Zoning Commission shall consider the plan or modification at a public hearing.
- b. After the hearing is closed, the Planning and Zoning Commission shall submit its recommendations:

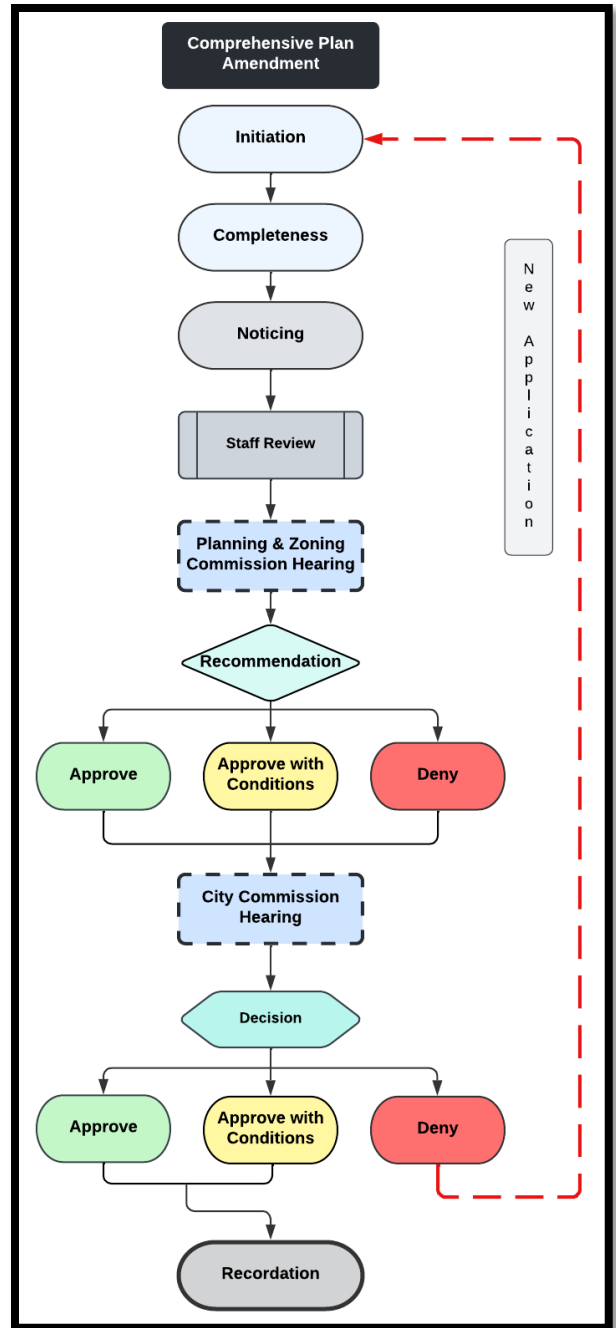


Figure 167.1: Comprehensive Plan Amendment Flowchart

1. To recommend approval the plan or modification;
 2. To recommend deny the plan or modification; or
 3. To recommend to approve the plan or modification with revisions.
- c. The Planning and Zoning Commission shall submit its recommendations within the time period prescribed by the City Commission in its referral. If the City Commission does not prescribe a time period, the Planning and Zoning Commission shall submit its recommendation within 180 days after the date of the Council's referral. If the Planning and Zoning Commission fails to act during this time period, the Planning and Zoning Commission is deemed to have submitted the proposed amendment with a recommendation to deny the plan or modification.
- (3) City Commission Decision.
- a. The City Commission shall consider the plan or modification at a public hearing.
 - b. After the hearing is closed, the City Commission shall by resolution:
 1. Adopt the plan or modification;
 2. Deny the plan or modification;
 3. Approve the plan or modification with amendments; or
 4. Remand the plan or modification to the Planning and Zoning Commission. The remand may include a deadline as provided in Section 140-171. (e)(1)a, and the failure to specify a deadline has the effect specified in Section 140-171. (e)(2)c.
- (f) Standards.
- (1) At the minimum, the comprehensive plan shall include the following elements: land use, community facilities, and transportation.
 - (2) The plan shall contain an existing land use map and a future land use map.
 - (3) The plan shall include cross-references comparing future land use categories to comparable zoning districts. Pursuant to Texas Local Government Code § 213.005, a map of a comprehensive plan illustrating future land use shall contain the following clearly visible statement: "*A comprehensive plan shall not constitute zoning regulations or establish zoning district boundaries.*"
 - (4) The plan shall include goals, objectives, and policies for each element.
- (g) *Subsequent Applications*. Not applicable.
- (h) *Appeals*. Not applicable.

- (i) *Scope of Approval.* See the City Charter.
- (j) *Recordation.* The Planning Department shall maintain a copy of the adopted Comprehensive Plan, and shall display the plan on its website.

Section 140-168. UDC Text Amendment

- (a) *Applicability.* This Section applies to any action of the City Commission to amend or change the regulations of this UDC. This includes the regulations, restrictions, and boundaries or classification of property contained within this UDC or a change to the Zoning Map initiated by the City Commission.
- (b) *Initiation.* A text amendment may be initiated by:
 - (1) City Commission;
 - (2) City Staff;
 - (3) The Planning and Zoning Commission; or
 - (4) Application of any resident, property owner, or business owner within the City.
- (c) *Completeness.* See Section 140-161. (b).
- (d) Notice and Hearing(s).
 - (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - (2) Two public hearings are required and shall comply with Section 140-164.
- (e) Decision.
 - (1) *Generally.* All hearing and notification procedures shall comply with Texas Local Government Code § 231.109, as applicable.
 - (2) *Planning and Zoning Commission Recommendation.* The Planning and Zoning Commission shall conduct a public hearing on the text amendment. The Planning and Zoning Commission shall submit its recommendation to the City Commission:

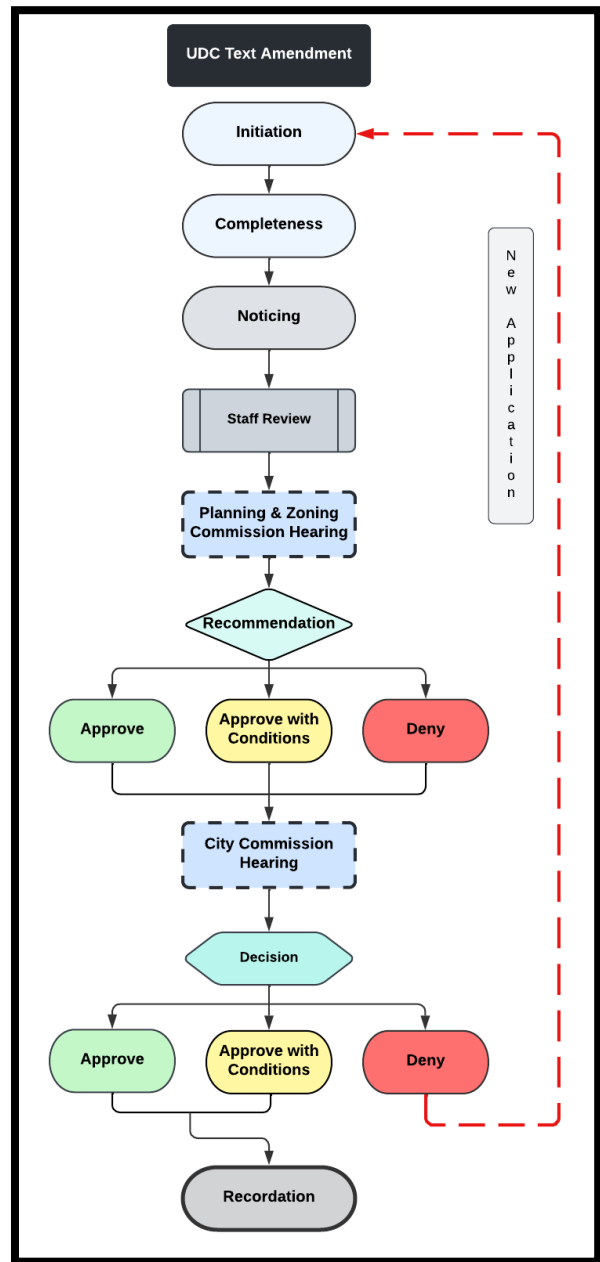


Figure 168.1: UDC Text Amendment Flowchart

- a. To approve the text amendment;
 - b. To deny the text amendment; or
 - c. To approve the text amendment with revisions.
- (3) *City Commission Decision.* The City Commission shall consider the text amendment at a public hearing after a recommendation has been provided by the Planning and Zoning Commission. After the hearing is closed, the City Commission shall by ordinance:
- a. Adopt the text amendment;
 - b. Deny the text amendment;
 - c. Approve the text amendment with revisions; or
 - d. Remand the text amendment to the Planning and Zoning Commission for further discussion.
- (f) *Standards.* A text amendment is a legislative decision subject to the City Commission's discretion. The City Commission may approve the text amendment if it:
- (1) Is consistent with the Comprehensive Plan; and
 - (2) Promotes public health, safety, and general welfare.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* Not applicable.
- (i) *Scope of Approval.* The approval of a text amendment does not authorize the development of land. A text amendment allows property owners to apply for permits or actions consistent with its standards and requirements.
- (j) *Recordation.* The 'DC's text amendment shall be codified and published as part of the McAllen Code of Ordinances by the City Secretary.

Section 140-169. Rezoning

- (a) *Applicability.* This Section applies to the change in the zoning classification of individual properties.
- (b) *Initiation.* A rezoning may be initiated by:
 - (1) City Commission on its own motion;
 - (2) Planning and Zoning Commission; or
 - (3) The owner or agent of the subject property.
- (c) *Completeness.* See Section 140-161. (b).
- (d) Notice and Hearing(s).
 - (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - (2) Two public hearings are required and shall comply with Section 140-164.
- (e) Decision.
 - (1) *Director Review.* The Director shall review the rezoning and shall provide a recommendation to the Planning and Zoning Commission to:
 - a. Approve the rezoning; or
 - b. Deny the rezoning.
 - (2) *Planning and Zoning Commission Recommendation.* The Planning and Zoning Commission shall conduct a public hearing on the rezoning. The public hearing shall be recessed and continued to a time and date certain, at least 10 days after the initial hearing after which a second meeting will occur. The Planning and Zoning Commission shall submit its recommendation to the City Commission:
 - a. To approve the rezoning;
 - b. To deny the rezoning;
 - c. To approve the rezoning with conditions.

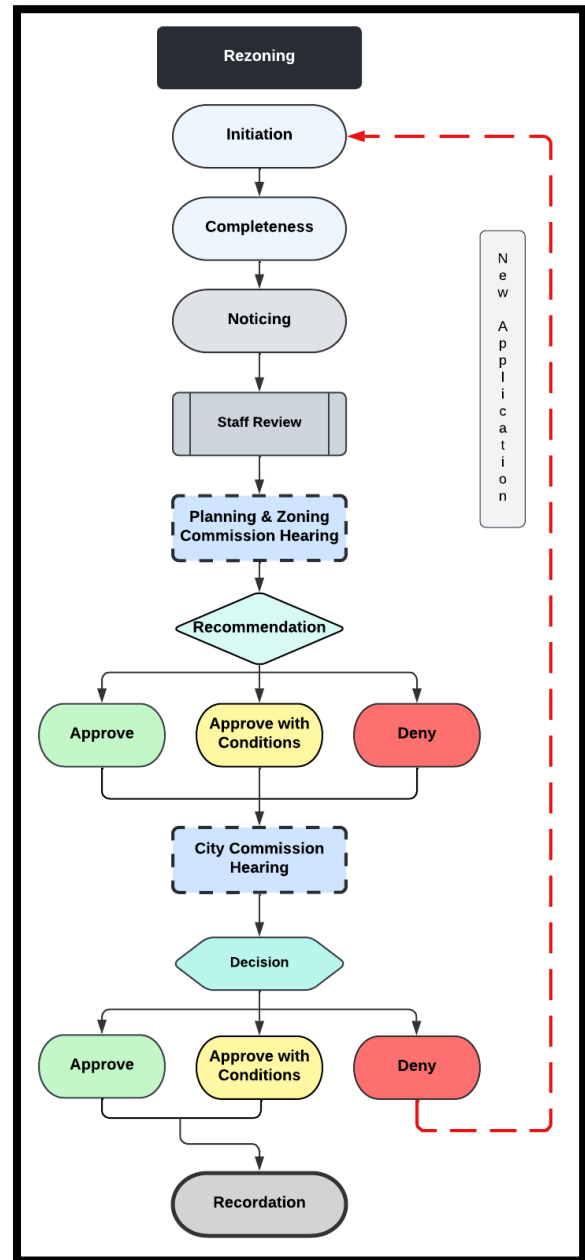


Figure 169.1: Rezoning Flowchart

- (3) *City Commission Decision.* The City Commission shall consider the rezoning at a public hearing after a recommendation has been provided by the Planning and Zoning Commission. After the hearing is closed, the City Commission shall, by ordinance:
- a. Approve the rezoning;
 - b. Deny the rezoning; or
 - c. Approve the rezoning with conditions.
- (f) *Standards.* In its review of an application for rezoning, the City Commission shall consider the following standards. No single factor is controlling. Instead, each is weighed in relation to the other standards. If the Planning and Zoning Commission finds that a rezoning is inconsistent with the land use element of the comprehensive plan, the application shall not be considered until a recommendation regarding a comprehensive plan amendment for the proposed zoning amendment is forwarded to the City Commission, either prior to or concurrently with the proposed zoning amendment.
- (1) *Consistency.* The City Commission does not redetermine the City's policy of comprehensive zoning. The City's zoning map shall not be altered for the special benefit of the landowner when the change will cause substantial detriment to the surrounding lands or serve no substantial public purpose.
 - (2) *Adverse Impacts on Neighboring Lands.* The City Commission shall consider the nature and degree of an adverse impact upon neighboring lands. Lots shall not be rezoned in a way that is substantially inconsistent with the uses of the surrounding area, whether more or less restrictive. Further, the City Commission finds and determines that vast acreages of single-use zoning produces uniformity with adverse consequences such as traffic congestion, air pollution, and social alienation. Accordingly, rezonings that promote mixed uses subject to a high degree of design control are not necessarily deemed to be inconsistent with neighboring lands and shall be considered.
 - (3) *Suitability as Presently Zoned.* The City Commission shall consider the suitability or unsuitability of the tract for its use as presently zoned. This factor, like the others, must often be weighed in relation to the other standards, and instances can exist in which the use for which land is zoned may be rezoned upon proof of a real public need or substantially changed conditions in the neighborhood.
 - (4) *Health, Safety, and Welfare.* The rezoning must bear a substantial relationship to the public health, safety, morals, or general welfare or protect and preserve historical and cultural places and areas. The rezoning may be justified, however, if a

- substantial public need exists, and this is so even if the private owner of the tract will also benefit.
- (5) *Public Policy.* A strong public policy in favor of the rezoning may be considered. Examples include a need for affordable housing, economic development, recreational activity, or mixed-use development which functionally relates to the surrounding neighborhoods.
- (6) *Size of Tract.* The City Commission shall consider the size, shape, and characteristics of the tract in relation to the affected neighboring lands. The City Commission shall not rezone a single lot when there have been no intervening changes or other saving characteristic. Proof that a small tract is unsuitable for use as zoned or that there have been substantial changes in the immediate area may justify a rezoning.
- (7) *Other Factors.* The City Commission may consider any other factors relevant to a rezoning application under Texas law.
- (g) *Subsequent Applications.*
- (1) This Subsection applies if:
- The applicant withdraws an application after notice of hearing is published; or
 - The City Commission denies a rezoning application.
- (2) If the above requirements apply, the applicant shall not submit a rezoning application for the same zoning district request on the same property for at least six (6) months.
- (3) The above waiting period begins with either the date of withdrawal of the prior application before the Planning and Zoning Commission or City Commission or the date of the City Commission's denial of the prior application.
- (h) *Appeals.* Not applicable.
- (i) *Scope of Approval.* The approval of a rezoning does not authorize the development of land. A rezoning allows the applicant to apply for a building permit, in the case of uses permitted as of right, or a conditional use permit, in the case of uses designated as special uses within the applicable zoning district.
- (j) *Recordation.* If the amendment involves changes to the existing zoning district boundaries, the form of the amending ordinance shall contain a narrative description of the land to be reclassified or reference to an accompanying plat of such land showing the new zoning districts and indicating their boundaries. The Director shall refer to the attested ordinance as a record of the current zoning status until the zoning map is changed accordingly.

Section 140-170. Conditional Use Permit

- (a) *Applicability.* This Section applies to any application for approval of a use designated as a conditional use in *Table 29-1*.
- (b) *Initiation.* A conditional use permit may be initiated by the owner or applicant of the subject property.
- (c) *Completeness.* See Section 140-161. (b).
- (d) Notice and Hearing(s).
 - (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - (2) A public hearing is required and shall comply with Section 140-164.
- (e) Decision.
 - (1) *Generally.* All hearing and notification procedures shall comply with Texas Local Government Code § 231.109, as applicable.
 - (2) *Director Review.* The Director shall review the conditional use permit and shall provide a recommendation to the Planning and Zoning Commission to:
 - a. Approve the conditional use permit;
 - b. Deny the conditional use permit; or
 - c. Approve the conditional use permit with conditions.
 - (3) *Planning and Zoning Commission Decision.* The Planning and Zoning Commission shall consider the conditional use permit at a public hearing after a recommendation has been provided by the Director. After the hearing is closed, the Planning and Zoning Commission shall:
 - a. Approve the conditional use permit;
 - b. Deny the conditional use permit; or
 - c. Approve the conditional use permit with conditions.

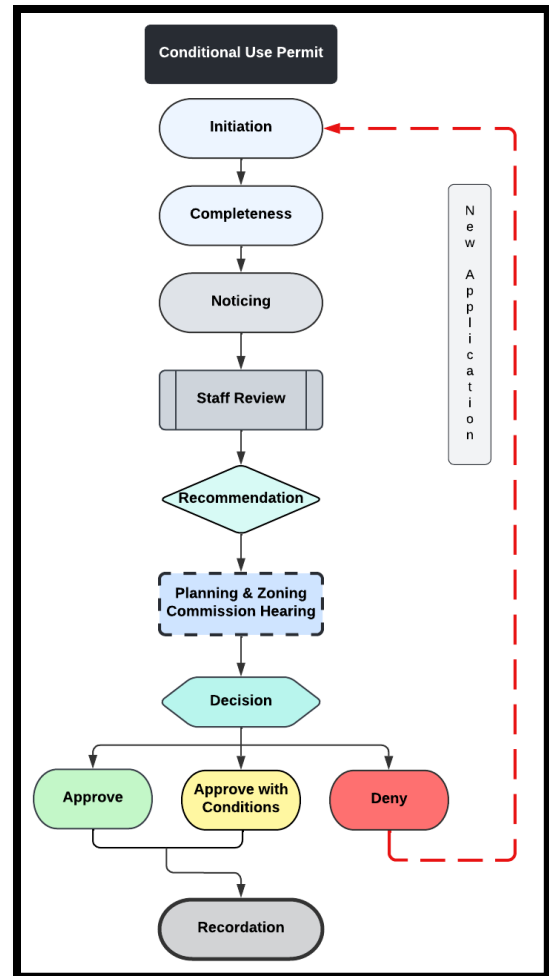


Figure 170.1: Conditional Use Permit Flowchart

- (f) *Standards.* The Planning and Zoning Commission shall approve a conditional use permit only if the applicant demonstrates that:
- (1) The proposed conditional use shall comply with all regulations of the applicable zoning district, the provisions of Article II. , any applicable use regulations of Article III. , and any applicable development standards of Article IV. of this UDC.
 - (2) The proposed conditional use shall conform to the character of the neighborhood within the same zoning district in which it is located. The proposal, as submitted or modified, shall have no more adverse effects on health, safety, or comfort of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than any other use generally permitted in the same district. In making this determination, the Planning and Zoning Commission shall consider the location, type, and height of buildings or structures, the type and extent of landscaping and screening on the site and whether the proposed use is consistent with any policy of the Comprehensive Plan.
 - (3) Adequate utilities shall be provided.
 - (4) Adequate measures shall be taken to provide ingress and egress designed to minimize traffic hazards and to minimize traffic congestion on public roads.
 - (5) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
 - (6) The proposed use shall not injure the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood.
 - (7) The proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
 - (8) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger public health, safety, morals, comfort, or general welfare.
 - (9) The public interest and welfare supporting the proposed conditional use authorization shall be sufficient to outweigh the individual interests that are adversely affected by the establishment of the proposed use.
- (g) Subsequent Applications.
- (1) This Subsection applies if:
 - a. The applicant withdraws an application after notice of hearing is published; or
 - b. The Planning and Zoning Commission denies a conditional use permit application.

- (2) If the above requirements apply, the applicant shall not submit a conditional use permit application for the same conditional use permit request on the same property for at least six (6) months.
 - (3) The above waiting period begins with either the date of withdrawal of the prior application before the Planning and Zoning Commission or the date of the Planning and Zoning Commission's denial of the prior application.
- (h) *Appeals*. Not applicable.
- (i) *Scope of Approval*.
- (1) *Generally*. The approval of a conditional use permit does not authorize the development of land. A conditional use permit allows the applicant to apply for a building permit.
 - (2) *Violations*. Any conditional use permit is in violation of this UDC and shall be suspended or revoked if:
 - a. A court having jurisdiction or a jury find the holder of the conditional use permit guilty of a violation or if a holder of a conditional use permit pleads guilty of violating:
 - b. Any requirement or term or condition of the conditional use permit or has not conformed, at any time, with any or all of the requirements or terms or conditions as set out in the conditional use permit as approved by the Planning and Zoning Commission.
 - c. The activity authorized by the conditional use permit commences prior to the institution of all conditions imposed by the conditional use permit.
 - d. The use for which the conditional use permit was authorized does not commence within 6 months of the effective date of the conditional use permit. The Director may grant an extension of up to 6 months for good cause shown, upon petition of the conditional use permit holder.
 - e. The use for which the conditional use permit is authorized is discontinued for 6 consecutive months.
 - (3) *Notification*. If the use discontinues or fails to commence as stipulated in this UDC, the Director will issue written notification to the property owner. Ten (10) days after issuance of this notice, the Director shall issue the permit holder written notification of the conditional use permit's official revocation and removal from the Zoning Map.
- (j) *Recordation*. A certified copy of all ordinances authorizing a conditional use permit pursuant to this Section shall be recorded by and at the expense of the applicant in the name of the property owner as grantor in the Hidalgo County Clerk.

Section 140-171. Site Plan

(a) Applicability.

(1) *Generally.* Site plan approval is required for all development except single-family detached or two-family (duplex) dwellings, and for all events that meet the following thresholds:

- a. New construction or expansion of an existing building or structure that increases the existing floor area by 25% or that adds 2,000 sf of floor area.
- b. New construction or expansion of parking lots that increase the existing impervious area by 25% or that add 2,000 sf of impervious coverage.

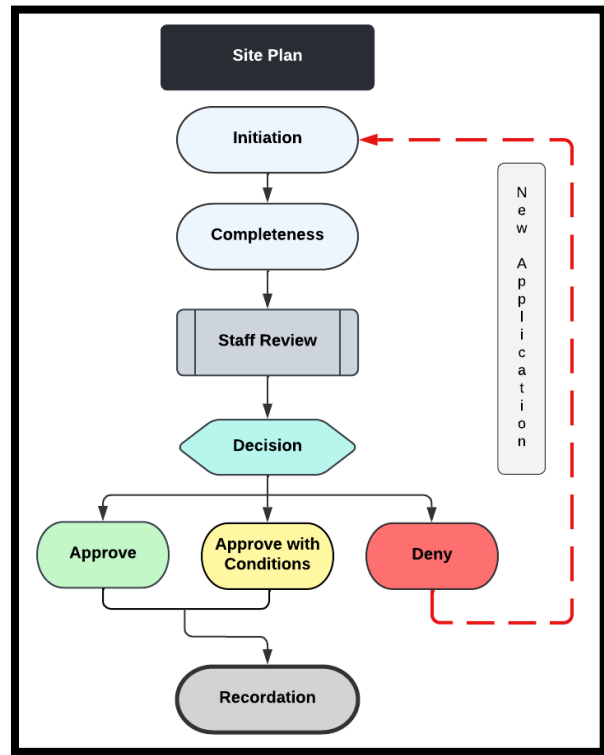


Figure 171.1: Site Plan Flowchart

(2) *Deviations Prohibited.* A site plan shall

not authorize deviation from any applicable development standards normally required by the existing underlying zoning, including, but not limited to signs, landscaping, parking, or dimensional requirements.

(3) *Waiver of Site Plan.* The Planning Director may waive the requirement to prepare a site plan based on site characteristics and the nature of the proposed changes being suitable for field verification or integration with a building permit.

(b) *Initiation.* The property owner shall submit a site plan application to the Director. In addition to the information required by Section 140-161. , the Director may require the following additional information if needed to address the proposed development's impacts:

- (1) Elevations of the proposed new or remodeled structures;
- (2) Analysis of the traffic impacts of the proposed use; or
- (3) Evaluation of the environmental impacts of the proposed use.

(c) *Completeness.* See Section 140-161. (b).

(d) *Notice and Hearing(s).* Not applicable.

(e) *Decision.*

- (1) *Director Review and Decision.* The Director shall review the site plan and shall act to:
 - a. Approve the site plan;
 - b. Disapprove the site plan;
 - c. Approve the site plan with conditions; or
 - d. Refer the site plan to the Planning and Zoning Commission for its review and final action.
- (2) *Authorization to Impose Conditions.*
 - a. *Generally.* The Director may impose conditions necessary to maintain the integrity of the City's zoning districts, to ensure the proposed use is consistent with the Comprehensive Plan, conforms with this UDC, is appropriate to its location and compatible with neighboring uses, and does not cause undue traffic congestion or significant deterioration of the environment.
 - b. *Conditions Supplementary.* All requirements imposed by a site plan are in addition to and supplement this UDC's requirements.
 - c. *Authorized Conditions.* Authorized conditions include, but are not limited to:
 1. *Site Plan Features.* Limitations or requirements regarding the area, setbacks, open space, landscaping, buffering, lighting, fencing, signage, off-street parking, and similar site plan features of the proposal.
 2. *Operations.* Limitations or requirements regarding the proposed use's operating characteristics, duration, or any similar feature of the proposed use.
 3. *Duration.* If the Director or Planning and Zoning Commission limits the duration of a site plan, a six (6) month grace period, starting from the final approval date, is afforded to the applicant in addition to the time period stipulated in the site plan conditions.
- (f) *Standards.* An application for a site plan shall comply with the following standards:
 - (1) *Generally.* The site of the proposed use or any associated improvements is not in violation of any local, state, or federal law (other than a zoning violation).
 - a. The use and site plan for the proposed use conforms, at a minimum, with all applicable provisions of this UDC for the existing underlying zoning designation, including but not limited to:
 1. *Development Standards.* All parking, landscaping, signage, improvement, and dimensional standards.

2. *Zoning Districts Standards.* The purpose of the zoning district in which the proposed use is to be located and any standards applicable to the particular proposed use.
 - b. Site plans are only authorized for the proposed use(s).
- (2) *Suitability.* The characteristics of the proposed site are suitable for the proposed use considering the size, shape, location, topography, and location of improvements and natural features.
- (3) *Timeliness.* The proposed use and/or development is timely, considering the adequacy of transportation systems, public facilities, and services, existing or planned for the area affected by the proposed use.
- (4) *Compatibility to Surrounding Area.* The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed as allowable by the underlying zoning district.
- (5) *Comprehensive Plan.* The proposed use satisfies any applicable goals and policies of the comprehensive plan that apply to the proposed use.
- (6) *Use Appropriate and Compatible.* The use is appropriate to its proposed location and compatible with the character of neighboring uses, or enhances the mixture of complementary uses and activities in the immediate vicinity.
- (7) *Traffic.* The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking, or loading problems. Necessary mitigating measures shall be proposed by the applicant.
- (8) *Nuisance.* The operating characteristics of the use do not create a nuisance and the impacts of the use on surrounding properties are minimized with respect to noise, odors, vibrations, glare, and any other similar conditions.
- (9) *Environment.* The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* If a site plan is appealed to the Planning and Zoning Commission:
 - (1) The Planning and Zoning Commission shall consider the site plan at a public meeting.
 - (2) After the consideration of the Director's decision and any evidence provided by the applicant or an aggrieved party, the Planning and Zoning Commission shall:
 - a. Approve the site plan;

- b. Deny the site plan;
 - c. Approve the site plan with conditions; or
 - d. Remand the site plan to the Director for further consideration.
- (i) Scope of Approval.
- (1) *Generally*. After the site plan is approved, the Director may issue a building permit or certificate of occupancy consistent with any conditions of site plan approval.
- (2) Changes to Site Plan.
- a. *Generally*. Any change to an approved site plan, other than those changes that qualify as insubstantial pursuant to Section 140-176. (i)(2)b, require amendment of the existing site plan. Amendment of an approved site plan may only be authorized by the Director pursuant to the procedures established in Section 140-176. (e), and subject to appeal or referral to the Planning and Zoning Commission as provided in Section 140-176. (h).
 - b. Insubstantial Changes to Approved Site Plan.
 - 1. The Director may approve insubstantial changes to a previously approved site plan without notice or a public hearing. An insubstantial change is one that becomes necessary during the use's actual implementation, which could not be reasonably anticipated during its review, and that does not significantly change the original approval granted.
 - 2. An insubstantial change includes:
 - a) Minor building revisions/expansions that do not increase the height of a building and are less than an aggregate total of one thousand (1,000) square feet;
 - b) Minor changes in the number of parking spaces (adding, removing, or relocating twenty (20) parking spaces or less), provided that minimum parking requirements are met;
 - c) Adjustments to solid waste container location;
 - d) Minor revisions to approved elevations; and
 - e) Substitution of similar materials on an approved landscape plan.
 - 3. An amendment to any of the following site plan requirements is not considered insubstantial:
 - a) *Use* - Those activities allowed on site by the site plan.
 - b) *Operational Characteristics* - The gross limitations or requirements regarding the proposed use's operating characteristics.

- c) *Site Plan Features* - The gross limitations or requirements regarding the area, setbacks, open spaces, landscaping, buffering, lighting, fencing, signage, or the off-street parking of the proposal.
- d) *Duration* - Requirements governing the duration of the permit.
- e) *Permit Holder* - Requirements regarding the person or entity to whom the permit is issued.

(3) Revocation.

- a. *Criteria*. An approved site plan is considered in violation of this UDC and shall be revoked if a court of law finds the use in violation of any of the following conditions:
 - 1. The use established on site does not conform, at any time, with any or all approved permit condition(s) and or any local, state, or federal law.
 - 2. The activity authorized by the site plan commences prior to the institution of all conditions imposed by the site plan.
 - 3. Discontinuance of the approved use for at least six (6) consecutive months.
 - 4. The approved use does not commence within six (6) months of the final approval date.
- b. *Revocation Procedures*. If the Director's inspection reveals noncompliance with this UDC, site plan revocation procedures shall commence as follows:
 - 1. The Director shall, upon discovery of site plan noncompliance, issue a written warning, granting a grace period of at least ten (10) working days. During this time, the use may be brought into compliance with the current approved site plan for that location.
 - 2. If noncompliance persists after the conclusion of the warning grace period, a Director shall issue written citation.
 - 3. If the citation results in a guilty verdict, the site plan is considered revoked.
 - 4. The Director shall issue the permit holder written notification of the site plan's official revocation.
 - 5. In the event of discontinuance or failure to commence as stipulated above, Director shall issue written notification to the applicant. Ten (10) days after issuance of Director notification of discontinuance or failure to commence, the Director shall then issue the permit holder written notification of the site plan's official revocation.
- (j) *Recordation*. The applicant and Director shall maintain a copy of the approved site plan.

Section 140-172. Sign Permit

- (a) *Applicability.* A person shall not construct, alter, or relocate any sign within the corporate limits of McAllen without first obtaining a permit, unless otherwise specified.
- (b) *Initiation.* Each sign permit requires a separate application. The application must be filed on a form furnished by the Director and include a non-refundable permit fee.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision.* The Director shall:
 - (1) Approve the sign permit;
 - (2) Deny the sign permit; or
 - (3) Approve the sign permit with conditions.
- (f) *Standards.* A sign permit shall be issued if the proposed sign complies with all applicable provisions of this UDC and any conditions or stipulations of any applicable rezoning, conditional use permit, site plan, or development plan.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* See Section 140-170.
- (i) *Scope of Approval.*
 - (1) *Generally.* The Director may issue a sign permit if there is an approved site plan.
 - (2) *Expiration.*
 - a. A sign permit becomes null and void if installation does not commence within six (6) months from the date of permit approval.
 - b. If work authorized by the permit is suspended or abandoned for one (1) year from the date the work commences, a new permit is required to complete the installation work, even if no changes are made to the original sign permit.
 - (3) *Revocation.* The Director may revoke a sign permit if:
 - a. It is issued in error; or

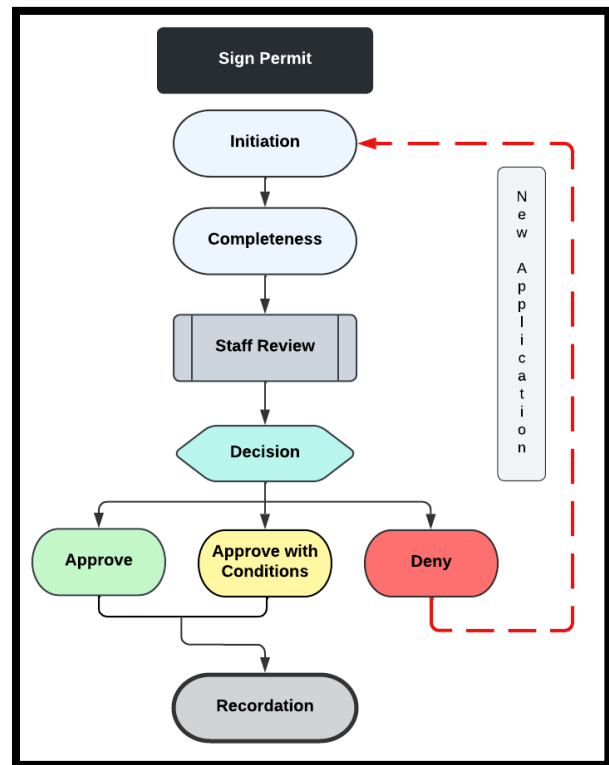


Figure 172.1: Sign Permit Flowchart

- b. The sign or sign supporting structure is installed contrary to the approved plans or in violation of this UDC.
- (4) *Repairs and Maintenance.* The repair, routine maintenance, or repainting of an existing sign deemed conforming or allowed to continue as a nonconforming sign does not require a sign permit.
- (j) *Recordation.* The applicant and Director shall maintain a copy of the approved sign permit.

Section 140-173. Certificate of Appropriateness

(a) *Applicability.* It shall be unlawful for any person to:

(1) Carry out or allow any construction, reconstruction, alteration, restoration, rehabilitation, installation, or relocation of any portion of or any exterior feature of any contributing property in a designated historic district, or of any landmark or heritage property, or of any state or federally designated historic resource; or

(2) Construct or install any new structure within a designated historic district or in a designated historic landmark or heritage property, or in any state or federally designated historic resource, until after an application for a certificate of appropriateness of such work has been approved by the McAllen Historic Preservation Council. Additionally, a building or demolition permit may not be granted for any contributing property within a historic district or in a designated historic landmark or heritage property, unless the McAllen

Historic Preservation Council issues a certificate of appropriateness. Neither shall anyone carry out or allow any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from any street, which affects the appearance and cohesiveness of any contributing property in a designated historic district, or of any landmark or heritage property, or of any state or federally

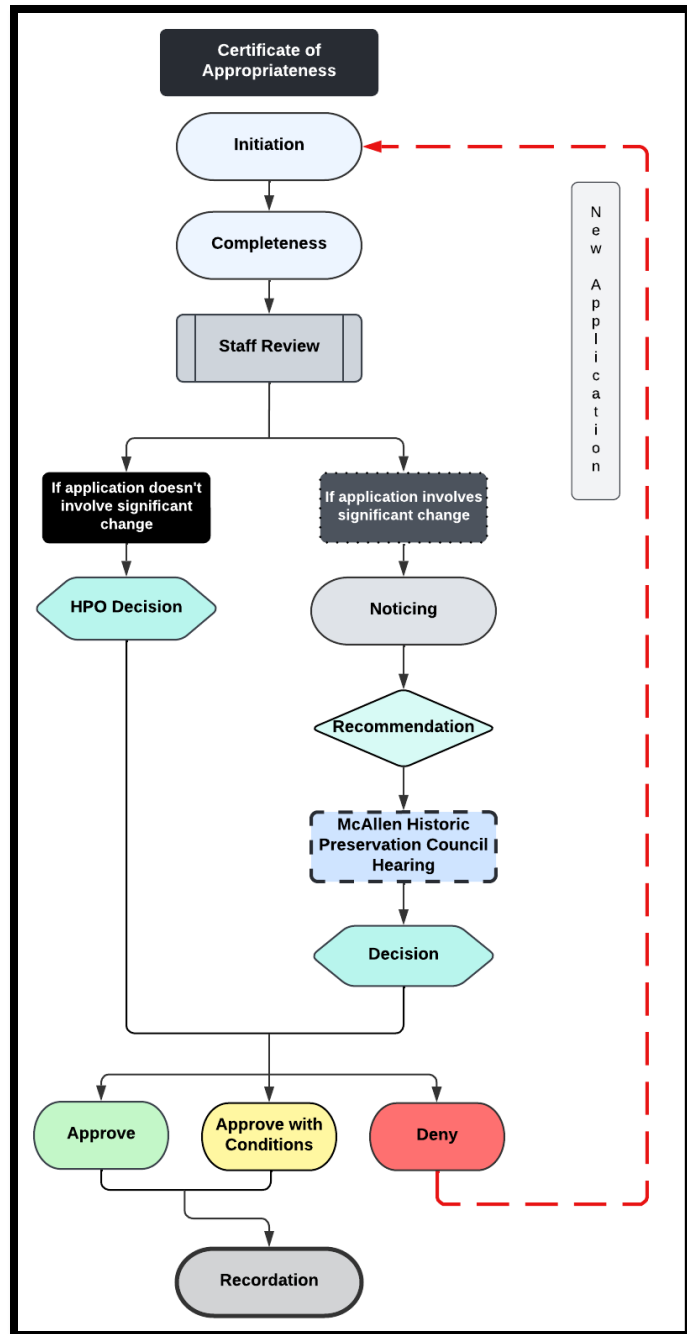


Figure 173.1: Certificate of Appropriateness Flowchart

- designated historic resource, unless the McAllen Historic Preservation Council issues a certificate of appropriateness.
- a. A certificate of appropriateness shall be required prior to beginning any work in any historic resource, including work claimed to be ordinary repair or maintenance. No building permit shall be issued for property that requires a certificate of appropriateness unless and until the Historic Preservation Officer certifies to the Building Official that such a certificate of appropriateness has been granted, advising as to any conditions attached to such a certificate.
 - b. A review of the plans or proposed work shall be undertaken by the Historic Preservation Officer for submission of a recommendation to the McAllen Historic Preservation Council, or by the McAllen Historic Preservation Council directly, after the property owner files a completed application.
 - c. Decisions of the McAllen Historic Preservation Council and by the Historic Preservation Officer shall be in writing and shall state the findings of the McAllen Historic Preservation Council.
 - d. A certificate of appropriateness shall be valid for twelve (12) months and shall expire thereafter.
 - e. An applicant may resubmit an application for a certificate of appropriateness after twelve (12) months from the date of a denial.
 - f. Certificates of appropriateness may be issued for distinct and separate phases of an ongoing project.
- (b) *Initiation.* The applicant shall submit to the Historic Preservation Officer an application in writing for a certificate of appropriateness which includes data and information as required by the Historic Preservation Officer, including but not limited to the following:
- (1) Name of applicant and property owner;
 - (2) Mailing address of applicant and permanent address of property owner;
 - (3) Legal description and location of property to be altered or repaired;
 - (4) A detailed description of the nature of the proposed external repair, demolition alterations or additions to be performed;
 - (5) A description of the structure and/or site and a narrative as to how the proposed change will be in character with its architectural and historical aspect on the basis of which it was designated and, if in a historic district, as to how the proposed change will impact upon the district;
 - (6) Any circumstances or conditions concerning the property which may affect compliance with this UDC;

- (7) The intended and desired starting and completion date of the repair, demolition alterations or additions to be made;
 - (8) Any drawings or photographs which would explain the proposed repair, demolition alterations or additions;
 - (9) Samples of the colors which will be used on the structure, and of the materials to be used or applied on, or that may affect the exterior; and
 - (10) Building, plumbing, electrical, mechanical and/or other permit applications.
- (c) Completeness.
- (1) Generally, refer to Section 140-161. (b).
 - (2) A nonrefundable administrative fee of \$100.00 shall be assessed to the applicant reflecting the cost to the City for processing the application. The application will not be deemed complete, nor will it be processed until the fee is paid in full. Separate permit fees may apply for any construction or demolition. If the application is approved, all applicable building permits shall be obtained, and all required fees paid prior to commencement of any work.
- (d) Notice and Hearing(s).
- (1) Generally.
 - a. Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - b. Any required public hearing and shall comply with Section 140-164.
 - (2) Additional Requirements.
 - a. The McAllen Historic Preservation Council shall hold a public hearing to consider the application within sixty (60) calendar days after the receipt of a completed application.
 - b. The applicant shall be given written notice of the time and place of the meeting by regular mail sent at least five (5) business days before the meeting to the address on the application.
 - c. Written notices shall be sent in a manner similar to that provided in subsection 138-57(3), and official signs shall be posted as is provided in subsection 138-57(4), with the words, "NOTICE OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS," with the number and location of said signs determined by the McAllen Historic Preservation Council.
- (e) Decision.
- (1) Generally.

- a. A certificate of appropriateness may be approved by either the Historic Preservation Officer or the McAllen Historic Preservation Council.
 - b. A certificate of appropriateness involving ordinary repairs, demolition alterations or additions may be approved by the Historic Preservation Officer.
 - c. A certificate of appropriateness involving significant repairs, demolition alterations or additions shall be approved by the McAllen Historic Preservation Council.
- (2) *Historic Preservation Officer Review and Decision.* If the Historic Preservation Officer, guided by the adopted design guidelines, and where applicable, criteria established by the Secretary of the Interior, determines that the application involves ordinary repair or maintenance, change, restoration, color or removal of any exterior architectural feature of a historic resource which does not involve significant change in the architectural or historic value, style, general design or appearance, shall review the certificate of appropriateness and shall act to:
- a. Approve the certificate of appropriateness;
 - b. Deny the certificate of appropriateness; or
 - c. Approve the certificate of appropriateness with conditions.
- (3) McAllen Historic Preservation Council Review and Decision.
- a. *Recommendation from the McAllen Historic Preservation Officer.* If the Historic Preservation Officer determines that the application involves a repair, demolition alteration, addition, change, restoration, or removal of an external architectural feature of a historic resource which involves a significant change in the architectural or historic value, style, general design, or appearance or for any other reason does not desire to act under the subsection above and is within a historic district or is a designated landmark or heritage property, the Historic Preservation Officer shall provide a recommendation to the McAllen Historic Preservation Council to:
 1. Approve the certificate of appropriateness;
 2. Deny the certificate of appropriateness; or
 3. Approve the certificate of appropriateness with conditions.
 - b. McAllen Historic Preservation Council Decision.
 1. The McAllen Historic Preservation Council shall conduct a public hearing on the certificate of appropriateness application and shall render its decision after the hearing is closed.
 2. The McAllen Historic Preservation Council shall:

- a) Approve the certificate of appropriateness;
 - b) Deny the certificate of appropriateness; or
 - c) Approve the certificate of appropriateness with conditions.
- (f) *Standards.* In determining the recommendation and action on an application for a certificate of appropriateness, the Historic Preservation Officer and the McAllen Historic Preservation Council shall review and decide the appropriateness of the proposed repair, demolition alterations or additions, and its compliance with:
- (1) Any applicable City of McAllen Design Guidelines for designated local landmark and heritage properties;
 - (2) The Secretary of the Interior's Standards for Treatment of Historic Properties and Guidelines for Preservation, Rehabilitation and Reconstruction; and
 - (3) The applicant's conformity with any revisions, stipulations or requirements as the McAllen Historic Preservation Council finds appropriate.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Scope of Approval.* No building permit applications shall be accepted nor shall any permit be issued, and no work shall be performed until after approval of a certificate of appropriateness, and not until five (5) business days have elapsed from its transmission to the Building Official by the Historic Preservation Officer, with any advice as to conditions which may have been attached to the certificate.
- (i) *Recordation.* The Historic Preservation Officer shall maintain a copy of any order of the McAllen Historic Preservation Council pursuant to this Section.

Section 140-174. Building Permit

- (a) *Applicability.* The Building Official shall process building permits as provided in the Building Code.
- (b) *Initiation.* The applicant shall not submit a building permit application, and the Building Official shall not issue a building permit, for any application requiring approval of the Building Official, Director, the Planning and Zoning Commission, City Commission, or Zoning Board of Adjustment, until all required permits or approvals are approved.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision.* See Building Code.
- (f) *Standards.* The Building Official may issue the building permit only if the application complies with all applicable provisions of this UDC, any approved rezoning condition, conditional use permit, subdivision plat, or site plan, and the Building Code.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* If a building permit is denied for noncompliance with a provision of this UDC or an approval listed in Section 140-179. (f), the applicant may appeal that decision.
- (i) *Scope of Approval.* See Building Code.
- (j) *Recordation.* The Building Official shall maintain the approved building permit in its files, and the applicant shall maintain an original signed copy of the approved building permit.

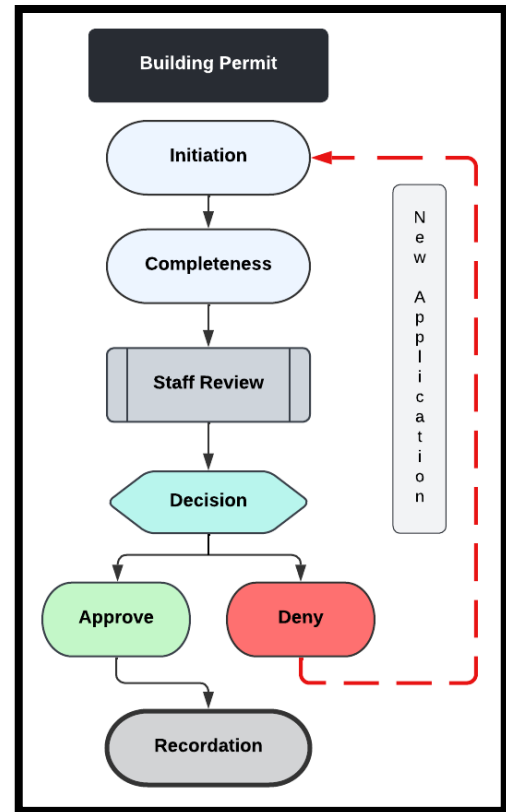


Figure 174.1: Building Permit Flowchart

Section 140-175. Certificate of Occupancy

- (a) *Applicability.* The Building Official shall process certificate of occupancy as provided in the Building Code.
- (b) *Initiation.* The applicant shall not submit a certificate of occupancy application, and the Building Official shall not issue a certificate of occupancy, for any application requiring approval of the Building Official, Director, the Planning and Zoning Commission, City Commission, or Zoning Board of Adjustment, until all required permits or approvals are approved.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision.* See Building Code.
- (f) *Standards.* The Building Official may issue the certificate of occupancy only if the application complies with all applicable provisions of this UDC, any approved rezoning condition, conditional use permit, subdivision plat, or site plan, and the Building Code.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* If a certificate of occupancy is denied for noncompliance with a provision of this UDC or an approval listed in Section 140-180. (f), the applicant may appeal that decision.
- (i) *Scope of Approval.* See Building Code.
- (j) *Recordation.* The Building Official shall maintain the approved certificate of occupancy in its files, and the applicant shall maintain an original signed copy of the approved certificate of occupancy.

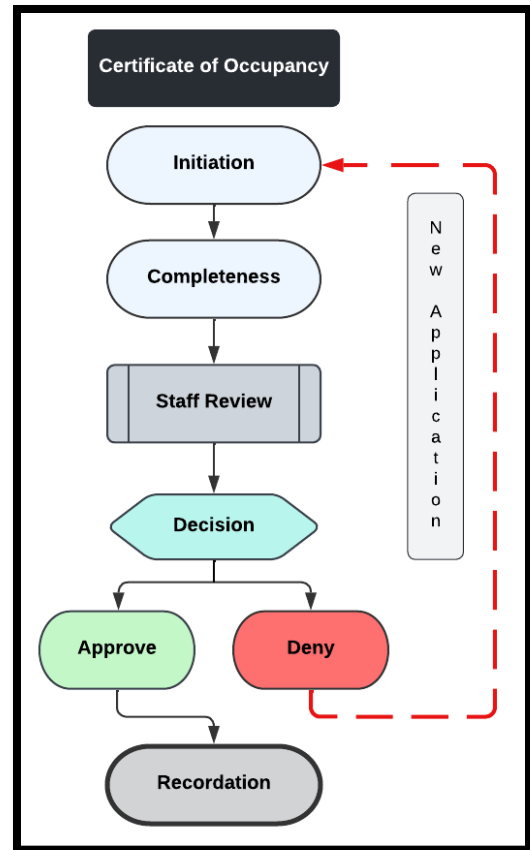


Figure 175.1: Certificate of Occupancy Flowchart

Division 3. Subdivision Procedures

Section 140-176. Preliminary Plat

- (a) *Applicability.* This Section applies to any application for approval of a preliminary plat of subdivision.
- (b) *Initiation.* The applicant shall submit a complete application to the Director.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) Decision.

- (1) *Director Review.* The Director shall review the preliminary plat application, and send the application to other departments and entities for review (i.e., Engineering, Fire, Health, etc.).

a.

- (2) Director Decision.

- a. *Generally.* The Director shall review each preliminary plat submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:

- 1. If the preliminary plat complies with all provisions of this UDC, the Director shall approve the plat;
- 2. Approve the preliminary plat with conditions; or
- 3. Disapprove the preliminary plat if it fails to comply with this UDC.

- b. Approved with Conditions or Disapproved.

- 1. If the Preliminary Plat is disapproved or approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.

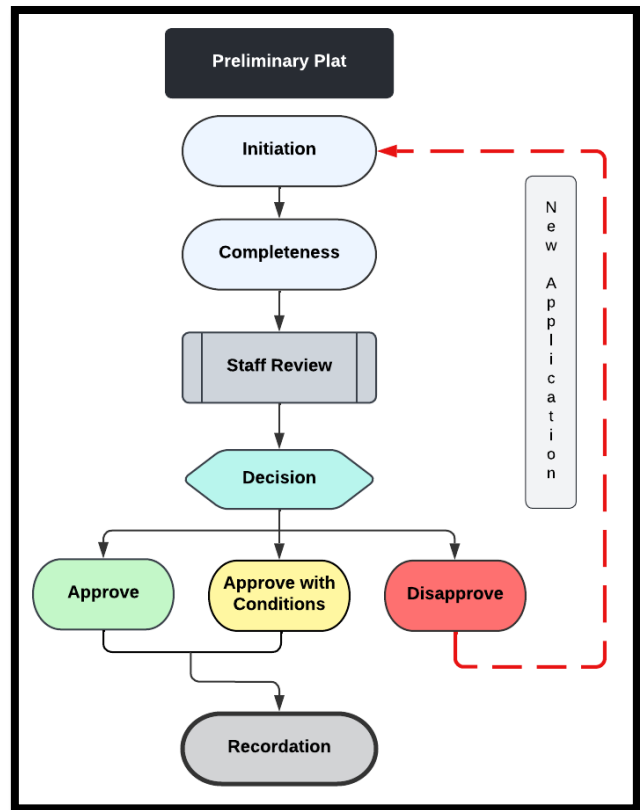


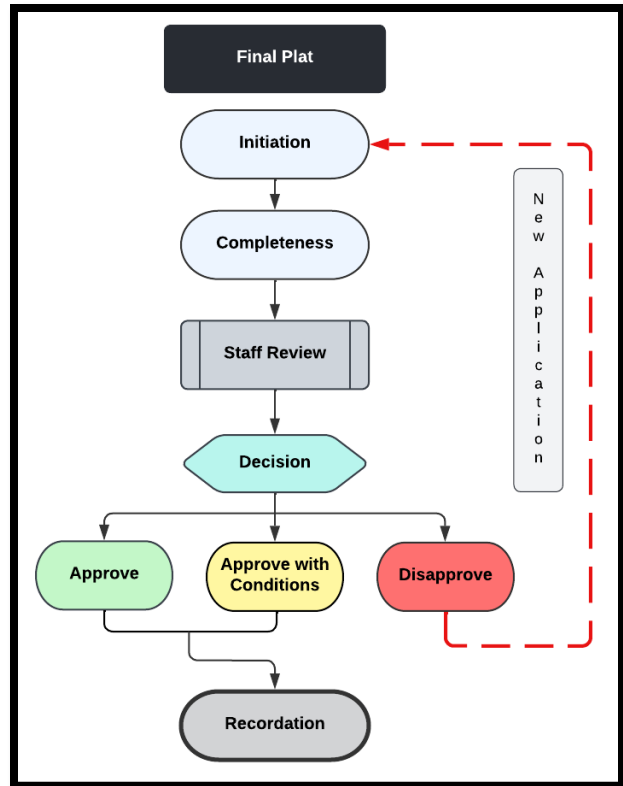
Figure 176.1: Preliminary Plat Flowchart

2. Reasons for disapproval or conditional approval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.
 3. On a conditional plat approval, the Director may require submission of a revised preliminary plat.
 4. If the plat conforms to all standards, or after the applicant and Director agree upon any revision which shall be filed with the Director on a revised copy, the applicant may proceed with the layout of streets and roads, the preparation of utility plans and with preparation of the final plat.
- (f) *Standards.* No person shall subdivide any tract of land except in conformity with this UDC. The Director shall approve a preliminary plat only if it conforms to:
- (1) The Comprehensive Plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - (2) The planned extension of major thoroughfares, streets, and public highways within McAllen, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - (3) The rules and regulations of Article V. of this UDC.
- (g) *Subsequent Applications.* The Director may reconsider the conditions for granting approval within 12 months following Planning and Zoning Commission approval upon the applicant's written request. The request shall be submitted on forms approved by the Director and shall state the specific requirement or condition of approval to be reconsidered and the reasons for reconsideration. The Director may:
- (1) Affirm its previous action(s);
 - (2) Rescind its previous action(s) if the merits of the situation warrant; or
 - (3) Grant relief as provided under this UDC.
- (h) *Appeals.* See Section 140-170.
- (i) *Scope of Approval.*
- (1) Preliminary plat approval is effective for a period of one (1) year.
 - (2) If a final plat is not submitted for approval within this time, the preliminary plat becomes void unless the Director agrees to a time extension.
 - (3) A formal request for extension with the reasons for extension must be submitted before the one (1) year deadline date.
 - (4) Time extensions may be granted for one (1) year and may not be granted more than two (2) times.

- (j) *Recordation.* A preliminary plat is not recorded with the County Office. The Director and the applicant shall maintain copies of the preliminary plat for purposes of inspection and final plat approval.

Section 140-177. Final Plat

- (a) *Applicability.* This Section applies to any application for approval of a final plat of subdivision.
- (b) *Initiation.*
 - (1) The applicant shall submit a complete application for approval to the Director within one (1) year of the preliminary plat approval date.
 - (2) If not submitted for final plat approval within this time, the preliminary plat is void unless the Director agrees to a time extension.
 - (3) Where only a portion of an approved preliminary plat is submitted for final plat approval, a final plat of the remaining area may be submitted at any time within five (5) years of the preliminary plat approval date, if each subsequent final plat conforms substantially to the approved preliminary plat.



- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision*³⁰.

- (1) *Director Review.*
 - a. *Substantial Compliance Required.* A final plat shall be in substantial compliance with the approved preliminary plat to be reviewed by the Director. A revised preliminary plat may be required if changes to the final plat are considered by the Director to be substantial. Substantial changes may include the following:
 - 1. Change in lot dimensions;
 - 2. Increase in the number of lots;

³⁰ Staff indicated that there is desire to allow for PZ and Director approvals. Should we provide a threshold for director approvals? For example, residential subdivisions under 50 lots and nonresidential development under 10 acres could be approved by the Director.

3. Increased density;
4. Change in circulation network;
5. Change in drainage patterns;
6. Change in relationship between uses of land; and
7. Change in land use in general.

(2) Director Decision.

- a. *Generally.* The Director shall review each final plat submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:
 1. If the final plat complies with all provisions of this UDC, the Director shall approve the plat; or
 2. Disapprove the final plat if it fails to comply with this UDC; or
 3. Approve the final plat with conditions.
 - b. Disapproved Decision.
 1. If the final plat is disapproved, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
- (f) Reasons for disapproval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform. Standards.
- (1) Final plats shall comply with the conditions of plat approval imposed by the Director, if any, and the following additional requirements.
 - (2) No person shall subdivide any tract of land except in conformity with this UDC. The Director shall approve a final plat only if it conforms to:
 - a. The preliminary plat approval substantially;
 - b. The comprehensive plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - c. The planned extension of major thoroughfares, streets, and public highways within McAllen, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - d. The rules and regulations of Article V. of this UDC.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* See Section 140-170.

- (i) Scope of Approval.
 - (1) Before recording the final plat, all public ways, and service, and utility easements, and land dedication to public use must be accepted by the City.
 - (2) This approval of the plat shall be shown over the signature of the Director and attested by the City Clerk.
 - (3) The disapproval of any plat by the Director shall be deemed a refusal of the proposed dedication shown on the plat.
 - (4) The applicant must meet the requirements of Article V. Division 4. Prior to City Commission acceptance of any final plat.
- (j) Recordation.
 - (1) *Generally.* A final plat is recorded with the County Clerk within one (1) year after approval. If not filed within this time, the final plat approval becomes void.
 - (2) *Signatures Required.* Signatures shall be affixed to the final plat under the following conditions:
 - a. When a bond or other assurance for completion of improvements is required, endorsement of approval on the plat shall be given after the assurance has been approved by the Director, and all the conditions of the final plat approval pertaining to the plat have been satisfied.
 - b. When installation of improvements is required, endorsement of approval on the plat shall be given after all conditions of the final plat approval have been satisfied and all improvements completed and accepted. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the City as shown by a certificate signed by the Director.
 - (3) *Recording with the County.* A Final Plat may be recorded under the following conditions:
 - a. After the final plat approval and the affixing of all required signatures, the applicant, accompanied by the City Clerk shall file the original tracing, one (1) dark line print on cloth, and one (1) contact reproducible cloth tracing or mylar with the County Clerk.
 - b. After recording, the applicant shall provide the Director with three (3) white background prints and one (1) contact reproducible mylar.
 - c. The applicant shall also submit to the Director a copy of the recorded plat.
 - d. The applicant shall pay all required County recording fees.

- e. No plat or other land subdivision instrument shall be recorded with the County Clerk until approved by the City as required.

Section 140-178. Minor Plat

- (a) *Applicability.* This Section applies to final plats that do not involve the extension of services or acceptance of public infrastructure, and do not require a preliminary plat.
- (b) *Initiation.* The applicant shall submit a minor plat application to the Director.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) Decision

- (1) *Generally.* The Director shall review each minor plat submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:

- a. If the minor plat complies with all provisions of this UDC, the Director shall approve the plat;
- b. Disapprove the minor plat if it fails to comply with this UDC; or
- c. Approve the minor plat with conditions.

- (2) Disapproved Decision.

- a. If the minor plat is disapproved, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
- b. Reasons for disapproval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.

- (3) *Approved with Conditions Decision.* If the minor plat is approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.

- (f) *Standards.* No person shall subdivide any tract of land except in conformity with this UDC. The Director shall approve a minor plat only if it conforms to:

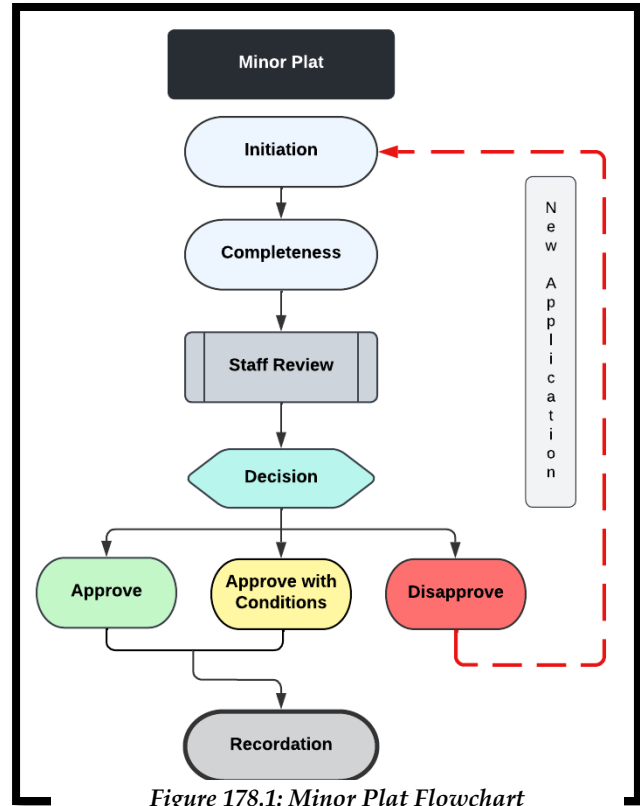


Figure 178.1: Minor Plat Flowchart

- (1) The Comprehensive Plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - (2) The transportation plan and major thoroughfare plan for the extension of major thoroughfares, streets, and public highways within McAllen and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - (3) The rules and regulations of Article V. of this UDC.
- (g) *Subsequent Applications*. Not applicable.
- (h) *Appeals*. See Section 140-170.
- (i) *Scope of Approval*. Minor plats are valid for thirty (30) months from the initial date of approval. The Director may, upon written request of the owner or applicant and in conformity with the submittal requirements of this Article, extend this term for only one (1) additional 6-month period.
- (j) *Recordation*. A minor plat is recorded in the same manner as a final plat (see Section 140-182. (j)).

Section 140-179. Amending Plat

- (a) *Applicability.* This Section applies to amending plats described by Texas Local Government Code § 212.016.
- (b) *Initiation.* The applicant shall submit an amending plat application to the Director.
- (c) *Completeness.* See Section 140-161.
- (b). (Note: This appears to be a typo in the original document, likely intended to be (d).)
- (d) *Notice and Hearing(s).* Not applicable.
- (e) Decision
 - (1) *Generally.* The Director shall review each amending plat submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:

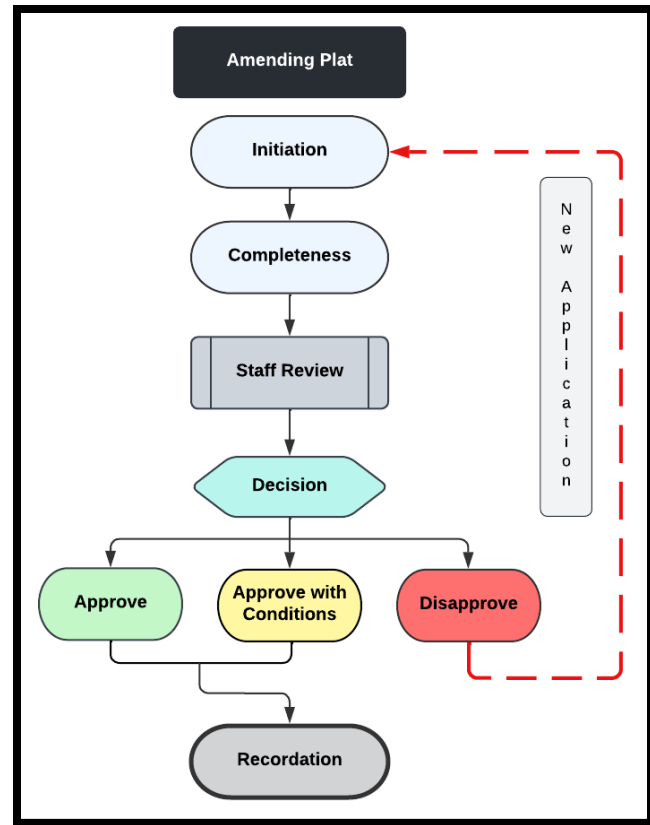


Figure 179.1: Amending Plat Flowchart

- a. If the amending plat complies with all provisions of this UDC, the Director shall approve the plat;
 - b. Disapprove the amending plat if it fails to comply with this UDC; or
 - c. Approve the amending plat with conditions.
- (2) Disapproved Decision.
 - a. If the amending plat is disapproved, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
 - b. Reasons for disapproval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.
 - (3) *Approved with Conditions Decision.* If the amending plat is approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.

- (f) *Standards.* No person shall subdivide any tract of land except in conformity with this UDC. The Director shall approve an amending plat only if it conforms to:
- (1) The Comprehensive Plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - (2) The transportation plan and major thoroughfare plan for the extension of major thoroughfares, streets, and public highways within McAllen and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - (3) The rules and regulations of Article V. of this UDC.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* See Section 140-170.
- (i) *Scope of Approval.* Amending plats are valid for thirty (30) months from the initial date of approval. The City Commission may, upon written request of the owner or applicant and in conformity with the submittal requirements of this Article, extend this term for only one (1) additional 6-month period.
- (j) *Recordation.* An amending plat is recorded in the same manner as a final plat (see Section 140-182. (j)).

Section 140-180. Replat³¹

(a) *Applicability.* Pursuant to Texas Local Government Code § 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 either:

(1) The replat:

- a. Is signed and acknowledged by only the owners of the property being replatted;
- b. Is approved by the Planning and Zoning Commission;
- and
- c. Does not attempt to amend or remove any covenants or restrictions; or

(2) The replat:

- a. Is signed and acknowledged by only the owners of the property being replatted; and
- b. Involves only property:

- 1. Of less than one acre that fronts an existing street; and
- 2. That is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention.

(3) Either:

- a. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

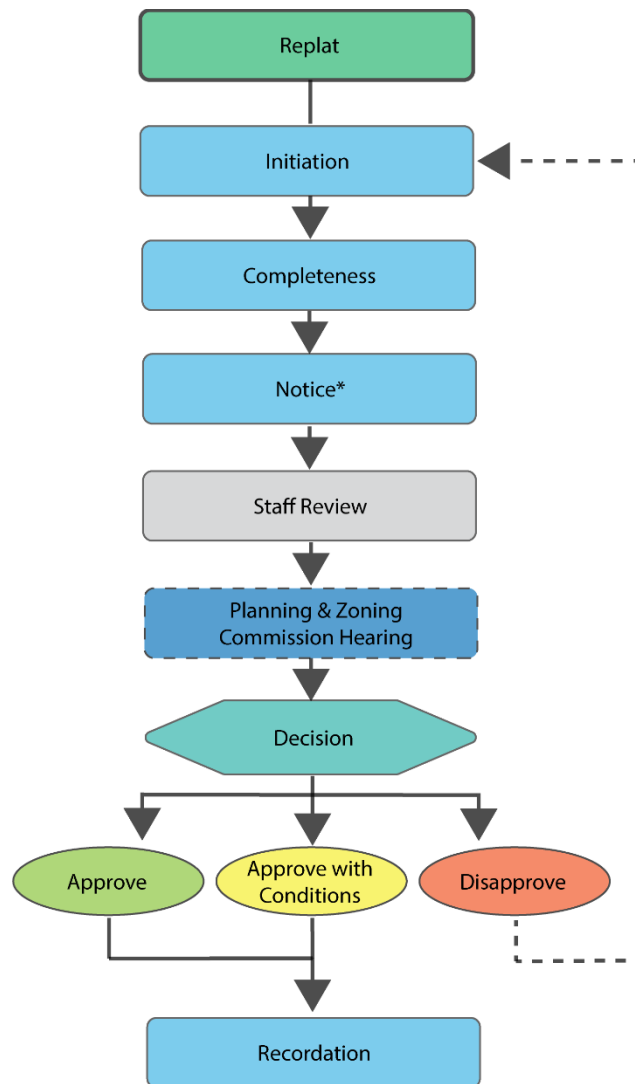


Figure 180.1: Replat Flowchart

³¹ Do we still want this as PZ decision?

- b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
- (b) *Initiation.* Unless Section 140-185. (a)(2) applies, the applicant shall submit a replat application with the Director.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice.* In addition to the noticing requirements in Section 140-162. , the additional noticing requirements apply:
- (1) A residential replat conforming to the provisions provided by Texas Local Government Code Section 212.015, and including a subdivision waiver petition shall comply with the following noticing requirements.
 - a. Publication of a public hearing in an official newspaper or a newspaper of general circulation fifteen (15) calendar days before the date of the hearing; and
 - b. Issuance of a written notice by mail to property owners of lots located within two hundred (200) feet of the subject property based on the most recently approved County tax roll upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.
 - (2) A residential replat conforming to the provisions provided by Texas Local Government Code Section 212.015, and not including a subdivision waiver petition shall comply with the following noticing requirements:
 - a. Issuance of a written notice by mail to property owners of lots located within two hundred (200) feet of the subject property based on the most recently approved County tax roll shall be issued no later than fifteen (15) days after the plat is approved. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.
 - b. The written notice shall include:
 1. The zoning designation of the property after the replat; and
 2. A telephone number and e-mail address that a property owner can contact regarding the application approval.
- (e) *Decision*
- (1) *Director Review.* The Director shall review the replat application, send the application to other departments and entities for review (i.e., Engineering, Fire, Health, etc.), place the application on the next Planning and Zoning Commission agenda, and provide a recommendation to the Planning and Zoning Commission to:

- a. Approve the replat;
 - b. Disapprove the replat; or
 - c. Approve the replat with conditions.
- (2) Planning and Zoning Commission Decision.
- a. *Generally.* The Planning and Zoning Commission shall review each replat submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:
 1. If the replat complies with all provisions of this UDC, the Planning and Zoning Commission shall approve the replat; or
 2. Approve the replat with conditions; or
 3. Disapprove the replat if it fails to comply with this UDC.
 - b. Approved with Conditions or Disapproved.
 1. If the replat is disapproved or approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
 2. Reasons for disapproval or conditional approval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.
 3. On a conditional plat approval, the Planning and Zoning Commission may require submission of a revised replat.
- (3) If Section 140-185. (a)(3) applies and requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths ($\frac{3}{4}$) of the members present of the Planning and Zoning Commission. For a legal protest, written instruments signed by the owners of at least 20% of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission prior to the close of the public hearing.
- a. In computing the percentage of land area under this subsection, the area of streets and alleys are included.
 - b. This subsection does not apply if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the

last legally recorded plat or in the legally recorded restrictions applicable to the plat.

- (f) *Standards.* No person shall replat any tract of land except in conformity with this Chapter. The Planning and Zoning Commission shall approve a replat only if it conforms to:
 - (1) The comprehensive plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - (2) The transportation plan and major thoroughfare plan for the extension of major thoroughfares, streets, and public highways within McAllen and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - (3) The rules and regulations of Article V. of this UDC.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* Not applicable.
- (i) *Scope of Approval.*
 - (1) The replat may be recorded and is controlling over the preceding plat without vacation of that plat.
 - (2) Replats are valid for thirty (30) months from the initial date of approval. The Planning and Zoning Commission may, upon written request of the owner or applicant and in conformity with the submittal requirements of this Article, extend this term for only one (1) additional 6-month period.
- (j) *Recordation.* A replat is recorded in the same manner as a final plat (see Section 140-182. (j)).

Section 140-181. Conveyance Plat³²

(a) *Applicability.* A conveyance plat may be used in lieu of a final plat to record only the subdivision of property in the following instances:

- (1) *Remainder Tract.* To record the remainder of a tract that was created by plat provided that the remainder is not intended for immediate development, and the remainder of a tract that was involved in the plat is larger than five (5) acres.
- (2) *Inheritance or Holding Tract.* To record a subdivision of land into parcels, five (5) acres or smaller in size, that are not intended for immediate development, provided all required Public Improvements exist to the City's current standards prior to approval and minimum frontage requirements are met.

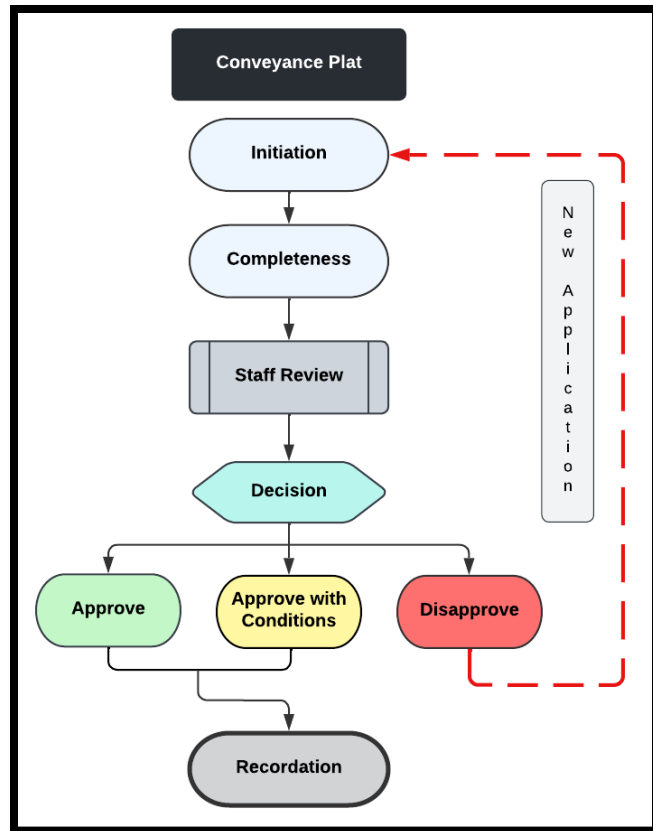


Figure 181.1: Conveyance Plat Flowchart

- a. All public right-of-way must be dedicated, and all abutting streets and utilities must be installed and accepted by the City.
 - b. Installation of on-site improvements may be delayed if development of other tracts is not affected. All easements shall be dedicated allowing access to public infrastructure or drainage ways from the parent tract to all lots included in the plat, if applicable.
- (b) *Initiation.* Unless Section 140-186. (a)(2) applies, the applicant shall submit a conveyance plat application with the Director.
- (c) *Completeness.* See Section 140-161. (b).

³² Given state law changes, is a conveyance plat necessary? Should we abolish the conveyance plat option? Also, if retaining the conveyance plat option, should this receive PZ and staff approval?

(d) *Notice and Hearing(s)*. Not applicable.

(e) Decision.

(1) *Generally*. The Director shall review each conveyance plat submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:

- a. If the conveyance plat complies with all provisions of this UDC, the Director shall approve the plat;
- b. Disapprove the conveyance plat if it fails to comply with this UDC; or
- c. Approve the conveyance plat with conditions.

(2) Disapproved Decision.

- a. If the conveyance plat is disapproved, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
- b. Reasons for disapproval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.

(3) Approved with Conditions Decision.

1. If the conveyance plat is approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
2. On a conditional plat approval, the Director may require submission of a revised conveyance plat.

(f) *Standards*. No person shall plat any tract of land except in conformity with this Chapter. The Director shall approve a conveyance plat only if it conforms to:

- (1) The Comprehensive Plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
- (2) The transportation plan and major thoroughfare plan for the extension of major thoroughfares, streets, and public highways within McAllen and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- (3) The rules and regulations of Article V. of this UDC.

(g) *Subsequent Applications*. Not applicable.

(h) *Appeals*. Not applicable.

- (i) *Scope of Approval.* A conveyance plat:
 - (1) Does not authorize development.
 - (2) Is a map of property approved by the City solely for the purpose of sale or conveyance in its entirety or interest as defined.
 - (3) Requires the applicant and future owner(s) of the property to remain obligated to comply with all provisions in this UDC upon future development of the property including, but not limited to, all requirements for platting, required public improvements, utility extensions, street improvements or assessments, right-of-way and easement dedications, and all other requirements in these regulations.
- (j) Recordation.
 - (1) Generally, a conveyance plat is recorded in the same manner as a final plat (see Section 140-182. (j)).
 - (2) A conveyance plat shall contain the following notes:
 - a. "CONVEYANCE PLAT ONLY: NOT FOR DEVELOPMENT"
 - b. "A conveyance plat is a map of property approved by the City solely for the purpose of sale or conveyance in its entirety or interest thereon defined. Lots created by a conveyance plat may not have all necessary public utilities available for immediate use. No certificate of occupancy shall be issued nor permanent public utility service provided to any lot(s) created by a conveyance plat until all required public improvements have been constructed and accepted by the City, and a final plat is recorded with the County Clerk. Selling a portion of property by metes and bounds, except as shown on a recorded final plat, amending plat, minor plat, or replat is a violation of the City's development code contained in the UDC and state law."

Section 140-182. Plat Vacation

(a) *Applicability.* Pursuant to Texas Local Government Code § 212.013:

- (1) The proprietors of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold, or
- (2) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(b) *Initiation.*

(1) *Initiation by Property Owner.* An application for a plat vacation can be submitted before or after lots have been sold, however it must be acknowledged and approved by all property owners of lots reflected in the plat vacation.

(2) *Initiation by City Commission.* If the City Commission, on its own motion, determines that the plat should be vacated in the interest of and to protect the public's health, safety, and welfare of the community; and:

- a. No lots within the approved plat have been sold within five (5) years following the date that the Final Plat was approved by the City;
- b. The property owner has breached a development agreement, and the City is unable to obtain funds with which to complete construction of Public Improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or
- c. The plat has been of record for more than five (5) years, and the City Commission determines that the further sale of lots within the subdivision or

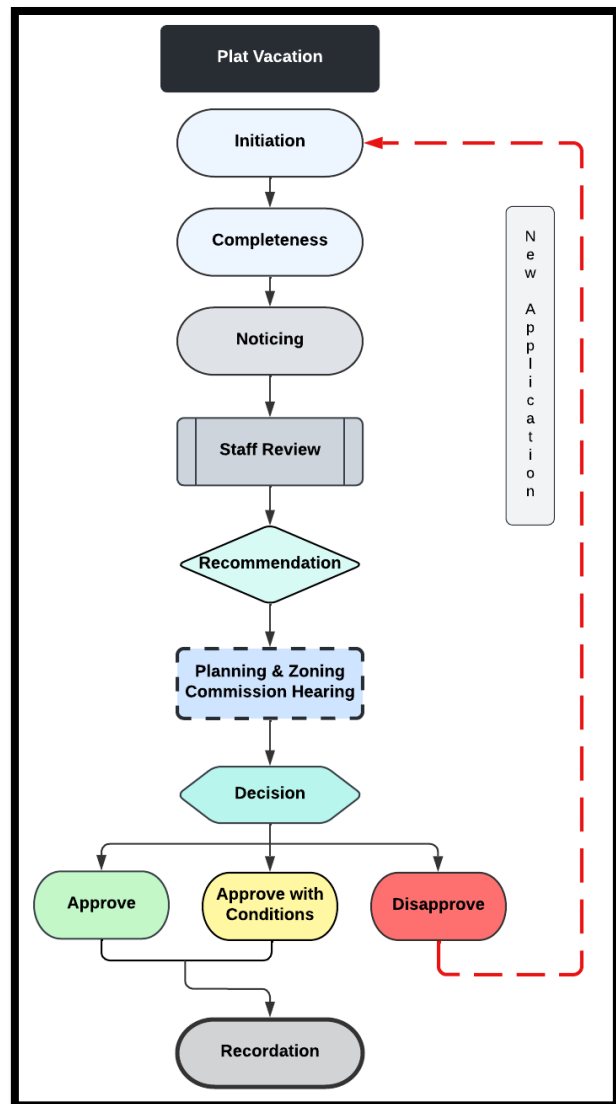


Figure 182.1: Plat Vacation Flowchart

addition presents a threat to public health, safety and welfare of the community, except that the vacation shall apply only to lots owned by the property owner or its successors.

(c) *Completeness*. See Section 140-161. (b).

(d) Notice and Hearing(s).

(1) Noticing shall comply with Section 140-162. And Texas Local Government Code § 211.007façade, as applicable.

(2) A public hearing is required and shall comply with Section 140-164.

(e) Decision.

(1) *Director Review*. The Director shall review the plat vacation application, send the application to other departments and entities for review (i.e., Engineering, Fire, Health, etc.), place the application on the next Planning and Zoning Commission agenda, and provide a recommendation to the Planning and Zoning Commission to:

- a. Approve the plat vacation;
- b. Disapprove the plat vacation; or
- c. Approve the plat vacation with conditions.

(2) Planning and Zoning Commission Decision.

a. *Generally*. The Planning and Zoning Commission shall review each plat vacation submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant:

1. If the plat vacation complies with all provisions of this UDC, the Planning and Zoning Commission shall approve the plat vacation;
2. Approve the plat vacation with conditions; or
3. Disapprove the plat vacation if it fails to comply with this UDC.

b. *Approved with Conditions or Disapproved*.

1. If the plat vacation is disapproved or approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Director and shall be attached to one (1) copy of the plat and transmitted to the applicant.
2. Reasons for disapproval or conditional approval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.

3. On a conditional plat approval, the Planning and Zoning Commission may require submission of a revised plat vacation.
 - c. *Automatic Approval.* If no action is taken by the Planning and Zoning Commission at the end of the thirty (30) day period, the plat vacation shall be deemed approved.
- (f) *Standards.* The Planning and Zoning Commission shall approve a plat vacation only if it conforms to:
 - (1) The requirements established in Section 140-187. (b);
 - (2) The comprehensive plan and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 - (3) The transportation plan and major thoroughfare plan for the extension of major thoroughfares, streets, and public highways within McAllen and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
 - (4) The rules and regulations of Article V. of this UDC.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* Not applicable.
- (i) *Scope of Approval.*
 - (1) On the execution and recording of the vacating instrument, the previously filed plat shall have no effect.
 - (2) The Planning and Zoning Commission, at its discretion, shall have the right to retain all or specific portions of right-of-way or easements shown on the plat being considered for vacation. However, the Planning and Zoning Commission shall consider a plat vacation upon satisfactory conveyance of easements or right-of-way in a separate legal document using forms provided by the City attorney's office.
- (j) *Recordation.* The plat vacation may be recorded with the County Clerk after:
 - (1) The Planning and Zoning Commission has approved the plat; and
 - (2) The applicant has revised the plat to address any conditions imposed by the Planning and Zoning Commission with the approval of the plat.

Division 4. Relief Procedures

Section 140-183. Variance

- (a) *Applicability.* The Zoning Board of Adjustment may authorize, in specific cases due to hardship, a variance from the terms of this UDC. [Reference: Texas Local Government Code § 211.009(a)(3)]
- (b) *Initiation.* An application for a variance shall be submitted to the Director.
- (c) *Completeness.* See Section 140-161. (b).
- (d) Notice and Hearing(s).
- (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - (2) A public hearing is required and shall comply with Section 140-164.
- (e) Decision.
- (1) The Zoning Board of Adjustment shall conduct a public hearing on the variance and shall render its decision after the hearing is closed.
 - (2) The Zoning Board of Adjustment may, in whole or in part:
 - a. Approve the variance;
 - b. Deny the variance; or
 - c. Approve the variance with conditions.
 - (3) The concurring vote of 75% of the members of the Zoning Board of Adjustment is required to grant a variance per Texas Local Government Code § 211.009(c).
- (f) *Standards.* The Zoning Board of Adjustment shall not approve a variance unless it finds that:

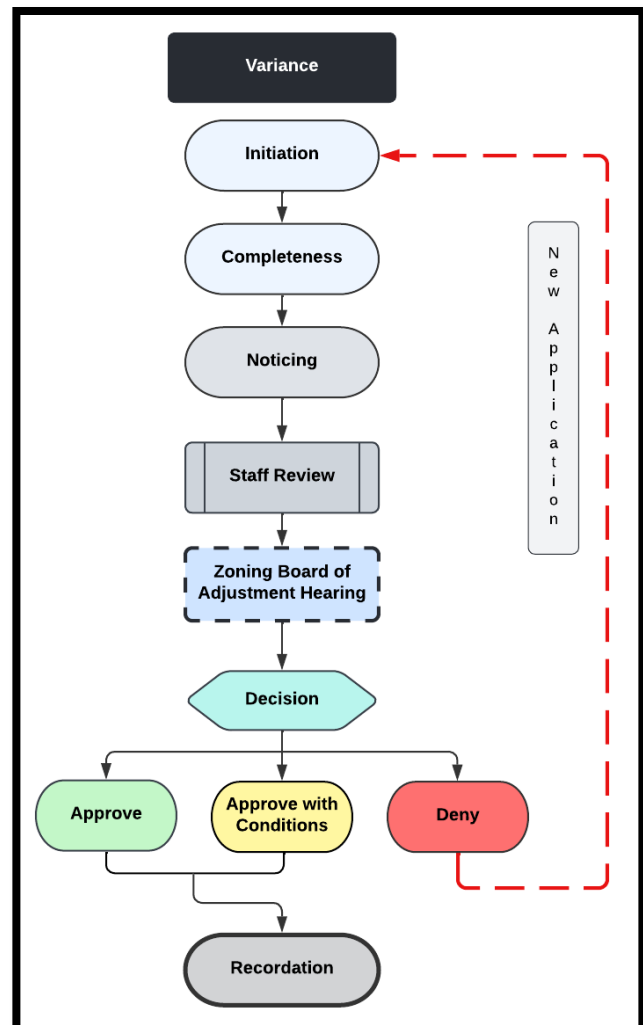


Figure 183.1: Variance Flowchart

- (1) The variance is not contrary to the public interest;
 - (2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
 - (3) The spirit of the varied provision is observed and substantial justice is done.
- (g) *Subsequent Applications.* If the variance request is denied, the applicant shall not submit a variance request of similarity on the same property for at least six (6) months.
- (h) *Appeals.* A party with standing may seek judicial review pursuant to Texas Local Government Code § 211.011.
- (i) *Scope of Approval.* After a final decision on the variance is rendered, the applicant and any party in interest may file any further permits or applications, undertake construction, or establish a use consistent with that decision.
- (j) *Recordation.* The Director shall maintain a copy of any order of the Zoning Board of Adjustment pursuant to this Section.

Section 140-184. Special Exception

(a) Applicability.

- (1) The Zoning Board of Adjustment is authorized to hear and decide a special exception in accordance with this Section.
- (2) A special exception is an allowed variation from the regulations of this UDC, but is differentiated from a variance in two ways as described below.
 - a. *No Hardship Required.* A special exception does not require a finding of an unnecessary hardship.
 - b. *Specifically Allowed and Pre-Determined by the UDC.* Approval of a special exception by the Zoning Board of Adjustment is specifically provided for and defined in this UDC.
- (3) Special exceptions pertain to property owners and not properties themselves. A new property owner will need to reapply for the special exception.

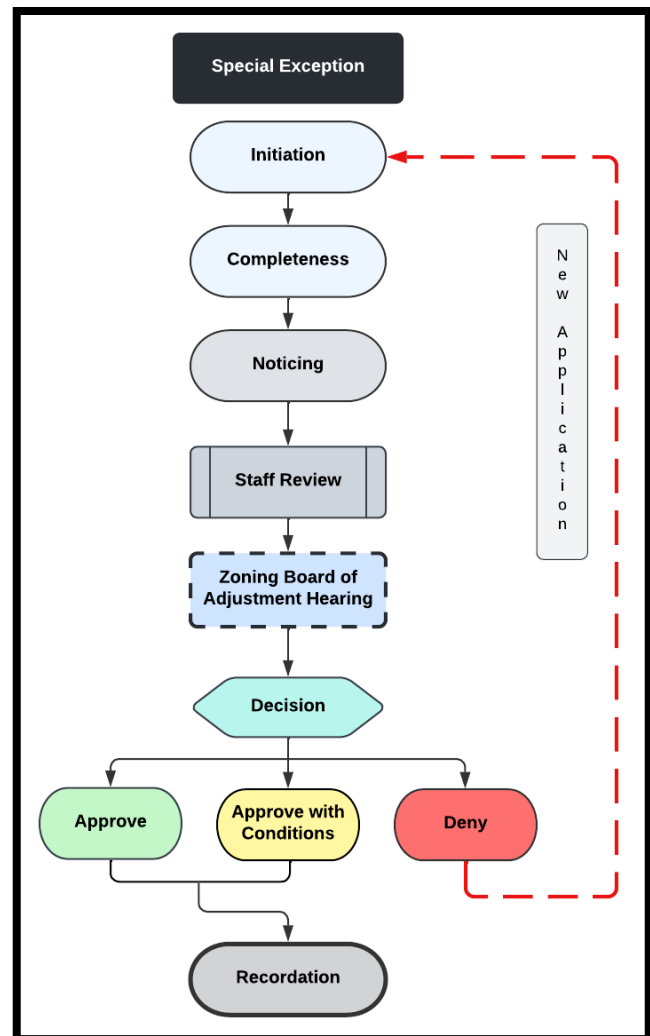


Figure 184.1: Special Exception Flowchart

- (b) *Initiation.* The Zoning Board of Adjustment may grant a special exception upon receiving a written request from the property owner or authorized agent.
- (c) *Completeness.* See Section 140-161. (b).
- (d) Notice and Hearing(s).
 - (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - (2) A public hearing is required and shall comply with Section 140-164.
- (e) Decision.

- (1) The Zoning Board of Adjustment shall conduct a public hearing on the special exception and shall render its decision after the hearing is closed.
 - (2) The Zoning Board of Adjustment may, in whole or in part:
 - a. Approve the special exception;
 - b. Deny the special exception; or
 - c. Approve the special exception with conditions.
 - (3) The concurring vote of 75% of the members of the Zoning Board of Adjustment is required to grant a special exception per Texas Local Government Code § 211.009(c).
 - (4) In granting a special exception, the Zoning Board of Adjustment may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety, and general welfare, including but not limited to conditions specifying the period during which a nonconforming use may continue to operate or exist before being brought into conformance with the provisions of this UDC.
- (f) *Standards.* If the Zoning Board of Adjustment finds that the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the Zoning Board of Adjustment may authorize the following special exceptions to the regulations herein established:
- (1) *Nonconforming Uses.* Permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use and permit the expansion of off-street parking or off-street loading for a nonconforming use.
 - (2) *Building Setbacks.* For existing buildings that were legally constructed prior to the effective date of this UDC, the Zoning Board of Adjustment may authorize a special exception to allow reconstruction of a building over a setback line or allow a building to be set back further than a build-to line established by this UDC.
 - (3) Cell Tower Height.
 - a. The Zoning Board of Adjustment may approve a special exception for an antenna support structure that exceeds thirty-five (35) feet in height if the structure is set back an additional foot from the minimum required setback for each foot in height above thirty-five (35) feet to a maximum height of eighty (80) feet in nonresidential zoning districts excluding industrial zoning districts) and one hundred twenty (120) feet in industrial zoning districts.
 - b. Only one antenna facility exceeding thirty-five (35) feet in height is permitted on each lot.

- (4) *Building Height*. The Zoning Board of Adjustment may permit a building height that exceeds the maximum building height for that zoning district in which that building is located by up to a twenty-five percent (25%) height increase.
 - (5) *Landscaping*. The Zoning Board of Adjustment may permit landscaping that varies by more than ten percent (10%) from the requirements of landscaping regulations.
 - (6) *Parking*. In a case where the customary mode of transportation of a majority of the patrons, employees, and proprietors of any use, to and from the area in which that use is located, is other than by private automobile, required parking may be reduced up to fifty percent (50%) by the Zoning Board of Adjustment.
- (g) *Subsequent Applications*. No request for a special exception that has been denied shall be further considered by the Zoning Board of Adjustment under a subsequent request unless:
- (1) Six (6) months have elapsed from the date of denial; or
 - (2) Conditions relative to other property in the immediate vicinity, within the that six-month period, have been changed or acted on by the Zoning Board of Adjustment or City Commission so as to alter the facts and conditions on which the previous Board of Adjustment action was based.
- (h) *Appeals*. A party with standing may seek judicial review pursuant to Texas Local Government Code § 211.011.
- (i) *Scope of Approval*. After a final decision on the special exception is rendered, the applicant and any party in interest may file any further permits or applications, undertake construction, or establish a use consistent with that decision.
- (j) *Recordation*. The Director shall maintain a copy of any order of the Zoning Board of Adjustment pursuant to this Section.

Section 140-185. Minor Modification

(a) Applicability.

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

- (3) Minor modification requests must be clearly delineated graphically or in narrative format, as appropriate, on the Site Plan (or on the project's initial application), including a reference to the specific section within this UDC that allows consideration of a minor modification standard required in Article IV.
 - (4) The applicable zoning district standards for a project shall not be reduced or varied using the minor modification process unless the standard is specifically cited as qualifying for minor modification in this UDC.
- (b) *Initiation.* A request for minor modification, as specifically cited within this UDC, may be submitted for review and approval along with the site plan for a project, or along with the project's initial application (as applicable for the project).

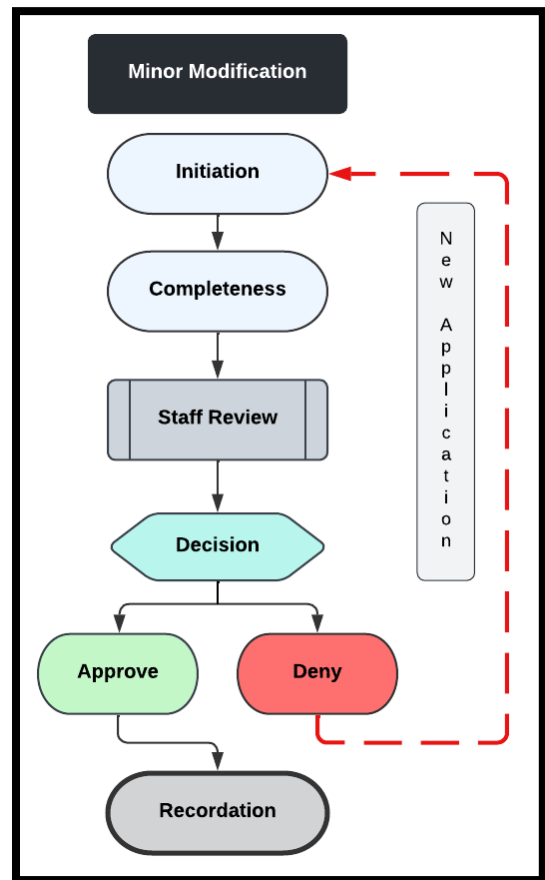


Figure 185.1: Minor Modification Flowchart

- (c) *Completeness*. See Section 140-161. (b).
- (d) *Notice and Hearing(s)*. Not applicable.
- (e) *Decision*. The Director shall review the site plan and shall act to:
 - (1) Approve the minor modification; or
 - (2) Deny the minor modification.
- (f) *Standards*.
 - (1) The requested minor modification is consistent with the recommendations and policies of the City's Comprehensive Plan.
 - (2) The proposed minor modification does not reduce a standard unless it is, to the greatest extent practical, equally mitigated or improved by increasing the standards of other requirements.
 - (3) The proposed minor modification does not attempt to modify the land uses allowed in the zoning district in which the subject property is located, or to add a land use not normally allowed in the zoning district.
- (g) *Subsequent Applications*. Not applicable.
- (h) *Appeals*.
 - (1) The Applicant may appeal the Director's decision within thirty (30) calendar days of the Director providing a written decision to the applicant.
 - (2) The appeal will be placed on the next available Planning and Zoning Commission agenda. The Planning and Zoning Commission may either affirm, reverse, or modify the Director's decision.
- (i) *Scope of Approval*. After a minor modification is approved, the Director may apply the approval to a pending site plan review. Once the minor modification and the site plan are approved, the Director may issue a building permit or certificate of occupancy consistent with any conditions of the minor modification and site plan approval.
- (j) *Recordation*. The applicant and Director shall maintain a copy of minor modification approval.

Section 140-186. Subdivision Waiver

(a) Applicability.

- (1) An applicant may request a subdivision waiver of a particular standard or requirement applicable to a preliminary plat, to construction plans, or where no preliminary plat application has been submitted for approval, to a final plat or a replat.
- (2) A subdivision waiver petition shall be specific in nature and shall only involve relief consideration for one standard or requirement.
- (3) An applicant may, if desired, submit more than one subdivision waiver petition if there are several standards or requirements at issue.

(b) Initiation.

- (1) A request for a subdivision waiver shall be submitted in writing by the applicant with the recording of any plat or construction plan application.
- (2) No subdivision waiver may be considered or granted unless the applicant has made such written request.
- (3) The applicant's subdivision waiver request shall state the grounds for the subdivision waiver request and all failure to do so, will result in denial of the application.

(c) *Completeness*. See Section 140-161. (b).

(d) Notice and Hearing(s).

- (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.

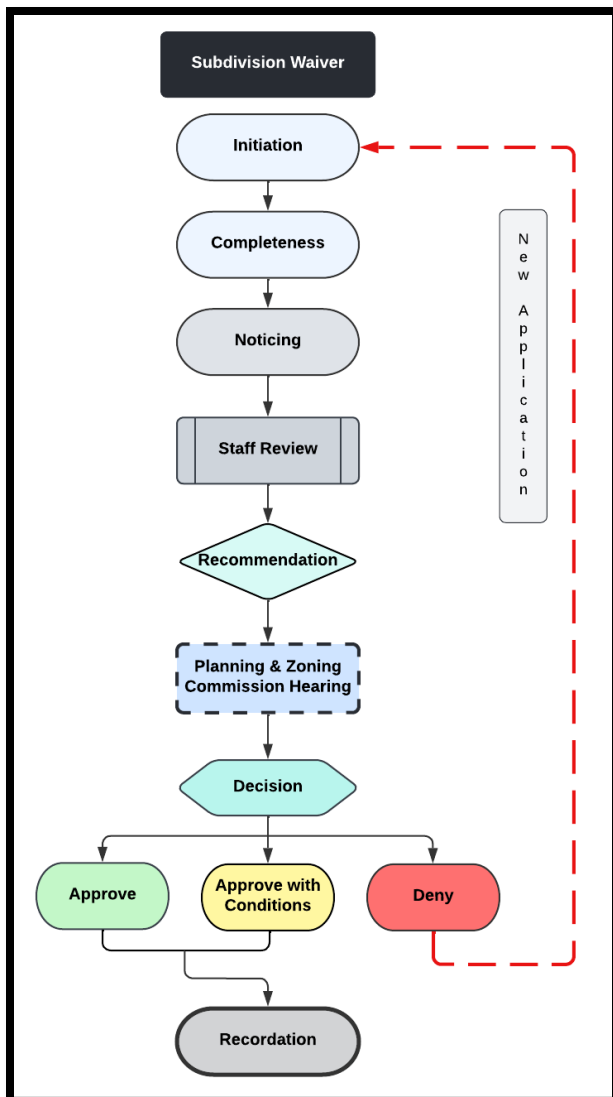


Figure 186.1: Subdivision Waiver Flowchart

(2) A public hearing is required and shall comply with Section 140-164.

(e) Decision.

(1) *Director Review.* The Director shall review the waiver application, send the application to other departments and entities for review (i.e., Planning, Fire, Health, etc.), place the application on the next Planning and Zoning Commission agenda, and provide a recommendation to the Planning and Zoning Commission to:

- a. Approve the waiver;
- b. Deny the waiver; or
- c. Approve the waiver with conditions.

(2) Planning and Zoning Commission Decision.

a. *Generally.* The Planning and Zoning Commission shall review each waiver submitted pursuant to this UDC and take the following action within thirty (30) days of the submittal date by the applicant, unless additional time is agreed to by the applicant to:

1. Approve the waiver;
2. Deny the waiver; or
3. Approve the waiver with conditions.

b. Approved with Conditions or Denied.

1. If the waiver is denied or approved conditionally, the reasons for that action shall be stated in writing, a copy of which shall be signed by the Planning and Zoning Commission Chairperson and shall be attached to one (1) copy of the plat and transmitted to the applicant.
2. Reasons for denial or conditional approval shall refer specifically to those parts of the Comprehensive Plan or specific regulations with which the plat does not conform.
3. On a conditional approval, the Planning and Zoning Commission may require submission of a revised waiver.

c. *Automatic Approval.* If no action is taken by the Planning and Zoning Commission at the end of the thirty (30) day period, the waiver shall be deemed approved.

(f) Standards.

(1) A subdivision waiver to regulations within this UDC may be approved only when, in the Planning and Zoning Commission's opinion, undue hardship will result from strict compliance to the regulations.

- (2) The Planning & Zoning Commission shall consider the following factors:
 - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;
 - b. The number of persons who will reside or work in the proposed development;
 - c. The effect such subdivision waiver might have upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity; and
 - d. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
 - (3) No subdivision waiver shall be granted unless the Planning and Zoning Commission finds that:
 - a. There are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this UDC would deprive the applicant of the reasonable use of their land;
 - b. The subdivision waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the subdivision waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area;
 - c. The granting of the subdivision waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this UDC; and
 - d. The granting of the subdivision waiver will not constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or comprehensive plan of the City.
 - (4) If the subdivision waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the subdivision waiver and shall be grounds for reconsideration of the subdivision waiver request.
- (g) *Subsequent Applications*. Not applicable.
- (h) *Appeals*. Not applicable.
- (i) *Scope of Approval*. Following the approval of a subdivision waiver, the applicant may submit or continue the processing of a plat or construction plans, as applicable.
- (j) *Recordation*. The applicant and City Engineer shall maintain a copy of the subdivision waiver approval.

Section 140-187. Subdivision Proportionality Appeal

(a) Applicability.

- (1) A subdivision proportionality appeal provides a means of relief from a requirement for dedication, construction, payment of a fee, other than an impact fee authorized by Chapter 395 of the Texas Local Government Code, while ensuring that the imposition of uniform dedication, construction, and fee standards to a proposed Subdivision does not result in a disproportionate burden on the applicant, taking into consideration the nature and extent of the demands created by the proposed development on the 'City's roadways and public facilities systems.
- (2) An applicant may file a petition for relief under this Section and Texas Local Government Code Section 212.904 to contest any requirement to dedicate land or to construct public facilities as required by this UDC, other ordinance, or attached as a condition to approval of the application for construction plans.
- (3) This Section may not be used to waive standards on grounds applicable to any subdivision waiver application, as outlined in Section 140-191.

(b) Initiation.

- (1) The petition for relief from a dedication, construction, or fee requirement must demonstrate that the standard relating to the requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the 'City's storm drainage, parks or transportation system, or does not reasonably benefit the proposed Subdivision.

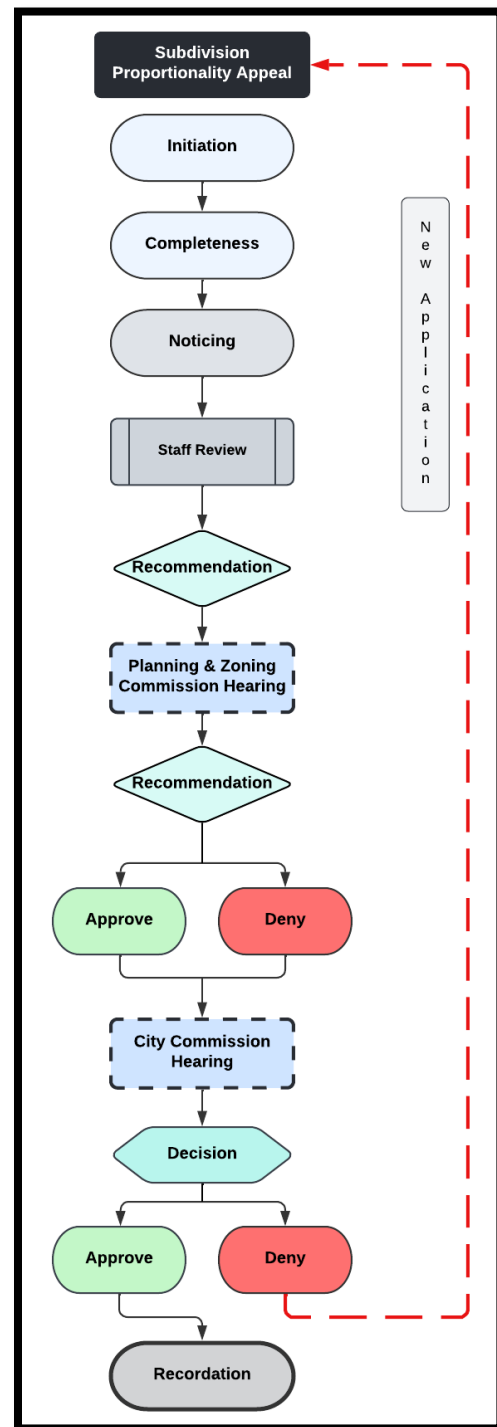


Figure 187.1: Subdivision Proportionality Appeal

- (2) The applicant must file the petition for relief from a dedication, construction, or fee requirement with the Director within fifteen (15) business days following the decision to conditionally approve or deny an application.
 - (3) The applicant must file the study in support of the petition within sixty (60) calendar days following the 'Director's initial decision, unless the applicant requests an extension in writing.
 - (4) The Director may extend the time for submitting the study for a period not to exceed an additional thirty (30) calendar days for good cause shown.
- (c) Completeness.
- (1) The applicant shall generally meet the requirements of Section 140-161. (b).
 - (2) The applicant shall provide a study in support of the relief petition as a part of the completeness process. The study shall include the following information:
 - a. Capacity Utilized.
 1. An assessment of total capacity of the 'City's storm drainage, parks or transportation system, including bicycle and pedestrian facilities, to be utilized by the proposed subdivision, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the subdivision.
 2. If the subdivision is to be developed in phases, the information identified in this Section must be provided for the entire subdivision proposed, including any phases already developed.
 - b. Capacity Supplied.
 1. An assessment of total capacity to be supplied to the 'City's storm drainage, parks, or roadway system by the proposed dedication of an interest in land or construction of public facilities.
 2. If the application is part of a phased development, the information must include any capacity supplied by prior dedications or construction of public facilities.
 - c. Capacity Comparison.
 1. A comparison of the capacity of the 'City's public facilities system(s) to be consumed by the proposed subdivision with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land, construction of public facilities, or payment of a fee.
 2. In making this comparison, the impacts on the 'City's public facilities system from the entire subdivision will be considered.

- d. A determination of potential City participation in the costs of oversizing the public improvement to be constructed in accordance with the 'City's requirements, and the outcomes of such participation.
 - e. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City.
- (3) Where land or facilities to be dedicated are located in the ETJ of the City and are to be dedicated to the County, a petition for relief or study in support of the petition will be accepted as complete for review by the Director only when such petition or study is accompanied by verification that a copy has been delivered to, and accepted and approved by the County, as applicable.
- (d) Notice and Hearing(s).
- (1) Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
 - (2) Two public hearings are required and shall comply with Section 140-164.
- (e) Decision.
- (1) *Director Review.* The Director shall review the petition for relief and shall provide a recommendation to the Planning and Zoning Commission to:
 - a. Approve the petition for relief; or
 - b. Deny the petition for relief.
 - (2) *Planning and Zoning Commission Recommendation.* The Planning and Zoning Commission shall conduct a public hearing on the petition for relief. The public hearing shall be recessed and continued to a time and date certain, at least ten (10) days after the initial hearing after which a second meeting will occur. The Planning and Zoning Commission shall submit its recommendation to the City Commission:
 - a. To approve the petition for relief; or
 - b. To deny the petition for relief.
 - (3) *City Commission Decision.* The City Commission shall consider the petition for relief at a public hearing after a recommendation has been provided by the Planning and Zoning Commission. After the hearing is closed, the City Commission shall:
 - a. Approve the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality;

- b. Approve the petition for relief, and direct that the City participate in the costs of acquiring land for or constructing the Public Improvement under standard participation policies; or
 - c. Deny the petition for relief and impose the dedication or construction requirement as required by this UDC.
- (f) Standards.
- (1) The applicant bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the applicant.
 - (2) The City Commission shall determine whether the application of the standard or condition is roughly proportional to the nature and extent of the impacts created by the proposed development on the 'City's storm drainage, parks, pedestrian infrastructure, or roadway system, and whether the application of the standard or condition reasonably benefits the subdivision.
 - (3) The City Commission shall consider the evidence submitted by the applicant, the report and recommendation of the Director, the recommendation of the Planning and Zoning Commission and, where the property is located within the 'City's ETJ, any recommendations from the County, and the following, as applicable:
 - a. Consistency with the Comprehensive Plan;
 - b. Adverse impacts on neighboring lands; and
 - c. Health, safety, and welfare of the City.
 - (4) The City may participate in the costs of public facilities, credit or offset the obligations against payment of fees, or relieve the property owner any of the obligations in response to a petition for relief from a dedication or construction requirement if participation or credit will achieve proportionality between the demands created by a proposed subdivision on public facilities and the obligation to provide adequate public facilities.
- (g) *Subsequent Applications*. Where an application was denied based upon the imposition of the standard requiring dedication of land or construction of a required public improvement and the City 'Commission's decision is to grant some level of relief, the Subdivider must resubmit the application within sixty (60) business days following the date the petition for relief is granted, in whole or in part, showing conformity with the City 'Commission's decision on the petition.
- (1) If the application is not resubmitted within the sixty (60) day period, the application and the relief granted by the City Commission on the petition shall expire.

- (2) If the re-submittal of the application is modified in any other way, a new petition for relief may be required by the Director.
- (3) If the application for which relief was granted is denied on other grounds, a new petition for relief may be required by the Director.

(h) *Appeals*. Not applicable.

(i) *Scope of Approval*.

- (1) The applicant shall submit a modified application or supporting materials to the Director consistent with the relief granted by the City Commission on the petition.
- (2) The relief granted on the petition shall remain in effect for the period the application is in effect and will expire upon expiration of the construction plans or plat.

(j) *Recordation*. The applicant and Director shall maintain a copy of the approved relief.

Section 140-188. Economic Hardship Waiver

(a) *Applicability.* An economic hardship waiver may be submitted to the Historic Preservation Officer as a result of a denied certificate of appropriateness decision.

(b) *Initiation.* Within ten (10) calendar days of receipt of written notification from McAllen Historic Preservation Council of the denial of a certificate of appropriateness to demolish a resource or any part of it, an aggrieved applicant may file an economic hardship waiver application with the Historic Preservation Officer.

(c) *Completeness.*

(1) Generally, refer to Section 140-161. (b).

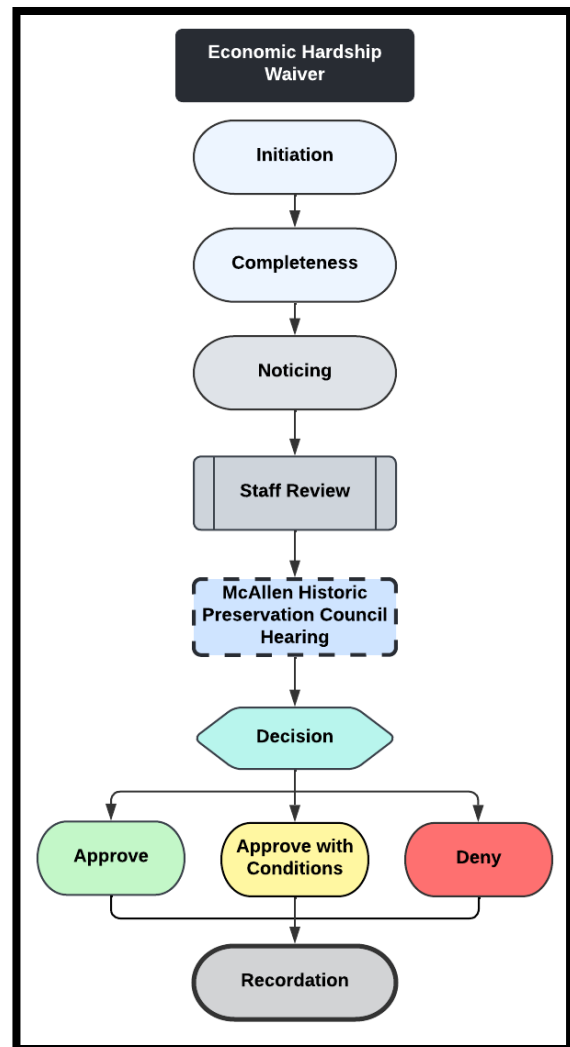
(2) Within sixty (60) calendar days of applicant's receipt of the denial notice, a waiver applicant must have a complete application on file, including all required documentation and exhibits, including, without limitation:

- a. Appraisal of property by a licensed real estate appraiser;
- b. Estimated costs for appropriate rehabilitation prepared by a licensed architect or engineer with experience in historic preservation;
- c. Documentation of consideration of alternative uses for the property; and
- d. Documentation of public advertisement to solicit a buyer willing to appropriately rehabilitate their property.

(d) *Notice and Hearing(s).*

(1) *Generally.*

- a. Noticing shall comply with Section 140-162. and Texas Local Government Code § 211.007(c), as applicable.
- b. A public hearing is required and shall comply with Section 140-164.



Flowchart

(2) Additional Requirements.

- a. The McAllen Historic Preservation Council shall hold a public hearing on the hardship waiver application no later than the second regular council meeting from the date the completed application is received by the Historic Preservation Officer.
- b. The applicant shall be given written notice of the time and place of the meeting by regular mail sent at least five (5) business days before the meeting to the address on the application.
- c. Written notices shall be sent in a manner similar to that provided in subsection 138-57(3), and official signs shall be posted as is provided in subsection 138-57(4), with the word“, "NOTICE OF HARDSHIP APPLICATION FOR WAIVER OF CERTIFICATE OF APPROPRIATENESS", with the number and location of said signs determined by the McAllen Historic Preservation Council.

(e) Decision.

- (1) The McAllen Historic Preservation Council shall conduct a public hearing on the waiver and shall render its decision after the hearing is closed.
- (2) The McAllen Historic Preservation Council may, in whole or in part:
 - a. Approve the waiver;
 - b. Deny the waiver; or
 - c. Approve the waiver with conditions.
- (3) A written notice of the McAllen Historic Preservation Council's decision, stating the reasons for approving or denying the hardship waiver application, shall be sent to the applicant by certified mail within five (5) business days after it is rendered.
- (4) If the McAllen Historic Preservation Council does not act within one hundred twenty (120) calendar days of the receipt of the waiver application, the application shall be deemed approved and a certificate of appropriateness granted.

(f) *Standards.* The applicant for an economic hardship waiver must prove with adequate and sufficient documentary and other evidence to the McAllen Historic Preservation Council that:

- (1) The applicant cannot make reasonable beneficial use of or, for income-producing properties, the property is not capable of yielding a reasonable return, regardless of whether that return represents the most profitable return possible;
- (2) Reasonable efforts to find a party interested in acquiring the property and preserving it have failed;

- (3) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would render it capable of yielding a reasonable return; and
 - (4) The applicant consulted in good faith with the McAllen Historic Preservation Council, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- (g) *Subsequent Applications*. Not applicable.
- (h) Appeals.
- (1) An applicant dissatisfied with the decision of the McAllen Historic Preservation Council of an economic hardship waiver may appeal the decision to the City Commission, citing that the decision is unjust, in whole or in part, and specifying the grounds of injustice.
 - (2) An appeal shall be presented to the City Commission within five business days after the final decision of the McAllen Historic Preservation Council.
 - (3) City Commission shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in this Article.
- (i) *Scope of Approval*. No building permit or demolition permit shall be issued unless the council makes a finding that hardship exists and approves a waiver.
- (j) *Recordation*. The Historic Preservation Officer shall maintain a copy of any order of the McAllen Historic Preservation Council pursuant to this Section.

Section 140-189. Interpretation

- (a) *Applicability.* The Director has the authority to make written interpretations concerning the text of this UDC and the zoning map.
- (b) *Initiation.* A request for interpretation shall be submitted to the Director on a form established by the Director and made available to the public.
- (c) *Completeness.* See Section 140-161. (b).
- (d) *Notice and Hearing(s).* Not applicable.
- (e) *Decision.* The Director may, at their discretion, take any of the following actions:
 - (1) Review and evaluate the request;
 - (2) Consult with other staff as necessary;
 - (3) Render an opinion; and
 - (4) Provide the interpretation to the applicant in writing by regular mail.
- (f) *Standards.* The Director shall consider this UDC, the zoning map, the comprehensive plan, and any other relevant information.
- (g) *Subsequent Applications.* Not applicable.
- (h) *Appeals.* See Section 140-170.
- (i) *Scope of Approval.* An interpretation does not authorize the development or use of property. After an interpretation is issued, the applicant or any other person may file an application to develop or use property pursuant to this UDC, and the decision-maker shall take the interpretation into consideration.
- (j) *Recordation.* The Director shall maintain an official record of interpretations that shall be available for public inspection during normal business hours.

Article VII. Nonconformities

Division 1. Generally

Section 140-190. Purpose

This Article governs uses, buildings, structures, lots, and other situations that came into existence legally prior to the effective date of this UDC or the effective date of future amendments to this UDC, but do not comply with or conform to one or more requirements of this UDC. All such situations are collectively referred to as “nonconformities”.

Section 140-191. General Policy

While existing legal nonconformities may continue, this Article is designed to curtail substantial investment in nonconformities to bring about their eventual improvement or elimination to preserve the integrity of this UDC and the character of McAllen. Any existing legal nonconformity or site condition that becomes nonconforming because of any subsequent rezoning or amendment to this text of this UDC may be continued or maintained only pursuant to this Article. Also, this Article intends to reduce vacancies, promote appropriate redevelopment and re-use of existing structures and lots, and establish requirements.

Section 140-192. Applicability

- (a) This Article applies to any nonconformity. A “nonconformity” means any of the following on the effective date:
- (1) Nonconforming Use (Section 140-199.);
 - (2) Nonconforming Structure (Section 140-200.);
 - (3) Nonconforming Lot (Section 140-201.);
 - (4) Nonconforming Sign (Section 140-202.); or
 - (5) Nonconforming Site Plan Improvements (Section 140-203.).
- (b) For the purpose of this Article, the “effective date” means the effective date of this UDC or any amendment to this UDC that creates a nonconformity.

Section 140-193. Generally

- (a) *Continuation of Nonconformities.* Except provided below, the lawful use of a building or structure existing at the time of the adoption of this UDC may continue, even if the existing use, building, or structure does not conform to the provisions of this UDC for the district where it is located.

- (b) *Removal of Building or Structure.* If a nonconforming use, building, or structure is removed from a lot, the nonconformity terminates. Any use, building, or structure established or constructed after that time shall comply with the provisions of this UDC in effect at that time.
- (c) *Replacing Damaged Buildings or Structures.*
- (1) If a nonconforming building or structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of the UDC.
 - (2) In the case of partial destruction of a nonconforming building or structure not exceeding seventy-five percent (75%) of its reasonable value, reconstruction will be permitted by size and function, and cannot be expanded.
 - (3) A nonconforming building or structure or group of nonconforming buildings or structures that is damaged by disaster such as fire, flood, explosion, earthquake, tornado, highspeed natural wind, war, or riot, may be reconstructed or replaced subject to this Article and erected as before if:
 - a. The application for a permit is submitted within one (1) year of the disaster;
 - b. The restored or reconstructed building or structure does not exceed the square footage of the area as it existed before the disaster; and
 - c. The building or structure meets the McAllen Building Code.
- (d) *Applications.* The City will not process applications if there is a nonconformity, unless:
- (1) The application brings the property into conformity with this UDC; or
 - (2) The application is otherwise permitted by this UDC.

Division 2. Nonconformity-Specific Regulations

Section 140-194. Nonconforming Uses

- (a) *Applicability.* This Section applies to any “nonconforming use,” defined as a use that lawfully occupies a building or land on the effective date and that:
- (1) Is no longer permitted in the applicable zoning district; or
 - (2) Would require a conditional use permit in the applicable zoning district.
- (b) *Generally.* No existing building, structure, or premises devoted to a use not permitted by this UDC shall be enlarged or structurally altered unless required by law or court order, except as provided below.
- (c) *Discontinuance of Use.* A building, structure, lot, or parcel where a nonconforming use is discontinued for at least one year, regardless of the intent of the owner or occupant of the premises, may not be occupied by a nonconforming use after that time.

- (d) Change in Nonconforming Uses.
- (1) A nonconforming use may change to a conforming use. After a nonconforming use changes to a conforming use, it may not change back to a nonconforming use.
 - (2) A nonconforming use conducted in a structure may change to another use within the same definition if it is not relocated or expanded.
 - (3) A nonconforming use not conducted in a structure, or one in which a structure is incidental to the use of the land, shall not change to any other nonconforming use.
 - (4) A nonconforming use of any classification shall not be added where there is already an existing nonconforming use.
- (e) *Expansion or Enlargement of Nonconforming Uses.* A nonconforming use may be extended only within the premises on which the nonconforming use was located on the effective date. "Premises" means the building where the use occurs and the accessory buildings, appurtenances, driveways, parking, and loading spaces.

Section 140-195. Nonconforming Structures

- (a) *Applicability.* This Section applies to any "nonconforming structure." A "nonconforming structure" means a building or structure that:
- (1) Lawfully exists on the effective date of this UDC or any amendment to this UDC that would cause the building or structure not to comply with this UDC; and
 - (2) Does not conform to all of the regulations of the zoning district in which it is located.
- (b) *Continuance of Nonconforming Structures.* Except as provided below, any nonconforming structure may be occupied and operated if maintained in a state of good repair.
- (c) Expansion.
- (1) Unless specified otherwise in this UDC, a nonconforming structure on a lot may expand one time by as much as twenty-five percent (25%) of the building's square footage if:
 - a. The expansion does not encroach into required setbacks;
 - b. Paved parking, sidewalks, and landscaping, as required by this UDC, are provided; and
 - c. The nonconforming building or structure is screened and buffered from adjacent uses and zones as determined by Article IV. Division 6.
 - (2) The expansion is only allowed pursuant to the Director's authorization.
 - (3) The expansion shall conform to all zoning district and development standards of this UDC and shall not create a new nonconformity.

Section 140-196. Nonconforming Lots

- (a) *Applicability.* This Section applies to any nonconforming lot. A “nonconforming lot” is a lot of record that, on the effective date of this UDC or any ordinance that establishes a minimum or maximum lot area, frontage, or lot width, is:
- (1) Not in compliance with the minimum or maximum lot area, frontage, or lot width;
 - (2) Lawfully existing and of record; and
 - (3) Held in separate and different ownership from any lot immediately adjoining and having continuous frontage.
- (b) *New Construction.* In all districts, a nonconforming lot may be used as the building site for any use permitted in that district. No newly created or platted lot shall result in a nonconforming lot.

Section 140-197. Nonconforming Signs

- (a) *Applicability.* Permanent signs that were allowed before the effective date are allowed to remain and may be maintained and repaired as necessary. Signs that this UDC prohibits shall be modified to conform, replaced with a conforming sign, or removed according to the following:
- (1) If the lot on which the nonconforming sign is located requires any approval or permit that is subject to the site plan process;
 - (2) If there is a change in business ownership, tenant, name, or type of business;
 - (3) If any maintenance, repair, or alteration exceeds fifty percent (50%) of the current value of the sign as of the date of alteration or repair; or
 - (4) If the use of the lot on which the sign is located has been discontinued for ninety (90) days or longer.
- (b) *Exceptions.*
- (1) *Nonconforming Subdivision Entry Signs.* A nonconforming subdivision entry sign that was first installed or erected before the effective date, may continue to be maintained in the current configuration unless the sign requires any maintenance, repair, or alteration that exceeds fifty percent (50%) of the current value of the sign as of the date of alteration or repair.
 - (2) *Signs with Nonconforming Electronic Message Centers.* A sign with an electronic message center that does not conform with the area limitations or technological standards of this UDC that was first installed or erected before the effective date, may continue to be maintained, repaired, altered, or replaced so long as the

modifications do not enlarge the area of the electronic message center or make it more nonconforming under the standards of this UDC.

(c) Sign Removal.

- (1) If a building, structure, or premises is vacant for a six-month period of time, the owner of the premises shall remove any sign messages located on the premises. Additionally, the facade of the building, structure, or premises shall be restored to its condition before the sign's installation.
- (2) If the owner has not removed an abandoned sign after six (6) months, the Director will notify the property owner in writing that the sign must be removed within thirty (30) days.
- (3) The notice will be mailed to the owner or agent of the property by certified mail, return receipt requested, or by personal service.
- (4) If the property is unoccupied and the owner is a nonresident, then the notice may be served by certified mail, return receipt requested, to the last known address of the owner.
- (5) If the owner does not remove the sign or appeal within thirty (30) days after the notice is mailed, the City may remove the sign and assess the cost of removal to the owner of the property on which the sign was placed.
- (6) The City Secretary will mail a statement of the costs for the removal of an abandoned sign or signs to the last known address of the owner of record of the property.
- (7) The statement of costs will be mailed to the owner or agent of the property by certified mail, return receipt requested, or by personal service.
- (8) If the property is unoccupied and the owner is a nonresident, then the statement of costs may be served by certified mail, return receipt requested, to the last known address of the owner.
- (9) If the costs are not paid within sixty (60) days of the date the notice is mailed, the City may put a lien on the property.

Section 140-198. Nonconforming Site Plan Improvements

- (1) *Applicability.* This Section applies to any nonconforming site plan improvements. "A "Nonconforming Site Improvement" is a situation that occurs when, on the effective date:
 - a. An existing site plan feature on a lot (including but not limited to parking areas, storm drainage facilities, sidewalks, and landscaping) no longer conforms to the applicable regulations of this UDC; or

- b. The lot does not include site plan improvement features required by this UDC for any existing use, building or structure on the lot.
 - (2) This Section does not apply to one-time repairs and renovations of less than ten percent (10%) of the structural value of a structure or site improvements.
- (b) *Generally.* On lots with nonconforming site plan improvements, additions to, or exterior repairs or alterations of any building, structure or site improvement that increases the square footage by greater than two thousand (2,000) square feet or twenty-five percent (25%), whichever is greater, are not allowed, unless:
 - (1) The nonconforming site plan improvements are brought into complete conformity with the regulations applicable to the use, building, structure, or zoning district; or
 - (2) The activity is authorized by a site plan approved by the Planning and Zoning Commission.
- (c) *Standards.* When an addition to, or repairs or alterations to, any structure or site improvement is proposed on a lot with a nonconforming site plan improvement, the Planning and Zoning Commission may approve a site plan allowing the addition, repairs, or renovation if:
 - (1) The nonconforming site plan improvement(s) is the only nonconformity pertaining to the property;
 - (2) Compliance with the site plan improvement requirements applicable to the zoning district in which the property is located is not reasonably possible. Mere financial hardship does not constitute grounds for finding that compliance with the site improvement requirements are not reasonably possible;
 - (3) The property can be developed as proposed without any significant adverse impact on surrounding properties or the public health or safety; and
 - (4) If needed, the owner commits to other site design measures to reduce negative impacts associated with the nonconformity or to accomplish the purpose of the required site plan improvement.

Article VIII. Enforcement

Division 1. General Enforcement Procedures

Section 140-199. Generally

- (a) This Article establishes procedures the City uses to ensure compliance with the provisions of this UDC and obtain corrections for violations. It also institutes the remedies and penalties that apply to UDC violations.
- (b) For any violation not encompassed by this Article, the Code Enforcement Department may issue a citation in Municipal Court stating the alleged violation, the date of the violation, and the section of the UDC violated. Each day during which any violation of this Article occurs or continues is a separate offense and upon conviction is punishable as provided in this UDC.

Section 140-200. Violations

Any of the following violates this UDC and are subject to the remedies and penalties provided for in this Article.

- (a) *Buildings or Structures.* To erect, construct, reconstruct, alter, repair, convert, or maintain a building or structure in a manner inconsistent with the requirements of this UDC or a condition of approval.
- (b) *Use of Land.* To use any land or premises in a manner inconsistent with the requirements of this UDC or a condition of approval.
- (c) *Establish Use, Structure, or Sign Without Permit or Approval.* To establish or place any use, structure, or sign upon land that is subject to this UDC without all of the approvals required by this UDC.
- (d) *Development or Subdivision Without Permit or Approval.* To engage in any subdividing, development, construction, remodeling, or other activity of any nature upon land that is subject to this UDC without all of the approvals required by this UDC.
- (e) *Development, Subdivision, Use, or Sign Inconsistent with Permit.* To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required to engage in those activities.
- (f) *Development, Subdivision, Use, or Sign Inconsistent with Conditions of Approval.* To violate, by act or omission, any term, condition, or qualification placed by an approval authority upon any permit or other form of authorization.

- (g) *Development, Subdivision, or Sign Inconsistent with this UDC.* To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in violation of any zoning, subdivision, sign, or other regulation of this UDC.
- (h) *Driveway Construction or Alteration without a Permit.* To construct, reconstruct, relocate or in any way alter the design or operation of any driveway without first obtaining a building permit issued by the Building Official.
- (i) *Making Lots or Setbacks Nonconforming.* To reduce or diminish any lot area so that the lot size, setbacks, or open spaces are smaller than required by this UDC.
- (j) *Increasing Intensity or Density of Use.* To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this UDC.
- (k) *Removing or Defacing Required Notice.* To remove, deface, obscure, or otherwise interfere with any notice required by this UDC.
- (l) *Failure to Remove Signs.* To fail to remove any sign installed, created, erected, or maintained in violation of this UDC or for which the sign permit expired.
- (m) *Miscellaneous.* Any other action, or failure to act, that does not comply with a requirement of this UDC or a lawful condition of approval.

Section 140-201. Responsible Persons

- (a) Any person who violates this UDC is subject to the remedies and penalties expressed in this Article.
- (b) If a person causing a violation is a renter, lessor, or contractor, the Director may notify the owner and the renter, lessor, or contractor of the violation. The owner shall ensure that the renter, lessor, and/or contractor are aware of the violation and the owner is ultimately responsible to ensure that the violations are corrected.

Section 140-202. Enforcement Responsibility

The Code Enforcement Department holds primary responsibility for enforcing all provisions of this UDC. Other officers of the City, designated by the City Manager, share responsibility for enforcing provisions of this UDC.

Section 140-203. Enforcement Procedures

- (a) *Remedies and Enforcement Powers.* The Code Enforcement Department has the following remedies and enforcement powers.

- (b) *Generally.* If Section 140-205. applies, the City may institute any appropriate action or proceedings:
- (1) To prevent any unlawful erection, maintenance, or use;
 - (2) To restrain, correct, or abate the violation;
 - (3) To prevent the occupancy of a building, structure, or land; or
 - (4) To prevent any illegal act, conduct, business or use in or about the premises.
- (c) **Withhold Permit**
- (1) The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements after determining there is an uncorrected violation of an UDC provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question.
 - (2) The City may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of an UDC provision or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation.
 - (3) If a subdivision plat is approved, a certificate of occupancy shall not be issued until all improvements are accepted by the City in writing and the approved plat is recorded.
- (d) *Permits Approved with Conditions.* Instead of withholding or denying a permit or other authorization, the City may grant authorization subject to a corrected violation condition.
- (e) *Revoke Permits.* Any development permit or other form of authorization required in this UDC may be revoked, including revocation of a certificate of occupancy.
- (f) *Stop Work.* With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of UDC provision or of a permit or other form of authorization issued, in accordance with its power to stop work under its building codes.
- (g) *Injunctive Relief.* The City may seek an injunction or other equitable relief in court to stop any violation of this UDC or of a permit, certificate, or other form of authorization granted.

- (h) *Abatement*. The City may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or otherwise to restore the premises in question to the condition in which they existed prior to the violation.
- (i) *Civil Action*. The City may enforce the provisions of this UDC through civil action as per state law.
- (j) *Withhold Public Services*
 - (1) The City may withhold any public services until all rules, regulations, and requirements of the subdivision regulations have been met.
 - (2) Unless a plan, plat or replat is approved in the manner and by the authorities provided for in this UDC, it is unlawful within the area covered by the plan, plat, or replat for any officials representing the City to serve or connect that land to any public utility owned, controlled or distributed by the City for the use of the owners or purchasers of the plat or plan.
- (k) *Other Remedies*. The City may have other remedies provided by law for zoning, subdivision, sign, or related UDC provision violations.
- (l) *Other Powers*. In addition to the enforcement powers specified in this Article, the City may exercise any and all enforcement powers granted by law.
- (m) *Continuation*. Nothing in this UDC prohibits the continuation of previous enforcement actions undertaken by the City by previous and valid ordinances and laws.

Section 140-204. Cumulative Remedies

The remedies and enforcement powers established in this Article are cumulative and the City may exercise them in any order or combination at any time.

Division 2. Remedies and Penalties

Section 140-205. Generally

Any person or corporation who violates any of the UDC provisions or fails to comply with any of the requirements, or who builds or alters any building or use in violation of any detailed statement or plan submitted and approved, is guilty of a misdemeanor punishable under this section.

- (a) The owner or owners or tenant of any building or premises or part, where anything in violation of this UDC exists, and any architect, builder, contractor, agent, person, or corporation employed in connection and who may have assisted in the commission of any UDC violation are guilty of a separate offense punishable under this Division.

- (b) A person who violates any provision of this Division by performing a prohibited act or by failing to perform an act required is guilty of a misdemeanor. Each day on which a violation exists or continues to exist is a separate offense.
- (c) If the definition of an offense under this Division does not prescribe a culpable mental state, then a culpable mental state is not required. This offense is punishable by a \$500 maximum fine. Although not required, if a culpable mental state is alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, this offense is punishable by a \$2,000 maximum fine.
- (d) If the definition of an offense under this Division prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense is punishable by a \$2,000 maximum fine.

Division 3. Demolition by Neglect or Without a Certificate of Appropriateness

Section 140-206. Generally

No owner or person with an interest in real property designated as a landmark or heritage property 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 council, produce a detrimental effect upon the historic character of the district or property. Such property shall be subject to the withdrawal of its designation pursuant to Article XI, penalties and disqualification pursuant to [Sec. 98-72](#) and [Sec. 98-73](#) of the Code of Ordinances, and ineligibility for any tax relief granted under [Chapter 98 Division 3](#) of the Code of Ordinances.

Examples of such deterioration include:

- (a) Deterioration of exterior walls or other vertical supports.
- (b) Deterioration of roofs or other horizontal members.
- (c) Deterioration of exterior chimneys.
- (d) Deterioration or crumbling of exterior stucco or mortar.
- (e) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for public safety.

Section 140-207. Penalties and Remedies

- (a) The McAllen Historic Preservation Council may revoke classification designators for failure by the property owner(s) within the historic district or of a designated landmark or heritage property to maintain the structure at the prescribed levels.
- (b) Any person who violates, participates or acquiesces in the violation of any provision of this Division, fails to comply with any of the requirements this UDC, or erects or alters any historic resource in violation of any detailed statement or plan required to be submitted and approved by this UDC shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and shall, upon conviction, be punished as prescribed in this Article.
- (c) A person found guilty of demolition of a designated property by neglect or without a required certificate of appropriateness shall be fined at least \$500.00 but not more than \$5,000.00 per violation.
- (d) The City Attorney is authorized to file an appropriate action in a court of competent jurisdiction to enforce these provisions by cause in equity or by any other remedy available by law.

Article IX. Approval Authorities

Division 1. Quasi-Legislative Bodies and Personnel

Section 140-208. City Commission

The City Commission, also known as the Board of Commissioners, serves as a decision-making body responsible to the Mayor, City Manager, and the City's residents. The City Commission is established in [Article 3](#) of the City Charter and shall follow those regulations, as applicable.

Section 140-209. Planning and Zoning Commission

(a) Organization.

- (1) The City establishes a Planning and Zoning Commission consisting of seven (7) members appointed by the City Commission and Mayor for terms of two (2) years from among the qualified voters of the city.
- (2) The Mayor and City Commission appoints one (1) member each. Members of the commission will hold no other city office.
- (3) The Planning and Zoning Commission makes recommendations to the City Manager and the City Commission on all matters affecting the physical development of the city, are consulted on the comprehensive plan and implementation, and may exercise all other responsibilities provided by law.
- (4) Planning and Zoning Commission members are resident citizens and qualified voters of the city.
- (5) A commissioner may be reappointed. However, no person will serve as a Planning and Zoning commissioner for more than three two-year terms of office, or six (6) consecutive years. This provision does not preclude the reappointment of persons appointed to serve out an unexpired term.
- (6) Commissioners appointed to replace resignations will serve the unexpired term of the resigned commissioner.
- (7) All Planning and Zoning Commission members will remain in office until new appointments are made.
- (8) Appointments to any vacancy in the Planning and Zoning Commission are made by the commissioner or the Mayor who made the previous appointment.
- (9) The commissioner or the Mayor will appoint and fill vacancies as soon as a replacement is found.
- (10) The Planning and Zoning Commission elects a chair and vice-chair to serve a one (1) year term.

- (11) Elections occur at the first regular Planning and Zoning meeting every January.
- (12) Upon resignation of any officer, the Planning and Zoning Commission elects a replacement from the Planning and Zoning Commission to fill the unexpired term.
- (13) A Planning and Zoning commissioner forfeits the office of Planning and Zoning commissioner if the commissioner:
 - a. Accepts any elected or paid city office;
 - b. No longer resides within the City's corporate limits;
 - c. Fails to attend three (3) consecutive regular meetings without excuse from the commission;
 - d. Is absent for more than fifty percent (50%) of regular meetings, with or without excuse, during a six-month period; or
 - e. Willfully, intentionally and knowingly violates any standard of conduct adopted by the Planning and Zoning Commission.
- (b) *Compensation.* Planning and Zoning Commission members serve without pay but may be reimbursed for business expenses incurred in relation to commission business and approved by the Planning and Zoning Commission and approved by the Director.
- (c) *Powers and Duties.* The Planning and Zoning Commission has the following powers and responsibilities:
 - (1) To send a recommendation to the City Commission to make and amend a comprehensive plan for the City's development. Before plan adoption, the Planning and Zoning Commission or City Commission shall hold at least one (1) public hearing after ten (10) day notice published in a daily newspaper of general circulation printed in the city. Plan adoption is by resolution.
 - (2) To recommend to the City Commission alternative zoning plans for the city and approval or disapproval of proposed changes in the zoning plan.
 - (3) To recommend certain special permits for specific land uses that may not be adequately regulated by zoning.
 - (4) To exercise control over platting, replatting or subdividing land within the corporate limits of the City and within area of extraterritorial jurisdiction to effectively control all applications for platting, replatting or subdividing of land, with plats and maps required by law.
 - (5) To act with and assist the City Commission in formulating and executing proper plans for municipal development.

- (6) To make recommendations to the City Commission concerning financial procurement and other aid from the state and federal governments when aid is necessary to the achievement of the City's planning and objectives.
 - (7) Subject to City Commission approval, to make rules and regulations and adopts bylaws for its own government.
- (d) *Meetings and Quorum.* The Planning and Zoning Commission will designate times and places for meetings. A majority of the Planning and Zoning Commission constitutes a quorum for business transactions. If a vacancy exists, that vacancy does not count towards determining a quorum.

Section 140-210. Zoning Board of Adjustment

- (a) Organization.
- (1) A Zoning Board of Adjustment is established by the provisions of Texas Local Government Code § 211.008.
 - (2) The Zoning Board of Adjustment consists of five regular members and four alternates whose method of appointment, terms, qualifications, attendance requirements, and governance shall conform to the applicable provisions of [Chapter 2 Article III Division 1](#) of the Code of Ordinances.
 - (3) The alternate members shall serve in the absence of one or more regular members so that all cases to be heard by the Zoning Board of Adjustment will be heard by a minimum of four members.
 - (4) Vacancies shall be filled for the unexpired term of any member by appointment by the City Commission, whether by new appointment or elevation of an alternate to regular member followed by appointment of a new alternate.
 - (5) A quorum shall consist of four members of the Zoning Board of Adjustment.
- (b) *Procedures and Appeals.* Procedures before the Zoning Board of Adjustment to and from such board shall be governed by the provisions of Texas Local Government Code §§ 211.008–211.011.
- (c) *Powers and Duties.* The Zoning Board of Adjustment has the following powers, and it shall be its duty:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this UDC.
 - (2) To hear and decide special exceptions and variances as provided in Article VI. Division 4.

Section 140-211. McAllen Historic Preservation Council

- (a) *Purpose.* The McAllen Historic Preservation Council intends to:
- (1) Protect and enhance the landmarks and districts which represent distinctive elements of McAllen's historic, architectural, and cultural heritage;
 - (2) Foster civic pride in the accomplishments of the past;
 - (3) Protect and enhance McAllen's attractiveness to visitors and the support and stimulus to the economy thereby provided;
 - (4) Insure the harmonious, orderly, and efficient growth and development of McAllen;
 - (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such historic buildings and structures within the City's corporate limits; and
 - (6) Encourage stabilization, restoration, and improvements of such buildings.
- (b) *Organization.*
- (1) The McAllen Historic Preservation Council is established and consists of seven (7) members appointed by the City Commission each having a known and demonstrated interest, competence or knowledge in historic preservation within the City of McAllen.
 - (2) The McAllen Historic Preservation Council shall include at a minimum one member each that qualifies as:
 - a. Architect licensed to practice in Texas;
 - b. Historian;
 - c. Licensed real estate broker or appraiser;
 - d. Building contractor; or
 - e. Owner of historic or landmark property.
 - (3) Whenever a vacancy shall arise whereby there is a loss of representation in the McAllen Historic Preservation Council of at least one of the qualified members, a new member shall be appointed to restore that representation.
 - (4) A quorum shall consist of four (4) members.
 - (5) Members shall serve for a term of two years in staggered terms according to [Chapter 2 Article III Division 1](#) of the Code of Ordinances.
 - (6) The chair and vice-chair of the McAllen Historic Preservation Council shall be elected by and from members of the board.

- (7) The chair and vice-chair of the McAllen Historic Preservation Council shall be elected annually as provided in [Sec. 2-79](#) of the Code of Ordinances.
- (c) *Powers and Duties.* The McAllen Historic Preservation Council shall have the following powers and it shall be its duty to:
- (1) Prepare rules and procedures as necessary to carry out the business of the McAllen Historic Preservation Council.
 - (2) Recommend criteria for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts, which may be adopted by the City Commission.
 - (3) Conducts surveys, and maintains an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the City.
 - (4) Create committees from among its members and delegate to those committees responsibilities to carry out the purposes of this UDC.
 - (5) Maintain written minutes which record all actions taken by the Historic Preservation Council and reasons for taking such actions.
 - (6) Recommend to the City Commission that the City publicly recognize the owners of landmark or heritage properties or of properties within historic districts by means of certificates, proclamations, plaques or markers.
 - (7) Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
 - (8) Make recommendations to the City Commission concerning the utilization of federal, state, local or private funds and/or tax incentives to promote the preservation or rehabilitation of landmark and heritage properties and historic districts within the City.
 - (9) Act upon applications for certificates of appropriateness that are required under this article or that are voluntarily applied for by property owners.
 - (10) Prepare specific design guidelines for the review of landmark and heritage properties and historic districts.
 - (11) Recommend the acquisition of landmark and heritage properties by the City where their preservation is essential to the purpose of this UDC and where private preservation is not feasible.
- (d) *Meetings.*
- (1) The McAllen Historic Preservation Council shall meet once a month if necessary at a regularly scheduled time.

- (2) Special meetings may be called upon request of the chair or vice-chair, or upon written request of four members, or upon notice from the Building Official or the Historic Preservation Officer that a matter requires the consideration of the McAllen Historic Preservation Council.
- (3) All meetings shall have advance notice posted in accordance with Texas Open Meetings Act, Texas Government Code ch. 551, as the same may be amended.

Division 2. Administrative Bodies and Personnel

Section 140-212. Planning Department

The Planning Department serves as an administrative and staff decision-making body responsible to the Mayor, City Manager, City Commission, Planning and Zoning Commission, and Zoning Board of Adjustment. The Planning Department and the Director have authority for processing proposals to change the text and map of this UDC and for processing plans, applications, special permits, and certificates.

Section 140-213. Director

- (a) *Appointment.* The Director shall be appointed by the City Manager as prescribed in [Article IV. Division 2](#) of the Code of Ordinances.
- (b) *Powers and Duties.* The Director has the following duties and responsibilities:
 - (1) To advise the City Manager on any matter affecting the physical development of the City.
 - (2) To formulate and recommend to the City Manager a comprehensive plan and modifications.
 - (3) To review and make recommendations regarding proposed City Commission action implementing the comprehensive plan.
 - (4) To participate in capital improvement program preparations and revisions.
 - (5) To advise the Planning and Zoning Commission in the exercise of its responsibilities and to provide necessary staff assistance.
 - (6) To keep the official zoning map current and the copies, by entering any changes that the City Commission may order by amendments to the UDC and Map.
 - (7) To provide any other action authorized by this UDC to ensure compliance with or to prevent violation(s).

Section 140-214. City Engineer

- (a) *Appointment.* See [Article IV. Division 4](#) of the Code of Ordinances.

- (b) *Powers and Duties*. In addition to the duties and responsibilities established in [Article IV, Division 4](#) of the Code of Ordinances, the City Engineer has the following duties and responsibilities:
- (1) To advise the City Manager on any matter affecting the physical development and all engineering matters of the City.
 - (2) To review and make recommendations regarding proposed City Commission action implementing the comprehensive plan.
 - (3) To make reports, preparations, and revisions regarding public improvements, repairs of streets, bridges, and sidewalks.
 - (4) To advise the Planning and Zoning Commission in the exercise of its responsibilities and to provide necessary staff assistance.

Section 140-215. Historic Preservation Officer

- (a) The Historic Preservation Officer is a City staff person who demonstrates an interest, competence, or knowledge in historic preservation.
- (b) The Director appoints the Historic Preservation Officer.
- (c) The Historic Preservation Officer administers Article XI, performs the duties and responsibilities as prescribed under this UDC, and advises the Historic Preservation Council on matters submitted to it.
- (d) The Historic Preservation Officer is responsible for coordinating the City's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations.

Section 140-216. Building Official

The Building Official is established in [Sec. 22-3](#) of the Code of Ordinances, and shall have the following powers and duties pursuant to [Sec. 22-4](#) of the Code of Ordinances.

Article X. Definitions

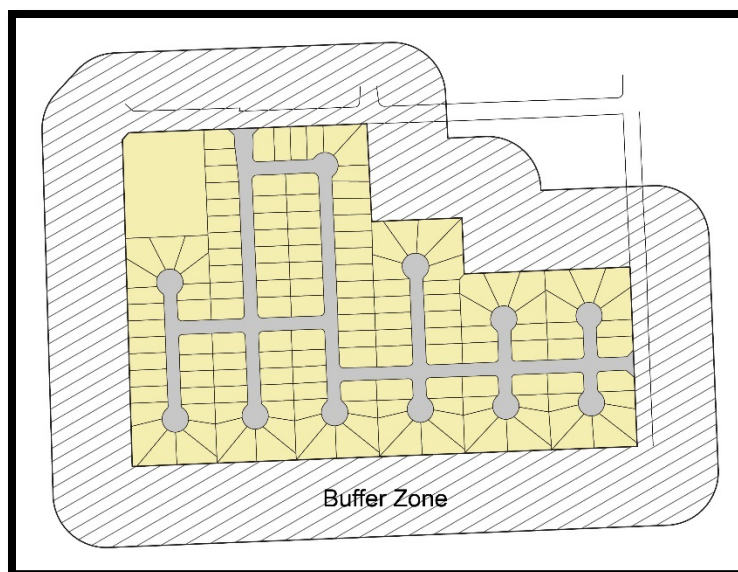
Division 1. Generally

Section 140-217. Usage and Interpretation Rules

For the purpose of this UDC, certain terms or words are interpreted or defined as follows:

- (a) Words used in the present tense include the future tense.
- (b) The singular includes the plural.
- (c) The word “person” includes a corporation, trust, individual, and/or group of individuals.
- (d) The term “shall” is always mandatory.
- (e) The term “may” is discretionary.
- (f) A reference to an official includes a designee of that official.
- (g) When the calculation of a number for a required standard results in a fraction, that fraction is rounded up to the next whole number.
- (h) When this UDC requires a distance or spacing buffer from a property, lot, use, or other specified item (i.e., a use separation, sign spacing, etc.), the distance shall be measured extending from the subject property lot lines as indicated in Figure 217.1: Buffer Measurements.

Figure 217.1: Buffer Measurements



Section 140-218. Words and Terms Not Expressly Defined

Words and terms not expressly defined in this Article are to be construed according to the normally accepted meaning of those words or terms. Where no definition appears, then according to their customary usage in the practice of planning and engineering, as determined by the Director.

Division 2. Defined Terms

Section 140-219. General Terms

(a) A Terms

Accessory Use

A building or use that:

- Is subordinate to and serves a principal building or principal use; and
- Is subordinate in area, extent, or purpose to the principal building or principal use served; and
- Contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served; and
- Is located on the same building lot as the principal use served. If connected to the principal building, an open-air structure with three or less walls is not considered a building addition of the main building.

Adequate Public Facilities

Facilities capable of supporting and servicing the physical area and designated intensity of a proposed subdivision or development based upon specific levels of service identified in the UDC or as adopted by the City.

Alley

A public right-of-way or private easement used for utility installation and/or secondary access to individual properties which have their primary access from an adjacent public or private street.

Amending Plat

A minor revision or modification of a recorded Plat that does not change or create new lot boundaries.

Applicant

Anyone authorized to submit an application for development, including, but not limited to, a property owner or the owner's designee or a subdivider or developer or their agent, attorney, architect, engineer, surveyor, or contractor. The applicant may be referred to as "subdivider" or "developer" in this UDC.

Application

Notice to the City provided on an acceptable form from the City that begins the development or subdivision process.

Architectural Planters

A container, typically affixed to the ground or a structure in which plantings may be placed within.

Attached Awning/Canopy Sign

A permanent sign painted, printed, attached, or otherwise applied to any facet of the covering or frame structure of an awning or attached structural canopy.

Attached Banner

A temporary sign made of fabric, cloth, bunting, plastic, paper, or any other non-rigid material with no enclosing framework that is attached, mounted, tied, or otherwise placed on a building or pole attached to a building. This definition does not include flags, pennants, or streamers.

(b) B Terms

Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year based on a fully developed watershed. Also known as the 100-year flood.

Bicycle Locker

A locker or box in which multiple bicycles can be placed, stored, and locked.

Bicycle Parking Facility

Those facilities such as bicycle racks, bicycle lockers, and other features required to park or store bicycles on a site.

Block

An identified tract or parcel of land surrounded by a street or streets, and other physical features which may be further subdivided into individual lots or reserves.

Block Length

That dimension between two intersecting streets.

Bollard

A vertical device that provides a physical barrier between different uses or site features to divert traffic from a roadway or specific area.

Bollard Rack

A bicycle facility affixed to pavement that stores up to two bicycles which are locked from the outside.

Building

Any permanent structure designed, used, or intended to be used for human occupancy or use or to support the human occupancy or use of land, including manufactured homes.

Building Code

The City's most recently adopted Building Code.

Building Height

See Section 140-54.

Building Line

See "Setback".

Building Materials, Class 1

The following exterior construction materials: fired brick, veneer brick, natural and manufactured stone, granite, marble, Architectural Concrete Block (earth-tone coloring integrated into the masonry material), or tilt-wall replicating any of the aforementioned materials.

Building Materials, Class 2

the following exterior construction materials: all Building Materials Class 1, cement fiber board, and 3-step stucco process.

Building Official

The individual holding the office of Building Official of the City of McAllen, who shall actively oversee the construction of development. This term includes their designee.

Building Permit

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

Building Square Footage

The area or floor space within a building or structure.

(c) C Terms

CCN

A Certificate of Convenience and Necessity (CCN) grants a CCN holder the exclusive right to provide retail water and/or sewer utility service to an identified geographic area.

Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and adequate service to the area within its CCN boundary. Municipalities and districts normally are not required to have a CCN; however some municipalities and districts do have a CCN. A district or municipality may not provide services within an area for which another utility holds a CCN unless the district or municipality has a CCN itself for that area.

Certificate of Appropriateness

A certificate issued by the Historic Preservation Officer or McAllen Historic Preservation Council its approval of plans for alteration, construction, removal, or demolition of a landmark, property, or structure within a historic district.

Channel Letter

A fabricated or formed three-dimensional letter, number, logo or symbol affixed directly onto a surface.

City

The City of McAllen, Texas and it's departments, agencies, personnel, and staff unless otherwise expressly stated.

City Attorney

The City of McAllen's agreed upon legal counsel overseeing the daily legal activities of the City.

City Commission

The duly elected governing body of the City of McAllen, Texas.

City Engineer

The individual holding the office of City Engineer of the McAllen, who shall actively maintain licensure in good standing as a professional engineer under the laws of the State of Texas. Those duties assigned by this UDC to the City Engineer which relate to the development review process may be reassigned by the City Manager, in whole or in part, to one or more licensed professional engineers, as needed to adjust workflow or to provide specific expertise. This term includes the City Engineer's designee.

City Limits

The boundary of the incorporated limits of the City of McAllen.

Code of Ordinances

The City of McAllen's adopted codes not housed within the UDC.

Common Access Easement

An easement shown on a Plat or other recorded instrument that assigns benefit and right of entry to the public at large or to an abutting property owner and allows passage to the beneficiary over and across the property on which the easement is located.

Comprehensive Plan

The long-range planning and development policy of the City and adjoining areas as adopted by the City Commission, including all its revisions and plan elements (including, but not limited to, the future land use plan, thoroughfare plan, parks master plan, etc.). This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements. The Comprehensive Plan is titled the Envision McAllen 2040 Comprehensive Plan.

Conditional Use Permit

A permit granted on a discretionary and conditional basis by the City Commission, which authorizes a land use in a zoning district in which that use is not normally permitted. All requirements of a Conditional Use Permit are in addition to and supplement UDC requirements.

Corner Lot

A lot abutting the intersection of two or more streets other than an alley.

Corner Side Yard

The yard abutting a street on a corner lot.

Corner Side Yard Setback

The line, generally parallel with and measured from the corner side property line, defining the limits of a yard in which no building may be located above ground, except as may be provided in this UDC.

County Clerk

The person holding the office of County Clerk where they are responsible for local elections and maintaining public records. This term shall also include any designee of the County Clerk.

Covenant

Contractual promises relating to how a particular piece of property can be used or developed. The restrictive covenant will specify constraints on specific uses of the property.

Cul-de-sac

A street having only one outlet to another street, and that terminates on the opposite end by a vehicular turnaround or “bulb.” The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

(d) D Terms

Deed Restriction

A document used to place limitations or conditions on a particular property.

Demolition

Any act or process that destroys in part or in whole a landmark or structure within a historic district.

Detached Banner

A temporary, freestanding sign made of fabric, cloth, bunting, plastic, paper, or any other non-rigid material with no enclosing framework that affixes to the ground. This definition does not include flags, pennants, or streamers.

Development Agreement

An agreement authorized under TLGC Section 212.172, Subchapter G between the City and a subdivider of property that outlines certain development and design standards, responsibilities, and procedures relating to the development of a property and may contain a timeline for annexation of the property and assumption of certain responsibilities for the provision or maintenance of public facilities.

Director

A person hired or designated by the City Manager to supervise or oversee the City’s Planning Department, and to exercise the authority of the Director, including the Director’s designee.

District

See “Zoning District”.

Double Frontage Lot

A lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

(e) E Terms

Easement

Any area within, on, over, and/or under real property in which the City (and/or another entity, such as a franchised utility) has an interest involving a right of use of the property and/or right to exclude uses of the property—such as requiring removal of all or

any part of any buildings, fences, trees, shrubs, or other improvements or uses that interfere with the lawful purpose of the holder of the easement—including but not limited to those required for provision of sidewalks, utility services, or access to property or equipment owned and/or maintained by the City.

Electronic Message Center (EMC)

A sign that displays a digital copy, including any illuminated sign on which the illumination is not kept stationary or constant in intensity and color when the sign is in use, including any light emitting diode (LED) or digital panel, and which varies in color or intensity. Electronic message centers are also referred to as digital signs, dynamic signs, or changeable electronic variable message signs (CEVMS).

Encroachment

The overlapping of a boundary or setback by a physical item such as an awning, canopy, porch, etc.

Erect

To build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs on the exterior surface of a building or structure, and also includes the painting or affixing of signs to the exterior or interior surface of windows, and includes outdoor signs and signs located interior to a building but readily visible from the exterior.

Escape Lane

An area measuring a minimum of eleven (11) feet wide that provides access around a drive thru facility.

External Illumination

Illumination provided by an external light source such as a lamp, bulb, or the like.

Extraterritorial Jurisdiction (ETJ)

The area of land lying outside and adjacent to the corporate limits of the City over which the City has legal control as set forth in chapter 42 of the Texas Local Government Code.

(f) F Terms

Family

One or more persons, related by blood, marriage, adoption, or contract, occupying a dwelling unit as a single, nonprofit housekeeping unit, but not including a group occupying a hotel, boardinghouse, club, dormitory, fraternity or sorority house.

Fence

A permanent barrier that is not a screening device, but offers privacy between uses. Fences are typically located on residential lots and are wood constructed. Fences are not screening devices.

Fenestration

The design, proportioning, and disposition of windows and other exterior openings of a building.

Final Plat

The legal record of land, including a subdivision, prepared from actual field measurements and staking of identifiable points by a licensed surveyor to a location referenced to a survey corner. The final plat describes all boundaries, corners, and curves with enough detail that a licensed surveyor or engineer can reproduce them without additional references. The final plat also establishes and records lots, right-of-way, and easements.

Fire Code

The most recently adopted International Fire Code as published by the International Code Council.

Fire Marshal

The official responsible for enforcing the fire regulations of the City of McAllen, Texas.

Flag Lot

A lot that abuts a street by means of a strip of land that does not comply with minimum lot width. Flag lots are often used to achieve access/frontage.

Floodplain

An area identified by the Federal Emergency Management Agency as possibly being flood-prone, or below the immediate flood line (100-year floodplain).

Floodway

Area regulated by federal, state, or local requirements to provide for discharge for the base flow, so that the cumulative increase in water surface elevation is no more than a designated amount within the 100-year floodplain. A river, channel or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Normally, the floodway will include the stream channel and that portion of the adjacent land areas required to pass the base flood (100-year flood) discharge without cumulatively increasing the water surface elevation at any point more than one foot above that of the pre-floodway condition, including those designated on the flood insurance rate map.

Footcandle

One lumen per square foot, unit of illuminance. It is the luminous flux per unit area in the Imperial system. One footcandle equals approximately 10 (10.76) lux.

Frontage

All the property abutting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, or village boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts. Where a lot abuts more than one street, the Planning and Zoning Commission shall determine the frontage for purposes of this UDC.

Frontage Buildout

The required location where a building, or portion of a building must front.

Front Yard

A yard across the full width of the lot extending from the front line of the primary building to the front property line.

Front Yard Setback

The line, generally parallel with and measured from the front property line, defining the limits of a yard in which no building may be located above ground, except as may be provided in this UDC.

Full Cutoff

A luminaire with light distribution such that no light is emitted above the horizontal.

Future Thoroughfare Map

The thoroughfare component of the Comprehensive Plan, the official map depicting the City's existing and future street system and roadway network, together with explanatory text.

(g) G Terms

Gable Roof

A roof with two slopes – front and rear – joining at a single ridge line parallel to the entrance façade.

Gambrel Roof

A ridged roof with two slopes at each side, the lower slopes being steeper than the upper slopes.

General Incidental Sign

A small permanent sign other than a flag, speaker board, or walk-up board, that is freestanding or attached to a building that is in addition to the primary sign types for the property, such as detached signs and attached signs, and that has a height and scale that is clearly subordinate to the primary sign types allowed for the property. Examples of typical General Incidental Signs include house numbers, occupant directories, property or tenant identification names or numbers, wayfinding signs, and directional signs, and signs warning the public against trespassing or danger from animals.

General Temporary Sign

A sign constructed of cloth, canvas, light fabric, cardboard, wood, wallboard, metal, or other light materials, with or without frames, which is intended to be displayed for a limited period of time only. Examples of typical General Temporary Signs include political signs, public demonstrations, grand opening signs, contractor signs, real estate signs, garage sale signs, and signs that announce an event such as a carnival, circus, or similar event. The list of examples is not exhaustive and is provided to clarify the regulations and does not limit the content of General Temporary Signs.

Glare

The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

Grid Rack

A dual-sided bicycle facility affixed to pavement that stores multiple (1 to 20) bicycles which are locked from the outside.

Grounded Canopy

A permanent structure that is structurally independent of a building affixed to the ground, that is of rigid construction, and over which a covering is attached that provides weather protection, identity, or decoration.

Grounded Canopy Sign

A permanent attached sign that is affixed to a grounded canopy.

(h) H Terms

Halo Illumination

Illumination created by concealing the light source behind three-dimensional opaque letters, numbers, or other characters of a sign, resulting in the nighttime perception of a halo around the silhouette of each character. This is also referred to as “reverse channel”

or “reverse lit” illumination. A halo-lit sign is not considered an internally illuminated sign.

Hanging Sign

A sign suspended from the underside of a canopy, awning, ceiling, marquee, roof overhang, a covered porch, or walkway.

Hip Roof

A roof with four sloped sides. The sides meet at a ridge at the center of the roof. Two of the sides are trapezoidal in shape, while the remaining two sides are triangular, and thus meet the ridge at its end point.

Historic District

A geographically and locally defined area approved by the City Commission that possesses a significant concentration, linkage, or continuity of buildings, objects, sites, structures, or landscapes united by past events, periods, or styles of architecture, and that, by reason of such factors, constitute a distinct section of the McAllen. Historic sites within a local district need not be contiguous for an area to constitute a district. All sites, buildings, and structures within a local historic district, whether individually contributing or not are subject to the regulations of the district.

Historic Landmark

A building, structure, object, or site that has been designated by the City Commission as an historic resource or by the State of Texas or by the National Registry of Historic Places.

Historic Preservation Officer

The appointed official serving as the historic preservation officer for the City of McAllen.

Homeowners' Association

A non-profit association whose dues are paid by property owners within a defined subdivision who have voluntarily subjected themselves to the regulations and covenants of the association, and who also jointly own, manage, or oversee the management of common property and, through an elected or appointed board, manage and enforce the restrictive covenants applicable to the subdivision. Also known as an HOA or Property Owners' Association.

(i) I Terms

Infill Development

The redevelopment of an existing built-out site or property.

Internal Illumination

Illumination created by a light source internal to the sign, transparent or translucent material from a light source within the sign structure or panel, or exposed lighting located on the same plane as the sign face.

(j) J Terms

Junk

Those materials and products of older scrap copper; brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicle or associated parts; iron; steel; or other old or scrap materials.

(k) K Terms

Key Lot

An interior lot, one side of which is contiguous, or separated only by an alley, to the rear line of a corner lot.

(l) L Terms

Landscape Plan

An independent plan that is a part of the site plan process that shows a site's required landscaping.

LED

The acronym for light emitting diode.

Letter of Final Acceptance

A letter or documentation verifying the subdivider or owner has accepted and constructed the required infrastructure facilities and utilities as required and approved by the City.

Loading Space

An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

Lot

An undivided tract or parcel of land having frontage on a public street, and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot

number or symbol in a duly approved subdivision plat which has been properly filed of record. This term may also be referred to as a plot.

Lot Area

The total space required for a lot by multiplying the lot's depth by it's width.

Lot Coverage

The portion of a lot occupied by the base (first story or floor) of all buildings located on the lot.

Lot Width

The distance parallel to the front property line, measured at the front setback line. Lot width on a curving front property line means the distance parallel to the tangent of the front property line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.

Low Impact Development (LID)

The City has adopted by reference the "Guidance for Sustainable Stormwater Drainage on the Texas Coast for Nonpoint Source Pollution & Flood Management," 2nd Edition to incorporate low impact development best management practices for reducing runoff and mimicking a site's predevelopment hydrology by minimizing disturbed areas and impervious cover and then infiltrating, filtering, storing, evaporating, and detaining stormwater runoff close to its source. Low impact development practices include measures such as preserving undeveloped open space, biofiltration, reducing impervious cover and using porous pavement.

Low Profile Rack

A low-lying bicycle facility affixed to pavement that stores multiple (1 to 20) bicycles which are locked from the outside.

Lumen

The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from "watt", a measure of power consumption).

Luminaire

The complete lighting unit (fixture), consisting of a lamp, or lamps and ballast(s) (when applicable), together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Major Revisions

Any revision(s) that the Director determines is not a minor revision. A major revision requires a new application submittal.

Mansard Roof

A roof with two slopes on each side, with the lower slope being nearly vertical and the upper slope nearly horizontal.

Marquee Sign

A permanent attached sign affixed to a marquee.

McAllen Historic Preservation Council

The City of McAllen's appointed Historic Preservation Council responsible for overseeing development related to historic properties.

Minor Modification

Adjustments to the specific standards of this UDC granted during the review and approval process for a development, including improvements to existing structures or site features. These modifications ensure compliance with the UDC's purpose and intent, accommodate site-specific development challenges, and allow for flexibility in applying standards in a manner consistent with the City's Comprehensive Plan, while achieving substantially equivalent outcomes to the original requirements.

Minor Plat

A plat that creates four (4) or fewer lots which do not need the extension of public improvements.

Minor Revisions

Those revisions that are necessary in light of technical considerations discovered after the decision on the development application, and which do not substantively change the character of the development approval.

Model Subdivision Regulations (MSR)

The Model Subdivision Rules (MSRs) were developed by the Texas Water Development Board to safeguard residents by ensuring safe, sanitary water and sewer. The Model Subdivision Rules and regulations are adopted by the Texas Commission on Environmental Quality in the Texas Administrative Code (TAC), Title 30, Part 10, Chapter 364.

Monument Sign

A permanent detached or freestanding sign with a low profile, a base, and a support structure with a solid appearance that is at least 50% of the width of the widest part of the sign's face.

Mural

A hand-produced work in which paint is applied by hand directly on an exterior wall of a building or structure. A mural does not include:

- Mechanically produced or computer-generated prints or images, including digitally printed vinyl sheets and wraps;
- Works containing electrical or mechanical components; or
- Works that involve changing or moving images or components.

(n) N Terms

Nonconforming Lot

A lot that does not conform to the regulations of this UDC, but that was lawfully established under the regulations in force at the time the lot was established and has been in regular use since that time.

Nonconforming Sign

A sign that was lawfully in existence and was properly permitted by the City, to the extent such permitting was required as of the effective date of this UDC.

Nonconforming Site Plan Improvement

A site plan feature, such as landscaping, parking, setbacks, etc., that does not conform to the regulations of this UDC, but that was lawfully established under the regulations in force at the time the site plan was approved and has been in regular use since that time.

Nonconforming Structure

A building or structure, or portion thereof, that does not conform to the regulations of this UDC, but that was lawfully constructed under the regulations in force at the time of construction.

Nonconforming Use

A use that does not conform to the use regulations of this UDC, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.

Nonconformity

The collective term for all nonconforming situations.

Nonresidential Development

Any development intended to provide primarily commercial, industrial, automotive, retail, agricultural, or civic uses and structures.

Nonresidential Subdivision

Any subdivision of land intended for nonresidential development. An example of a nonresidential subdivision is a unified office park development.

(o) O Terms

Offset

A specified projection or recession that runs vertically along the entirety of a building wall.

(p) P Terms

Parking Space

A permanently surfaced area either within a structure or in the open, not on public right-of-way (unless otherwise specified), exclusive of driveways or access drives, for the parking of one vehicle.

Person

An individual, company, joint stock company, firm, proprietorship, business, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, co-partnership, association, and any other legal entity or their legal representatives, agents or assigns. Notwithstanding any other provision of the code, each and every code provision—including but not limited to every prohibition, requirement, and penalty—applies to both natural persons and corporations, partnerships, and all other legal entities or organizations.

Phased Development

Phasing Plan

Pitched Roof

A roof that has a slope.

Planned Unit Development

A zoning district designed for the unified and coordinated development that utilizes unique development standards including to but not limited to enhanced landscaping standards, creative site or architectural design that cannot be accomplished or developed through the City's standard development regulations and its unique qualities ensure a level of exceptional quality or innovation that warrant the use of a planned development district. A planned development district requires the approval of the City Commission.

Planning and Zoning Commission

The City of McAllen's appointed Planning and Zoning Commission.

Plat

An instrument upon which is depicted a map, drawing, or plan of a certain tract of land, drawn to scale, which is designed to facilitate the location of, reference to, and legal description of such tract, or lots contained therein, or both, by indication in the map, drawing or plan of certain points of reference which are known to or which are described to coincide with established survey monuments.

Pole Sign

A permanent detached or freestanding sign in which the sign face is mounted on one (1) or more poles and the base of the sign face is situated more than 12 inches above the ground.

Pre-Application Meeting

Abbreviated as PAM, this term means a meeting with the Staff Review Committee before a formal submittal of a development application.

Pre-Construction Meeting

A meeting with the City staff before commencing construction on land approved for development.

Preliminary Plat

A scaled planning document that lays out the boundary, streets, lots, topography, and public facilities or improvements in a proposed subdivision and that provides the City with a basis for reviewing subdivision-related plans and the final plat.

Principal Use

The main use of land or building as distinguished from the subordinate or accessory use.

Private Street

A classification of streets that are owned and maintained by a homeowners' association or property owner's association, and which are not dedicated to the public.

Professional Engineer

An individual with a post-secondary degree in engineering and is a certified professional engineer by the Texas Board of Professional Engineers and Land Surveyors.

Projecting Sign

A permanent attached sign type that is affixed to and projects 18 inches or more from the wall of a building and is generally perpendicular to the building façade. A projecting sign does not include signs located on an attached canopy/awning, marquee, or roof.

Property Owners' Association

See "Homeowners' Association".

PROWAG

The acronym for Public Rights-of-Way Accessibility Guidelines.

Public Facilities

See Public Improvements or Public Utilities definitions.

Public Hearing

A meeting held by the Planning and Zoning Commission, Zoning Board of Adjustment, Historic Preservation Council, or City Commission where action is conducted on an application after public commentary is heard.

Public Improvements

An improvement, facility or service together with its associated public site, right-of-way or easement necessary to provide transportation, storm drainage, public or private utilities, parks or recreational, energy or similar essential public services and facilities, for which the City ultimately assumes the responsibility, upon a letter of final acceptance being issued, for maintenance, operation, or ownership.

Public Utilities

The term means:

- Entities franchised by the City to use public rights-of-way for the conduct of their business;
- Entities that are "public utilities" under pertinent provisions of the Texas Utilities Code or Texas Water Code but are specifically exempted by state law from the requirement that they receive a franchise from the City for the use of public rights-of-way;
- Public sanitary sewers;
- Public water mains;
- Public streets;
- Public storm sewers;
- Public detention ponds;
- Municipally owned electric utilities; and

- Any contractor hired by these entities.

Public Utility Agency

An established agency responsible for providing and overseeing public utilities.

(q) Q Terms

Quality Tree

A tree that qualifies for tree preservation.

(r) R Terms

Rear Yard

A yard between the rear property line and the rear line of the primary building and the side property lines.

Rear Yard Setback

The line, generally parallel with and measured from the rear property line, defining the limits of a yard in which no building may be located above ground, except as may be provided in this UDC.

Refuse Container

A container used for, but not limited to, receiving garbage designed and intended to be lifted by forks or other device mounted on a vehicle and the contents emptied into that part of the vehicle designed to receive the same. An enclosure may be associated with the refuse container. An enclosure is an outdoor structure that encloses a dumpster or trash receptacle.

Replat

A revision to a recorded subdivision that revises or creates new lots, dedicates right-of-way or easements or reflects abandonment of the same.

Residential Development

Any development intended to provide primarily residential uses and structures.

Residential Subdivision

Any subdivision of land intended for residential development.

Retail Public Utility

Any person, corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both, for compensation.

Reverse Corner Lot

A type of corner lot, where the street side property line of which is substantially a continuation of the front property line of a lot located immediately adjacent to its rear on which a primary structure has been or proposed to be constructed. The front yard of a reverse corner lot is defined by the street frontage to which the front door faces.

Rezoning

An amendment to the Official Zoning Map to effect a change in the nature, density, or intensity of uses and development characteristics allowed on a property.

Right-of-Way

A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, "right-of-way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities; water and sanitary and storm sewer facilities; street improvements; and any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and shall not be included within the dimensions or areas of such lots or parcels.

Roof

The external upper covering of a building, including the frame for supporting the roofing.

(s) S Terms

Screening Device

A barrier of permanent material of sufficient height and density so that the objects being screened are not visible from any point on the property line when viewed from the ground level.

SDG

The acronym for the City of McAllen's adopted Standard Design Guide for Public Infrastructure Improvements, as amended.

Secretary of the Interior Standards for Rehabilitation

Guidelines published by the U.S. Department of the National Park Service for rehabilitating historic structures. These standards, revised in 1990, are used by the NPS and the SHPO to determine if a rehabilitation qualifies as a Certified Rehabilitation for Federal tax purposes.

Secure Bicycle Parking Area

A weather-protected, standalone bicycling parking structure or building extension with shared racks and access control.

Setback

A line, generally parallel with and measured from the property line, defining the limits of a yard in which no building, other than accessory buildings nor structure may be located above ground, except as may be provided in this UDC. See "Yard" for additional clarity.

Shielding

When the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted.

Sidewalk

A paved, surfaced or leveled area between the curb line, or the lateral lines of a roadway and the adjacent property lines designed for or ordinarily used for pedestrian travel.

Sidewalk Sign

A temporary and portable sign that is ordinarily in the shape of an "A" or inverted "T" with back-to-back sign faces, an easel, or a similar configuration to be located on a sidewalk or walkway.

Side Yard

A yard between the primary building and the adjacent side property line, and extending entirely from a front yard to the rear yard.

Side Yard Setback

The line, generally parallel with and measured from the side property line, defining the limits of a yard in which no building may be located above ground, except as may be provided in this UDC.

Sight Visibility Triangle

The triangular-shaped area at the intersection of two streets that must be kept clear to ensure visibility at the intersection.

Sign

A visual display of an object or device that includes elements such as colors, lights, motion, symbols, images, icons, letters, numerals, figures, characters, or combines any of those elements, that is intended to communicate, advertise, identify, announce, direct, inform, or attract attention and that is visible from a public right-of-way. The term "sign" includes a structure used to support or display a sign.

Sign Height

The vertical distance measured from the highest point of a sign to the ground or lowest grade beneath the sign.

Sign Permit

A permit authorizing the erection or maintenance of a sign pursuant to this UDC.

Sign Structure

Any combination of materials to form a construction for the purpose of attaching, fixing, or otherwise supporting a sign, whether installed on, above, or below the surface of the lot, a building, or any other solid surface.

Site Plan

A detailed, scaled drawing of all surface improvements, structures, uses, and utilities proposed for development associated with this UDC.

Skyline Sign

A sign that is placed above the windows of the highest floor of a building that is at least multiple stories and taller than 35 feet in height.

Speaker Board

A professionally constructed and installed sign made of a durable, weather-resistant product such as metal or high-density plastic and may include a two-way speaker system for ordering from a vehicle in a drive-thru lane provided the volume of the speaker does not exceed ambient noise conditions as measured at the property line.

Special Exception

An adjustment in application of the specific regulations of the UDC to a particular applicant of the property that has been pre-defined by this UDC and does not require a hardship.

Stacking Lane

A 9-foot wide lane containing multiple stacking spaces.

Stacking Space

An area on a site measuring nine (9) feet by twenty (20) feet with direct forward access to a service window or station of a drive thru facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area.

Staff Review Committee

The committee responsible for providing commentary and insight at pre-application meetings. This committee typically reviews formal submittals of new development applications.

Story

That portion of a building included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it. A basement shall be counted as a story for the purposes of height regulations, if the vertical distance from grade to the ceiling is more than seven feet.

Streetscape

The area within street right-of-way that contains sidewalks and pedestrian facilities, street furniture, landscaping, or trees.

Subdivide

The act of land being split into separate parcels or lots for recordation.

Subdivision

The division or redivision of any tract of land situated within the city's city limits or its ETJ into two or more parts, lots, units, or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. The term includes resubdivisions of land, lots, or units which are part of a previously recorded subdivision. A condominium development can be a subdivision. In other jurisdictions, the term may be referred to as an "addition."

Subdivision Entry Sign

A specific monument sign located at the entry of a platted subdivision from a local, collector, or arterial street.

(t) T Terms

TAC

The acronym for Texas Administrative Code, as compiled by the Texas Secretary of State.

TCEQ

The acronym for Texas Commission on Environmental Quality.

Temporary Use

A use granted on a discretionary, conditional, and temporary basis which authorizes a land use in a zoning district in which that use is not normally permitted. All requirements of a Temporary Use are in addition to and supplement UDC requirements.

Tenant

A distinct user that occupies a portion of a multi-tenant building, lot, or development, regardless of the legal arrangement allowing occupancy between the owner of the building, lot, or development and the user.

Throat Length

The length of the driveway up to the first conflict point.

Through Lot

A lot other than a corner lot with frontage on more than one parallel street other than an alley.

(u) U Terms

UDC

The Unified Development Code of the City of McAllen, Texas.

U-Rack

A “U-shaped” bicycle facility affixed to pavement that’s stores up to two bicycles which are locked from the outside.

(v) V Terms

Vacation

The process and instrument that returns a subdivision or dedicated lands to an unplatted state.

Variance

A deviation from the specific terms of this UDC that will not be contrary to public interest and is justified because, owing to special conditions, a literal enforcement of this UDC’s provisions will result in practical difficulties and/or hardship.

Violation

The failure of a structure or other development to be fully compliant with the UDC, the City’s Code of Ordinances, state laws, and federal laws.

(w) W Terms

Waiver

The relinquishment from requirements for specific land disturbing activities on a case-by-case basis as provided in Article V. and Article VI.

Walk-Up Board

A sign mounted near the sidewalk entrance to a building or affixed to a building wall where the sign is visible to pedestrian traffic.

Walkway

An area reserved for pedestrian traffic within a development. A walkway differs from a sidewalk in that a walkway is not within the right-of-way or publicly dedicated.

Wall Sign

An attached sign painted on or attached to the wall or surface of a building or display surface which is parallel to the supporting surface.

Window Sign

A sign posted, printed, placed, or affixed to a window or glass door. A window sign includes any sign that is located inside a building, that is three feet or less from a window or glass door, and that is clearly visible from outside the building.

(x) X Terms

Xeriscape

Landscaping systems designed to conserve water through use of drought resistant and heat tolerant native or naturalized plants which utilize only irrigation meet plant needs.

(y) Y Terms

Yard

The area between the property line and the building setback line in which no structure may be located.

(z) Z Terms

Zoning Board of Adjustment

The City of McAllen's appointed Zoning Board of Adjustment.

Zoning District

A portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the City's UDC, as amended.

Zoning Map

The official map of McAllen, Texas upon which the boundaries of the various zoning districts are drawn and which is an integral part of the UDC, which may also be cited as the Official Zoning Map.

The following terms are the land use types that correspond to *Table 30-1* in Article III.

(a) Residential Uses

(1) Bungalow Court

A group of small, detached structures arranged around a shared court visible from the street. Dwelling unit entrances are from the shared court.

(2) Courtyard Apartment

A medium-to-large sized detached residential structure consisting of multiple side-by-side and/or stacked dwelling units oriented around a courtyard or series of courtyards. Each unit is accessed from the courtyard and shared stairs each provide access up to 3 units.

(3) Detached Single-Family Dwelling

A single-family dwelling (a building designed exclusively for occupancy by one (1) family) which is not attached to any other dwelling or building by any means, excluding mobile homes and manufactured housing situated on a permanent foundation.

(4) Duplex

A building designed for occupancy by two individuals or families living independently of each other within separate units which have a common wall and are under one roof.

(5) Fourplex

A detached residential structure containing four dwelling units, designed for occupancy by not more than four families living independently of each other.

(6) Industrialized Home (Modular Home)

Per the Texas Occupations Code Chapter 1202.002:

1. Industrialized housing is a residential structure that is:

a. Designed for the occupancy of one or more families;

b. Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and

c. Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

2. Industrialized housing includes the structure's plumbing, heating, air conditioning, and electrical systems.
3. Industrialized housing does not include:
 - a. A residential structure that exceeds four stories or 60 feet in height;
 - b. Housing constructed of a sectional or panelized system that does not use a modular component; or
 - c. A ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

(7) Live-Work

A live-work unit is a Dwelling Unit that is also used for work purposes, provided that the "work" component is restricted to the uses of professional office, artist's workshop, studio, or other similar uses and is located on the street level. The "live" component may be located on the street level (behind the work component) or any other level of the building. The residential unit is occupied by the business owner or manager.

(8) Manufactured Home

A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 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. All references in this article to manufactured housing or manufactured home(s) shall be references to HUD-code manufactured housing, unless otherwise specified. This use does not include mobile homes.

(9) Mobile Home

A structure constructed before June 15, 1976, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 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. Mobile homes shall not be used as dwelling units within the corporate limits of the city.

(10) Multi-Family Dwelling (Apartment)

A residential structure arranged, intended, and designed to be occupied by thirteen or more families living independently of each other, and each including its own separate kitchen and bathroom accommodations.

(11) Multiplex

A detached residential structure that consists of 5 to 12 dwelling units arranged in side-by-side and/or stacked design.

(12) Townhouse

A dwelling that is part of a structure containing three or more dwellings, each designed and constructed for occupancy by one family, with each dwelling unit attached by a common wall to another, in which each dwelling is located on a separate platted lot.

(13) Triplex

A detached residential structure containing three dwelling units, designed for occupancy by not more than three families living independently of each other.

(b) Lodging/Group Living Uses

(1) Bed and Breakfast Facility

An owner-occupied property, other than a hotel or multiple-family dwelling, which offers lodging for paying guests and which serves meals to these guests and which contains one or more guest bedrooms and where facilities for food preparation are not provided in the individual guest bedrooms.

(2) Boarding / Rooming House

A building, other than a hotel or multiple-family dwelling, where lodging or meals is provided to persons for compensation, and where facilities for food preparation are not provided in individual rooms.

(3) Dormitory

A building in which housing is provided for individual students under the general supervision or regulation of an accredited college or university and as distinguished from an apartment, hotel, motel, or rooming house. A dormitory may provide apartment units for guests, faculty, or supervisory personnel on a ratio not to exceed one such apartment unit for each 50 students for which the building is designed. Individual rooms or suites of rooms may have cooking facilities. The dormitory may include facilities such as a commissary and/or snack bar, lounge, and study area, dining halls, and accessory kitchen, recreation facilities, and laundry, provided that

these facilities are for the benefit and use of the occupants and their guests and not open to the general public.

(4) Hotel/Motel

A building containing guest rooms in which lodging is provided, with or without meals, for compensation, and which is open to transient or permanent guests, or both. This use may include restaurants, club rooms, banquet halls, ballrooms and meeting rooms as accessory uses. A hotel/motel only provides temporary lodging, and does not include multi-family or attached dwelling or any other form of permanent residence. Guests are prohibited from using a guest room or suite as a primary permanent residence.

(c) Automotive Uses

(1) Auto Dealership

Building(s) and associated open area other than a street or required automobile parking space used for the display or sale of new or used automobiles, motorcycles, ATVs, recreational vehicles, light trucks, and trailers, to be displayed and sold on the premises, and where minor repair work and maintenance is done for those vehicles. This use does not allow for the storage of wrecked automobiles or the dismantling of automobiles or the storage of automobile parts or junk on the premises.

(2) Auto Parts Sales

The use of any building or other premises for the display and sale of new or used parts for automobiles, panel trucks, vans, trailers, or recreational vehicles.

(3) Car Wash

A facility where the primary or secondary function is washing automobiles, pick-up trucks, and small vans, but not trailers or commercial trucks. This includes both mechanical production line methods or self-service equipment. A car wash may also function as an accessory use to an automobile service station or other primary use.

(4) Heavy Auto Repair

An establishment that offers mechanical and body work on motor vehicles including straightening of body parts, body repairs, battery rebuilding, painting, welding, short term storage of automobiles not in operating condition, outdoor similar work on motor vehicles that may involve noise, glare, fumes, smoke, or similar impacts.

(5) Light Auto Repair

Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups;

emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air conditioning systems, and other similar minor services for light load vehicles.

(6) Service Station

A building or place arranged, designed, used, or intended to be used for the primary purpose of dispensing gasoline, oil, diesel fuel, liquefied petroleum gases, greases, batteries, and other automobile accessories at retail direct to the on-premises motor vehicle trade provided that the above services shall not be construed to include major overhaul, the removal and/or rebuilding of an engine, cylinder head, oil pan, transmission, differential, radiator, springs, or axles, steam cleaning, body or frame work, painting, upholstering and replacement of glass. Service stations shall not allow automobiles, which are inoperative or are being repaired, to remain outside such service station for a period greater than seven days.

(7) Truck Sales

Building(s) and associated open area other than a street or required automobile parking space used for the display or sale of primarily new heavy load vehicles (for definition, see 3.4.24), to be displayed and sold on the premises, and where no repair work is done except minor reconditioning of the vehicles to be displayed and sold on the premises, and no dismantling of vehicles for sale or keeping of used vehicle parts or junk on the premises. This use also includes the rental of new or used panel trucks, vans, trailers, recreational vehicles, or motor-driven buses in operable condition and where no repair work is done.

(8) Truck Stop and Repair

Any premises where heavy load vehicles are serviced, repaired, and/or where maintenance on such vehicles is undertaken and which includes facilities for dispensing fuels and other petroleum products directly into motor vehicles. Such premises may include the incidental sale of accessories or equipment for heavy load vehicles and similar commercial vehicles, overnight lodging accommodations, and/or restaurant facilities.

(d) Commercial Uses

(1) Artist Studio

The workshop of an artist, writer, craftsperson, or photographer, but not a place where members of the public come to receive instruction on a more than incidental basis or to sit for photographic portraits.

(2) Bar (51% sales from alcohol)

An establishment that serves alcoholic beverages by the drink for on-site consumption and that derive fifty-one (51) percent or more of the gross revenue from the on-premise sale of alcoholic beverages.

(3) Bar (51% sales from alcohol)

An establishment that serves alcoholic beverages by the drink for on-site consumption and that derive seventy-five (75) percent or more of the gross revenue from the on-premise sale of alcoholic beverages.

(4) Brewpub

A restaurant or other facility that manufactures alcoholic beverages including but not limited to beer, wine or liquor for either on-premises or off-premises retail and wholesale and consumption in quantities not considered industrial or large-scale production as determined by the City Manager. The business must hold the required licenses and permits from the Texas Alcoholic Beverage Commission.

(5) Building, Materials, and Landscaping Store

The sale of new building and landscaping materials and supplies with related sales for hardware, carpet, plants, electrical and plumbing supplies all of which are either oriented to a retail customer or contractor or wholesale customer. Outdoor storage and retail sales are incidental.

(6) Convenience Store

A retail store containing less than 2,500 square feet of gross floor area which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs, and sundries.

(7) Feed and Farm Supply

An establishment for the selling of foodstuffs for animals and including implements and goods related to agricultural processes but not including farm machinery.

(8) Financial Institution

An establishment where the primary occupation is financial services such as banking, savings and loans, loan offices, and check cashing and currency exchange outlets. It does not include financial services that typically occur in an office or storefront, such as investment companies, loan companies, credit and mortgage, insurance services, or brokerage firms), which are classified under "Office," below. Alternative financial services like cash advances are listed under "Pawn Shop / Pay Day Loans," below.

(9) Food Preparation and Sales

A place for preparing, cooking, baking and selling of products on the premises.

(10) Food Truck Park

An area designated for mobile vendors (e.g., food trucks) to park and sell food, beverages, and other retail items or services to patrons. This use may include any necessary electrical outlets, seating/dining areas, restroom facilities, and trash receptacles needed for the food trucks daily operations.

(11) Greenhouse or Nursery

A facility, structure, or area, often artificially heated and/or cooled, used as a location for cultivating plants which are used by the grower and not sold as a commercial activity. This use also includes where trees or plants are raised and/or sold, including related storage of equipment for landscape contracting and like instances.

(12) Grocery Store

A store primarily engaged in retailing a general line of food products, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry.

(13) Heavy Equipment Sales and Rental

The sales and maintenance of heavy machinery. This includes establishments primarily engaged in sales, renting, or servicing machinery and equipment for use in business, agricultural, or industrial operations. These establishments typically cater to a business clientele and do not generally operate a retail-like or store-front facility. "Heavy machinery" includes office equipment, machinery tools, construction equipment, farm implements, excavation equipment, or transportation equipment.

(14) Indoor Commercial Amusement

A place where entertainment activities occur completely within an enclosed structure for a fee, including but not limited to bowling alleys, arcades, skating rinks, escape rooms, pool halls, video and pinball parlors.

(15) Kennel

A facility licensed to house dogs, cats, or other household pets and/or where grooming, breeding, boarding or training or selling of animals is conducted as business.

(16) Mixed-Use Development

The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact urban form. A mixed-use development may include a

mixed-use building. A mixed-use building is a building with any of the following floor space configurations: (1) an office, as defined below, located above the ground floor, where the ground floor is occupied by any general retail use or (2) any general retail use on the ground floor, and residential dwelling units above the ground floor or behind the non-residential floor area. The floor space above the ground floor may be occupied by non-residential floor area in addition to dwelling units.

(17) Nightclub

A type of entertainment facility that comprises of a dance floor, lightshow, and/or stage for the playing of live music or disc jockey recordings that serves alcoholic beverages and incidental food sales.

(18) Office

An office for professionals, such as lawyers, architects, financiers, engineers, artists, musicians, designers, teachers, accountants and others who, through training, are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.

(19) Outdoor Commercial Amusement

A place where entertainment activities occur outdoors for a fee, including but not limited to miniature golf, batting cages, water slides, driving ranges, and go-cart tracks.

(20) Pawn Shop / Pay Day Loans

An establishment where money is loaned on the security of personal property pledged in the keeping of the owner (pawnbroker). This includes short-term cash loan businesses (also known as payday loans) most commonly based on a borrower's personal check held for future deposit or on electronic access to the borrower's bank account.

(21) Personal Services

Shops and establishments primarily engaged in providing services generally involving the care of the person or such person's apparel, or rendering services to business establishments such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, massage spas, employment service, or copy shops.

(22) Portable Building Sales

An establishment which displays and sells structures which are capable of being carried and transported to another location, not including mobile homes or manufactured housing.

(23) Postal Services

Local branch of the United States Postal Service or private commercial venture engaged in the distribution of mail and incidental services.

(24) Print Shop

An establishment which reproduces printed or photographic impressions including but not limited to the process of composition, binding, platemaking, microform, type casting, presswork, and printmaking.

(25) Radio / Television Studio

A land use that broadcasts amplitude modulation or frequency modulation audio signals for general public reception.

(26) Restaurant

An establishment where food and drink are prepared, sold to customers, and may be consumed on the premises.

(27) Retail Store

A shop or store that, as its primary business, sells merchandise to the public. Examples include drugstores and discount department stores, and stores that sell apparel, home improvement/furnishings, toys, electronics or sporting goods.

(28) Sexually Oriented Business

An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, semi-nude model studio, or sexual encounter center. This term includes all definitions established in Sec. 54-151.

(29) Taxidermist

A facility engaged in the preserving of an animal's body via mounting or stuffing for the purpose of display or study.

(30) Theater

A structure that is open to the public and is used for dramatic, operatic, musical, motion picture, or other performance or entertainment-related activities, where admission is charged per performance or event, and where there is no audience participation other than as spectators. Such establishments may include incidental services such as food and beverage sales and other concessions.

(31) Veterinarian Facility

Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases and injuries. This use includes any

necessary overnight care, medical treatment, and monitoring services for any boarded animal.

(e) Recreation Uses

(1) Amphitheater

An open lot with its appurtenant facilities devoted primarily to the showing of motion picture or theatrical productions on a paid admission basis to patrons seated in automobiles.

(2) Athletic Field

An athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course, football field or stadium which may be lighted for nighttime play.

(3) Country Club

Land and buildings customarily containing a golf course and a clubhouse and available only to specific private membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts, and similar recreational or service facilities.

(4) Health Club

An establishment that provides exercise facilities such as running, jogging, aerobics, weightlifting, indoor/outdoor sports courts, and swimming, as well as locker rooms, showers, and saunas. Uses would typically include racquetball and handball courts, tennis courts, weightlifting and exercise equipment facilities, exercise areas, swimming pools and spas, martial arts, classrooms and/or practice areas, gymnasiums and running or jogging tracks. This shall not include municipal or privately owned, access-only recreation buildings.

(5) Park

An open recreation facility or park owned and operated by a public agency and available to the general public. A park may be privately owned.

(6) Private Community Center

A building or buildings dedicated to social and/or recreational activities serving residents of a subdivision or development which is operated by an association or incorporated group for their use and benefit; not to be a commercial, for profit, business.

(7) Public Community Center

A building or buildings dedicated to social and/or recreational activities, serving the city or a neighborhood and owned and operated by the city or by a nonprofit organization dedicated to promoting the health, safety, morals, or general welfare of the city.

(8) Race Track

A facility used for the racing of motor-driven vehicles and/or animals.

(9) Sport Shooting Range

A business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting.

(10) Swimming Pool

A swimming pool with accessory facilities, not part of the municipal or public recreational system and not a private swim club, but where the facilities are available to the general public for a fee.

(f) Public/Institutional Uses

(1) Cemetery

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

(2) Civic Center

A building or complex of buildings that houses municipal offices and services and which may include cultural, recreational, athletic, convention and/or entertainment facilities owned and/or operated by a governmental agency.

(3) Civic Club or Lodge

A facility or area for a special purpose organization or for the sharing of sports, arts, literature, politics, or other similar interests, but not primarily for profit or to render a service that is customarily carried on as a business, excluding religious land uses.

(4) College or University

An institution established for educational purposes offering courses of study beyond the secondary education level, but excluding trade and commercial schools.

(5) Correctional Facility

A facility that is generally designed for the confinement, correction, and rehabilitation of adult and/or juvenile offenders sentenced by a court.

(6) Fairgrounds

An area or space either outside or within a building for the display of topic-specific goods or information. This use includes outdoor fairs, exhibitions, rodeos, and circuses.

(7) Public Library, Museum, or Art Gallery

An institution for the collection, display and distribution of objects of art, science, or library sciences and which are sponsored by a public or quasipublic agency that is open to the general public.

(8) Religious Land Use

A structure or group of structures intended for regular gatherings of people to attend, participate in or conduct religious services and other related activities and associated accessory uses. Associated accessory uses may include religious instruction classrooms, church offices, counseling programs, private school, youth programs, parking, child and adult day care facilities, summer camps, recreational facilities, caretaker's quarters, food bank, thrift shop, sale of religious items, and cemeteries.

(9) School

A public or private educational facility offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the schools of Texas.

(10) Technical School

A nonacademic establishment such as a trade school, where instruction is offered in secretarial, computer and data processing, drafting, electronic repair including radio/TV repair, commercial art, allied health care, real estate, banking, restaurant operation, or similar trades, or vocational training such as automobile body and engine repair, construction equipment operation, building trades, truck driving, and mechanical and electrical equipment/appliance repair.

(g) Industrial Uses

(1) Brewery / Distillery

The production of beer, wine and/or liquor at industrial quantities and internal large-scale commercial distribution.

(2) Commercial Cleaning Facility

An industrial facility where fabrics are cleaned with substantially nonaqueous organic solvents.

(3) Commercial Kitchen

A place for preparing, cooking or baking of products primarily intended for off-premises distribution.

(4) Contractor's Shop and Storage Yard

The offices and/or storage facilities for a specialized trade related to construction, electric, glass, painting and decorating, welding, water well drilling, sign making, or similar items. This use includes storage yards (for equipment, materials [including sand, road-building aggregate or lumber], supplies and/or vehicles owned or rented by the establishment), roofing and sheet metal, fabrication of cabinetry and related millwork and carpentry, elevator maintenance and service, and venetian blind and metal awning fabrication and cleaning. Incidental sales of materials are included within this definition.

(5) Heavy Industrial and Manufacturing

The manufacturing, processing, and storing of paper, chemicals, plastics, rubber, cosmetics, drugs, nonmetallic mineral products (such as concrete and concrete products, glass), primary metals, acetylene, cement, lime, gypsum or plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, electrical equipment, appliances, batteries, and machinery. This group also includes asphalt mixing plants, concrete mixing plants, smelting, animal slaughtering, oil refining, and magazine contained explosives facilities.

(6) Industrial Park

A large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

(7) Light Industrial and Manufacturing

Manufacturing of products, from extracted, raw, recycled or secondary materials, including bulk storage and handling of those products and materials, or crushing, treating, washing, and/or processing of materials. This includes similar establishments, and businesses of a similar and no more objectionable character. It also includes incidental finishing and storage. Goods or products manufactured or processed on-site may be sold at retail or wholesale on or off the premises. This does not include any activity listed under Industrial and Manufacturing, Heavy. Examples of general manufacturing include the manufacture or production of the following goods or products: apparel (including clothing, shoes, dressmaking); boats and transportation equipment; brooms; caskets; communication or computation

equipment; dairy products; die-cut paperboard and cardboard; drugs, medicines, pharmaceutical; electrical equipment or machinery; farm machinery; fasteners and buttons; feed and grain; food/baking (including coffee roasting, creameries, ice cream, ice, frozen food, confectionery, and beverage); fruit and vegetable processing, canning and storage; gaskets; glass products made of purchased glass; household appliances; industrial controls; leather and allied products; lithographic and printing processes (including printing plants as defined below); mattresses; medical equipment and supplies; medicines; mill work and similar woodwork; mobile homes; musical instruments; novelties; office supplies; optical goods; photographic equipment; prefabricated and modular housing and components; printing and print supplies (including printing plants); 3-D printing, radio and TV receiving sets; sanitary paper products; scientific and precision instruments; service industry machines; signs; textiles (including dyeing, laundry bags, canvas products, dry goods, hosiery, millinery); tobacco products; toys, sporting and athletic goods; and watches and clocks. A "printing plant" means a facility devoted to printing or bookbinding, including related large-scale storage and transshipment.

(8) Microbrewery

A small-scale brewery that produces less than 15,000 barrels of beer or wine per year.

(9) Research and Development

A facility (such as a laboratory) for general research, scientific research, development and/or training where assembly, integration, and testing of products in a completely enclosed building is incidental to the principal use of scientific research, development, and training.

(10) Salvage Yard

Any building, structure, or open area used for the dismantling or wrecking of any type of used vehicles or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts and accessories, including any farm vehicles or farm machinery or parts thereof, stored in the open and not being restored to operating condition, including the commercial salvaging, storage, and scraping of any other goods, articles, or merchandise. This use also includes areas in which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles.

(11) Self-Storage (Mini-Warehouse)

A facility used for storage of goods and/or materials with separate access to individual storage units by persons renting the individual units.

(12) Warehouse, Distribution, and Wholesale

"A facility or area for the storage of goods, and the sale of goods to other firms for resale, including activities involving significant storage and movement of products or equipment. This use does not involve manufacturing or production. Examples include:

- a) Carting,
- b) cold storage,
- c) distribution facilities (as defined below),
- d) dry goods wholesale,
- e) express crating,
- f) hauling,
- g) feed locker plants,
- h) fulfillment centers that combine storage with call centers,
- i) hardware storage,
- j) merchant wholesalers (such as restaurant supply sales),
- k) warehouse or produce/fruit/food storage and wholesale structures,
- l) wholesale sale of paper supplies, shoes, sporting goods, professional and commercial equipment and supplies, and otherwise preparing goods for transportation.

A "'distribution facility'" means the intake of goods and merchandise, individually or in bulk, the short-term holding or storage of such goods or merchandise, and/or the breaking up into lots or parcels and subsequent shipment off -site of such goods and merchandise. Distribution may be provided to an entity with an identity of interest with the distribution facility or to businesses and individuals unrelated to the distributor. The term "'Distribution Facility'" also includes a transshipment facility for the temporary holding, storage and shipment of goods or vehicles."

(13) Wholesale Showroom Facility

An establishment that primarily consists of sales offices and sample display areas for products and/or services delivered or performed off-premises. Catalog and telephone sales facilities are appropriate. Retail sales of products associated with the primary products and/or services are permitted. Warehousing facilities shall

maintain a minimum of 75% of its total floor area devoted to storage and warehousing not accessible to the public.

(h) Caretaking Service Uses

(1) Adult Day Services

A facility that offers services and activities to senior citizens, including but not limited to counseling, assistance with daily tasks, exercise, transportation, and social activities. Such facilities do not include overnight stays.

(2) Assisted Living Facility

"Per the Texas Health & Safety Code, Section 247.002, ""assisted living facility"" means an establishment that:

1. Furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;
2. Provides:
 - a. Personal care services; or
 - b. Administration of medication by a person licensed or otherwise authorized in this state to administer the medication;
3. May provide assistance with or supervision of the administration of medication; and
4. May provide skilled nursing services for the following limited purposes:
 - a. Coordination of resident care with outside home and community support services agencies and other health care professionals;
 - b. Provision or delegation of personal care services and medication administration as described by this subdivision;
 - c. Assessment of residents to determine the care required; and
 - d. For periods of time as established by department rule, delivery of temporary skilled nursing treatment for a minor illness, injury, or emergency."

(3) Chemical Dependency Facility

"Per the Texas Health & Safety Code, Section 464.001:

1. "Chemical dependency"" means:
 - a. Abuse of alcohol or a controlled substance;
 - b. Psychological or physical dependence on alcohol or a controlled substance; or

- c. Addiction to alcohol or a controlled substance.
2. "Facility" means:
 - a. A public or private hospital;
 - b. A detoxification facility;
 - c. A primary care facility;
 - d. An intensive care facility;
 - e. A long-term care facility;
 - f. An outpatient care facility;
 - g. A community mental health center;
 - h. A health maintenance organization;
 - i. A recovery center;
 - j. A halfway house;
 - k. An ambulatory care facility; or
 - l. Any other facility that offers or purports to offer treatment."
- (4) Child Care Facility, Children's Home

A business for the care of children at a location other than a caretaker's residence for more than 24 hours a day. See Chapter 42 of the Human Resources Code.
- (5) Child Care Facility, Daycare

An establishment providing care for seven (7) or more children for less than twenty-four (24) hours a day at a location other than the permit holder's home. A State license is required. Also includes similar terms such as nursery and child care center. See Chapter 42 of the Human Resources Code.
- (6) Child Care Home (≤ 6 Children)

A private residence where state licensed care, protection, and supervision are provided, for a fee, at least twice a week to no more than six (6) children at one time, including children of the adult provider, for less than twenty-four (24) hours per day. See Chapter 42 of the Human Resources Code.
- (7) Child Care Home (≥ 7 Children)

A private residence where state licensed care, protection, and supervision are provided, for a fee, at least twice a week to no more than twelve (12) children at one

time, including children of the adult provider, for less than twenty-four (24) hours per day. See Chapter 42 of the Human Resources Code.

(8) Clinic

A public or private, profit or nonprofit facility for the reception and treatment of outpatient persons physically or mentally ill, injured, handicapped or otherwise in need of physical or mental diagnosis, treatment, care or similar service. This use includes physician and dental offices.

(9) Community Home for Persons with Disabilities

"A residence for not more than six (6) persons with disabilities and two (2) supervisors. Such entity must be licensed and comply with Chapter 123 of the Human Resources Code. Per Section 123.002, a "person with a disability" means a person whose ability to care for himself or herself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:

1. An orthopedic, visual, speech, or hearing impairment;
2. Alzheimer's disease;
3. Pre-senile dementia;
4. Cerebral palsy;
5. Epilepsy;
6. Muscular dystrophy;
7. Multiple sclerosis;
8. Cancer;
9. Heart disease;
10. Diabetes;
11. Autism; or
12. Mental illness.

Per Section 123.003, "The use and operation of a community home that meets the qualifications imposed under this chapter is a use by right that is authorized in any district zoned as residential".

(10) Funeral Services

An establishment used primarily for human funeral services, which may or may not include facilities on the premises for embalming and, performing of autopsies or other surgical procedures. Examples include funeral homes, mortuaries, crematoriums, or columbarias.

(11) Halfway House

A licensed home for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

(12) Medical Care Facility

An establishment, whether or not licensed or required to be licensed by the State of Texas, by or in which facilities are maintained, furnished, conducted, operated, or offered to prevent, diagnose, or treat human disease, pain, injury, deformity, or physical condition, whether medical or surgical, of two or more non-related mentally or physically sick or injured persons; or for the care of two or more non-related persons requiring or receiving medical, surgical, or nursing attention or service as acute, chronic, convalescent, aged, or physically disabled. This use includes an intermediate care facility, mental facility, outpatient surgery center, birthing facility, diagnostic imaging facility, radiation therapy facility, dialysis facility, medical/physical rehabilitation and trauma unit, or related institution or facility that offers treatment on an outpatient basis. This use may be operated for profit or nonprofit, privately owned, or operated by a local government unit. This use includes any hospital, defined as any licensed and State of Texas accredited health care institution with an organized medical and professional staff and with inpatient beds available around-the-clock, whose primary function is to provide inpatient medical, nursing, and other health-related services to patients for both surgical and nonsurgical conditions and that usually provides some outpatient services (such as emergency care).

(i) Transportation Uses

(1) Airport

A place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers and/or freight.

(2) Bus Terminal

Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.

(3) Parking Facility

A designated lot or area on a lot for the parking of vehicles, inclusive of surface and multi-level, structured parking facilities.

(4) Railroad Station

Any premises for the transient parking of trains and the loading and unloading of passengers.

(5) Railroad Team Track and Right-of-Way

A facility/place for the loading and unloading of materials on trains.

(6) Transit Station

An area or facility where people wait for transportation services.

(7) Truck or Motor Freight Terminal

A building or area in which freight brought by motor truck is assembled and/or stored for shipping by motor truck.

(j) Infrastructure Uses

(1) Electrical Substation

A subsidiary station in which electric current is transformed.

(2) Eligible Facility

A wireless tower as established in Section 140-37. (a).

(3) Gas Metering Station

A facility at which natural gas flows are regulated and recorded.

(4) Governmental Service Yard

An area for the servicing and storage of vehicles or other property of a governmental agency.

(5) Power Plant

An industrial facility using solar, wind, water, electric, or other sources to generate electric power.

(6) Recycling Facility

A facility used for the collection and/or processing of recyclable material. Processing means the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a

facility, if entirely enclosed within a building or buildings, shall be considered a warehouse.

(7) Solid Waste Facility

A facility where non-hazardous wastes are taken from collection vehicles, temporarily stored, and ultimately relocated to a permanent disposal site. This includes any facility, incinerator, landfill, materials recovery facility, municipal solid waste landfill, private or public solid waste management facility, recovered materials processing facility, sanitary landfill, or solid waste management facility.

(8) Solid Waste Transfer Station

A facility and/or premises at which solid waste is temporarily deposited prior to ultimate removal to a permanent solid waste storage site.

(9) Telephone Exchange

A switching or transmitting station owned by a public utility but not including business offices, storage, or repair shops or yards.

(10) Utility Shop

The pole yard, maintenance yard, and/or administrative offices of a municipality or franchised utility.

(k) Agriculture Uses

(1) Agriculture

The use of land for the production of plants and animals useful to humans, including, to a variable extent, the preparation of these products for human use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, hatcheries, and any and all forms of farm products and farm production. This includes accessory uses for treating or storing farm products and equipment.

(2) Agritainment

Events and activities that allow for recreation, entertainment, and tourism that is in conjunction with on-going agricultural activities on-site (examples include corn mazes, hayrides, and petting zoos).

(3) Feedlot

An area or facility primarily engaged in feeding animals. These animals are kept for the products they produce or for eventual sale.

(4) Commercial Stable

A structure housing horses which are boarded or rented to the public or any stable other than a private stable, but not including a sale barn, auction or similar trading activity. Accessory uses are permitted and include but are not limited to offices, storage areas, caretaker's quarters, educating and training in equitation, and caring for, breeding, or training horses associated with the stable use.

(l) Accessory Uses

(1) Accessory Building

A subordinate building, located on the same lot as the main building, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the property.

(2) Accessory Dwelling Unit

An additional dwelling unit integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings. This use also includes similar uses like servant's quarters and guard residences.

(3) Barndominium

An accessory structure that includes living space and barn space on an agricultural property. Barns detached from the living space operating as a separate structure are not included in this definition.

(4) Carport

A structure open on a minimum of three sides designed or used to shelter vehicles, not to exceed 24 feet on its longest dimension.

(5) Donation and Collection Bin

An accessory structure where clothes, goods, products, and other items are placed for donation and are subsequently delivered to a charitable organization for public consumption.

(6) Fuel Pump

A stand-alone fuel dispenser that has one (1) or more nozzles or sets of nozzles, which in turn are separately connected to a distinct system that records the fuel pumped by a single vehicle and the corresponding payment owed for that fuel.

(7) Home Occupation

An occupation or business activity which results in a product or service and is conducted in whole or in part in a dwelling unit and is subordinate to the residential use of the dwelling unit.

(8) Garage

A detached accessory building or portion of the main building for the parking or temporary storage of automobiles of the occupants of the premises; if occupied by vehicles of others, it is a storage space.

(9) Outdoor Dining

An accessory space reserved for customers at a restaurant.

(10) Outdoor Display

The outside arrangement of goods, materials, products, or other equipment on a lot for consumer sales.

(11) Outdoor Storage

The outside keeping of goods, materials, products, containers, or other equipment on a lot.

(12) Private Stable

An accessory use designated for quartering horses on private property.

(13) Personal Swimming Pool

A swimming pool on private property for the use of the property owner, including family and guests.

(14) Retail Ice and Dispensed Water Sales

An establishment offering automated retail sale of bagged or bulk ice, and dispensed water through a coin-operated machine enclosed in a structure; ice is frozen and bagged on-site.

(15) Service Bay

An opening in a wall or building, whether with or without bay doors, which is designed to allow vehicle access.

(16) Transit Stop

A curbside place where passengers board or alight transit, that may or may not include a small shelter usually having three walls, a roof, and a bench, designed to provide for the protection and convenience of passengers.

(17) Wind Energy Conversion System

A wind-driven turbine (whether roof or tower mounted), and associated control or conversion electronics for the purpose of providing electrical power to a privately

owned lot or parcel. These systems are considered accessory uses in all zoning districts.

(m) Temporary Uses

(1) Batching Plant

A temporary manufacturing facility for the production of concrete or asphalt during construction of a project and to be removed when the project is completed.

(2) Construction Yard

A storage yard or assembly yard for building materials and equipment directly related to a construction project and subject to removal at completion of construction and subject to same restrictions as field office.

(3) Field or Sales Office

A building or structure, of either permanent or temporary construction, used in connection with a development or construction project for display purposes or for housing temporary supervisory or administrative functions related to development, construction or the sale of real estate properties within the active development or construction project.

(4) Flea Market

A site where space inside or outside a building is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods, personal effects, tools, artwork, small household appliances, and similar merchandise, objects or equipment in small quantities. The term "flea market" shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

(5) Itinerant Vendor

All persons, firms and corporations, as well as their agents and employees, who engage in the temporary or transient business in the city of exposing or offering to expose plates or films to make negatives for the making of pictures or photographs, or who engage in the temporary or transient business in the city of selling or offering for sale any goods or merchandise, or exhibiting for sale or exhibiting goods or merchandise for the purpose of taking orders for the sale thereof, or who, for the purpose of carrying on such business or conducting such exhibits thereof, either hire, rent, lease or occupy any room or space in any building, structure, other enclosure, vacant lot or any other property whatever in the city, in, through, or from which any

goods or merchandise may be sold, offered for sale, exhibited for sale or exhibited for the purpose of taking orders for the sale thereof. The term "itinerant vendor," as defined in this section, shall not include or be construed to include any person engaged in interstate commerce nor any person upon whom the provisions of this article would impose a direct and unlawful burden on interstate commerce.

(6) Mobile Food Vendor

Any business which sells edible goods from a non-stationary location within the city. The terms shall include, but not be limited to:

- a. Mobile food trucks: a self-contained motorized unit selling items defined as edible goods.
- b. Concession trailers: a vending unit which is pulled by a motorized unit and has no power to move on its own.

(7) Pop-Up Market

An organized operation conducted outside of a permanent structure at a designated location used by vendors primarily for the distribution and sale of retail merchandise.

(8) Seasonal Roadside Stand

Any structure or land used by the property owner, their family, or tenants to sell agricultural or horticultural produce, livestock, or merchandise principally produced on that farm, which is clearly an accessory use of the premises and does not change its character. This may also include the sale of produce grown on other farms and accessory products.

Article XI. Appendix A: Historic Districts, Landmark Properties, and Heritage Properties

- (a) *Purposes.* The intent of historic district designation is to recognize areas of the city of historical and cultural importance because of the presence therein of significant historic, architectural, or cultural resources; to foster civic pride in the accomplishments of the past; to encourage stabilization, restoration, and improvements of such resources and their values; to allow for a design review process, and to serve as a basis for preservation incentive programs. The provisions in this Article pertaining to the designation of landmark and heritage properties constitute a part of the comprehensive plan of the City of McAllen.
- (b) Designation of Historic Districts.
- (1) *Zoning Designation.* The City Commission may, from time to time, upon recommendation of McAllen Historic Preservation Council, designate certain areas in the City of McAllen as historic districts, and define, amend or eliminate the boundaries of same. Such districts shall bear the word "historic" in their zoning designation. Such designation shall be an overlay zone, in addition to any other zoning district designation established in the UDC.
- (2) *Official Zoning Map.* The City Commission shall cause the designation to be recorded by the city secretary in the Records of Hidalgo County, the Hidalgo County Appraisal District, and the tax records of the City of McAllen. The official zoning map for the City of McAllen shall indicate the designated historic district with the suffix "HD".
- (3) *Criteria.* In making the designation of a historic district, the City Commission shall affirmatively find the area has one or more of the following characteristics:
- a. Possess significance in history, architecture, archeology, and 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 renowned master designer, builder or craftsman;
 - f. Represents an established and familiar visual feature of the neighborhood; and
 - g. The majority of the resources within the district is 50 years old or older and considered contributing historically as it retains its structural and architectural integrity.

- (4) *Procedure to Establish a Historic District.* In designating a historic district, the following steps must be followed:
- a. A petition signed by the owners of a majority of the land within the proposed district requesting its designation as a historic district must be filed with the council as an attachment to an application to consider the designation of a historic district. The application shall be in the form and be filed in the manner required by the McAllen Historic Preservation Council.
 - b. Once the application is submitted and processed, the council shall conduct a public hearing at which the owner, interested parties, and/or 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. The Historic Preservation Officer shall make a presentation at the scheduled hearing and render a recommendation to the McAllen Historic Preservation Council. The McAllen Historic Preservation Council shall ascertain the historic nature of the proposed district and determine whether it meets the designation criteria. The McAllen Historic Preservation Council shall then forward a report and recommendation to the Planning and Zoning Commission to accept, modify, or reject the district as proposed. Prior to the hearing written notices shall be sent as provided in Section 140-158. , and official signs shall be posted as provided in Section 140-158. , with the words, "NOTICE OF HISTORIC DISTRICT DESIGNATION," the number and location of which signs shall be determined by the McAllen Historic Preservation Council.
 - c. Once the Planning and Zoning Commission receives the McAllen Historic Preservation Council's report and recommendation, it shall give notice, conduct a public hearing. The Historic Preservation Officer shall make a presentation at the scheduled hearing and render the McAllen Historic Preservation Council's recommendation to the Planning and Zoning Commission. The Planning and Zoning Commission shall ascertain the historic nature of the proposed district and determine whether it meets the designation criteria. After the hearing the Planning and Zoning Commission shall forward the McAllen Historic Preservation Council's and its own report and recommendation to the City Commission to accept, modify, or reject the proposed district. Prior to the hearing written notices shall be sent and official signs shall be posted in the same manner as for the council's hearings, with the number and location of said signs determined by the Planning and Zoning Commission.
 - d. After receiving the McAllen Historic Preservation Council's and Planning and Zoning Commission's reports and recommendations the commission shall conduct a public hearing and take action to accept, modify, or reject the proposed

district. Prior to the hearing notice shall be given by publication as provided in Section 140-158. At the hearing the Historic Preservation Officer shall make a presentation and render the McAllen Historic Preservation Council's and the Planning and Zoning Commission's recommendations.

- e. *Nominated Districts.* The McAllen Historic Preservation Council may, without a petition, when brought to its attention or on its own motion, consider, propose and act to recommend designation of a nominated historic district. In such a case the council's approved motion to do so will substitute for the petition referred to at Subsection a., above. All relevant procedures outlined in this Subsection, shall be followed. However, no recommendation may be forwarded to the Planning and Zoning Commission unless the McAllen Historic Preservation Council's recommendation is supported by a two-thirds majority vote.
 - f. *Maintaining Districts.* In order to qualify for any special funding or tax incentives, designated historic district must maintain the characteristics depicted in Subsection (3) on the basis of which it was designated, and follow all relevant guidelines established by the City of McAllen including performing ordinary repairs and maintenance as necessary.
- (c) Designation of Historic Properties.
- (1) *Zoning Designation.* The commission may, from time to time, designate certain historic resources in the City of McAllen as landmark or heritage properties. Such properties shall bear the word "historic" in their zoning designation. Such designation shall be an overlay zone, in addition to any other zoning district designation established in the UDC.
 - (2) *Official Zoning Map.* Upon designation of property as a heritage or landmark property, the commission shall cause the designation to be recorded in the Official Public Records of Real Property of Hidalgo County, the tax records of the City of McAllen and the Hidalgo County Appraisal District. The official zoning map for the City of McAllen shall indicate a designated landmark property with the suffix "LP," and a designated heritage property with the suffix "HP".
 - (3) *Criteria.* A property qualifies for designation as a landmark or heritage property if it is a historic resource, including a building or structure that complies with all the applicable requirements of this Article and meets any of the following criteria for the specific designation:
 - a. For landmark property designation, the property is at least 50 years old, has been restored, rehabilitated, or preserved in accordance with the applicable United States Secretary of the Interior's Standards, and any design guidelines adopted by the City, and:

1. Embodies the distinctive characteristics of a type, period, or method of historical construction or architecture;
 2. Is associated with the lives of persons significant to our past;
 3. Is associated with events that have made a significant contribution to the broad patterns of our history; or
 4. Has yielded information important in the prehistory or history of McAllen, the region, or the nation.
- b. For heritage property designation, the property is:
1. At least 50 years old but does not qualify for or is not designated a landmark property and, in keeping with standards and procedures promulgated by the City of McAllen, has had all of the facade facing any street it abuts substantially restored, rehabilitated, or preserved; or
 2. Is less than 50 years old and has been substantially restored, rehabilitated, or preserved in keeping with standards and procedures promulgated by the City of McAllen; or
 3. Is a comparable building or structure, as that term is defined in this Article.
- (4) *Procedure to Designate Historic Properties.* In designating a landmark or heritage property, the following steps must be followed:
- a. A property owner shall submit an application to the McAllen Historic Preservation Council in order to be considered for designation as a landmark or heritage property. The application shall be in the form and be filed in the manner required by the McAllen Historic Preservation Council.
 - b. Once the application is submitted and processed, the McAllen Historic Preservation Council shall conduct a public hearing whereas the owner, interested parties, and/or 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 property. Written notices shall be sent in a manner similar to that provided in Section 140-158. , and official signs shall be posted as is provided in Section 140-158. , with the words, "NOTICE OF HISTORIC PROPERTY DESIGNATION," with the number and location of said signs determined by the McAllen Historic Preservation Council. At the hearing the Historic Preservation Officer shall make a presentation and make a recommendation to the McAllen Historic Preservation Council. Following the hearing and deliberation, the council shall forward a recommendation to the Planning and Zoning Commission.

- c. Upon submission by the McAllen Historic Preservation Council, the Planning and Zoning Commission shall give notice and conduct its hearing on the proposed designation. Written notices shall be sent and official signs shall be posted in the same manner as for the McAllen Historic Preservation Council's hearings, with the number and location of said signs determined by the Planning and Zoning Commission. At the hearing the Historic Preservation Officer shall make present the McAllen Historic Preservation Council's recommendation. Following the hearing and deliberation, the Planning and Zoning Commission shall forward a recommendation to the City Commission.
 - d. Upon receipt of a recommendation from the Planning and Zoning Commission, the commission shall give notice, hold a public hearing and make its determination. Notice of such hearing shall be given by publication as provided in Section 140-158. . At the hearing the Historic Preservation Officer shall make a presentation and render the McAllen Historic Preservation Council's and the Planning and Zoning Commission's recommendations.
 - e. *Nominated Historic Properties.* The McAllen Historic Preservation Council may, without a petition, when brought to its attention or on its own motion, consider, propose and act to recommend designation of nominated historic properties. In such a case the McAllen Historic Preservation Council's approved motion to do so will substitute for the property owner's application referred to at Subsection a., above. All relevant procedures outlined in this Subsection , shall be followed. However, no recommendation may be forwarded to the Planning and Zoning Commission unless the McAllen Historic Preservation Council's recommendation is supported by a two-thirds majority vote.
- (5) *Maintaining Historic Properties.* In order to qualify for any special funding or tax incentives, landmark and heritage properties, and contributing resources in historic districts must maintain the characteristics on the basis of which they were designated, must be properly maintained, and follow all relevant guidelines established by the City of McAllen.
- (d) *Withdrawal of Designation.* Whenever it shall come to the McAllen Historic Preservation Council's attention that a designated historic district has failed to maintain the characteristics depicted in this Subsection on the basis of which it was designated, or that a designated landmark of heritage property has failed to maintain the criteria specified in Subsection (3), or that either such a district or property has failed to follow any relevant guidelines established by the City of McAllen, the McAllen Historic Preservation Council may entertain a motion to recommend withdrawal of such designation. Such withdrawal of designation shall render the affected properties ineligible for any tax relief, pursuant to Section 98-72 of this Code of Ordinances.

- (1) *Procedure to Withdraw Designation.* The affected landmark or heritage property owner and all property owners of the affected historic district shall be given written notice of the time and place of the hearing by certified mail sent at least ten business days before the meeting to the owner's address of record.
- (2) Written notices shall be sent in a manner similar to that provided in Section 140-158. , and official signs shall be posted as is provided in Section 140-158. , with the words, "NOTICE OF HEARING TO WITHDRAW HISTORIC DESIGNATION," with the number and location of said signs determined by the McAllen Historic Preservation Council.
- (3) The Historic Preservation Officer shall make a presentation at the scheduled hearing and render a recommendation to the McAllen Historic Preservation Council. The owner or owner's agent or representative shall attend the McAllen Historic Preservation Council's scheduled hearing. In the event the owner or owner's agent or representative fails to be present at the hearing the McAllen Historic Preservation Council shall table the item. At any subsequent meeting and regardless of the absence of the owner or owner's agent or representative, the McAllen Historic Preservation Council may take action.
- (4) The McAllen Historic Preservation Council shall forward a recommendation to the Planning and Zoning Commission for withdrawal of designation if it finds that:
 - a. A designated historic district has failed to maintain the characteristics depicted in this Subsection on the basis of which it was designated; or
 - b. A designated landmark of heritage property has failed to maintain the criteria specified in Subsection (3); or
 - c. Either such a district or property has failed to follow any relevant guidelines established by the City of McAllen.
- (5) Once Planning and Zoning Commission receives the McAllen Historic Preservation Council's recommendation it shall cause written notices to be sent in a manner similar to that provided in Section 140-158. , and official signs shall be posted as is provided in Section 140-158. , with the words, "NOTICE OF HEARING TO WITHDRAW HISTORIC DESIGNATION," with the number and location of said signs determined by the McAllen Historic Preservation Council. The Planning and Zoning Commission shall conduct a public hearing during which the Historic Preservation Officer shall make a presentation and render the McAllen Historic Preservation Council's recommendation. Following the hearing the Planning and Zoning Commission shall deliberate and forward a recommendation to the City Commission.

- (6) After the City Commission receives the Planning and Zoning Commission's recommendation it shall provide notice by publication as provided in Section 140-158. , conduct a public hearing during which the Historic Preservation Officer shall make a presentation and render the McAllen Historic Preservation Council's and Planning and Zoning Commission's recommendations, and take action on the recommendation.

Article XII. Format Reference.

Division 1. Text.

Section 140-221. Text.

Text.

(a) Text.

(1) Text.

a. Text.

1. Text.

a) Text.

1) Text.