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Through September 1, 2021

## City of Kennedale, Texas Unified Development Code

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Approved September 19, 2016  
Effective October 1, 2016

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**City of Kennedale Unified Development Code**

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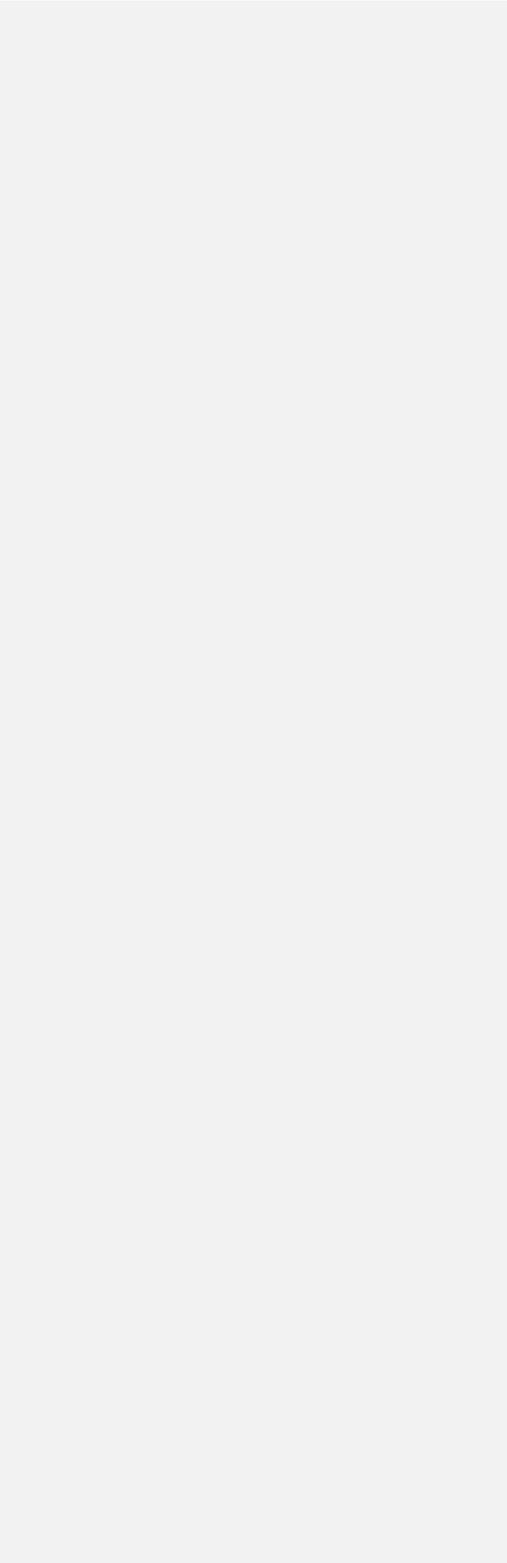
**Introduction**

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**Part  
I**

**City of Kennedale Unified Development Code**

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## **Section 1.1 Title**

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This ordinance shall be known and may be cited as the City of Kennedale Unified Development Code. It is referred in this ordinance as the "Kennedale UDC," the "UDC," or the "Code."

## **Section 1.2 Effective Date**

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The City of Kennedale UDC shall take effect and be in force from and after October 1, 2016.

## **Section 1.3 Authority**

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The Kennedale UDC is enacted pursuant to the powers granted and limitations imposed by laws of the State of Texas, including the statutory authority granted in the Local Government Code Chapter 211, and all other relevant laws of the State of Texas. Whenever any provision of the UDC refers to or cites a section of the Texas Revised Statutes and that section is later amended or superseded, the UDC shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## **Section 1.4 Purpose**

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The Kennedale UDC is enacted in accordance with the City of Kennedale 2012 Comprehensive Plan Update. The purpose of the UDC is to:

- A. Implement the comprehensive plan and to achieve the principles and goals of the plan;
- B. Promote health, safety, and morals;
- C. Protect and preserve places and areas of historical and cultural importance and significance, and the general welfare of the community;
- D. Lessen congestion on the streets within the city;
- E. Secure safety from fire, panic, and other dangers;
- F. Promote the general welfare of the community;
- G. Provide adequate light and air;
- H. Prevent overcrowding of land;
- I. Avoid undue concentration of population;
- J. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- K. Consider the character of the distinct zoning districts and suitability for particular uses;
- L. Conserve the value of buildings; and
- M. Encourage the most appropriate use of land throughout the city.

## **Section 1.5 Applicability**

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- A. *Effect of the Code.* All land, buildings, and structures shall be used or occupied; all buildings and structures, or any portion of buildings and structures, shall be erected, razed, moved, reconstructed, enlarged or altered; and all platting, clearing, and development of land, shall be in conformance with the UDC, including all necessary reviews, approvals, authorizations, and/or permits.

- B. *Emergency Powers.* The City Council may authorize deviations from any provision of the UDC during a local emergency. Such deviations shall be authorized by resolution of the City Council without a requirement for prior notice or public hearing.

## **Section 1.6 Interpretation and Conflict**

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- A. *Minimum Requirements.* In interpreting and applying the provisions of the UDC, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. When the UDC imposes a greater restriction than imposed by other ordinances or laws, the provisions of the UDC shall govern.
- B. *Conflict with Other Public Laws, Ordinances, Regulations, or Permits.* The UDC is intended to complement other city, state, and federal regulations that affect land use. The UDC is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of the UDC are either more restrictive or less restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements, as determined by the Administrator, shall govern.
- C. *Conflict with Private Agreements.* The UDC is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of the UDC are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of the UDC shall govern. Nothing in the UDC shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with the UDC. In no case shall the city be obligated to enforce the provisions of any easements, covenants, or agreements between private or third parties. All applicants and landowners shall be responsible for obligations and restrictions applicable to subject properties by private agreements.

## **Section 1.7 Severability**

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The articles, sections, paragraphs, sentences, clauses, and phrases of the UDC are severable. If any article, section, paragraph, sentence, clause, or phrase included in the UDC is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the unconstitutionality shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses, and phrases of the UDC.

## **Section 1.8 Exhibits and Graphics**

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Exhibits with graphics are provided as “figures” to illustrate the intent of the language included in the UDC. When there is an apparent discrepancy between the text and a figure, the text shall supersede. In cases where the exhibit is a table, it shall be considered a requirement.

## **Section 1.9 Organization**

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The UDC is divided into five (5) parts and an appendix, as follows:

- A. *Introduction.*
- B. *Zoning Districts and Use Regulation.*
- C. *Development Provisions and Design Standards.*
- D. *Review Procedures and Requirements.*

E. *Administration.*

F. *Appendices.*

### **Section 1.10      Comprehensive Plan**

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- A. *Planning.* The city shall adopt a comprehensive plan to guide future development. The comprehensive plan may consist of a future land use plan, future thoroughfare plan, and other plans or policies that may be deemed advisable to assist in long range planning and development of the city.
- B. *Update and Revisions.* The comprehensive plan or individual elements of the comprehensive plan shall be updated or revised from time to time, as necessary.

### **Section 1.11      Penalty**

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Violations of the UDC are punishable as provided in *Article 31*.

### **Section 1.12      Preservation of Rights**

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By the adoption and enactment of the UDC, no presently illegal use shall be deemed to have been legalized unless the use complies with the zoning district requirements in which it is located. Otherwise, nonconforming uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is the intent and declared purpose of this article that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to effective date of the UDC, shall be discharged or affected by such amendment, but the prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance has not been amended.

**Zoning Districts and Use Regulation**

**Part  
II**

## Section 2.1 Purpose

This article establishes the zoning districts and contains basic information pertaining to the districts, the Zoning Map, and interpretations.

## Section 2.2 Zoning Districts

The City of Kennedale is divided into the following zoning districts:

Table 2.2 Zoning Districts		
Symbol	District Name	Article
<b>Agricultural and Residential Districts</b>		
AG	Agricultural District	Article 3
R-1	Single-Family Residential District	
R-2	Single-Family Residential District	
R-3	Single-Family Residential District	
D	Two-Family Residential District	
MF	Multi-Family Residential District	
MH	Manufactured Home District	
TH	Townhome District	
<b>Old Town Districts</b>		
OT-1	Old Town Single-Family Residential District	Article 4
OT-2	Old Town Single-Family Residential and Retail Mixed-Use District	
OT-3	Old Town TownCenter District	
OT-4	Old Town Mixed-Use District	
<b>Village Districts</b>		
NV	Neighborhood Village District	Article 5
UV	Urban Village District	
<b>Commercial and Industrial Districts</b>		
C-0	Retail Commercial	Article 6
C-1	Restricted Commercial District	
C-2	General Commercial District	
I	Industrial District	
<b>Employment Center Districts</b>		
EC- 1	Employment Center Commercial	Article 7
EC- 2	Employment Center Office and Service	
EC- 3	Employment Center Residential	
<b>Overlay Districts</b>		
CCOD	Commercial Corridor Overlay District	Article 8
FOD	Floodplain Overlay District	
<b>Planned Development District</b>		
PD	Planned Development District	Article 9

Commented [KB1]: Ordinance No 709

## Section 2.3 Zoning District Map

A. *Official Zoning Map.* The Official Zoning Map, also known as the "City Zoning Map," or "Zoning Map," is adopted and is declared to be a part of the UDC. This map shall be kept on file in the office of the Administrator and shall be available for public inspection during regular office hours. The Zoning Map shall be identified by the signature of the Mayor, attested by the City Secretary, and bearing

the seal of the city under the following words: "This is the Official Zoning Map as adopted by part of Ordinance No. [number] on [date] by the City Council of the City of Kennedale, Texas."

- B. *Zoning Map Amendments.* Amendments to the Zoning Map shall become effective after approval by the City Council. The Zoning Map will be periodically updated to reflect amendments. Updated Zoning Maps shall also be identified by the signature of the Mayor attested by the City Secretary, and bearing the seal of the city under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as a part of the Zoning Ordinance of the City of Kennedale, Texas."

## Zoning Districts and Use Regulation

### Section 2.4 Interpretation of Zoning District Boundaries

- A. *Rules for Interpretation of District Boundaries.* Where uncertainty exists as to the boundaries of zoning and overlay districts as shown on the Official Zoning Map, the following shall apply:
1. When the district boundaries are roads or streets, unless otherwise shown, and where the designation of the district map indicates that the various districts are bounded by a road or street line, the center line of the road or street shall be construed to be the district boundary line.
  2. Where the district boundaries indicated follow platted lot or tract lines, the district boundaries shall be construed to follow the lot or tract lines.
  3. Where the district boundaries indicated appear to follow city limit boundaries, the district boundaries shall be construed to follow the city limit boundaries.
  4. Where district boundaries indicated as dividing a lot or tract, the district boundaries shall be construed as being located as shown on the zoning district map. Distances not specifically indicated on the zoning district map shall be determined by the scale of the Zoning Map, or by measurements and dimensions specified in the UDC.
  5. Where boundaries follow the shoreline of a stream, lake, or other body of water, they shall be construed to follow that shoreline. In the event the shoreline changes, the boundaries shall be construed as moving with the shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, drainage ditches, or other bodies of water shall be construed to follow those centerlines.
  6. Where the application of these rules leaves a reasonable doubt as to the boundaries between two (2) districts, the Administrator shall interpret the boundary location.
- B. *Boundaries Dividing a Lot.* Where a boundary line divides a property, uses and buildings on the property shall comply with the requirements of the applicable district in which they are located.

### Section 2.5 Zoning of Annexed Land

All land annexed to the city shall be designated as R-1 on the Zoning Map until a different zoning designation is approved by the City Council. A Zoning Map amendment can be reviewed concurrently along with annexation proceedings, however, the annexation approval must occur prior to approval of the amendment to the Zoning Map.

## City of Kennedale Unified Development Code

### Section 2.6 Areas not included within a Zoning District

- A. *Areas Not Included.* In every case where land has not been included within a district on the Zoning Map, the land is determined to be in the R-1 zoning district until a different zoning designation is approved by the City Council.

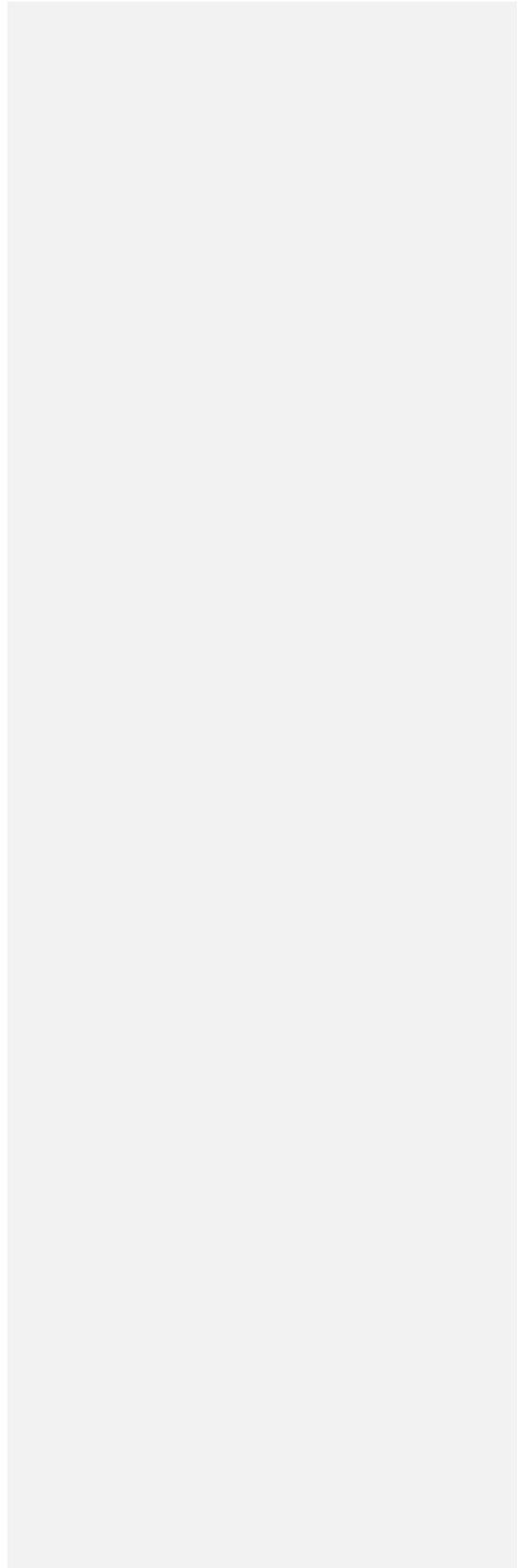
- B. *Vacated Areas.* When a street, alley, or other public way is vacated by governmental action, and when the lands within the boundaries of such a facility are attached to and become a part of the lands adjoining the vacated street, alley, or public way, the lands formerly within the boundaries of the facility shall be subject to the same zoning regulations as apply to the adjoining lands.

## **Section 2.7      Similar Land Uses**

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- A. *Intent.* Since every potential and conceivable land use cannot be addressed and anticipated in the UDC, each district may accommodate similar uses, as referenced in this section.
- B. *Determination.* All applications for a use not specifically addressed in a zoning district, or inquiries concerning a use, shall be submitted to the Administrator for review and a decision.
1. Factors. The Administrator shall base their determination on the following factors:
    - i. The proposed use is not listed as a permitted, special exception, or conditional land use in any other zoning district.
    - ii. The use is consistent with the district purpose.
    - iii. The use is similar to other allowed uses relative to its character, scale, and overall compatibility.
    - iv. The use is not expected to create objectionable impacts to public health, safety, and welfare if it were established in the applicable zoning district.
    - v. The use would not be more appropriate within a different zoning district.
  2. Board of Adjustment. The Administrator may, in their sole discretion, submit a proposed use to the Board of Adjustment for a similar use determination if consideration of the review factors does not lead to a clear conclusion.
- C. *Compliance.* If a proposed use is determined to be similar to other uses listed within the district, the proposed use shall comply with all the standards or requirements associated with the listed use. If the named use is a special exception or conditional land use within the applicable zoning district, the use shall be reviewed and approved according to the applicable requirements within the UDC.
- D. *Determination.* The determination of whether a proposed use is similar to another listed use shall be considered as an interpretation of the use regulations and is not determined to be a land use variance. Once a use has been determined to be similar, it shall be deemed to be included in the list of uses, as regulated.

## Agricultural and Residential Districts



### Section 3.1 Purpose

This article outlines the Agricultural and Residential Zoning Districts and contains basic information pertaining to the land use regulation and spatial requirements for buildings and lots.

- A. *Agricultural District (AG)*. The AG District is established to be used primarily in areas where agricultural uses or open space currently exist and are planned to be preserved.
- B. *Single-Family Residential District (R-1)*. The R-1 District is established to allow for larger, single-family dwellings on large lots. This district is intended to provide a more rural residential setting.
- C. *Single-Family Residential District (R-2)*. The R-2 District permits dwellings on smaller lots.
- D. *Single-Family Residential District (R-3)*. The R-3 District permits dwellings on smaller lots allowing for affordable housing for residents and is intended to accommodate development in existing subdivisions and new development.

E. *Single-Family Residential District (R-4)*. The R-4 District permits dwellings on lots smaller than those lots within R-3, allowing for affordable housing for residents and is intended to accommodate development in existing subdivisions and new development.

Commented [KB2]: Ordinance 674

EE. *Two-Family Residential District (D)*. The D District is established to allow more affordable housing for both rental and ownership, as well as for a more diverse housing stock. This district is established to meet the needs for two-family residential development where such areas are suitable for higher densities than traditional areas of single-family dwellings.

GF. *Multi-Family Residential District (MF)*. The MF District is established to meet the needs for medium to high density residential development where such areas are suitable for higher impact development and higher volume traffic while encouraging the provision of conveniently located rental accommodations.

HG. *Manufactured Home District (MH)*. The MH District is intended to provide for quality manufactured home park subdivision development containing many of the characteristics and atmosphere of a conventional type single-family residential subdivision.

I. *Townhome District (TH)*. The TH District is intended to require a high standard for townhome development by utilizing a form-based code similar to Village zoning.

Commented [KB3]: Ordinance 709

### Section 3.2 Schedule of Uses

Buildings or land shall not be used, and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in the UDC. Land and/or buildings in the districts indicated at the top of *Table 3.2* may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. Land and/or buildings in this district may be used by right, subject to all other applicable provisions of the UDC.
- B. *Conditional Use (C)*. Land and/or buildings are subject to review and permitting in accordance with *Article 24*.
- C. *Special Exception Use (S)*. Land and/or buildings are subject to review and permitting in accordance with *Article 25*.
- D. *Not Permitted*. Blank cells indicate that a use is not permitted within the zoning district.

Table 3.2 Schedule of Uses: Agricultural and Residential Districts										
Use	AG	R-1	R-2	R-3	R-4	D	MF	MH	TH	Of
<b>Accessory Uses</b>										
Accessory buildings	P	P	P	P	P	P	P	P	P	11.2
Garage sales	P	P	P	P	P	P	P	P	P	11.10
Holiday tree and firewood sales	S									11.17
Home occupation	P	P	P	P	P	P	P	P	P	11.18
Outdoor display, accessory retail sales										11.23
Outdoor display, temporary accessory retail sales										11.24
Outdoor storage, commercial and industrial										11.25
Residential sales	P	P	P	P	P	P	P	P	P	11.30
Solar energy equipment	P	P	P	P	P	P	P	P	P	11.37
<b>Accommodations, Hospitality, Entertainment</b>										
Banquet hall										
Bed and breakfast	S	S	S	S	S	S	P			
Hotel/motel										
Micro-brewery										
Micro-winery with vineyard										
Micro-winery without vineyard										
Nightclub or dance hall										
Private club										
Recreation facility, campground	S									
Recreation facility, commercial indoor										
Recreation facility, commercial indoor, amusement machine establishment										11.26
Recreation facility, commercial indoor- pool or billiards hall										
Recreation facility, commercial indoor- gun shooting range	S									11.27
Recreation facility, commercial indoor- paintball or other survival games										
Recreation facility, commercial outdoor										11.28
Recreation facility, commercial outdoor- paintball or other survival games	S									11.28
Recreation facility, community-based	S	S	S	S	S	S	S	S	S	
Recreation facility, driving range	P									
Recreation facility, golf course	P	S	S	S	S	S	S	S	S	
Recreation facility, recreational vehicle park								P		11.29
Recreation facility, rodeo ground and arena	S									
Recreation facility, vehicular racing facility										
Restaurant										
Restaurant with drive-through										11.31
Restaurant with micro-brewery or micro-winery										
Restaurant with outdoor dining or service										
Tavern										
Theater, movie, indoor										
<b>Agricultural</b>										
Agricultural operation or farm	P	S	S	S	S					11.3
Agribusiness and feed store (without animal sales)	P									
Agribusiness and feed store (with animal sales)	S									
Agritourism	P									
Farmers market	S									

Commented [KB4]: Ordinance 674  
 Commented [KB5]: Ordinance 709

**Table 3.2 Schedule of Uses: Agricultural and Residential Districts**

Use	AG	R-1	R-2	R-3	R-4	D	MF	MH	TH	Other
Greenhouse and nursery, commercial	S									11.15
Keeping of animals, hobby farm	P									
Roadside (produce) stand	S									11.32
Stables, private	P	S								
Stables, public/commercial	P									
Winery, with vineyard	P									
<b>Industrial</b>										
Impound vehicle storage facility										11.19
Landfill										
Manufacturing, processing and packaging- light										11.20
Manufacturing, processing and packaging- light, and associate retail sales										11.20
Manufacturing, processing and packaging-										11.20
Mining and mineral extraction operation										11.22
Outdoor storage, commercial and industrial										11.25
Salvage operations										11.33
Warehousing										
Wholesale and distribution										
Mini-warehouse/self-storage										
Winery, without vineyard										
<b>Infrastructure, Transportation, Communications</b>										
Airport										11.5
Airstrip	S									11.5
Bus terminal										
Essential services	P	P	P	P	P	P	P	P	P	11.9
Drilling and production of oil and gas	S	S	S	S	S	S	S	S	S	11.7
Freight terminal, railroad										
Freight terminal, trucking										
Gathering and compression station	S	S	S	S	S	S	S	S	S	11.7
Helicopter landing pad	S									11.5
Infrastructure and utilities- regional	S	S	S	S	S	S	S	S	S	
Parking facility, public or commercial										
Satellite transmission antenna	S	S	S	S	S	S	S	S	S	11.34
Waste management facility										
Waste management facility- transfer station										
Wind energy turbine	S									11.41
Wireless communication facility	S	S	S	S	S	S	S	S	S	11.42
<b>Institutional/Civic</b>										
Cemetery	S	S	S	S	S	S	S	S	S	
Community oriented cultural facility	P	P	P	P	P	P	P	P	P	
Community public safety- fire	P	P	P	P	P	P	P	P	P	
Community public safety- police	S	S	S	S	S	S	S	S	S	
Community public safety- prison or penitentiary										
Governmental facility	P									
Meeting facility										
Parks, playgrounds, outdoor recreation	P	P	P	P	P	P	P	P	P	
Place of worship	P	P	P	P	P	P	P	P	P	
School, college or university	S	S	S	S	S	S	S	S	S	
School, elementary, middle, high school	P	P	P	P	P	P	P	P	P	

Table 3.2 Schedule of Uses: Agricultural and Residential Districts											
Use	AG	R-1	R-2	R-3	R-4	D	MF	MH	TH		Other
School, nursery or kindergarten	S	S	S	S	<u>S</u>	S	S	S	S		
School, specialized/training											
<b>Offices and Services</b>											
Animal services, animal clinic/hospital											11.4
Animal services, commercial kennel	S										11.4
Animal services, shelter or rescue	S										11.4
Body branding, piercing and tattoo facility											
Child care center											11.6
Crematorium											
General offices and services, alternative financial establishments											11.11
General offices and services, bank/financial											
General offices and services, bail bond establishment											11.12
General offices and services- business services											
General offices and services- business support											
General Offices & Services- Construction and											
General Offices & Services- Construction and											11.25
General offices and services- gunsmith and											
General offices and services- personal services											
General offices and services- personal services- funeral home (without crematory)											
General offices and services- personal services-											
General offices and services- professional and											
General offices and services- with a drive through											
Medical services, clinics											
Medical services, medical offices											
Medical services, hospital											
Vehicle repair, major											11.39
Vehicle repair, minor											
Vehicle wash											
Vehicle wash, trucks and heavy equipment											
<b>Residential</b>											
Day care, child day care home	P	P	P	P	<u>P</u>	P	P	P	<u>P</u>		11.6
Day care, group home day care home	S	S	S	S	<u>S</u>	S	S	S	<u>S</u>		11.6
Dwelling, attached accessory	S	S	S	S	<u>S</u>	S	S	S	<u>S</u>		11.8
Dwelling, detached accessory	S	S	S	S	<u>S</u>	S	S	S	<u>S</u>		11.8
Dwelling, multi-family							P		<u>P</u>		
Dwelling, multi-family, upper floor											
Dwelling, single-family	P	P	P	P	<u>P</u>	P	P	P	<u>P</u>		
Dwelling, single-family attached							P		<u>P</u>		
Dwelling, two-family						P	P		<u>P</u>		
Group housing, adult group home	P	P	P	P	<u>P</u>	P	P				11.16

**Table 3.2 Schedule of Uses: Agricultural and Residential Districts**

Use	AG	R-1	R-2	R-3	R-4	D	MF	MH	TH	Other
Group housing, boarding (rooming) house							P			
Group housing, convalescent or nursing home							P			
Group housing, fraternity or sorority home							P			
Group housing, halfway house	S	S	S	S	<u>S</u>	S		S		
Group housing, independent and assisted living							P			
Live-work unit										
Manufactured home community								P		11.21
<b>Retail</b>										
Bakery, retail- under 2,000 square feet of gross floor area										
Bakery, retail- 2,000 square feet or more of gross floor area										
General retail (indoor)										
General retail (indoor)- over 50,000 square feet of										11.13
General retail (outdoor)										
General retail, alcohol sales										11.14
General retail (indoor)- auto parts										
General retail (indoor)- pawnshop										11.11
General retail with a drive-through										
Liquefied petroleum gas (LPG) sales										
Service station										11.35
Vehicle sales and rental: automobiles, light trucks,										11.40
Vehicle sales and rental: heavy equipment/tools, heavy trucks, RVs,										11.40
<b>Other</b>										
Similar uses	P,S C	P,S C	P,S C	P,S C	<u>P,S</u> <u>C</u>	P,S C	P,S C	P,S C		2.7
Sexually oriented business										11.36
Temporary construction office	S	S	S	S	<u>S</u>	S	S	S		11.38
Temporary sales office	S	S	S	S	<u>S</u>	S	S	S	<u>S</u>	11.38
<u>Temporary use- mobile food establishment</u>										
<u>catering truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>11.38</u>
<u>ice cream truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>11.38</u>
<u>lunch truck</u>										<u>11.38</u>
<u>mobile food preparation truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>11.38</u>
<u>produce truck</u>										<u>11.38</u>
Temporary use- special function	S	S	S	S						1

**Commented [KB6]:** Ordinance 623 added mobile food establishment; Ordinance 674 added the R-4 column

### Section 3.3 Spatial Requirements

A. *Spatial Requirements.* All lots shall meet the spatial requirements of *Table 3.3*. New lots shall not be created, except in conformance with these requirements. All buildings and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 3.3*.

Table 3.3 Spatial Requirements: Agricultural and Residential Districts									
Requirement		AG	R-1	R-2	R-3	R-4	D	MF	MH
<b>Lots</b>									
Min. Area (s.f.)	Sewer	43,560	21,780	15,000	8,750	5,000	8,750	2,750/unit	5,000
	Septic	43,560	43,560	43,560	43,560	43,560	43,560	43,560	43,560
Max. Density (units per acre)		-	-	-	-	-	-	16	-
Min. Width (ft.)		80	100	100	80	50	70	75	50/lot
Min. Depth (ft.)		125	125	125	100	100	125	125	100/lot
Max Impervious (%)		50	50	50	50	50	50	50	50
<b>Setbacks</b>									
Min. Front (ft.) <sup>1</sup>	Primary	50	50	40	20	20	30	30	10/lot
	Secondary	20	20	20	15	15	15	15	10
Min. Side (ft.)	Total <sup>2</sup>	30	30	30	20	5	16	16	8
	Least	10	10	10	8	2	8	8	4
Min. Rear (ft.) <sup>3</sup>		45	30	30	15	15	15	15	10/lot
<b>Principal Buildings</b>									
Max. Height (ft.)		50	50	40	40	40	35	30	22.5
Max. Stories (number)		2.5	2.5	2.5	2.5	2.5	2.5	2	1.5
Min. GFA (s.f.)		1,500	1,500	1,500	1,250	1,000/unit	1,000/unit	-	320
Min. Multi-Family Bedroom Area (s.f.) <sup>4</sup>	Efficiency	-	-	-	-	-	-	600	-
	One BR	-	-	-	-	-	-	800	-
	Two BR	-	-	-	-	-	-	900	-
	Three BR	-	-	-	-	-	-	1,000	-
Min. Masonry (%)		80	80	80	80	80	80	80	-
<b>Accessory Buildings (100 s.f. +)</b>									
Max. Number		-	3	2	1	1	2	-	1
Max. Size (% of rear yard)		20	10	10	10	10	10	10	10
Max. Height (ft.)		-	15	15	15	15	15	-	-
Max. Stories (number)		1	1	1	1	1	1	1	1
Min. Side Street Setback (ft.)		-	-	-	-	-	-	15	-
Min. Side Setback (ft.)		8	8	8	8	8	8	8	-
Min. Rear Setback (ft.)		8	8	8	8	8	8	25	-
Min. Setback from Principal (ft.)		5	5	5	5	5	5	15	-

Commented [KB7]: Ordinance 674

Commented [KB8]: Ordinance 715

<sup>1</sup> A corner lot has a primary and secondary front setback. The primary front setback is applied to the yard adjacent to the street in which the dwelling is oriented. The secondary front setback is applied to yard adjacent to the other street (See *Figure 3-2*).

<sup>2</sup> A total side setback does not apply to corner lots; the least side setback will apply.

<sup>3</sup> Whenever any lot is located on a cul-de-sac, the rear yard setback shall be 15 feet.

<sup>4</sup> The average living area for all apartments in an apartment building must be a minimum of 700 square feet.

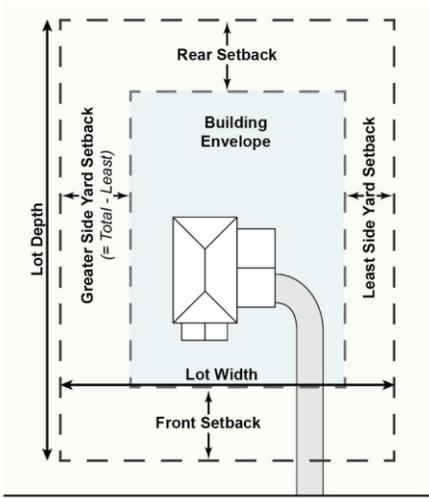


Figure 3-1 Spatial Requirements, Interior Lot

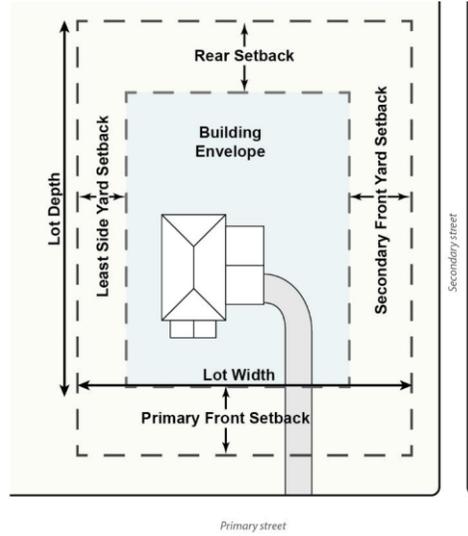
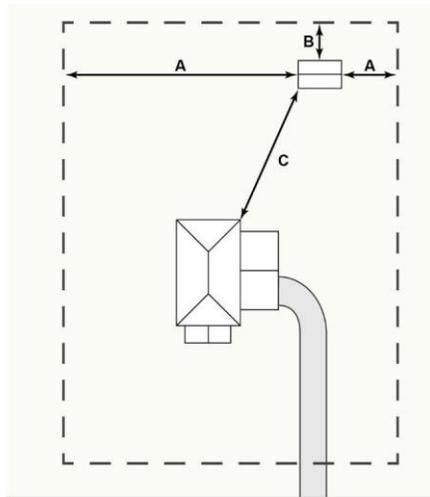


Figure 3-2 Spatial Requirements, Corner Lot



A = Side Setback  
 B = Rear Setback  
 C = Setback from Principal Structure

Figure 3-3 Spatial Requirements, Accessory Buildings

- A. *Siding.* Notwithstanding UDC requirements new development, in neighborhoods where the majority of the homes were constructed before 1960, the building official may permit the use of fiber cement siding in place of other masonry materials authorized by the UDC provided the following design standards are also met. Vinyl siding, plastic, EIFS, stucco, corrugated metal sheeting, aluminum siding, or any other kind of metal siding is not permitted.
- B. *Style.* The architectural style to be used for the new construction must be clearly of a pre-1960s style. The goal is not to try to disguise new construction as old, but rather to ensure compatibility and to ensure that the character of new construction is in keeping with existing pre-1960 buildings.
- C. *Compatibility.* The proposed architectural style must be compatible with the other homes on the same street, meaning it is consistent with the architectural design features of existing pre-1960s homes found within the district neighborhood, and in particular along the same street, including architectural style, scale, massing, setbacks, and materials.
- D. *Materials.* Fiber cement siding is permitted for new construction along streets where the majority of homes are of a pre-1960s architectural style. Placement/style of the siding must match the street. For example, if a majority of the pre-1960s homes use horizontal or clapboard siding, then board-and batten siding would not be permitted.
- E. *Setbacks.* The front setback shall be aligned with front facades of adjacent pre-1960s homes where a consistent setback of pre-1960s homes has been established along the street frontage, provided, however, that the front setback is at least 10 feet. If the new home is built on a street that is mostly vacant, then the new home's setback shall match the dominant setback of pre-1960s homes within the same neighborhood.
- F. *Height.* New construction is not required to maintain the same building height as existing homes on the same street; however, new primary structures shall appear to be the same number of stories as other buildings within the block. The height and scale of new construction should not exceed that of the majority of historic buildings by more than one (1) story. In addition, if there is no more than a 50 percent variation in the height of buildings on the adjacent block faces, then the height of the new building shall not exceed the tallest building on the adjacent block face by more than 15 percent. Foundation and floor-to-floor heights should be within one foot of floor-to-floor heights on adjacent pre-1960s structures. If adjacent structures have varying foundation and floor-to-floor heights, then foundation and floor-to-floor heights of new construction shall be consistent with the average foundation and floor-to-floor heights of pre-1960s construction along the same street.
- G. *Orientation.* Primary structures shall be oriented toward the street (the street on which the home is addressed).
- H. *Windows.* Windows shall be of a similar size and pattern as typical of the pre-1960s architectural style of the new home. No windowless facades shall be permitted on primary structures constructed under this section.
- I. *Roofs.* Roof forms—pitch, overhangs, and orientation—shall be consistent with those predominantly found within the block, provided the block is made up of predominantly pre-1960s homes. Gabled roofs are preferred, although hipped or other roof types may be permitted by the building official if the roof design is consistent with the pre-1960 architectural style used for the new home and with the predominant roof types of other pre-1960s homes along the same street, and if the primary roof line facing the street is gabled. Roof materials shall be similar in terms of form, color, and texture to those traditionally used in the district.
- J. *Garages and Accessory Structures.* Garages may be attached or detached. They may be front-facing if: the garage is of a size that accommodates no more than two (2) cars; the garage is located entirely behind the rear facade of the primary structure; and the style matches the character of the home and the

neighborhood (in terms of design and lot placement). J-swing garages are not permitted. Other accessory buildings, as permitted in the zoning district, shall also be located entirely behind the rear façade of the primary structure and be matching in style and materials to the primary structure. Metal accessory buildings are not permitted.

- K. *Porches.* Along streets where the predominate house styles feature front-entry porches, then new construction shall be required to have a front entry porch with a minimum of five (5) feet in depth and five (5) feet in width. If the architectural style typically would have different dimensions for a front porch, these different dimensions may be permitted instead, except that the front porch must have a minimum of 25 square feet in area.
- L. *Lot Coverage.* Lot coverage for new construction shall not exceed more than 15 percent of the average lot coverage for properties with pre-1960s along the same street. In no case shall lot coverage exceed the maximum amount permitted within the zoning district.

### Section 3.5 Other Requirements

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In addition to the requirements of this article, all development in the Agricultural and Residential Districts shall meet the applicable requirements as listed elsewhere in the UDC:

- A. *General Provisions for All Districts.* Article 10, as applicable and if noted in the far right column in Table 3.2.
- B. *Specific Use Requirements.* Article 11, if noted in the far right column in Table 3.2.
- C. *Parking and Loading.* Article 12.
- D. *Landscaping and Lighting.* Article 13.
- E. *Signs.* Article 14.
- F. *Site Plan Review.* Article 23, as applicable.
- G. *Conditional Uses.* Article 24, if noted as “C” in Table 3.2.
- H. *Special Exception Uses.* Article 25, if noted as “S” in Table 3.2.

### 3.6 Additional Multi-Family Regulations

Commented [KB9]: Entire section added by 673

A. Purpose. To require a higher standard of development for new multi-family developments by utilized a form-based code similar to Village zoning. These modifications are consistent with the Comprehensive Plan Economic Prosperity principle of “Promoting access to housing”, providing housing options for people of varying financial means and residential preferences, while ensuring quality development in the City.

B. Form and Character. Multi-family developments should have an urban building form and street frontage. The primary building form is street-oriented with windows across the façade and one or more entrances along the street. Buildings sit behind a landscaped dooryard and may be configured around a courtyard. The buildings define the street space and typically provide private open space through a combination of balconies, roof decks and spaces interior to the lot.

C. Building Form Standards. All buildings shall meet the following standards:

1. Height.

- a. The height of all buildings is measured in stories, with an ultimate building height in feet, measured to the top of the wall plate. At no time may a building exceed the prescribed maximum height in stories or in feet.
- b. All heights are measured from the average fronting sidewalk elevation (at the required building line) unless otherwise noted.
- c. A half-story (or attic story), defined as habitable space within a pitched roof, does not count against the maximum height in stories or feet, but may provide no greater than 75 percent of the square footage of the floor immediately below.
- d. The prescribed minimum story clear height shall be met within 30 feet of the required building line (RBL) and by at least 80 percent of each story floor area.
- e. The required ground story finished floor level shall be measured within 30 feet of any RBL.
- f. Residential entrances may be at grade, with transitions to meet the minimum finished floor elevation within the building interior.

## 2. Siting.

- a. Building facades shall be built to the RBL.
- b. The building façade shall be built to the RBL within 30 feet of a block corner.
- c. No part of any building or structure may encroach beyond the RBL or into any required setback except overhanging eaves, awnings, balconies, bay windows, stoops, steps or barrier free ramps approved by the Administrator.
- d. There are no side setbacks
- e. The parking setback line is generally 20 or 30 feet behind the RBL. Vehicle parking shall be located behind the parking setback line, except where parking is provided below grade, on street, or otherwise indicated.
- f. All lots, including corner lots and through lots, shall satisfy the build-to requirements for any and all of their RBL frontages.

## 3. Elements.

- a. Fenestration is regulated as a percentage of the façade between floor levels. Fenestration is measured as a glass area (including mullions, muntins, and similar window frame elements with a dimension less than one inch) and/or open area.
- b. At least one (1) functioning entry door shall be provided along each ground story façade. The maximum distance between functioning façade entrances shall not be exceed.
- c. In no case shall a garage door be located at or face the RBL.

- d. No privates fences may be constructed forward of the RBL.
- e. A garden wall may be used to define the street edge, to secure a pedestrian passage, to enclose a courtyard space, on rear lot lines, or to screen building service elements.

<u>Height</u>	
<u>Max Building</u>	<u>3 stores and 38'</u>
<u>Minimum ground floor clear height</u>	<u>9'</u>
<u>Minimum upper story clear height</u>	<u>9'</u>
<u>Max Garden Wall Height</u>	<u>10'</u>
<u>Max Privacy Fence Height</u>	<u>7'</u>
<u>Siting</u>	
<u>Min Build-To</u>	<u>75%</u>
<u>Min Parking Setback</u>	<u>30'</u>
<u>Side setbacks</u>	<u>None required</u>
<u>Min rear setback with alley</u>	<u>3'</u>
<u>Min rear setback with no ally</u>	<u>20'</u>
<u>Garden wall</u>	<u>Permitted on unbuilt RBL</u>
<u>Privacy fence</u>	<u>Permitted on common and rear lot lines only</u>
<u>Elements</u>	
<u>Min/Max Ground floor Façade Fenestration</u>	<u>33 to 80%</u>
<u>Min/Max Upper Story Fenestration</u>	<u>20 to 70%</u>
<u>Max Blank Wall Limitation</u>	<u>30'</u>
<u>Max Distance between Façade Entrances</u>	<u>60'</u>
<u>Balconies</u>	<u>Permitted</u>

- 4. Parking.
  - a. Parking may be located on the street, in a surface lot or in a structure.
  - b. No parking shall be located between the building façade and the back of curb.
  - c. All off-street parking shall be located behind the parking setback line, typically 25' feet or more behind the back of sidewalk.
  - d. All surface parking (as well as loading areas) shall be placed to the rear or to the side of the buildings, but in no case shall more than 60 feet of the property frontage (along the required building line) be used for surface parking.
  - e. All surface parking and loading areas shall be screened from public areas, public sidewalks, and abutting residentially zoned properties by landscaping and a four (4) foot solid wall or a combination masonry and a wrought iron or metal fence.
  - f. When parking is above grade within a structure, a façade treatment that is consistent (in terms of materials and design) with the building façade shall be provided for the parking floors/levels.

g. Parking structures shall be constructed so that commercial uses occupy the ground floor level on all street frontages. Automobile parking spaces are to be provided as required in this section and configured according to Sections 12.8 and 12.9.

h. Residential minimum reserved parking spaces per unit: Up to 1,000 square feet, regardless of bedroom count: one (1) space/unit. Above 1,000 square feet: one and a quarter (1.25) spaces per unit.

5. Bicycle Parking.

a. Sites and/or projects over 10,000 square feet in land area require one (1) tenant bicycle parking rack (2-bike capacity) per ten (10) units. Buildings under four (4) units shall have no requirement.

b. Bicycle parking facilities shall be visible to intended users. The bicycle parking facilities shall not encroach on any area in the public right-of-way designated as the clear walkway nor shall they encourage on any required fire egress.

c. On-street bicycle parking spaces (typically along the street tree alignment line) may be counted toward the minimum customer/visitor bicycle parking requirement. For areas with constrained street-space, an optional approach is to consolidate public bicycle parking in a single (1) dedicated on-street parking space per block.

d. Bike rack design shall meet the requirements of Section 12.4D.

6. Permissive Parking and Loading Facilities. Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, in accordance with all regulations herein governing the location, design and operation of such facilities.

7. On-Street Parking. A parking space located on a public street may be included in the calculation of parking requirements if it is adjacent to the building site (where more than 50 percent of the space is fronting). Each on-street parking space may only be counted once.

8. Loading Facilities. If provided, loading zones shall be located to the rear and/or alley side of buildings.

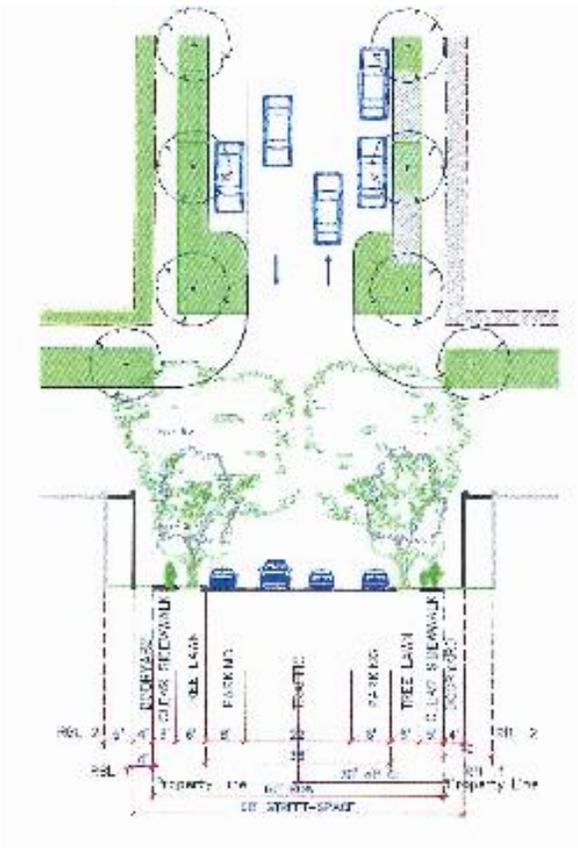
9. Parking Lot Plantings for New Development.

a. Trees. For any surface parking lot not separated from the street or public realm by a building, the space between the RBL and the parking setback line shall be planted with canopy shade trees. Trees shall be planted at an average distance not to exceed 30 feet on center and aligned parallel three (3) to seven (7) feet behind the RBL or garden wall.

b. Edge. The edge of any surface parking lot adjacent to a single-family lot shall:

i. Be planted with canopy shade trees placed at an average distance not to exceed 40 feet on center and aligned parallel three (3) to seven (7) feet behind the common lot line; and

- ii. Have a garden wall or privacy fence along the common lot line at least three (3) feet in height.
- c. Streets & Streetscape – Public Realm. The street graphic below illustrates the recommended typical configuration for street spaces within multi-family developments. The plans and sections specify ideal vehicular travel lane widths, curb radii, sidewalks, tree planting areas, and on-street parking configurations. The streets must work in conjunction with the building form standards to create the type of walkable place envisioned by the Comprehensive Plan. Streets must balance the needs of all forms of traffic – auto, bicycle and pedestrian.



### 3.7 Townhome Regulations

Commented [KB10]: Ordinance 709

A. Purpose. To require a high standard for townhome development by utilizing a form-based code similar to Village zoning. These modifications are consistent with the Comprehensive Plan Economic Prosperity principle of “promoting access to housing”, providing housing options for people of varying financial means and residential preferences, while ensuring quality development in the City.

B. Form and Character. Townhome developments should have an urban building form and street frontage. The primary building form is street-oriented with windows across the façade and one or more entrances along the street. Buildings sit behind a landscaped dooryard and may be configured around a courtyard. The buildings define the street space and typically provide private open space through a combination of balconies, roof decks, and spaces interior to the lot.

C. Building Form Standards. All buildings shall meet the following standards:

1. Height.

a. The height of all buildings is measured in stories, with an ultimate building height in feet, measured to the top of the wall plate. At no time may a building exceed the prescribed maximum height in stories or in feet.

b. All heights are measured from the average fronting sidewalk elevation (at the required building line) unless otherwise noted.

c. A half-story (or attic story), defined as habitable space within a pitched roof, does not count against the maximum height in stories or feet, but may provide no greater than 75 percent of the square footage of the floor immediately below.

d. The prescribed minimum story clear height shall be met within 30 feet of the required building line (RBL) and by at least 80 percent of each story floor area.

e. The required ground story finished floor level shall be measured within 30 feet of any RBL.

f. Residential entrances may be at grade, with transitions to meet the minimum finished floor elevation within the building interior.

2. Siting.

a. Building facades shall be built to the RBL.

b. The building façade shall be built to the RBL within 30 feet of a block corner.

c. No part of any building or structure may encroach beyond the RBL or into any required setback except overhanging eaves, awnings, balconies, bay windows, stoops, steps or barrier free ramps approved by the Administrator.

d. There are no side setbacks

e. The parking setback line is generally 20 or 30 feet behind the RBL. Vehicle parking shall be located behind the parking setback line, except where parking is provided below grade, on street, or otherwise indicated.

f. All lots, including corner lots and through lots, shall satisfy the build-to requirements for any and all of their RBL frontages.

3. Elements.

a. Fenestration is regulated as a percentage of the façade between floor levels. Fenestration is measured as a glass area (including mullions, muntins, and similar window frame elements with a dimension less than one inch) and/or open area.

b. At least one (1) functioning entry door shall be provided along each ground story façade. The maximum distance between functioning façade entrances shall not be exceeded.

c. In no case shall a garage door be located at or face the RBL.

d. No private fences may be constructed forward of the RBL.

e. A garden wall may be used to define the street edge, to secure a pedestrian passage, to enclose a courtyard space, on rear lot lines, or to screen building service elements.

<u>Height</u>	
<u>Max Building</u>	<u>3 stories and 38'</u>
<u>Minimum ground floor clear height</u>	<u>9'</u>
<u>Minimum upper story clear height</u>	<u>9'</u>
<u>Max Garden Wall Height</u>	<u>10'</u>
<u>Max Privacy Fence Height</u>	<u>7'</u>
<u>Siting</u>	
<u>Min Build-To</u>	<u>75%</u>
<u>Min Parking Setback</u>	<u>30'</u>
<u>Side setbacks</u>	<u>None required</u>
<u>Min rear setback with alley</u>	<u>3'</u>
<u>Min rear setback with no ally</u>	<u>20'</u>
<u>Garden wall</u>	<u>Permitted on unbuilt RBL</u>
<u>Privacy fence</u>	<u>Permitted on common and rear lot lines only</u>
<u>Elements</u>	
<u>Min/Max Ground floor Façade Fenestration</u>	<u>33 to 80%</u>
<u>Min/Max Upper Story Fenestration</u>	<u>20 to 70%</u>
<u>Max Blank Wall Limitation</u>	<u>30'</u>

<u>Max Distance between Façade Entrances</u>	<u>60'</u>
<u>Balconies</u>	<u>Permitted</u>

4. Parking.

- a. Parking may be located on the street, in a surface lot, or in a structure.
- b. No parking shall be located between the building façade and the back of curb.
- c. All off-street parking shall be located behind the parking setback line, typically 25' feet or more behind the back of sidewalk
- d. All surface parking (as well as loading areas) shall be placed to the rear or to the side of the buildings, but in no case shall more than 60 feet of the property frontage (along the required building line) be used for surface parking.
- e. All surface parking and loading areas shall be screened from public areas, public sidewalks, and abutting residentially zoned properties by landscaping and a four (4) foot solid wall or a combination masonry and a wrought iron or metal fence.
- f. When parking is above grade within a structure, a façade treatment that is consistent (in terms of materials and design) with the building façade shall be provided for the parking floors/levels.
- g. Parking structures shall be constructed so that commercial uses occupy the ground floor level on all street frontages. Automobile parking spaces are to be provided as required in this section and configured according to Sections 12.8 and 12.9.
- h. Residential minimum reserved parking spaces per unit: Up to 1,000 square feet, regardless of bedroom county: one (1) space/unit. Above 1,000 square feet: one and a quarter (1.25) spaces per unit.

5. Bicycle parking.

- a. Sites and/or projects over 10,000 square feet in land area require one (1) tenant bicycle parking rack (2-bike capacity) per ten (10) units. Buildings under four (4) units shall have no requirement.
- b. Bicycle parking facilities shall be visible to intended users. The bicycle parking facilities shall not encroach on any area in the public right-of-way designated as the clear walkway nor shall they encourage on any required fire egress.
- c. On-street bicycle parking spaces (typically along the street tree alignment line) may be counted toward the minimum customer/visitor bicycle parking requirement. For areas with constrained street-space, an optional approach is to consolidate public bicycle parking in a single (1) dedicated on-street parking space per block.
- d. Bike rack design shall meet the requirements of Section 12.4D.

6. Permissive Parking and Loading Facilities. Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, in accordance with all regulations herein governing the location, design and operation of such

facilities.

7. On-Street Parking. A parking space located on a public street may be included in the calculation of parking requirements if it is adjacent to the building site (where more than 50 percent of the space is fronting). Each on-street parking space may only be counted once.

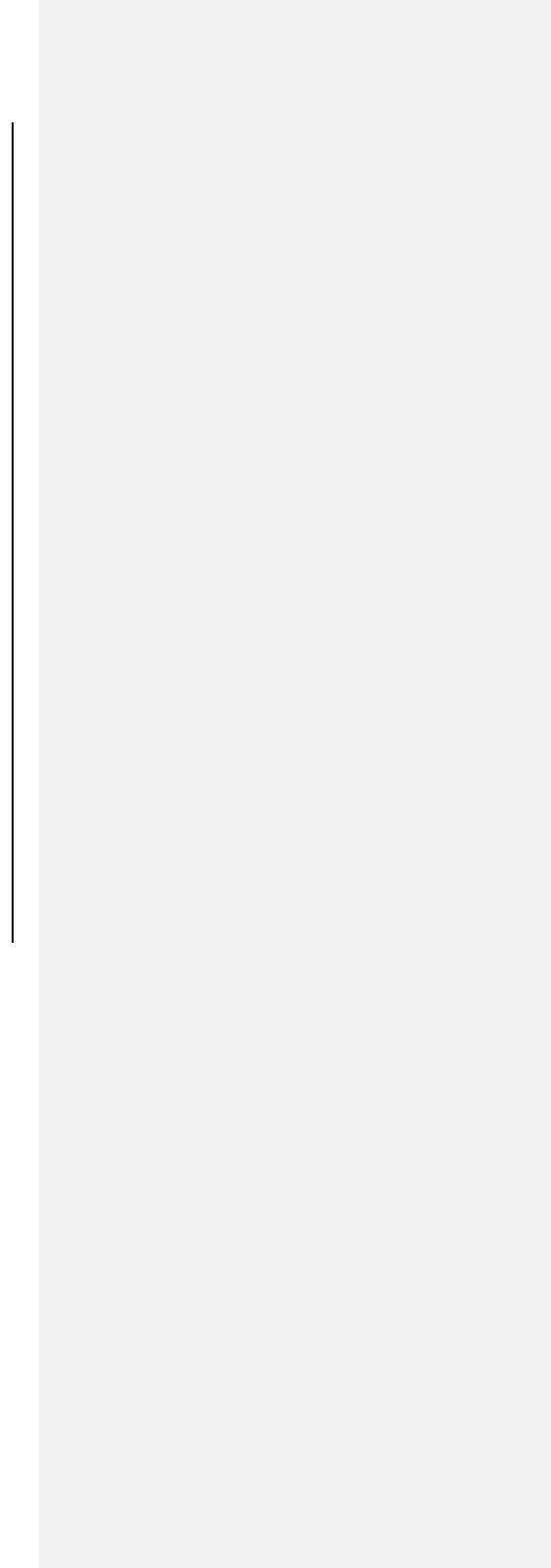
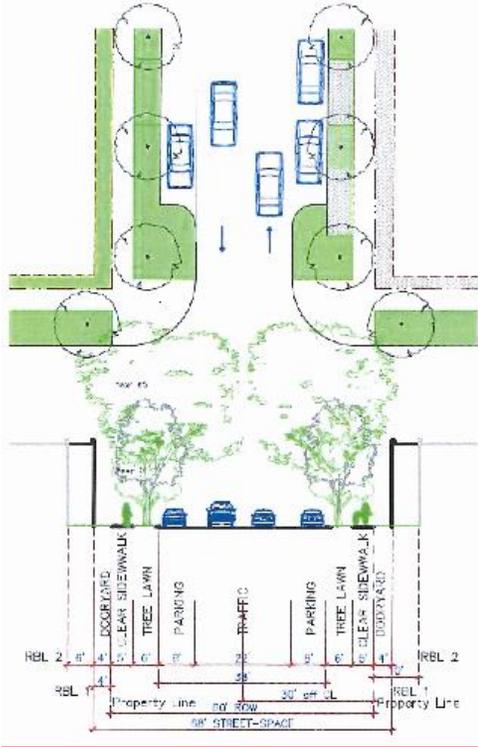
8. Loading Facilities. If provided, loading zones shall be located to the rear and/or alley side of buildings.

9. Parking Lot Plantings for New Development.

a. Trees. for any surface parking lot not separated from the street or public realm by a building, the space between the RBL and the parking setback line shall be planted with canopy shade trees. Trees shall be planted at an average distance not to exceed 30 feet on center and aligned parallel three (3) to seven (7) feet behind the RBL or garden wall.

b. Edge. The edge of any surface parking lot adjacent to a single-family lot shall: Be planted with canopy shade trees placed at an average distance not to exceed 40 feet on center and aligned parallel three (3) to seven (7) feet behind the common lot line; and Have a garden wall or privacy fence along the common lot line at least three (3) feet in height.

c. Streets & Streetscape – Public Realm. The street graphic illustrates the recommended typical configuration for street spaces within multi-family developments. The plans and sections specify ideal vehicular travel lane widths, curb radii, sidewalks, tree planting areas, and on-street parking configurations. The streets must work in conjunction with the building form standards to create the type of walkable place envisioned by the Comprehensive Plan. Streets must balance the needs of all forms of traffic – auto, bicycle and pedestrian.



**Old Town Districts**

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**Article  
4**

**City of Kennedale Unified Development Code**

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## Section 4.1 Purpose

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The old town of Kennedale has a unique character as it contains a wide range of mixed uses that include potential historical structures, older single-family residences, and existing new single-family residences, duplexes, multifamily, institutional, and commercial uses. This area has been in transition for over 30 years and will continue to redevelop with a mix of uses on the remaining undeveloped lots. The purpose of the regulations in this article is to promote a central place for civic activity in Kennedale as well as to preserve and expand the original old town area to serve as a gateway into the center of Kennedale, in a manner that distinguishes it from neighboring communities. The regulations in this section are intended to encourage a relatively dense mix of residences and businesses that create a built environment which is both aesthetically pleasing, and which encourages walkability and public gatherings. This article outlines the Old Town Zoning Districts and contains basic information pertaining to the land use regulations and spatial requirements for buildings and lots.

- A. *Old Town Single-Family Residential District (OT-1)*. The OT-1 District is established to preserve existing single-family residential uses and promote historic residential building designs in this area.
- B. *Old Town Single-Family Residential and Retail Mixed-Use District (OT-2)*. The OT-2 District is established to promote a mix of single-family residential and low intensity retail in this area, to be housed in residential structures that are similar to the building designs and materials allowed in the OT-1 District.
- C. *Old Town TownCenter District (OT-3)*. The OT-3 District is established to promote mainly institutional uses in a historical or modern interpretation of storefront-type building designs in the area.
- D. *Old Town Mixed-Use District (OT-4)*. The OT-4 District is established to promote a mix of residential and non-residential uses in historical or the modern interpretation of storefront type building designs in the area.

## Section 4.2 Schedule of Uses

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Buildings or land shall not be used, and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in the UDC. Land and/or buildings in the districts indicated at the top of *Table 4.2* may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. Land and/or buildings in this district may be used by right, subject to all other applicable provisions of the UDC.
- B. *Conditional Use (C)*. Land and/or buildings are subject to review and permitting in accordance with *Article 24*.
- C. *Special Exception Use (S)*. Land and/or buildings are subject to review and permitting in accordance with *Article 25*.
- D. *Not Permitted*. Blank cells indicate that a use is not permitted within the zoning district.

Field Code Changed

**Table 4.2 Schedule of Uses: Old Town Districts**

Use	OT-1	OT-2	OT-3	OT-4	Other
<b>Accessory Uses</b>					
Accessory buildings	P	P	P	P	11.2
Garage sales	P	P	P	P	11.10
Holiday tree and firewood sales		S	S	S	11.17
Home occupation, <u>including cottage food production*</u>	P	P		P	11.18
Outdoor display, accessory retail sales					11.23
Outdoor display, temporary accessory retail sales			P	P	11.24
Outdoor storage, commercial and industrial					11.25
Residential sales	P	P	P	P	11.30
Solar energy equipment	P	P	P	P	11.37
<b>Accommodations, Hospitality, Entertainment</b>					
Banquet hall			P	P	
Bed and breakfast		P	S	P	
Hotel/motel			P	P	
Micro-brewery		S	S	S	
Micro-winery with vineyard		C		C	
Micro-winery without vineyard		P	P	P	
Nightclub or dance hall					
Private club					
Recreation facility, campground					
Recreation facility, commercial indoor		P	P	P	
Recreation facility, commercial indoor, amusement machine establishment					11.26
Recreation facility, commercial indoor- pool or billiards hall			P	P	
Recreation facility, commercial indoor- gun shooting range				S	11.27
Recreation facility, commercial indoor- paintball or other survival games					
Recreation facility, commercial outdoor					11.28
Recreation facility, commercial outdoor- paintball or other survival games					11.28
Recreation facility, community-based	S	S	S	S	
Recreation facility, driving range					
Recreation facility, golf course					
Recreation facility, recreational vehicle park					11.29
Recreation facility, rodeo ground and arena					
Recreation facility, vehicular racing facility					
Restaurant		P	P	P	
Restaurant with drive-through					11.31
Restaurant with micro-brewery or micro-winery			P	P	
Restaurant with outdoor dining or service		P	P	P	
Tavern			P	P	
Theater, movie, indoor			P	P	
<b>Agricultural</b>					
Agricultural operation or farm					11.3
Agribusiness and feed store (without animal sales)				P	
Agribusiness and feed store (with animal sales)				S	
Agritourism					
Farmers market			P		

Commented [KB11]: Ordinance No. 619

\*as permitted by state law concerning cottage food production operations



**Table 4.2 Schedule of Uses: Old Town Districts**

Use	OT-1	OT-2	OT-3	OT-4	Other
Greenhouse and nursery, commercial					11.15
Keeping of animals, hobby farm					
Roadside (produce) stand		P	S	P	11.32
Stables, private	C	C			
Stables, public/commercial					
Winery, with vineyard		C		C	
<b>Industrial</b>					
Impound vehicle storage facility					11.19
Landfill					
Machine shop		S		S	
Manufacturing, processing and packaging- light				S	11.20
Manufacturing, processing and packaging- light, and associate retail sales				S	11.20
Manufacturing, processing and packaging- heavy					11.20
Mining and mineral extraction operation					11.22
Outdoor storage, commercial and industrial					11.25
Salvage operations					11.33
Warehousing					
Wholesale and distribution					
Mini-warehouse/self-storage					
Winery, without vineyard		P	P	P	
<b>Infrastructure, Transportation, Communications</b>					
Airport					11.5
Airstrip					11.5
Bus terminal				S	
Essential service	P	P	P	P	11.9
Drilling and production of oil and gas	S	S	S	S	11.7
Freight terminal, railroad	S	S	S	S	
Freight terminal, trucking					
Gathering and compression station	S	S	S	S	11.7
Helicopter landing pad					11.5
Infrastructure and utilities- regional	S	S	S	S	
Parking facility, public or commercial			S	S	
Satellite transmission antenna	S	S	S	S	11.34
Waste management facility					
Waste management facility- transfer station					
Wind energy turbine					11.41
Wireless communication facilities	P/S	P/S	P/S	P/S	11.42
<b>Institutional/Civic</b>					
Cemetery	S	S	S	S	
Community oriented cultural facility	S	S	P	S	
Community public safety- fire	S	S	P	P	
Community public safety- police	S	P	P	P	
Community public safety- prison or penitentiary					
Governmental facility	S	S	P	P	
Meeting facility			P	P	
Parks, playgrounds, outdoor recreation	P	P	P	P	
Place of worship	P	P	P	P	
School, college or university	S	S	P	S	
School, elementary, middle, high school	P	P	P	P	
School, nursery or kindergarten	P	P	P	P	

Commented [KB12]: Ordinance No. 619

Commented [KB13]: Ordinance No. 619

Commented [KB14]: Ordinance No. 619

**Table 4.2 Schedule of Uses: Old Town Districts**

Use	OT-1	OT-2	OT-3	OT-4	Other
School, specialized/training	S	S	P	P	
<b>Offices and Services</b>					
Animal services, animal clinic/hospital		P	P	P	11.4
Animal services, commercial kennel				S	11.4
Animal services, shelter or rescue				S	11.4
Body branding, piercing and tattoo facility		S	P	P	
Child care center		P	P	P	11.6
Crematorium					
General offices and services, alternative financial establishments					11.11
General offices and services, bank/financial services		P	P	P	
General offices and services, bail bond establishment					11.12
General offices and services- business services		P	P	P	
General offices and services- business support services		P	P	P	
General Offices & Services- construction and building Services, indoor storage	P	P	P		
General Offices & Services- construction and building Services, outdoor storage					11.25
General offices and services- gunsmith and sales		S	S	P	
General offices and services- personal services		P	P	P	
General offices and services- personal services- funeral home (without crematory services)			P	P	
General offices and services- personal services- laundry and dry cleaners		P	P	P	
General offices and services- professional and administrative services		P	P	P	
General offices and services- with a drive through facility					
Medical services, clinics		P	P	P	
Medical services, medical offices		P	P	P	
Medical services, hospital					
Vehicle repair, major				S	11.39
Vehicle repair, minor				P	
Vehicle wash					
Vehicle wash, trucks and heavy equipment					
<b>Residential</b>					
Day care, child day care home	P	P			11.6
Day care, group home day care home					11.6
Dwelling, attached accessory	P	P			11.8
Dwelling, detached accessory	P	P			11.8
Dwelling, multi-family			P	P	
Dwelling, multi-family, upper floor			P	P	
Dwelling, single-family	P	P			
Dwelling, single-family attached			P	P	
Dwelling, two-family	P	P			
Dwelling, three-family		P		P	
Dwelling, four-family		P		P	
Group housing, adult group home	P	P		P	11.16
Group housing, boarding (rooming) house		P		P	
Group housing, convalescent or nursing home	S	S	S	P	
Group housing, fraternity or sorority home		P	P	P	
Group housing, halfway house					
Group housing, independent and assisted living					

Commented [KB15]: Ordinance No. 619

Commented [KB16]: Ordinance No. 619

Table 4.2 Schedule of Uses: Old Town Districts					
Use	OT-1	OT-2	OT-3	OT-4	Other
Live-work unit		P			
Manufactured home community					11.21
<b>Retail</b>					
Bakery, retail- under 2,000 square feet of gross floor area		P	P	P	
Bakery, retail- 2,000 square feet or more of gross floor area				P	
General retail (indoor)		P	P	P	
General retail (indoor)- over 50,000 square feet of gross floor area			C	C	11.13
General retail (outdoor)					
General retail, alcohol sales		P	P	P	11.14
General retail (indoor)- auto parts		P		P	
General retail (indoor)- pawnshop			S	S	11.11
General retail with a drive-through					
Liquefied petroleum gas (LPG) sales					
Service station			S	S	11.35
Vehicle sales and rental: automobiles, light trucks, boats			P		11.40
Vehicle sales and rental: heavy equipment/tools, heavy trucks, RVs, manufactured homes				S	11.40
<b>Other</b>					
Similar uses	P,S C	P,S C	P,S C	P,S C	2.7
Sexually oriented business					11.36
Temporary construction office					11.38
Temporary sales office					11.38
<u>Temporary use – mobile food establishment</u>					<u>11.38</u>
<u>catering truck</u>	P	P	P	P	<u>11.38</u>
<u>ice cream truck</u>	P	P	P	P	<u>11.38</u>
<u>lunch truck</u>				P	<u>11.38</u>
<u>mobile food preparation truck</u>	P	P	P	P	<u>11.38</u>
<u>produce truck</u>			P		<u>11.38</u>
Temporary use- special function					11.38

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**Section 4.3 Spatial Requirements**

A. *Spatial Requirements.* All lots shall meet the spatial requirements of *Table 4.3*. New lots shall not be created, except in conformance with these requirements. All buildings and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 4.3*.

<b>Table 4.3 Spatial Requirements: Old Town Districts</b>					
<b>Requirement</b>		<b>OT-1</b>	<b>OT-2</b>	<b>OT-3</b>	<b>OT-4</b>
<b>Lots</b>					
Min. Area (s.f.)		8,000	5,000	5,000	5,000
Min. Width (ft.)		60	50	50	50
Depth (ft.)		120	80	100	100
Max. Impervious (%)		50	70	75	75
<b>Setbacks<sup>1</sup></b>					
Min. Front (ft.)	Primary	20	10	5	5
	Secondary	5	5	5	5
Min. Side (ft.)		5	5	5	5
Min. Rear (ft.)		15	15	5	5
<b>Principal Buildings</b>					
Max. Height (ft.)		35	35	50	50
Max. Stories (number)		Sec. 4.4	Sec. 4.4	3	3
Min. Stories (number)		<del>1</del> Sec. 4.4	<del>1</del> Sec. 4.4	<del>1</del> 2	<del>1</del> 2
Min. GFA (s.f.)		1,500	1,500	1,000	1,050
Min. Masonry (%)		Sec. 4.4	Sec. 4.4	Sec. 4.5	Sec. 4.5
Maximum GFA (s.f.)		5,000	5,000	-	-
<b>Accessory Buildings (100 s.f. +)</b>					
Max. Number		1	1	1	1
Max Size (% of rear yard)		10	10	10	10
Max. Height (ft.)		15	15	15	15
Max. Stories (number)		1	1	1	1
Min. Side Setback (ft.) <sup>2</sup>		0	0	0	0
Min. Rear Setback (ft.) <sup>2</sup>		0	0	0	0
Min. Setback from Principal (ft.)		5	5	5	5

Commented [KB19]: Ordinance 712

<sup>1</sup> The Administrator shall be authorized to permit up to a 10 percent reduction in any required setback for irregular-shaped parcels less than a half (1/2) acre in size, provided that all other requirements of the UDC are met.

<sup>2</sup> Accessory buildings shall be subject to five (5) foot setbacks from the property lines abutting streets and shall not be placed within any easement.

## Section 4.4 Building Design OT-1, OT-2

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The requirements regulating building design for all new structures and substantial (50 percent or more of existing square footage) renovations to existing structures are subject to the requirements of this section. In the OT-1 and OT-2 Districts, building designs shall conform to one (1) of the following five (5) architectural styles provided in this section.

### A. *Prairie Style (1900s to 1920).*



Figure 4-1 *Prairie Style*

1. Building Form Elements Required.
    - a. Maximum two (2) stories in height.
    - b. Exhibit solid geometric forms with minimal ornamentation.
    - c. Complex massing, usually two (2) stories with one (1) story wings.
    - d. Horizontal lines and massing (intended to unify the structure with the native prairie landscape) with masonry belt-courses between the stories.
    - e. Oversized front entry porch minimum of 80 square feet in area and covering 80 percent of the front façade. Minimum depth of the porch shall be five (5) feet.
    - f. Masonry or stucco with cast stone accents on exterior. Clad Lap siding or shingles (cementitious fiber board shall be permitted) may be used on rest of the façade.
    - g. Massive central chimney constructed of kiln-fired masonry is optional.
  2. Roof Elements Required.
    - a. Hipped or gabled roof.
    - b. Roof pitch maximum of 5:12, minimum of 2:12.
    - c. Wide, over-sized eaves extending up to 48 inches out from exterior wall. These eaves are allowed within the required setback.
  3. Windows and Door Elements Required.
    - a. Casement-style windows grouped in bands with shared projecting sills that appear to wrap around the building.
-

- b. Clerestory windows.
- c. Windows and doors surrounded by large four (4) inch to six (6) inch moldings that set them apart from the plane of the wall.
- d. Doors stained in a natural color and punctuated with a glass opening.

B. *Bungalow (1900s to 1925).*

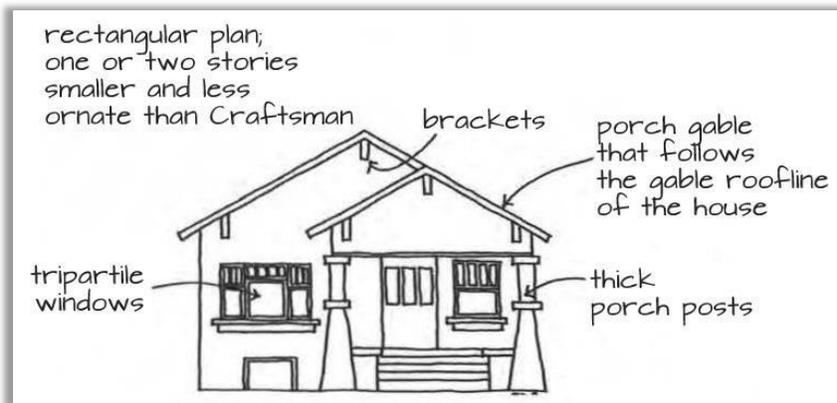


Figure 4-2 Bungalow

1. Building Form Elements Required.

- a. Maximum two (2) stories in height.
- b. Clad Lap siding or shingles (cementitious fiber board shall be permitted) may be used on 80 percent of the façade.
- c. Prominent entrance with a covered porch containing a minimum of 60 square feet in area and covering a minimum 40 percent of the front façade. Minimum depth of the porch shall be five (5) feet.
- d. Porch columns shall be optional features. If such are provided, at least two (2) street facing columns, in which at least the lower 40 percent of the column height is clad in brick masonry or stone at a finished thickness at column of no less than 16 inches in width.

2. Roof Elements Required.

- a. Hip roof with overhang.
- b. A gable pediment or roof dormer feature shall be above the porch structure.
- c. Roof pitch maximum of 6:12, minimum of 2:12.
- d. Gabled dormers.
- e. Painted exposed roof rafters at eave.

3. Windows and Door Elements Required.

- a. Symmetrical placement of doors and windows.

- b. Entrance door located in the center of wide houses, or at the side corner of narrow houses
- c. Double hung windows depicting multiple panes.
- d. At least one tripartite window used on front façade.

C. *Craftsman (1900s to 1930).*

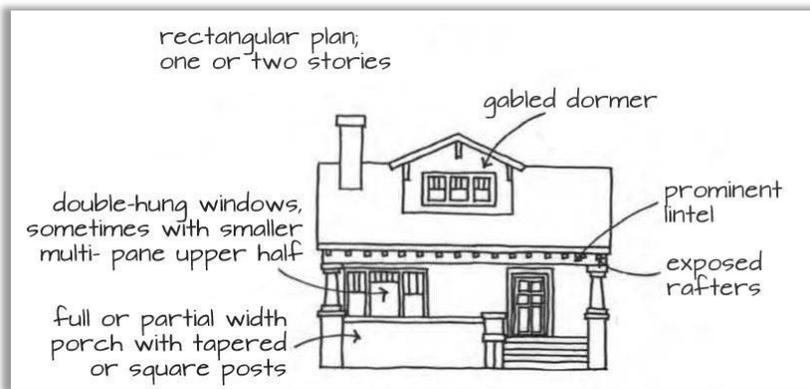


Figure 4-3 Craftsman

1. Building Form Elements.

- a. Maximum two (2) stories in height.
- b. Clad lap siding or shingles (cementitious fiber board shall be permitted) shall be allowed over 80 percent of the façade.
- c. Decorative corbels (bracket work).
- d. Prominent entrance with a covered porch containing a minimum of 80 percent in area and covering minimum 90 percent of the front façade. Minimum depth of the porch shall be five (5) feet.
- e. Porch shall be supported by tapered square columns or pedestals extending to ground level of porch floor.
- f. At least two-thirds (2/3) of the street facing edge(s) of the porch structure shall be enclosed with vertical wood or iron railing, or solid masonry bulkhead that has a minimum height of 36 inches.
- g. At least two (2) street facing columns, in which at least the lower 40 percent of the column height is clad in brick masonry or stone at a finished thickness at column of no less than 16 inches in width.

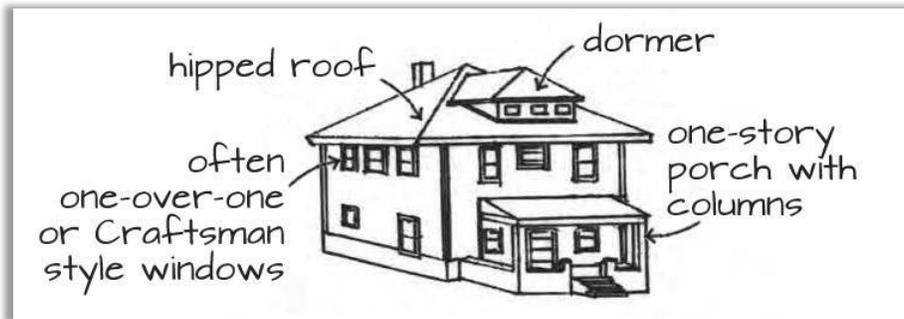
2. Roof Elements Required.

- a. Hip roof type with 12 to 24 inch overhang.
- b. Roof pitch maximum of 8:12, minimum of 3:12.
- c. Gabled or single pitched dormers. Low-pitched, gabled roof (occasionally hipped) with wide, unenclosed eave overhang.
- d. Roof Rafters to be exposed; or provide false decorative beams or braces under gables.

3. Windows and Door Elements Required.

- a. Asymmetrical placement of doors and windows.
- b. Double-hung (tripartite) windows with decorative crowns depicting multiple panes

D. *American Foursquare (1900s to 1930).*



*Figure 4-4 American Foursquare*

1. Building Form Elements Required.

- a. Minimum two (2) stories in height.
- b. Square shape in plan and usually symmetrical façades.
- c. Brick, stone, cast stone used at base of structure minimum of five (5) feet in height. The remaining façade shall be masonry except simulated or engineered wood (with a fire rating complying with the adopted building code) siding and shakes may be used on 40 percent of the second story exterior (cementitious fiber board shall be permitted).
- d. A water table composed of a two (2) inch by 12 inch board, or cast stone string course element, with a continuous drip cap which separates the masonry base from the upper cladding materials.
- e. Prominent entrance with a covered porch containing a minimum of 80 square feet in area and covering minimum 50 percent of the front façade. Minimum depth of the porch shall be five (5) feet.
- f. At least three (3) street-facing columns, in which at least the lower 40 percent of the column height is clad in brick masonry or stone at a finished thickness at column of no less than 16 inches in width.

2. Roof Elements Required.

- a. Hipped roof with dominant projecting dormers.
- b. Minimum of one (1) roof dormer with a minimum base width of five (5) feet.
- c. Composition, wood shingle, slate or cementitious tile roof.

3. Windows and Door Elements Required.

- a. Double-hung windows with various patterns of glazing.
  - b. Boxed or bay windows shall be permitted.
-

E. Colonial Revival (1910s to 1935).

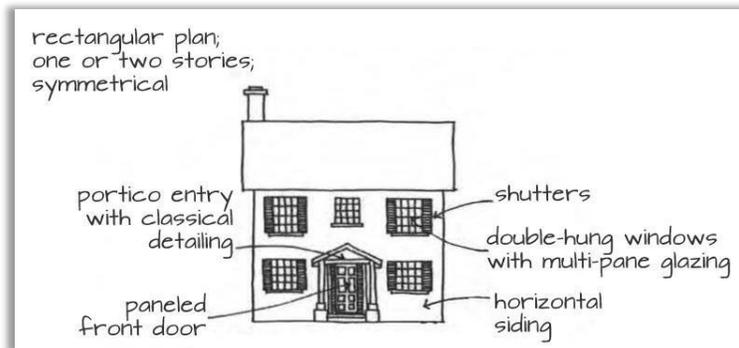


Figure 4-5 Colonial Revival

1. Building Form Elements Required.

- a. One (1) to two (2) stories in height.
- b. Façade shall be symmetrical, but may have side porches or sunrooms on either or both sides.
- c. Rectangular building mass.
- d. Dominant, masonry chimney on side façade is optional.
- e. Entrance is centered and accented with columns, pilasters, pediment, and/or hooded cover to create a covered porch minimum of 40 square feet in area and covering minimum 30 percent of the front façade. Minimum depth of the porch shall be five (5) feet.
- f. Simulated or engineered wood (with a fire rating complying with the adopted building code) clapboard (6 inch) siding most common exterior wall material (cementitious fiber board and brick masonry shall be permitted as well).
- g. Classical columns, two (2) story pilasters, dentils under eaves.

2. Roof Elements Required.

- a. Steep roof, with side-facing gables.
- b. Six (6) to 18 inch max overhangs.
- c. Roof pitch maximum of 12:12, minimum of 6:12.
- d. Hipped roof and dormers are occasionally evident and are optional.

3. Windows and Door Elements Required.

- a. Fanlight or transom, sidelights built with paneled door.
  - b. Multi-pane, double-hung windows with shutters.
  - c. Palladian accent windows shall be permitted.
-

## Section 4.5 Building Design OT-3, OT-4

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The requirements regulating building design for all new structures and substantial (50 percent or more of existing square footage) renovations to existing structures are subject to the requirements of this section.

A. *Architectural Styles.* In the OT-3 and OT-4 Districts, building designs shall conform to one (1) of the following three (3) architectural styles provided in this section. A modern interpretation of these styles using clean lines and newer materials will be allowed as long as the massing and façade articulation follows the style elements in this section.

1. The Vernacular Commercial Storefront (1860s to 1920). This style may be used for nonresidential buildings, condominiums, multifamily apartment buildings, and for live/work units. If choosing this style the following elements shall be followed:



Figure 4-6

- a. Vertical ordering of front façade into a definitive base, body and cap, where:
    - i. Base: Is the ground level, where the building makes contact with the earth.
    - ii. Body: Is the upper middle portion of the architecture, forming the majority of the structure.
    - iii. Cap: Is the parapet, entablature or roofline, where the building meets the sky.
  - b. Larger display windows with a window pediment or base.
  - c. First floor transom windows.
  - d. Recessed street entry.
  - e. Double street entry doors.
  - f. Tall second-story windows.
  - g. Cornice molding and accents at roof parapet.
-

2. Italianate (1850s to 1885). This style maybe used for nonresidential buildings, multifamily apartment buildings, and for live/work units. If choosing this style the following elements shall be followed:



Figure 4-7

- a. Double-hung, narrow windows, often with round arch heads.
  - b. Window panes are either one-over-one or two-over-two.
  - c. Ornate treatment of the eaves, including the use of brackets, modillions and dentil courses.
  - d. Quoins (projecting square surface pattern) at building corners.
  - e. Flat roof or sloped with a maximum 3:12 pitch.
  - f. Exaggerated roof parapet molding.
  - g. Transom, often curved, above the front door.
  - h. Brackets, modillions and dentil courses.
  - i. Overall, a vertical emphasis in building proportions.
3. Art Deco/Moderne (1930s to 1950). This style maybe used for nonresidential buildings and for live/work units. If choosing this style the following elements shall be followed:



Figure 4-8

- a. Variety of colors and textures.
  - b. Molded metal panels or grills.
  - c. Stucco and tile combined. Stylized floral patterns.
  - d. Rounded corner windows.
  - e. Repetitive geometric forms.
  - f. Colored brick or tile.
-

- g. Zigzag or chevron moldings.

B. *Building Façades.*

1. Frontage. Any building located on a lot with frontage on the public right-of-way, must place the primary surface of the front wall of the building on the front building line for at least 60 percent of the length of the frontage.
2. Façades. Building façades that face a public right-of-way (Type A Primary Façade) and shall be designed as the primary front plane of the building and shall contain the primary building entrance. Building façades that face internal parking and alley areas (Type B Secondary Façade) may contain a secondary or rear entrance.
3. Architectural Elements. The proportions of walls, windows, and portions of walls shall be predominately vertical. Areas that are predominately horizontal shall be subdivided by pilasters, mullions, columns, trim work, or other architectural elements to achieve a balanced or vertical appearance. Vertical stripes, however, are undesirable. Pilasters and columns should be used as an expression of the actual or imaginary structural system on the exterior of the building. These elements shall divide the horizontal façade into smaller, more vertical panels. Pilasters should be placed no farther apart than they are tall and should extend to the eave or above the parapet.
4. Entry. The major entry to the building is required to be placed on the public right-of-way façade and requires at least one entry into the building for each 50 feet of frontage on the property line.
5. Length. One-story buildings shall be maximum one-half (½) block long with a single building façade design. Two (2) or more stories may be unlimited in length.
6. Corner Treatment.



Figure 4-9

- a. Buildings shall reinforce a strong protruding corner condition at street intersections.
  - b. Angled corner clips (or other building conditions which do not form a protruding corner) are not permitted at street intersections, but shall be permitted where such building corner contains a minimum of three (3) of the following five (5) architectural elements:
    - i. Stone appliqués, masonry banding features or attaching architectural building elements that are constructed with a stone finish of a different color and surface texture used for the main structure.
    - ii. Architectural canopy above the sidewalk with masonry canopy supports or pilasters that extend outward a minimum of eight (8) inches from the base of the building.
    - iii. Public doorway entrance feature with a glazed transom window above doorway, with the transom being substantially equal in width with the door frame, with glazed portion of transom measuring a minimum 16 inches in height.
-

- iv. A cornice element at the parapet wall that is either constructed integrally with the parapet structure, or attached to the surface of the parapet, and shall extend above the parapet a minimum of 18 inches higher than those parapets that are attached to exterior walls that are built parallel to the street. EFIS/Stucco shall be a permitted material for the parapet cornice specified in this section.
  - v. Variations to the roof profile for those sections of a corner façade that contain at least one (1) or more curvilinear, domed or arched formations at the roofline.
  - vi. Buildings will be designed to accommodate City of Kennedale's required visibility triangles without compromising the corner design.
7. **Storefront.** Storefront regulations apply to Type A facades and are optional for Type B façades.
- a. Base (where building makes contact with the earth) shall be a part of all storefronts and shall establish a visible base for the material above.
  - b. Window pediment (a section of wall under the display window elevating the glass above the sidewalk) materials may include any materials from the materials section of these standards except glass. The minimum height of a window pediment shall be six (6) inches and maximum height shall be 36 inches.
  - c. The intent of the regulations is to provide as much opportunity for observation as possible, achieving the maximum visibility into the display window. Clear, single pane glass shall be permitted, insulated glass is permitted, light tinting for UV protection is permitted, and heavy tinting is prohibited. Glass panels should have a generally vertical proportion.
  - d. Display window sills must be sloped to drain over the window pediment.
  - e. The minimum return from the primary wall surface to the display window jamb shall be three (3) inches. A trim or panning shall be permitted.
  - f. The design of the display window incorporating transom window elements above door height shall be permitted. Above the glass and frame, unit masonry walls must have a visible masonry lintel above the glass. Stucco-style walls do not require a visible masonry lintel.
  - g. Awnings on all street level windows are required. Awnings are to be made of predominantly natural or natural-appearing fabric. The bottom of the awning must be placed below the top of the window. Awnings may project into the public right-of-way but may not interfere with the accessible route of the sidewalk.
  - h. An awning or canopy over the entry doors may extend into the public right-of-way and may be supported on columns. However, the columns may not interfere with the accessible route of the sidewalk.
  - i. Entry doors shall be a minimum of 30 percent glass, and may be 100 percent glass.
  - j. Trim, panning, or a section of wall is required between the entry door jamb and the adjacent jamb of the display window.
  - k. A transom or transom-type panel shall be permitted above the entry door(s).
8. **Sign Band.** Sign band regulations do not apply to Type B façades. The sign band is designed to display the identity of the business within and express in graphic form the character of the business. Highly expressive graphics are encouraged; A sign band that is too long or too tall is not consistent with the intended character.
- a. The top of the head of the display window is the bottom of the sign band, and the bottom of the second floor window sills or the bottom of the cornice is the top of the sign band. The band ends
-

horizontally either at a pilaster, a tower, or an adjacent façade.

- b. The maximum height allowed that is uninterrupted by a change in plane, change in material or a change in color shall be five (5) feet.
  - c. The maximum length allowed that is uninterrupted by a change in plane, change in color or a change in material is 50 feet on a one (1) story building, unlimited on two (2) or more stories.
  - d. Indirect lighting of the signage and identity graphics shall be permitted.
9. Upper Stories. The regulation of the façade design of the building above the first floor allows for wide latitude to encourage dignified, beautiful, creative, and gracious design. The following shall apply to all upper story facades:
- a. Windows. Window sizes may range from eight (8) percent of the wall surface area to 80 percent of the wall surface area as measured from the head of the first floor windows to the bottom of the eave or cornice across the length of the Type A façade. Windows shall align with windows above or below and left to right, creating a regular pattern within each façade design.
  - b. Windows, sills. Permitted materials shall include masonry, metal or wood, sloped to drain away from the window.
  - c. Windows, jambs. Trim or panning shall be permitted. The jamb must be recessed from the primary wall plane a minimum of three (3) inches unless trim or panning is used.
  - d. Window, heads. In unit masonry construction, a visible masonry header is required. Stucco does not require a masonry header.
  - e. Balconies, floors. Floors must be a solid, concrete surface; metal grates are prohibited. Floors may project up to 24 inches into the public right-of-way.
  - f. Balconies, railings. Ornamental railings are required and should be consistent with the architectural character of the façade. The top of the railing shall be convex shaped to prevent placement of objects on the railing.
  - g. Cornice/eave/parapet. Shall be tall enough to conceal the rooftop equipment, otherwise an added screen compatible with the façade design will be required behind the parapet to do so.
10. Roof.
- a. Roofing materials. Materials used on flat roofs with parapet façades are not restricted. Sloping roofs visible from the front of the building may be standing seam metal, slate, simulated slate, tile or simulated tile. Asphalt shingles are prohibited on roofs over 3,000 square feet in area. Mansard roofs are generally prohibited unless allowed by special exception.
  - b. Eaves. The surface of the soffit under the overhang is to be treated as a finished surface. Trim is required at least at the intersection of the soffit and wall surfaces. Paint or other finish is required. Venting is to be incorporated into the design of the soffit surface.
  - c. Gutters and downspouts. If gutters and downspouts are to be visible on the Type A façade, they must be incorporated into the façade design.
11. Visible Interior. The portion of the building interior that is, or is intended to be, part of the pedestrian experience visible from the public right-of-way.
- a. Window display. The window display is to be visible at least one (1) foot into the interior. The display should be lighted, clean and organized.
  - b. Window display floor. A raised floor shall be permitted.
  - c. Window display lighting. Lighting should be warm in color and either LED or metal halide bulbs.
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Fluorescent lighting is prohibited.

- d. Window display window coverings. No coverings should be applied that eliminate visibility into the display space such as blinds, medium or heavy tinting or draperies.
- C. *Materials*. The material lists are divided into materials that are unrestricted, materials that are desirable in small quantities, and materials that are undesirable unless used in an unusual or artistic fashion.
1. Unrestricted Siding Materials. These materials may be used, in a manner consistent with the chosen architectural style, without limits for walls in Type A or Type B façades: brick, stone, cast stone, ceramic tile and stucco.
  2. Restricted Siding Materials. These materials may be used without limits for walls in Type A or Type B façades, provided the architecturally appropriate detailing is used in a manner consistent with the chosen architectural style and is consistent with high quality stucco construction: concrete tilt-wall, exterior insulation and finish system (EIFS) and stucco.
  3. Limited Siding Materials. The use of the following materials is encouraged provided the material is appropriate with the chosen architectural style: Simulated or engineered wood (with a fire rating complying to the adopted building code), hardiplank™ clapboard siding, fiberglass, and ceramic-faced concrete block. Decorative or stamped architectural metal wall panels shall be utilized as an accent surface material for no more than 15 percent of any single Type A or Type B façade.
  4. Type B Façade Siding Material. The following material may be used on Type B façades: concrete masonry units, and EIFS.
  5. Restricted Siding Materials. The following material may be used for buildings subject to these standards with a conditional use permit: aluminum siding, vinyl siding, vertical wood siding, and corrugated metal siding. All other material not specifically listed above falls into this category.
  6. Colors. Colors for siding material shall be low reflectance, neutral, or earth tone colors. The use of high intensity primary, metallic, or fluorescent colors is prohibited. Painted trim colors may be selected from the list of colors for historic structures recommended by the National Trust for Historic Preservation. Bright colors may be used on trim or decorative elements.

#### **Section 4.6 Site Design OT-1, OT-2**

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Site design for all parcels shall conform to the requirements of this section.

A. *Building Placement*.

1. Main Entrance. The main entrance of all structures shall be oriented towards the primary street. For the purposes of locating the main entrance, if a street has 60 percent of the existing structures with a main entryway facing it then that street shall be considered a primary street.
  2. Porch Entrance. The main or primary porch entrance, steps, and stoops must also be oriented to the primary street.
- B. *Parking Requirements*. Off-street parking space requirements shall be in accordance with *Article 12*, in addition to the following requirements:
1. Location.
    - a. Parking spaces for a maximum of three (3) motor vehicles shall be provided on-site in an enclosed garage or under a carport for structures constructed after May 2015. Additional on-site parking shall require a conditional use permit.
    - b. Additional off-street parking space requirements for retail uses shall be provided through shared
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parking agreements and off-street parking spaces within 1,000 feet of the property.

2. Carpports and Garages. Carport or garage shall be no closer to the street than the face of the enclosed air-conditioned space of the main structure, or when the carport and the front porch have a common roof, then the carport can extend as far as the foundation of the porch.

C. *Landscape Requirements*. Landscaping shall be in accordance with *Article 13*. The Administrator may substitute the requirements of *Article 13* with a public park, courtyard, or public plaza that has:

1. A combination of at least three (3) of the following amenities: seating, water feature, landscaping, decorative paving or patterned concrete paving, sculptures and/or other public art; and
2. Minimum 500 square feet in size or 25 percent of the total property square feet, whichever is greater, with public access and visibility from the street.

#### **Section 4.7 Site Design OT-3, OT-4**

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Site design for all parcels shall conform to the requirements of this section.

A. *Building Placement*.

1. Orientation. Main entrance of all structures shall be oriented towards the primary street. For the purposes of locating the main entrance, if a street has 60 percent of the existing structures with a main entryway facing it then that street shall be considered a primary street.
2. Location. Buildings shall be located on the property line along the primary street.

B. *Parking Requirements*. Off-street parking space requirements shall be in accordance with *Article 12*, in addition to the following requirements:

1. Off-site parking requirements for non-residential uses may be provided through shared parking agreements and off street parking spaces within 1,000 feet of the property.
2. Off-site parking that exceeds the minimum requirements in the parking schedule found in *Article 12* shall require a conditional use permit.
3. Off-street parking shall not be located adjacent to the primary street.
4. Off-street parking shall be located behind or between structures such that only the driveways are visible from the street.

C. *Landscape Requirements*. Landscaping shall be in accordance with *Article 13*. The Administrator may substitute the requirements of *Article 13* with a public park, courtyard, or public plaza that has:

1. A combination of at least three (3) of the following amenities: seating, water feature, landscaping, decorative paving or patterned concrete paving, sculptures and/or other public art; and
2. Minimum 500 square feet in size or 25 percent of the total property square feet, whichever is greater, with public access and visibility from the street.

#### **Section 4.8 Public Land and Right-of-Way**

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If required to upgrade or construct streets, sidewalks or other public amenities as a part of the development in the Old Town Districts, the following requirements shall apply:

A. *Drive Lanes*. The paving section of a roadway supporting the travel lanes for vehicles.

1. Number of Lanes. All roads will be built in accordance with the thoroughfare plan.
  2. Material Specifications. Street construction specifications shall comply with the city standards.
-

3. Width. The intent to calm traffic and the desire of motorists to use on-street parking or to tour the town requires slower speeds. The use of slightly narrowed street widths helps to slow traffic. Lane widths may be reduced to 11 feet where appropriate subject to city review and approval.
  - B. *Parking Lanes*. The paving section of roadways supporting parking for automobiles, motorcycles, or bicycles.
    1. Material Specifications. Street construction specifications shall comply with the city standards for parking areas.
    2. Dimensions. Parking spaces shall comply with the city standards.
  - C. *Curbs*. The vertical separation between the roadway and the pedestrian section of the public right-of-way.
    1. Accessibility. Standards shall comply with city regulations, Texas Accessibility Standards (TAS) and the Americans with Disabilities Act (ADA).
    2. Material Specifications. Construction specifications shall comply with the city standards for parking areas.
    3. Dimensions. Height shall comply with city standards. Steps may be required to transition between sidewalk and the street.
  - D. *Parkways*. The part of the pedestrian section of the public right-of-way that supports plantings, green-space and open-space.
    1. Width. The parkway is a continuous or intermittent strip of land between the street and the sidewalk to allow for planting. The parkway and the sidewalk together must be at least 10 feet wide.
    2. Landscape Materials. In the absence of sidewalk paving, the minimum planting schedule requires trees evenly spaced over the length of the block, approximately 40 feet apart with grass or ground cover. Tree species must comply with the city's permitted species list.
    3. Street Lights. The streetlights must be of historical design and approved by the Administrator to maintain similar/compatible streetlight design in a subdistrict. All light fixtures must be full cut-off fixtures. Streetlights shall have a minimum output of 300 lumens per fixture and maximum output of 600 lumens per fixture. The fixtures are to be evenly spaced over the length of the block, but not more than 50 feet apart and shall be a maximum of 20 feet in height. Fixtures must be equipped with two (2) banner arms on each pole, placed perpendicular to the street.
    4. Street Furniture. Benches, trash receptacles and drinking fountains must be maintained by the owner of the street furniture.
    5. Displays. Temporary displays are permitted for seasonal or commercial activity, with the approval of the Administrator.
  - E. *Sidewalks*. The part of the pedestrian section of the public right-of-way that supports the hard surfaced sidewalks for pedestrian use.
    1. Width. The sidewalks plus parkway shall not be less than 10 feet wide. Sidewalk widths must conform to requirements of the commercial activity within the building: restaurants need wide sidewalks for dining areas, retailers need medium width sidewalks to permit window-shopping without impeding pedestrian traffic, and office areas only require minimal width to accommodate the pedestrian traffic. In no case shall sidewalk width be less than five (5) feet.
    2. Accessibility. Standards shall comply with city regulations, Texas Accessibility Standards (TAS) and the Americans with Disabilities Act (ADA).
    3. Material Specifications. Construction specifications shall comply with the city standards for sidewalks. Sidewalks pavers may be used subject to approval by the Director of Public Works.
  - F. *Public Amenities*. Green space and open space owned and operated by the public for the use and enjoyment of the public are desirable amenities for the residents and patrons of the town. They are subject to review and approval by the City Council and are reviewed individually as required.
-

- G. *Alleys*. Public right-of-way roadways for vehicles to access the sides and rear of buildings and parking lots.
1. Width. Commercial alley right-of-way widths shall be between 20 feet and 30 feet. Paving may cover entire right-of-way width.
  2. Material Specifications. Alley construction specifications shall comply with the city standards.

#### **Section 4.9      Other Requirements**

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In addition to the requirements of this article, all development in the Old Town Districts shall meet the applicable requirements as listed elsewhere in the UDC:

- A. *General Provisions for All Districts*. Article 10, as applicable and if noted in the far right column in *Table 4.2*.
  - B. *Specific Use Requirements*. Article 11, if noted in the far right column in *Table 4.2*.
  - C. *Parking and Loading*. Article 12.
  - D. *Landscaping and Lighting*. Article 13.
  - E. *Signs*. Article 14.
  - F. *Site Plan Review*. Article 23, as applicable.
  - G. *Conditional Uses*. Article 24, if noted as "C" in *Table 4.2*.
  - H. *Special Exception Uses*. Article 25, if noted as "S" in *Table 4.2*.
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**Village Districts**

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**Article  
5**

**City of Kennedale Unified Development Code**

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## Section 5.1 Purpose

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This article outlines the Urban and Neighborhood Village Zoning Districts. These districts are established in tandem to implement the 2012 Kennedale Comprehensive Plan's approach to future land use—with a focus on community character, through an emphasis on development character, intensity, and physical form and patterns, rather than solely on land uses. The village districts are to be planned and configured/constructed in order to be integrated with the larger community and accessible by all modes of transportation—private automobile, future public transit, bicycle, and pedestrian.

- A. *Urban Village (UV)*. The UV District is established to provide an area with an intense mix of uses in a compact, walkable urban form, transitioning down in intensity toward (and complementing) surrounding residential neighborhoods.
- B. *Neighborhood Village (NV)*. The NV District is established to provide an area with a mix of uses to fulfill the daily needs of residents within a short walking distance of the surrounding neighborhoods.

The Urban Village District is generally of greater intensity, with a larger scale in geographic area and individual building sizes than the Neighborhood Village, and the expectation is that it will provide a destination for goods and services for residents from across the city. The Neighborhood Village will be of less intensity, smaller area, and building size, with an emphasis on locally serving uses. Both Village District types will provide a range of housing options.

This section contains the basic rules for the physical form and character of the private development of individual lots, the relationship to (and standards for) the public realm, and broad parameters for uses in the village districts.

## Section 5.2 Schedule of Uses

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Buildings or land shall not be used, and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in the UDC.

- A. *Permitted Uses*. Permitted uses for land and/or buildings in the Village District Sub-Areas are shown in *Table 5.2*. The categories in the use table are listed in *Section 5.2 G* and additional development and performance standards are provided in *Section 5.2 H*.
- B. *Use Determination*. The Administrator is responsible for categorizing all uses in accordance with *Table 5.2 and Section 2.7*.
- C. *Conditional Uses*. There are no conditional uses within the Village Districts.
- D. *Special Exceptions*. If specifically noted in this article, land and/or buildings are subject to review and permitting in accordance with *Article 25*.
- E. *Not Permitted*. Blank cells indicate that a use is not permitted within the zoning district.

Use Category		Urban Village		Neighborhood Village		Urban Village		Neighborhood Village		Urban Village		Neighborhood Village		Additional Regulations <sup>1</sup>
		Ground Story	Upper Story	All Stories	All Stories									
Residential	Household Living	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sec. 5.2 H.2										
	Group Living		<input type="checkbox"/>		<input type="checkbox"/>	See City for specifications.								
Commerce	Office	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					Sec. 5.2 H.4
	Accommodations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			Sec. 5.2 H.5						
	Recreation/Entertainment	<input checked="" type="checkbox"/>	<input type="checkbox"/>					Sec. 5.2 H.6						
	Child Care Center	<input type="checkbox"/>			See City for specifications.									
	Retail Sales & Service	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>					Sec. 5.2 H.7
	Restaurant/Bar	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					Sec. 5.2 H.7
	Art Studio/Artisanal Manufacturing	<input checked="" type="checkbox"/>												
	Research & Development		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>							
Auto Service Station & Repair	<input type="checkbox"/>				<input type="checkbox"/>								Sec. 5.2 H.8	
Civic	Civic Buildings and Uses	<input checked="" type="checkbox"/>		Sec. 5.2 H.3										

Key:  = Permitted  = Additional Regulations Apply Blank Cell = Not Permitted

F. Other Uses.

1. Accessory Uses. Home occupations are permitted in accordance with Section 11.18. Solar energy equipment is permitted as an accessory use in accordance with Section 11.37.
2. Temporary Uses. Temporary construction and sales offices are permitted in accordance with Section 11.38.

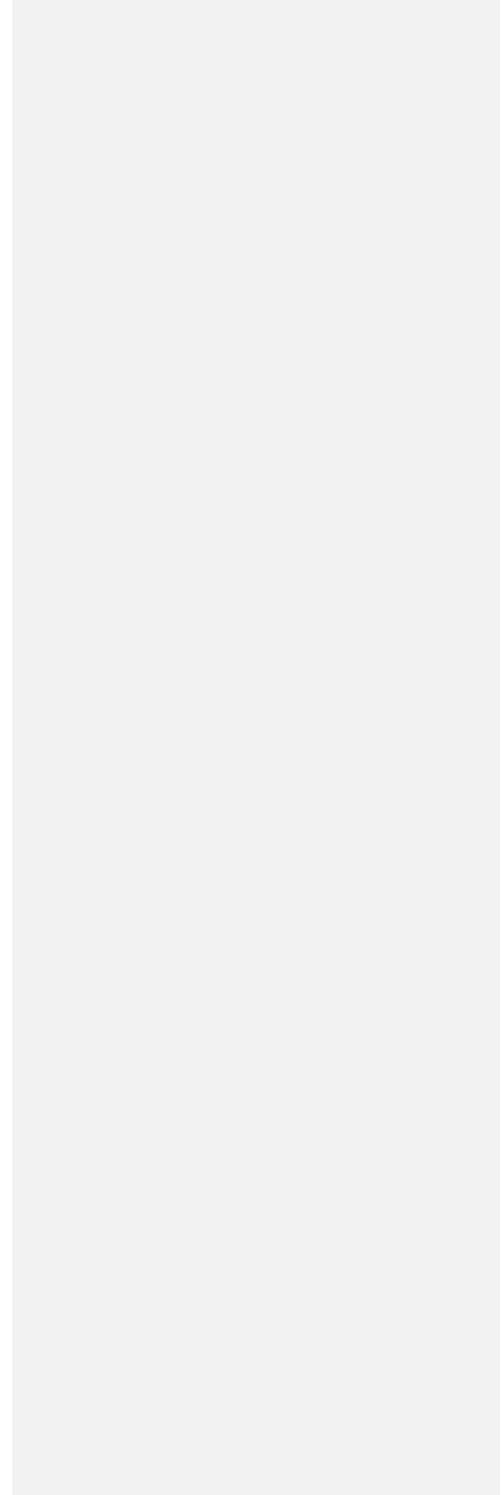
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G. Categories. The following land uses are permitted within the following categories, unless expressly prohibited.

1. Residential.
  - a. Household Living: single-family, two-family, and multi-family; age-restricted (55+) housing.
  - b. Group Housing: boarding (rooming) house, convalescent or nursing home, fraternity or sorority

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<sup>1</sup> Unless specifically referenced, the Specific Use Requirements of Article 11 do not apply.



home, independent and assisted living.

2. Commerce.

- a. Office: all offices and services, except: animal services, commercial kennel, shelter or rescue; general offices and services, alternative financial establishments, bail bond establishments; general offices and services, construction and building services, outdoor storage; general offices and services with drive-throughs; and medical services, hospital.
- b. Accommodations: bed and breakfast and hotel/motel, except sexually oriented business.
- c. Recreation/Entertainment and Restaurant/Bar: all accommodations, hospitality, entertainment uses, except: nightclub or dancehall; private club; recreation facility, outdoor; restaurant with drive-through; and sexually oriented business.
- d. Vehicle sales: vehicle sales and rental, automobiles, light trucks, and boats, but not heavy equipment/tools, heavy trucks, RVs, and manufactured homes.
- e. Passenger Terminal: bus passenger terminal.
- f. Child Care Center.
- g. Retail Sales/Service: all retail use except for general retail- pawnshop; general retail with a drive-through; liquefied petroleum gas (LPG) sales; and sexually oriented business.
- h. Art Studio/Artisanal Manufacturing: any production process characterized by minimal automation, little division of labor, and a small number of highly skilled craftsmen as opposed to a larger, less-trained traditional workforce. This category excludes all industrial uses.
- i. Research and Development: General offices and services, professional and administrative services.
- j. Greenhouse & Nursery: Greenhouse and nursery, commercial.
- k. Auto Service Station & Repair: Service station; and vehicle repair, minor.

3. Civic. All institutional/civic uses, except for cemeteries; and community public safety, prison or penitentiary.

H. *Development and Performance Standards.*

1. General.

- a. All permitted uses shall meet the general requirements of *Section 5.3 Form and Character* and those standards specified in the applicable individual Village Sub-Area building form standard (BFS) pages.
- b. No civic or commerce use is permitted above a residential use, except for rooftop restaurants within a designated Village Center Area.
- c. No smoke, radiation, vibration or concussion, heat, or glare shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic, or obviously injurious to humans or property shall be produced.
- d. Communication antennas may be installed on any existing structure (such as a building, utility pole, water tower etc., but excluding single-family residences and accessory uses) three (3)

stories in height or greater but no less than 45 feet provided that the additional antennas shall add no more than 20 feet to the height of said existing structure. Communication antennas that are architecturally compatible to the building architecture may locate on non-residential buildings less than three (3) stories or 45 feet in height, subject to Site Plan review. Associated equipment is subject to final development plan approval and may be permitted on the roof so long as it is screened from view.

2. Residential.
  - a. See the Village Center and Village General BFS for configuration requirements for ground story residential uses.
  - b. A lobby serving an upper story residential use is permitted on the ground story of a Village Center site.
3. Civic. Buildings that house civic uses located on specifically designated sites are not subject to BFS except for any setbacks required in the Village Transition Areas.
4. Office. Office uses are not permitted within the required minimum depth for the shopfront space in a Village Center site. However, personal services and bank/financial services, as defined in *Article 33*, are permitted in this area.
5. Overnight Lodging.
  - a. Ground story guest rooms are not permitted within the required minimum shopfront depth in a Village Center site.
  - b. Ground story guest rooms within 20 feet of/abutting any required building line (or street frontage) shall meet the configuration standards for ground story residential uses as specified in the Village General BFS.
  - c. A lobby serving an upper story overnight lodging use is permitted on the ground story of any Village Center site.
  - d. Only bed & breakfast lodging is permitted in a Village Transition Area.
6. Recreation/Entertainment. Theater, auditorium, and arena uses shall meet the ground story fenestration requirements of the applicable building form standard, but are exempt from the upper story fenestration requirements.
7. Restaurant/Bar, Retail Sales.
  - a. Outdoor eating areas for eating/drinking establishments shall be allowed on the public sidewalk in Village Center and Village General areas, subject to:
    - i. the provision of a minimum clear width of five (5) feet within the sidewalk area; and
    - ii. subject to the issuance of applicable permits.
  - b. A restaurant or retail use is permitted in the second story of a Village Center or Village General site provided it is an extension equal to or less than the area of the same ground story use.
  - c. An eating/drinking establishment is permitted on the rooftop of a Village Center site. The use shall be set back from any common lot line by at least 20 feet.
  - d. The sale and consumption of cereal malt beverages and alcoholic liquor shall be subject to all existing permitting provisions, as applicable.

- e. Clubs and drinking establishments are required to obtain a special exception in accordance with *Article 25* approval if the walls of the facility are within 100 feet of a Village Transition Sub-Area or a residential zoned property that is not included in the Village District.
- f. No merchandise (including motorcycles, scooters, and automobiles) may be left within the street-space/public realm when the business is not open.
- g. Mobile food establishments. Mobile food establishments shall be subject to the requirements of Section 11.38. Ice cream trucks and catering trucks shall be permitted in any Village District sub-area. Lunch trucks, produce trucks, and mobile food preparation trucks shall be permitted in Center and General sub-areas only.

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- 8. Auto Repair. Auto repair services may be permitted, subject to the following:
  - a. The property shall be at least 100 feet from any lot zoned solely residential.
  - b. The use shall not include the display and rental of cargo trailers, trucks, or similar uses.
  - c. The storage or junking of wrecked motor vehicles (whether capable of movement or not) is prohibited.
  - d. Repair service shall be completed within 48 hours after the vehicle is left for service. Discarded parts resulting from any work shall be removed promptly from the premises. Automotive replacement parts and accessories shall be stored inside the main structure.
  - e. Upon the abandonment of the auto repair service, the use shall terminate and all structures exclusively used in the business (including underground storage tanks), except buildings, shall be removed by the owner of the property. For the purpose of this subsection, the term "abandonment" shall mean non-operation as an auto repair for a period of six (6) months after the retail services cease.
  - f. All repair and business activities shall occur indoors.

**Section 5.3 Form and Character**

A. *Village District Configuration.* Each Urban and Neighborhood Village shall have a defined Village Center, with a surrounding Village General Sub-Area. Depending on the specific geographic context, a Village District may also have a defined Village Transition Sub-Area, with special limitations on uses (as defined in *Section 5.2*), form, and scale to ensure a complementary relationship with the adjacent neighborhoods. In some locations, a Village District may abut a complementary neighborhood. The parameters provided in *Table 5.3* are general guidelines. It is preferable that a Village Center Sub-Area designation be applied to both sides of a street; however, depending on context, this may not always be possible. The minimum standards for the Transition areas are only applicable when such a sub-area has been designated on the Regulating Plans.

Table 5.3 Sub-Area Parameters: Size in Street Frontage (total) and/or Acres			
	Center	General	Transition
<b>Urban Village</b>			
Minimum	1,500' or 2 ac.	N/A	100' from R-1-3 zones
Maximum	5,000' or 5 ac.	N/A	
<b>Neighborhood Village</b>			
Minimum	200' or ¼ ac.	N/A	100' from R-1-3 zones
Maximum	2,000' or 2 ac.	N/A	

B. *Village District Street Connectivity.* The standards and requirements in this section supersede the requirements of *Article 15, Subdivision Design*. An interconnected street network with limited block size promotes walkability. It also enables the Village Districts to complement the surrounding neighborhoods through a fine-grained development pattern, appropriate to the context. Development proposals are subject to the following requirements:

1. Connectivity of the street grid within a Village District is required. Wherever possible, Village District streets shall also connect to existing and future city streets outside of the District.
2. Streets that do not connect to other streets, as part of an interconnected network, are not permitted within a Village District (i.e., cul-de-sacs and dead-ends are not permitted) except as below:
  - a. Where streets are configured with a one-way loop around the perimeter of a central green area;
  - b. Where streets are less than 120 feet long (measured from the street intersection centerline) and configured as a stub-out designed for connection to future streets/development;
  - c. Where streets are less than 120 feet long (measured from the intersection centerlines) and connected to alleys or service drives giving rear lot access, and ending at designated park or conservation lands.
3. No block face shall have a length greater than 300 feet without an alley, common drive, or pedestrian pathway providing through-access to another street, alley, or service drive. Individual lots with less than 100 feet of street frontage are not required to provide through-access to the block interior.

C. *Regulating Plans.* *Figures 5-1 to 5-8* serve as Regulating Plans for the establishment of the Village Districts. The Regulating Plans are not individual zoning maps, instead they guide the process for official establishment of the Village Districts and sub-areas on the Official Zoning Map. Regulating Plans also include the required street and block patterns for sub-areas. The Regulating Plans were specifically designed to implement the eight (8) mixed use Urban and Neighborhood Village nodes that are generally designated on the Future Land Use Plan within the city's Comprehensive Plan. However, the Regulating Plans provide refined development concepts and boundaries based on site-specific conditions, existing land use, existing zoning, and natural features. Similar to the function and purpose of a Future Land Use Plan, rezoning to the Village Districts and the associated sub-areas should be generally consistent with the Regulating Plans. However, alternative street and block designs may be acceptable if reviewed and approved by the Planning and Zoning Commission and if they meet the requirements and intent of this article. Slight adjustments or variations to the sub-area boundaries may also be considered by the Planning and Zoning Commission and City Council during the rezoning process as long as they remain consistent with the intent and purpose of this article and the Future Land Use Plan.



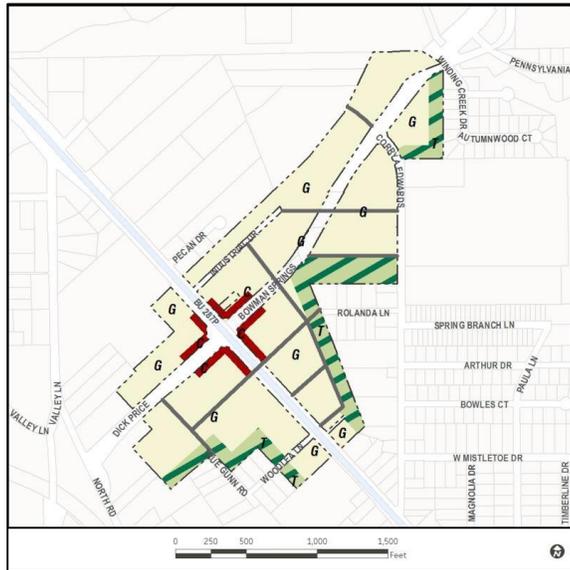


Figure 5-3 Crossroads Urban Village Regulating Plan



Figure 5-4 Downtown Urban Village Regulating Plan



Figure 5-5 East Neighborhood Village Regulating Plan

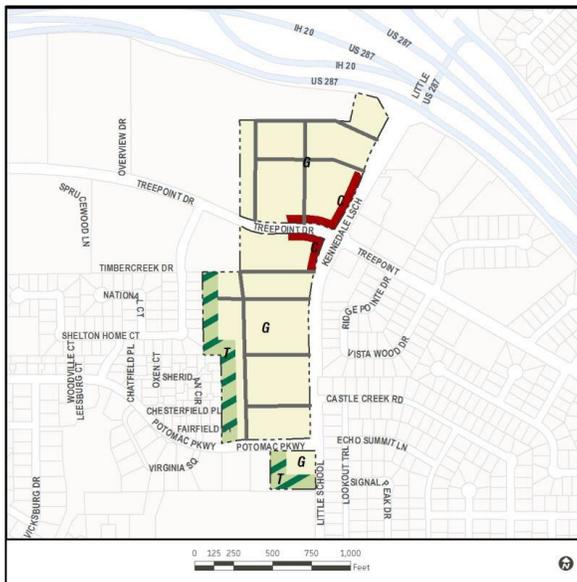


Figure 5-6 North Urban Village Regulating Plan

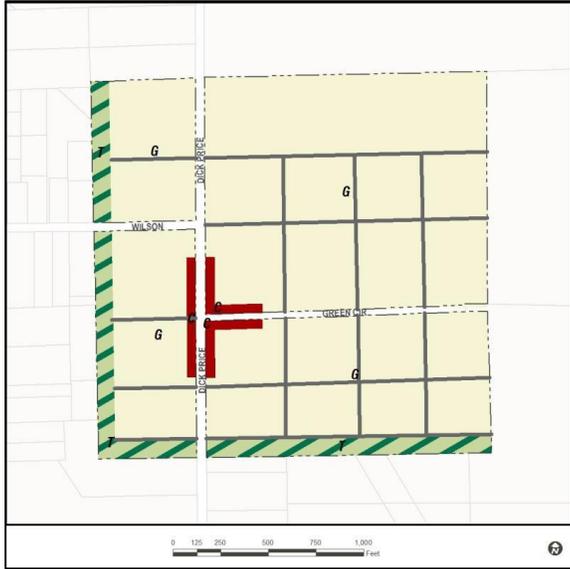


Figure 5-7 Southwest Neighborhood Village Regulating Plan



Figure 5-8 West Neighborhood Village Regulating Plan

D. *Buildings and Lots.*

1. **Frontage.** All lots shall have a street (or public space) frontage.
2. **Orientation.** All primary structures shall be street oriented, with a functioning (primary) entrance, and a percentage of the building façade placed at a required building line, as designated in the building form standards and street types, typically at the back of the sidewalk or behind a small front yard.
3. **Forms and Frontages.** A range of building forms and frontages, as described and illustrated in subsections a-e are allowed within the Village Districts. The maximum building form and siting parameters may vary, depending on whether a building is located in an Urban or Neighborhood Village District. *Table 5.3* provides a summary of the appropriate building forms for each Village Sub-Area.

**Table 5.3 Building Forms and Village Sub-Areas Summary**

Village Sub-Area	Village Building Forms				
	Mixed-Use	Shopfront	Office	Residential	Townhouse
Center	P (with shopfront)	R	P (with shopfront)	P (with shopfront)	P (with shopfront)
General	P	P	P	P	P
Transition	NP	NP	NP	NP	P (residential only)

Key: R = required P = permitted NP = not permitted

*Note: The following building and street frontage descriptions are provided as illustrations of intent. The photographs and statements in subsections a-e are advisory only and do not have the power of law. Refer to the Section 5.3 E Building Form Standards for the specific prescriptions and restrictions for development in the Village Districts. Where these photos or statements may be inconsistent with the regulations, the regulations prevail.*

- a. Village Mixed-Use Buildings. This is the traditional building form and street frontage, once common in cities and towns across Texas and the United States. It is typically multi-story, sitting at the back of the sidewalk with one or more entrances at street level and windows across the façade. There can be several buildings lined up side-by-side, filling out a block face; or on smaller blocks, a single building might fill the entire block. This building frontage may be located throughout the Village Center and Village General Areas, but is not allowed in a Village Transition Area. These buildings can accommodate a range of uses, from retail shopfronts, to offices, residences, and institutional uses.

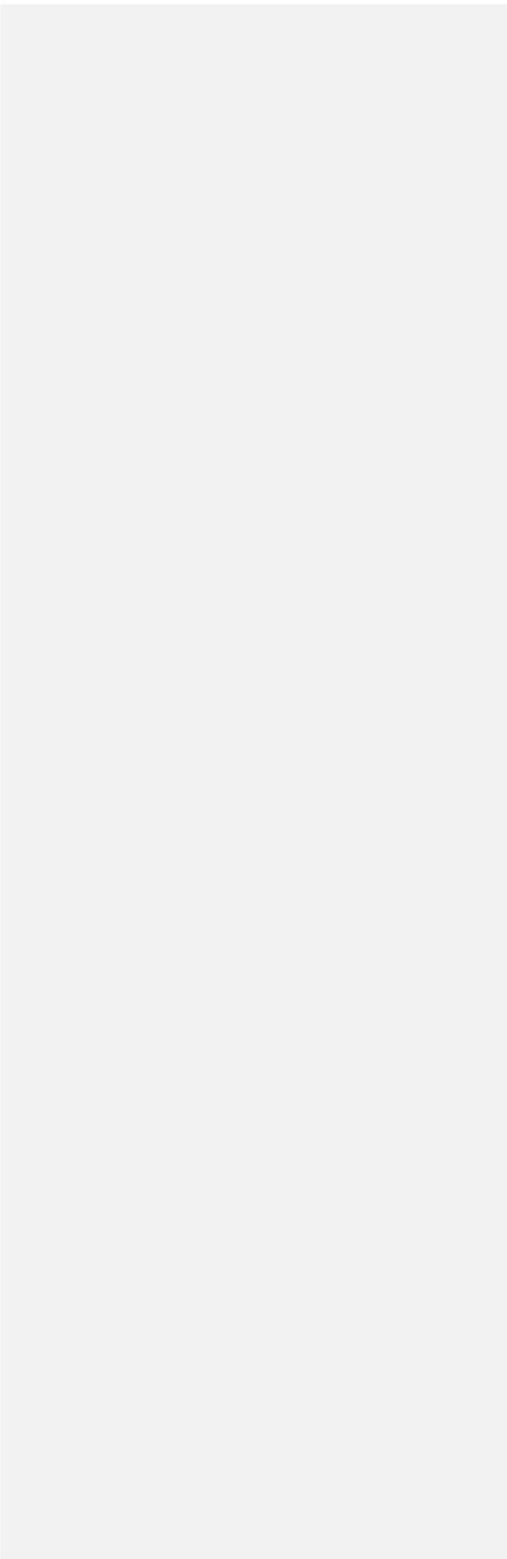


- b. Village Shopfront Buildings. The Village Shopfront is a subset of the Mixed-Use building frontage type. Although the overall form and massing parameters are the same, the ground floor is designed specifically for retail, with large display windows at the street frontage and frequent entrances along the sidewalk. The uses are typically limited to retail sales and services. This frontage form is recommended for areas of high pedestrian traffic. Although accommodated throughout most of the Village District, they are only required in the Village Center.

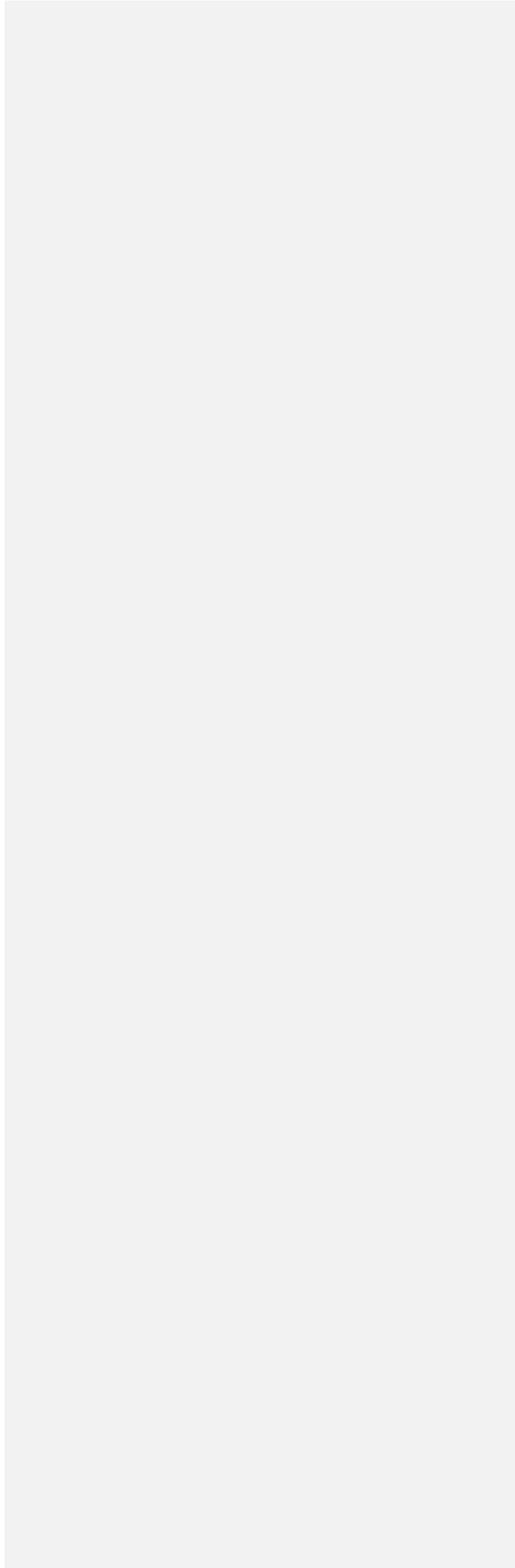


- c. Village Residential Buildings. This is an urban building form and street frontage. The primary form

is similar to the Village Mixed-Use, although purely residential—a street-oriented, multi-story building with windows across the facade and one or more entrances along the street. Buildings sit behind a landscaped dooryard and may be configured around a courtyard. The character and intensity of this frontage is greater than the Village Row Houses and Townhouses and varies according to the placement of the required building line. The buildings define the street-space, but typically with a greener and more informal edge than that found in the Village Mixed-Use Frontage. The Village Residential building form typically provides private open space through a combination of balconies, roof decks, and spaces interior to the lot.



- d. Village Office Buildings. This is an urban building form and street frontage, similar to the Village Mixed-Use buildings in scale and massing, although purely office. They are street-oriented, multi-story buildings with windows across the facade and one or more entrances along the street. They are not typical in a Village District environment but may be appropriate for users who have privacy or security requirements. Buildings typically sit at the back of the sidewalk and define the street-space. The character and intensity of this building frontage is moderate and will vary according to the time of day or day of the week and is dependent on the placement of the required building line. This building form typically provides private open space through interior lot courtyards or roof decks, and occasionally via balconies.



- e. Village Townhouses or Row Houses. This frontage is of moderate intensity, created by a series of smaller attached structures—configured as single-family residential units or stacked flats. There are frequent street-oriented entrances. The character and intensity varies depending on the street-space and the location of the required building line—the buildings may be placed up to the sidewalk with stoops, or further back with small dooryard gardens and/or front porches. These buildings can be used to transition the form and intensity of the Village Mixed-Use and Village Residential and Office buildings to adjacent single-family neighborhoods. The pedestrian activity along this building frontage varies based on the time of day and day of the week. Depending on the lot size, townhouses may include small, private backyards. Parking is accommodated on-site, at the rear of the lot, and may be surface or rear-loaded or detached garages.



E. *Building Form Standards (BFS)*. All buildings shall meet the general standards and those standards required for their respective Village District sub-area: Village Center, Village General, or Village Transition, as defined in the diagrams and tables in this subsection.

1. General Standards. These standards apply throughout the Village Districts.

a. Height.

- i. The height of all buildings is measured in stories, with an ultimate building height in feet, measured to the top of the wall plate. At no time may a building exceed the prescribed maximum height in stories or in feet.
- ii. All heights are measured from the average fronting sidewalk elevation (at the required building line) unless otherwise noted.
- iii. A half-story (or attic story), defined as habitable space within a pitched roof, does not count against the maximum height in stories or feet, but may provide no greater than 75 percent of the square footage of the floor immediately below. In a Village Transition sub-area, such a half-story may not be located within 30 feet of a common lot line shared with a detached single-family property.
- iv. The prescribed minimum story clear height shall be met within 30 feet of the required building line (RBL) and by at least 80 percent of each story floor area.
- v. The required ground story finished floor level shall be measured within 30 feet of any RBL.
- vi. Residential entrances may be at grade, with transitions to meet the minimum finished floor elevation within the building interior.

b. Siting.

- i. Building facades shall be built to the RBL as prescribed in the applicable individual BFS.
- ii. The building façade shall be built to the RBL within 30 feet of a block corner, unless otherwise specified in the BFS.
- iii. The RBL appears on the BFS and street types as an absolute line, four (4) feet behind the right-of-way. However, it incorporates an offset area (or depth) of two (2) feet behind that line. Therefore, wherever the façade is placed within these depths, it fulfills the build-to requirement.
- iv. All Village District lots shall provide a private open area for residents and/or tenants of buildings as prescribed as a percentage of the lot in the individual BFS.
- v. Where a garden wall is required, it shall be located along any RBL frontage that is not otherwise occupied by a building.
- vi. No part of any building or structure may encroach beyond the RBL or into any required setback except overhanging eaves, awnings, balconies, shopfronts, bay windows, stoops, steps, or barrier free ramps approved by the Administrator. No structure or building element shall encroach into or otherwise impede the clear sidewalk area. For appropriate commerce and retail uses, temporary displays or cafe seating may be placed in the dooryard.
- vii. There are no side setbacks, unless specified in the individual BFS.
- viii. The parking setback line is generally 20 or 30 feet behind the RBL. Vehicle parking shall be located behind the parking setback line, except where parking is provided below grade, on street, or otherwise indicated.
- ix. All lots, including corner lots and through lots, shall satisfy the build-to requirements for any

and all of their RBL frontages, and the requirements for each designated BFS, unless otherwise specified in this Code.

c. Elements.

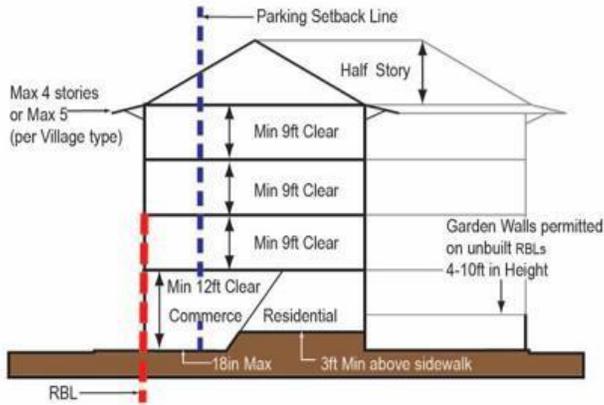
- i. Fenestration is regulated as a percentage of the façade between floor levels. Fenestration is measured as glass area (including mullions, muntins, and similar window frame elements with a dimension less than one inch) and/or open area.
- ii. At least one (1) functioning entry door shall be provided along each ground story façade. The maximum distance between functioning façade entrances prescribed in the applicable BFS shall not be exceeded.
- iii. In no case shall a garage door be located at or face the RBL.
- iv. No privacy fences may be constructed forward of the RBL.

d. ~~Materials. A minimum of 80 percent masonry material is required on facades-all facades, with masonry defined as brick, stone, cast stone, or stucco (3-step). Masonry materials not specifically listed above, such as cementitious fiber, granite, or glass block, may be used if permitted in writing by the director of development or designee and will be reviewed by the City according to quality, durability, and whether it fits the character of the district.~~

Commented [KB22]: Ordinance No. 621

2. Village General Sub-Area Building Form Standards.

a. Height.



	Height	
	Urban Village	Neighborhood Village
Max. Building	5 stories and 58'	4 stories and 48'
Min. Building	1 story or 15'	
Min./Max. Commercial Finished Ground Floor level	-6" to +18"	
Min. Commercial Ground Floor Clear Height	15'	12'

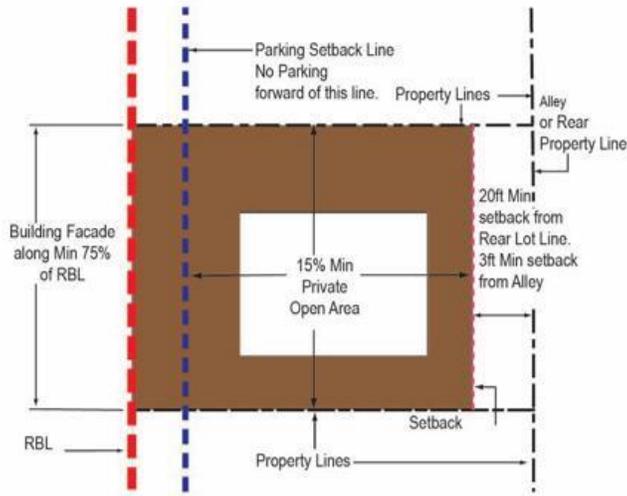
Min./Max. Residential Finished Ground Floor level*	3' to 8'
Min. Residential Ground Floor Clear Height	9'
Min. Upper Story Clear Height	9'
Max. Garden Wall Height**	10'
Max. Privacy Fence Height	7'

*Notes on Height*

\* The residential finished floor level requirements apply to residential units abutting or within 30 feet of any RBL.

\*\* A garden wall may be used to define the street edge, to secure a pedestrian passage, to enclose a courtyard space, or to screen building service elements.

b. Siting.



Siting		
	Urban Village	Neighborhood Village
Min. Build-To*	75%	
Min. Parking Setback**	30'	
Min. Private Open Area***	15%	
Side Setbacks	None required	
Min. Rear Setback with Alley	3'	
Min. Rear Setback with no Alley	20'	
Garden Wall	Permitted on unbuilt RBL	
Privacy Fence	Permitted on common and rear lot lines only	
Max. Building Footprint	15,000 s.f.	8,000 s.f.

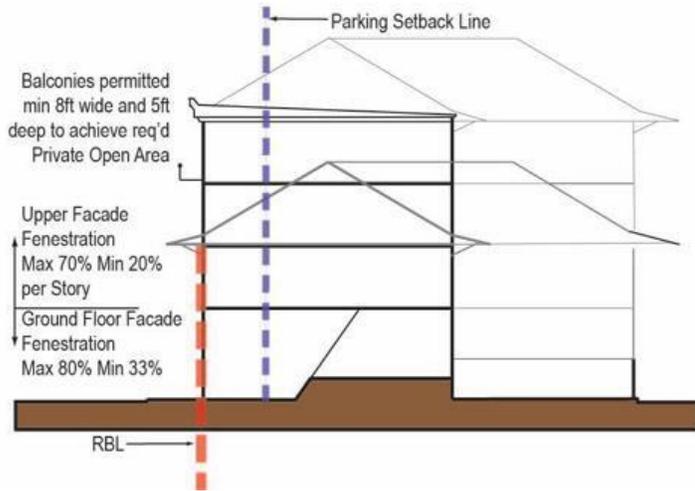
Notes on Siting

\* For corner lots the secondary frontage Build-To minimum is 25 percent.

\*\* The Parking Setback may be reduced to 15 feet with a minimum four (4) foot Garden Wall along the unbuilt RBL between the parking and the sidewalk/street frontage but for no more than 25 percent of the RBL.

\*\*\* Private Open Area may be achieved at or above grade.

c. Elements.

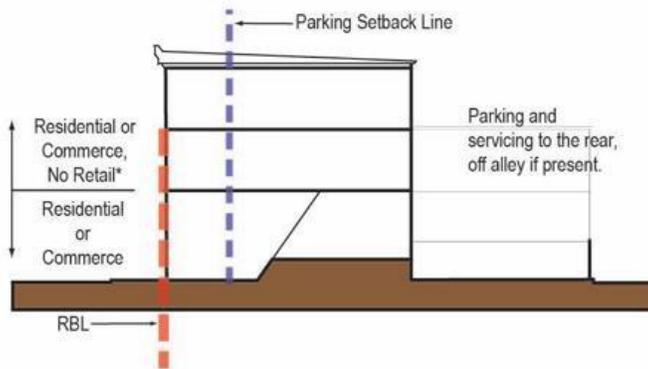


Elements		
	Urban Village	Neighborhood Village
Min./Max. Ground Floor Façade Fenestration	33 to 80%	
Min./Max. Upper Story Fenestration	20 to 70%	
Max. Blank Wall Limitation	30'	
Max. Distance between Façade Entrances	60'	75'
Balconies	Permitted	

*Notes on Elements*

*\* If used to achieve Private Open Area requirements, balconies shall have minimum dimensions of eight (8) feet wide and five (5) feet deep.*

d. Functions.



Functions		
	Urban Village	Neighborhood Village
Ground Floor	Commerce or Residential	
Upper Stories	Commerce or Residential*	
Lot	Parking and Service to Rear**	

*Notes on Functions*

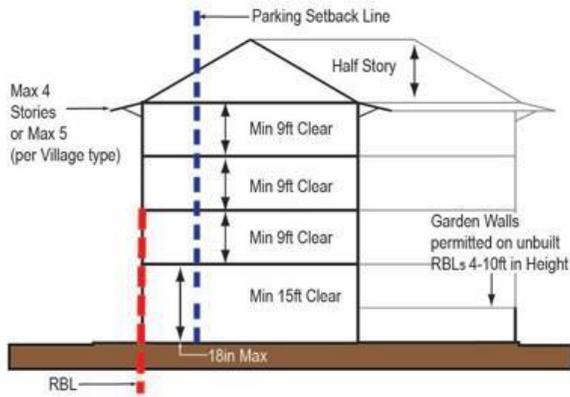
*These are general use parameters. See Section 5.2 for specific requirements and limitations.*

*\* Second story retail is limited to extensions of first floor uses.*

*\*\* Parking, loading docks and other service functions are limited to the rear of the lot, accessed from an alley or common drive when one exists.*

3. Village Center Sub-Area Building Form Standards.

a. Height.

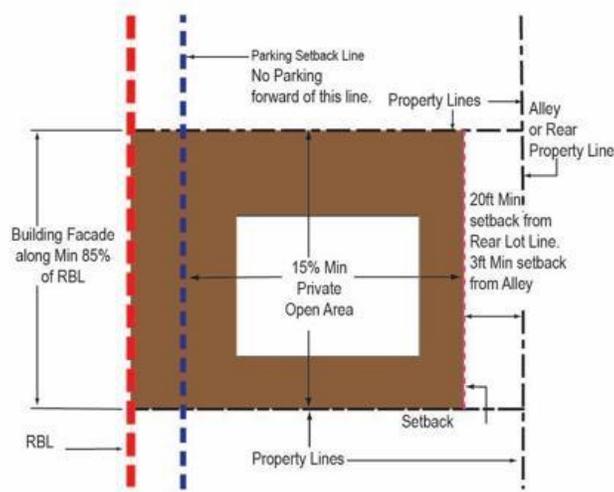


	Height	
	Urban Village	Neighborhood Village
Max. Building	5 stories and 58'	4 stories and 48'
Min. Building	1 story or 15'	
Min./Max. Finished Ground Floor Level	-6" to +18"	
Min. Ground Floor Clear Height	15'	
Min. Upper Stories Clear Height	9'	
Max. Garden Wall Height*	10'	
Max. Privacy Fence Height	7'	

*Notes on Height*

\* A garden wall may be used to define the street edge, to secure a pedestrian passage, to enclose a courtyard space, or to screen building service elements.

b. Siting.



Siting		
	Urban Village	Neighborhood Village
Min. Build-To *	85%	75%
Min. Parking Setback**	30'	
Min Private Open Area ***	15% min.	
Side Setbacks	None required	
Min. Rear Setback with Alley	3'	
Min. Rear Setback With no Alley	20'	
Garden Wall	Permitted on unbuilt RBL	
Privacy Fence	Permitted on common and rear lot lines only	
Max. Building Footprint	12,000 s.f.	8,000 s.f.

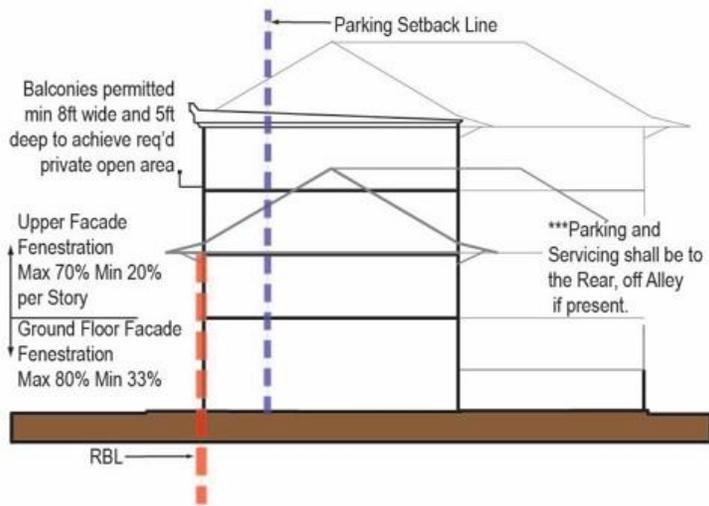
Notes on Siting

\* For corner lots the secondary frontage Build-To minimum is 25 percent.

\*\* The Parking Setback may be reduced to 15 feet with a minimum four (4) foot Garden Wall along the unbuilt RBL between the parking and the sidewalk/street frontage but for no more than 15 percent and 25 percent of the RBL in the UV and NV respectively.

\*\*\* Private Open Area may be achieved at or above grade

c. Elements.



	Elements	
	Urban Village	Neighborhood Village
Min./Max. Shopfront Fenestration	50 to 90%	
Min./Max. Upper Story Fenestration	20 to 70%	
Max. Shopfront Encroachment	2' *	
Balconies	Permitted**	
Max. Distance between Façade Entrances	50'	

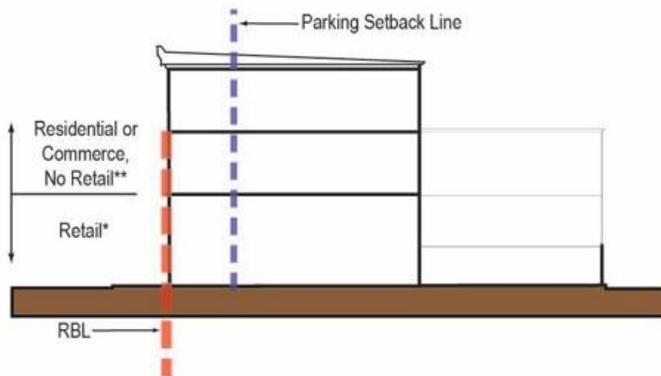
Notes on Elements

\* Shopfront display or bay windows are permitted to project forward of the RBL, provided they do not obstruct the clear walkway.

\*\*If used to achieve Private Open Area requirements, balconies shall have minimum dimensions of eight (8) feet wide and five (5) feet deep.

\*\*\* Parking, loading docks and other service functions are limited to the rear of the lot, accessed from an alley or common drive when one exists.

d. Functions.



Functions		
	Urban Village	Neighborhood Village
Ground Floor*	Retail Sales/Service, Personal Services, Bank/Financial Services, Restaurant/Bar	
Upper Stories**	Commerce or Residential	

*Notes on Functions*

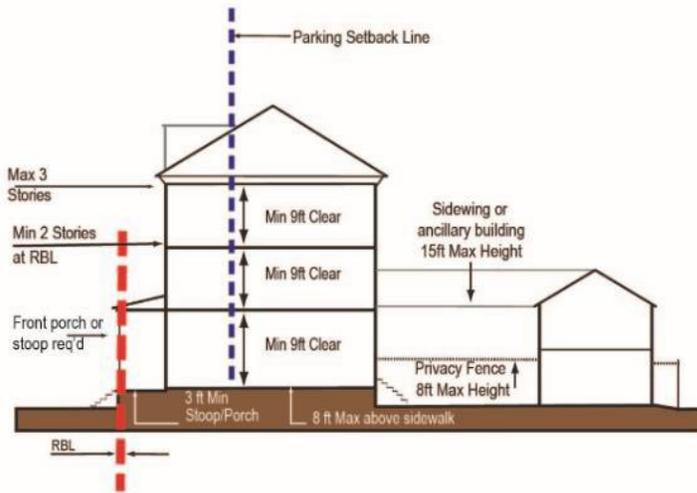
*These are general use parameters. See Section 5.2 for specific requirements and limitations.*

*\* Retail uses are required within shopfront spaces along the street frontage, to a depth of at least 25 feet behind the RBL. See Section 5.2 for uses permitted beyond that limit.*

*\*\* Second story retail is limited to extensions of first floor uses.*

4. Village Transition Sub-Area Building Form Standards.

a. Height.

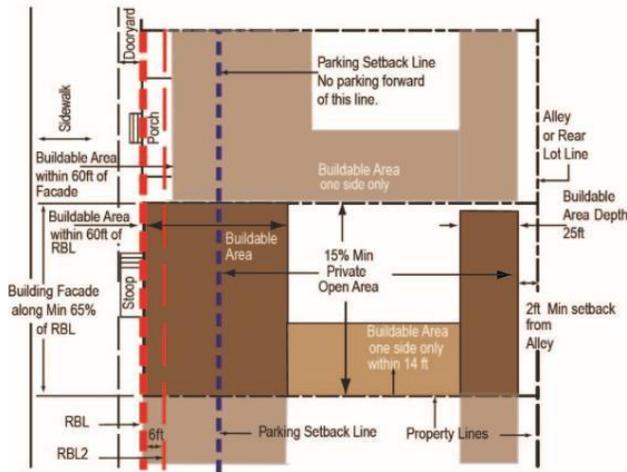


	Height	
	Urban Village	Neighborhood Village
Max. Building Height	4 stories and 48'	3 stories and 38'
Min. Building Height	2 stories	
Min./Max. Finished Ground Floor Level	3' to 8'	
Min. Clear Height All Stories	9'	
Max. Garden Wall Height*	8'	
Max. Privacy Fence Height	8'	

*Notes on Height*

\* A garden wall may be used to define the street edge, to secure a pedestrian passage, to enclose a courtyard space, or to screen building service elements.

b. Siting.



Siting		
	Urban Village	Neighborhood Village
Min. Build-To*	65%	
Min. Parking Setback**	20'	
Min. Private Open Area***	15%	
Side Setbacks	None required	
Min. Rear Setback with Alley	2'	
Min. Rear Setback with no Alley	30'	
Garden Wall	Permitted on unbuilt RBL	
Privacy Fence	Permitted on common and rear lot lines only	
Min. Lot Width	18'	
Min. Lot Depth	50'	
Max. Building Footprint	6,000 s.f.	

Notes on Siting

\* For corner lots, the secondary frontage Build-To minimum is 30 percent.

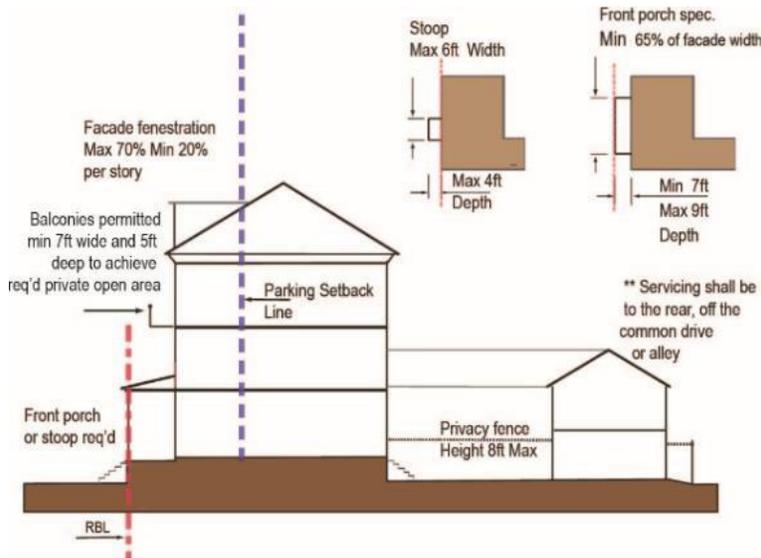
\*\* For corner lots, parking may be enclosed within a garage on the secondary frontage RBL with no setback.

\*\*\* Private open area may be achieved at or above grade, behind the Parking Setback Line.

\*\*\*\* The buildable area is located within the prescribed distance from: the RBL or the façade, rear and common lot lines. For shallow lots, complete lot coverage is allowed; for lots deeper than 90 feet, a portion of the private open area shall be at grade.

\*\*\*\*\*RBL2 is an optional location for the build-to line six (6) feet behind the RBL in order to create a small front yard. All measurements taken from the RBL shall be adjusted accordingly if RBL2 is chosen.

c. Elements.



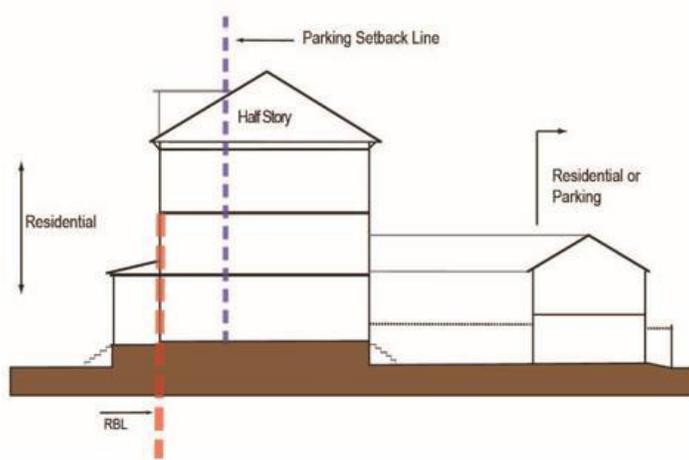
	Elements	
	Urban Village	Neighborhood Village
Min./Max. Façade Fenestration	20 to 70%	
Front Porch or Stoop*	Required	
Balconies	Permitted	

**Notes on Elements**

\* Front porches and stoops may encroach into the right-of-way, but shall not block the clear walkway. Ideally, the RBL, and therefore the porch and stoop location, should be based on the street type specification (and dooryard/front yard depth), designated at the time of project planning and development approvals.

\*\* Parking and other service functions are limited to the rear of the lot, accessed from an alley or common drive when one exists.

d. Functions.



Functions		
	Urban Village	Neighborhood Village
All Stories	Residential	

*Notes on Function*

*These are general use parameters. See Section 5.2 for specific requirements and limitations.*

*\* Parking and other service functions are limited to the rear of the lot, accessed from an alley or common drive when one exists.*

## Section 5.4 Parking

---

- A. *Intent.* The Village District parking standards are intended to:
1. Promote a “park once” environment that will enable people to conveniently park and access a variety of commercial, residential, and civic enterprises in pedestrian friendly environments by encouraging shared parking.
  2. Reduce fragmented, uncoordinated, inefficient, reserved single-purpose parking.
  3. Avoid adverse parking impacts on adjacent neighborhoods.
  4. Maximize on-street parking.
  5. Provide flexibility for redevelopment of small sites.
  6. Increase visibility and accessibility of public and/or shared parking.
  7. Support and encourage a multi-modal, bicycle and pedestrian-friendly environment.
- B. *Parking Placement.*
1. Parking may be located on the street, in a surface lot or in a structure.
  2. No parking shall be located between the building façade and the back of curb within a Village Center, Village General or Village Transition Sub-Area.
  3. Within a Village Center, all off-street parking shall be located behind the parking setback line, typically 25 feet behind the back of the sidewalk.
  4. In a Village General Sub-Area, surface parking (as well as all loading areas) shall be placed to the rear or to the side of buildings, but in no case shall more than 60 feet of the property frontage (along the required building line) be used for surface parking.
  5. All surface parking and loading areas shall be screened from public areas, public sidewalks, and abutting residentially zoned properties by landscaping and a four (4) foot solid wall or a combination masonry and a wrought iron or metal fence.
  6. When parking is above grade within a structure, a façade treatment that is consistent (in terms of materials and design) with the building façade shall be provided for the parking floors/levels.
  7. Parking structures shall be constructed so that commercial uses occupy the ground floor level on all street frontages. Automobile parking spaces are to be provided as required in this section and configured according to *Sections 12.8 and 12.9.*
- C. *District Parking Requirements.*
1. Reuse or Renovation. The minimum parking requirement for the re-use or renovation of an existing structure in which there is no gross floor area expansion shall be determined at the time of project approval, but in all cases shall include at least one (1) off-street space.
  2. Minimum Shared Parking for Village Center and Village General Sub-Areas. Shared parking shall be open to the public, subject to the following requirements:
    - a. Commerce: Non-residential uses shall have a minimum of one and a quarter (1 ¼) spaces per 1,000 square feet of non-residential GFA provided as shared parking.
    - b. Residential: A minimum of one quarter (¼) parking space per residential unit shall be provided as shared parking.

- c. Shared parking shall be:
  - i. Designated by appropriate signage and markings (clearly visible) as determined by the Administrator; and
  - ii. Accessible to the public.
- 3. Minimum Reserved Parking. Reserved Parking is provided/maintained for the exclusive use of tenants/residents and customers, and includes all parking that is not shared parking.
  - a. Commerce uses. There is no minimum requirement for reserved parking.
  - b. Residential—minimum reserved parking spaces per unit:
    - i. Up to 650 square feet, regardless of bedroom count: a half (½) space/unit.
    - ii. 650-1,000 square feet: one (1) space/unit.
    - iii. Above 1,000 square feet: one and a quarter (1.25 spaces/unit).
- 4. Achieving Parking Requirements.
  - a. Minimum parking requirements may be met either on-site or within a 600-foot walking distance of the development.
  - b. Parking shall be located in compliance with the parking setback line or other regulations for the site on which it is located.
  - c. Existing parking in all Village Districts may be used to achieve parking requirements in accordance with *Section 5.4 F.3, Off-Site Parking*.
- 5. Bicycle Parking. Sites and/or projects over 10,000 square feet in land area require the following:
  - a. For commerce uses, the developer must provide one (1) employee bicycle parking rack (2- bike capacity) per 5,000 square feet of commercial floor area and one (1) visitor/customer bicycle parking rack (2-bike capacity) per 10,000 square feet of commercial floor area. The employee and visitor racks may be co-located.
  - b. For multi-family residential uses, the developer must provide one (1) tenant bicycle parking rack (2- bike capacity) per four (4) units and one (1) visitor bicycle parking rack (2-bike capacity) per 10 units. Buildings under four (4) units shall have no requirement.
  - c. Bicycle parking facilities shall be visible to intended users. The bicycle parking facilities shall not encroach on any area in the public right-of-way designated as the clear walkway nor shall they encroach on any required fire egress.
  - d. On-street bicycle parking spaces (typically along the street tree alignment line) may be counted toward the minimum customer/visitor bicycle parking requirement. For areas with constrained street-space, an optional approach is to consolidate public bicycle parking in a single (1) dedicated on-street parking space per block.
  - e. Bike rack design shall meet the requirements of *Section 12.4 D*.
- 6. Permissive Parking and Loading Facilities. Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, in accordance with all regulations herein governing the location, design, and operation of such facilities.

D. *Maximum Parking Standards.* Within a Village District, surface and structured parking spaces may be reserved for a specific tenant or unit, provided that the following standards are not exceeded:

Use	Reserved (non-shared) Spaces (maximum)
<b>Residential</b>	1.0 per one-bedroom multifamily unit 1.25 per two bedroom multifamily unit 1.5 per three or more-bedroom multifamily unit
<b>Nonresidential</b>	2.0 per 1,000 non-residential GFA

E. *Shared Parking Limits.*

1. Time. Any time or hour of the day restrictions on shared parking shall be subject to approval by the Administrator. The Administrator may give approval based on a finding that: the parking is visible and accessible to the public, at least 12 hours of public parking are provided in any 24-hour period, and that at least eight (8) of those hours are provided during either business or nighttime hours depending on whether the Administrator determines that the primary use will be for commerce or residential uses.
2. Amount. There are no maximum limits on the amount of shared parking.

F. *Special Parking Standards.*

1. Joint Parking. Sites abutting one another shall physically connect their surface parking areas at the lot line to create connecting drive aisles. Where such surface parking areas lie within 50 feet of one another, a mutual access easement acceptable to the Administrator shall be executed. Site configurations existing prior to the adoption of the UDC are exempt from this requirement.
2. On-Street Parking.
  - a. A parking space located on a public street may be included in the calculation of shared parking requirements if it is adjacent to the building site (where more than 50 percent of the space is fronting).
  - b. Each on-street parking space may only be counted once.
3. Off-Site Parking.
  - a. Off-site parking, shared or reserved, must be located within a walking distance of 800 feet from the site it is serving.
  - b. The off-site parking shall be located within the Village District.
  - c. The off-site parking must be the subject of a long-term lease approved as to form by the City Attorney, or permanently dedicated for off-site parking use.
4. Tandem Parking.
  - a. Tandem parking is only allowed for:
    - i. Single-family residential projects; and
    - ii. Residential projects and the residential component of mixed-use projects.
  - b. Two (2) parking spaces in tandem shall have a combined minimum dimension of nine (9) feet in width by 34 feet in length.
  - c. Up to 75 percent of the total required off-street parking spaces provided may incorporate tandem parking.

- d. Tandem spaces shall be assigned to the same dwelling unit. Tandem parking shall not be used to provide guest parking.
- G. *Loading Facilities.* If provided, loading zones shall be located to the rear and/or alley side of buildings.
- H. *Parking Lot Plantings for New Development.*
  - 1. Trees. For any surface parking lot not separated from the street or public realm by a building, the space between the RBL and the parking setback line shall be planted with canopy shade trees. Trees shall be planted at an average distance not to exceed 30 feet on center and aligned parallel three (3) to seven (7) feet behind the RBL or garden wall.
  - 2. Edge. The edge of any Village District surface parking lot adjacent to a single family lot shall:
    - a. Be planted with canopy shade trees placed at an average distance not to exceed 40 feet on center and aligned parallel three (3) to seven (7) feet behind the common lot line; and
    - b. Have a garden wall or privacy fence along the common lot line at least three (3) feet in height.

## **Section 5.5 Streets & Streetscape- Public Realm**

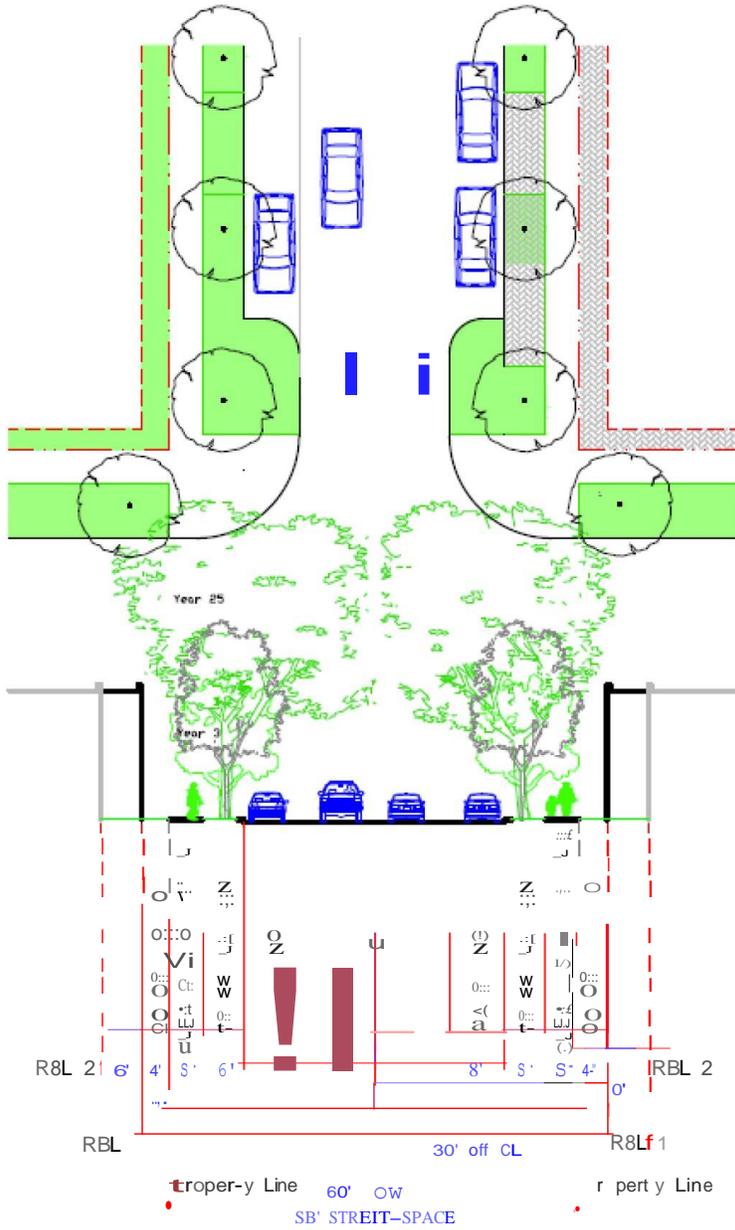
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- A. *Purpose and Intent.*
  - 1. The Street Types illustrate the recommended typical configurations for street spaces within the Village Districts. The plans and sections specify ideal vehicular travel lane widths, curb radii, sidewalks, tree planting areas, and on-street parking configurations. The streets within a Village District must work in conjunction with the building form standards to create the type of walkable, mixed-use place envisioned by the Comprehensive Plan.
  - 2. Streets are a community's first and foremost public spaces and should be just as carefully designed and planned as any park or public building. The character of the street space—both its scale and its details—determines the pedestrian quality of a given location.
  - 3. Streets must balance the needs of all forms of traffic—auto, future transit, bicycle and pedestrian—to maximize mobility and convenience for all residents and users. Their character will vary depending on their location: some streets will carry a large volume of traffic and provide a more active and intense pedestrian experience while others will provide a less active and more intimately scaled street-space.
  - 4. These are city streets—not highways or roads—and must be developed as such to create people-oriented places balancing all transportation modes. The village streets are designed primarily for walkability and pedestrian comfort, with automobile movement as a secondary focus.
  - 5. Adapting these public realm standards for existing public streets will grant more to the free movements of vehicles, while maintaining fair walkability.
- B. *Recommended Standard Village Street Types.* There are two (2) recommended street types for the Village Districts: Main Streets and Neighborhood Streets.
  - 1. Main Street. The Main Street should be used for the Village Center Sub-Areas, where a mix of uses and high level of pedestrian traffic is anticipated (the full section with dedicated turn lane should only be used when required). The Main Street may also be used for any commercial or mixed-use areas within a Village General Sub-Area. In general, Main Streets should be configured with a wide clear sidewalk and may include paving or hardscape in the dooryard and between tree pits.
  - 2. Neighborhood Street. Neighborhood Streets should be used for the Village Transition Sub-Areas and may also be appropriate for any portions of a Village General Sub-Area that are

predominantly residential. In general, Neighborhood Streets are of a more intimate scale with a greener edge. They may have a slightly narrower clear sidewalk, with plantings in the dooryard and continuous tree lawns (rather than separate individual tree pits). In some locations, the properties along Neighborhood Streets may have small front yards.



2. Village Neighborhood Street.



**Commercial and Industrial Districts**

**Article  
6**

## Section 6.1 Purpose

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This article outlines the Commercial and Industrial Zoning Districts and contains basic information pertaining to the land use regulation and spatial requirements for buildings and lots.

- A. *Retail Commercial District (C-0)*. The C-0 District is established to provide for the development of retail-oriented uses and to accommodate the basic shopping and service needs of residents. All commercial uses, operations, and sales, except for off-street parking and off-street loading facilities, shall be conducted within completely enclosed buildings. However, this district is not intended to prohibit the outside display of merchandise in the normal course of retail business and within regular business hours.
- B. *Restricted Commercial District (C-1)*. The C-1 District is established to accommodate basic shopping and service needs of residents and to provide retail and office space for merchants, financial, administrative, government, and business services. The district is primarily intended for indoor commercial operations, however, it is not intended to prohibit the outside temporary daily display of merchandise during the normal course of retail business and within regular business hours.
- C. *General Commercial District (C-2)*. The C-2 District is established to accommodate commercial activities and businesses that involve the storage of goods, materials, equipment, machinery, and vehicles outside of enclosed buildings, or those with outdoor operations.
- D. *Industrial District (I)*. The I District is established to accommodate most industrial and manufacturing uses, provided such use is not noxious or offensive by reason of emission of odors, soot, dust, noise, fumes, or vibrations.

## Section 6.2 Schedule of Uses

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Buildings or land shall not be used, and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in the UDC. Land and/or buildings in the districts indicated at the top of *Table 6.2* may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. Land and/or buildings in this district may be used by right, subject to all other applicable provisions of the UDC.
- B. *Conditional Use (C)*. Land and/or buildings are subject to review and permitting in accordance with *Article 24*.
- C. *Special Exception Use (S)*. Land and/or buildings are subject to review and permitting in accordance with *Article 25*.
- D. *Not Permitted*. Blank cells indicate that a use is not permitted within the zoning district.

Table 6.2 Schedule of Uses: Commercial and Industrial Districts					
Use	C-0	C-1	C-2	I	Other
<b>Accessory Uses</b>					
Accessory buildings	P	P	P	P	11.2
Garage sales					11.10
Holiday tree and firewood sales			P		11.17
Home occupation					11.18
Outdoor display, accessory retail sales			P	P	11.23
Outdoor display, temporary accessory retail sales	P	P	P		11.24
Outdoor storage, commercial and industrial			P	P	11.25
Residential sales					11.30
Solar energy equipment	P	P	P	P	11.37
<b>Accommodations, Hospitality, Entertainment</b>					
Banquet hall		P	P		
Bed and breakfast					
Hotel/motel	S	S	P		
Micro-brewery		P	P		
Micro-winery with vineyard					
Micro-winery without vineyard		P	P		
Nightclub or dance hall			P		
Private club		S	P		
Recreation facility, campground					
Recreation facility, commercial indoor		P	P	P	
Recreation facility, commercial indoor, amusement machine establishment		P	P	P	11.26
Recreation facility, commercial indoor- pool or billiards hall		S	P	P	
Recreation facility, commercial indoor- gun shooting range			S	P	11.27
Recreation facility, commercial indoor- paintball or other survival games			P	P	
Recreation facility, commercial outdoor			P	P	11.28
Recreation facility, commercial outdoor- paintball or other survival games			P	P	11.28
Recreation facility, community based	P	P	P	P	
Recreation facility, driving range			P	P	
Recreation facility, golf course			P	P	
Recreation facility, recreational vehicle park.					11.29
Recreation facility, rodeo ground and arena				S	
Recreation facility, vehicular racing facility			S	S	
Restaurant	P	P	P		
Restaurant with drive-through	S	S	P		11.31
Restaurant with micro-brewery or micro-winery	P	P	P		
Restaurant with outdoor dining or service	P	P	P		
Tavern		S	P		
Theater, movie, indoor	C	P	P		
<b>Agricultural</b>					
Agricultural operation or farm		P	P	P	11.3
Agribusiness and feed store (without animal sales)			P	P	
Agribusiness and feed store (with animal sales)			S	S	
Agritourism					
Farmers market			P		

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<b>Table 6.2 Schedule of Uses: Commercial and Industrial Districts</b>					
<b>Use</b>	<b>C-0</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>	<b>Other</b>
Greenhouse and nursery, commercial			P	P	11.15
Keeping of animals, hobby farm					
Roadside (produce) stand	P	P	P		11.32
Stables, private		S	S	S	
Stables, public/commercial				S	
Winery, with vineyard					
<b>Industrial</b>					
Impound vehicle storage facility				S	11.19
Landfill				S	
Manufacturing, processing and packaging- light			S	P	11.20
Manufacturing, processing and packaging- light, and associate retail sales			S	P	11.20
Manufacturing, processing and packaging- heavy				S	11.20
Mining and mineral extraction operation				S	11.22
Outdoor storage, commercial and industrial				S	11.25
Salvage operations				S	11.33
Warehousing			S	P	
Wholesale and distribution			P	P	
Mini-warehouse/self-storage			P	P	
Winery, without vineyard		P	P		
<b>Infrastructure, Transportation, Communications</b>					
Airport			S	S	11.5
Airstrip			S	S	11.5
Bus terminal		P	P	P	
Essential service	P	P	P	P	11.9
Drilling and production of oil and gas	S	S	S	S	11.7
Freight terminal, railroad				P	
Freight terminal, trucking				P	
Gathering and compression station	S	S	S	S	11.7
Helicopter landing pad			S	S	11.5
Infrastructure and utilities- regional	S	S	S	P	
Parking facility, public or commercial		S	S	P	
Satellite transmission antenna	P	P	P	P	11.34
Waste management facility		S	S	S	
Waste management facility- transfer station				S	
Wind energy turbine	S	S	S	S	11.41
Wireless communication facilities	S	S	S	P	11.42
<b>Institutional/Civic</b>					
Cemetery	S	S	S	S	
Community oriented cultural facility	P	P	P	P	
Community public safety- fire	P	P	P	P	
Community public safety- police	P	P	P	P	
Community public safety- prison or penitentiary				S	
Governmental facility	P	P	P	P	
Meeting facility		P	P		
Parks, playgrounds, outdoor recreation	P	P	P		
Place of worship	P	P	P		
School, college or university	P	P	P		
School, elementary, middle, high school	P	P	P		
School, nursery or kindergarten	P	P	P		

<b>Table 6.2 Schedule of Uses: Commercial and Industrial Districts</b>					
<b>Use</b>	<b>C-0</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>	<b>Other</b>
School, specialized/training	S	S	P	P	
<b>Offices and Services</b>					
Animal services, animal clinic/hospital		P	P	P	11.4
Animal services, commercial kennel		S	P	P	11.4
Animal services, shelter or rescue		S	P	P	11.4
Body branding, piercing and tattoo facility		S	P		
Child care center		P	P	P	11.6
Crematorium				P	
General offices and services, alternative financial establishments		S	S	S	11.11
General offices and services- bank/financial services		P	P		
General offices and services, bail bond establishment		S	S	S	11.12
General offices and services- business services		P	P		
General offices and services- business support services		P	P		
General Offices & Services- Construction and Building Services, indoor storage		P	P	P	
General Offices & Services- Construction and Building Services, outdoor storage			P	P	11.25
General offices and services- gunsmith and sales	P	P	P	P	
General offices and services- personal services	P	P	P		
General offices and services- personal services- funeral home (without crematory services)		S	P	P	
General offices and services- personal services- laundry and dry cleaners	P	P	P	P	
General offices and services- professional and administrative services		P	P		
General offices and services- with a drive through facility		S	S		
Medical services, clinics		P	P		
Medical services, medical offices		P	P		
Medical services, hospital			P	P	
Vehicle repair, major			P	P	11.39
Vehicle repair, minor		S	P	P	
Vehicle wash		S	P	P	
Vehicle wash, trucks and heavy equipment			P	P	
<b>Residential</b>					
Day care, child day care home					11.6
Day care, group home day care home					11.6
Dwelling, attached accessory					11.8
Dwelling, detached accessory					11.8
Dwelling, multi-family					
Dwelling, multi-family, upper floor					
Dwelling, single-family					
Dwelling, single-family attached					
Dwelling, two-family					
Group housing, adult group home					11.16
Group housing, boarding (rooming) house					
Group housing, convalescent or nursing home			P		
Group housing, fraternity or sorority home					
Group housing, halfway house					
Group housing, independent and assisted living					

<b>Table 6.2 Schedule of Uses: Commercial and Industrial Districts</b>					
<b>Use</b>	<b>C-0</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>	<b>Other</b>
Live-work unit					
Manufactured home community					11.21
<b>Retail</b>					
Bakery, retail- under 2,000 square feet of gross floor area	P	P	P		
Bakery, retail- 2,000 square feet or more of gross floor area	P	P	P	P	
General retail (indoor)	P	P	P		
General retail (indoor)- over 50,000 gross floor area	C	C	C		11.13
General retail (outdoor)			S	S	
General retail, alcohol sales	P	P	P		11.14
General retail (indoor)- auto parts		S	P		
General retail (indoor)- pawnshop		S	P		11.11
General retail with a drive-through		P			
Liquefied petroleum gas (LPG) sales				S	
Service station		P	P		11.35
Vehicle sales and rental: automobiles, light trucks, boats			P	P	11.40
Vehicle sales and rental: heavy equipment/tools, heavy trucks, RVs, manufactured homes			P	P	11.40
<b>Other</b>					
Similar uses	P, S, C	P, S, C	P, S, C	P, S, C	2.7
Sexually oriented business			P	P	11.36
Temporary construction office		S	S	P	11.38
Temporary sales office	S	S	S	S	11.38
<u>Temporary use – mobile food establishment</u>					
<u>catering truck</u>	P	P	P	P	11.38
<u>ice cream truck</u>					11.38
<u>lunch truck</u>	P	P	P	P	11.38
<u>mobile food preparation truck</u>	P	P	P	P	11.38
<u>produce truck</u>	P	P	P	P	11.38
Temporary use- special function					11.38

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### Section 6.3 Spatial Requirements

- A. *Spatial Requirements.* All lots shall meet the spatial requirements of *Table 6.3*. New lots shall not be created, except in conformance with these requirements. All buildings and their placement on a lot shall conform to the minimum dimensional requirements listed in *Table 6.3*.

<b>Table 6.3 Spatial Requirements: Commercial and Industrial Districts</b>				
<b>Requirement</b>	<b>C-0</b>	<b>C-1</b>	<b>C-2</b>	<b>I</b>
<b>Lots</b>				
Min. Area (s.f.)	5,000	5,000	5,000	-
Min. Width (ft.)	50	50	50	-
Min Depth (ft.)	100	100	100	-
Max. Impervious (%)	60	60	60	60
<b>Setbacks</b>				
Min. Front (ft.)	Primary <sup>1</sup>	25	25	25
	Secondary	15	15	15
Min. Side (ft.)	10	10	10	10
Min. Rear (ft.)	20	20	20	20
Min. Side and Rear Setback (ft.) when adjacent to Agricultural and Residential Districts, OT-1, OT-2 and NV and UV Transition	50	50	50	50
Min. Setback from other Buildings	10	10	10	10
<b>Buildings</b>				
Max. Height (ft.)	30	30	45	45
Max. Stories (number)	2	2	3	3
Min. Masonry (%) <sup>2</sup>	80	80	80	-

<sup>1</sup> See *Section 8.2 C* for front setback requirements for C-0, C-1, and C-2 buildings within the Commercial Corridor Overlay District.

<sup>2</sup> See *Section 8.2 D* for masonry requirements for buildings within the Commercial Corridor Overlay District.

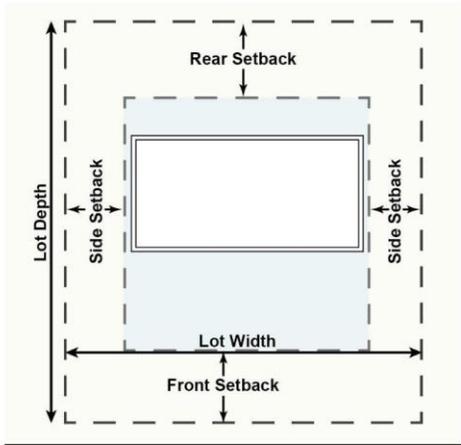


Figure 6-1 Spatial Requirements, Interior Lot

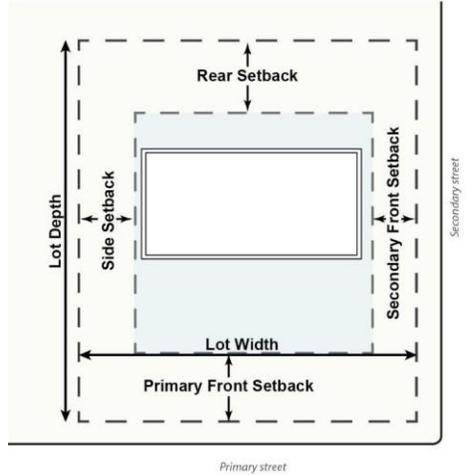


Figure 6-2 Spatial Requirements, Corner Lot

## Section 6.4 Other Requirements

In addition to the requirements of this article, all development in the Commercial and Industrial Districts shall meet the applicable requirements as listed elsewhere in the UDC:

- A. *General Provisions for All Districts. Article 10*, as applicable and if noted in the far right column in *Table 6.2*.
- B. *Specific Use Requirements. Article 11*, if noted in the far right column in *Table 6.2*.
- C. *Parking and Loading. Article 12*.
- D. *Landscaping and Lighting. Article 13*.
- E. *Signs. Article 14*.
- F. *Site Plan Review. Article 23*, as applicable.
- G. *Conditional Uses. Article 24*, if noted as "C" in *Table 6.2*.
- H. *Special Exception Uses. Article 25*, if noted as "S" in *Table 6.2*.

**Employment Center Districts**

**Article  
7**

## Section 7.1 Purpose

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The Oak Crest area plays an important role in establishing the city's image in the region and locally. The Comprehensive Plan and the related Employment Center Concept Plan recognize the area's importance to community image and also note its potential desirability for businesses needing easy access to downtown Fort Worth, I-20, I-820, and surrounding communities. Based on the area's assets, the Comprehensive Land Use Plan envisioned this area as an Employment Center, a district with a vibrant mix of retail, office (corporate and small), lodging, and residential uses. Ideally, a mix of land use, including office and retail, will eventually occupy this district, with an emphasis on employment and possible transit park & ride supportive uses. Development on the interior of the Employment Center should be designed to encourage and accommodate pedestrians. This article outlines Employment Center Mixed Use District (EC) and contains basic information pertaining to the land use regulation and spatial requirements for buildings and lots.

- A. *Employment District Commercial 1 (EC-1)*. The EC-1 District is established to accommodate commercial development consistent with the vision for this important gateway into Kennedale, creating a hybrid development context that takes advantage of auto-oriented frontages on Kennedale Parkway and a pedestrian orientation on the interior of the site. Development standards merge the predictability provided through some form-based code elements with the land use control provided through more traditional zoning tools. This district creates a unified streetscape and landscape context for an area that is both a major gateway to the city and a major suburban thoroughfare.
- B. *Employment District Office and Service (EC-2)*. The EC-2 District is established to provide locations for major office development, whether for corporate headquarters or multiple smaller offices, or cottage and artisan industrial uses. Ideally, a mix of land uses, with a focus on employment, would occupy this area. Buildings could be an eclectic mix of different office, cottage, and artisan industrial buildings from Class-A professional office to adaptive reuse of existing buildings with architectural metal, etc., all designed within a walkable context towards internal streets. Live-work units would also be suitable for this district. Businesses located in the EC-2 should be compatible with existing residential uses in the vicinity in terms of hours of operation, volume and type of traffic, amount of parking provided, noise levels, and exterior lighting. The regulations for EC-2 also merge form-based codes and traditional zoning tools.
- C. *Employment District Residential (EC-3)*. The EC-3 District is established to allow for attached housing types at higher densities.

## Section 7.2 Schedule of Uses

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Buildings or land shall not be used, and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in the UDC. Land and/or buildings in the districts indicated at the top of *Table 7.2* may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. Land and/or buildings in this district may be used by right, subject to all other applicable provisions of the UDC.
- B. *Conditional Use (C)*. Land and/or buildings are subject to review and permitting in accordance with *Article 24*.
- C. *Special Exception Use (S)*. Land and/or buildings are subject to review and permitting in accordance with *Article 25*.
- D. *Not Permitted*. Blank cells indicate that a use is not permitted within the zoning district.

Table 7.2 Schedule of Uses: Employment Center Districts				
Use	EC 1	EC 2	EC 3	Other
<b>Accessory Uses</b>				
Accessory buildings				11.2
Garage sales				11.10
Holiday tree and firewood sales				11.17
Home occupation	P	P		11.18
Outdoor display, accessory retail sales	P	P		11.23
Outdoor display, temporary accessory retail sales				11.24
Outdoor storage, commercial and industrial				11.25
Residential sales				11.30
Solar energy equipment	P	P/C	P/C	11.37
<b>Accommodations, Hospitality, Entertainment</b>				
Banquet hall				
Bed and breakfast				
Hotel/motel		P		
Micro-brewery				
Micro-winery with vineyard				
Micro-winery without vineyard				
Nightclub or dance hall				
Private club				
Recreation facility, campground				
Recreation facility, commercial indoor				
Recreation facility, commercial indoor, amusement machine establishment	P			11.26
Recreation facility, commercial indoor- pool or billiards hall	P			
Recreation facility, commercial indoor- gun shooting range	P			11.27
Recreation facility, commercial indoor- paintball or other survival games	P			
Recreation facility, commercial outdoor				11.28
Recreation facility, commercial outdoor- paintball or other survival games				11.28
Recreation facility, community-based				
Recreation facility, driving range				
Recreation facility, golf course				
Recreation facility, recreational vehicle park				11.29
Recreation facility, rodeo ground and arena				
Recreation facility, vehicular racing facility				
Restaurant	P	P		
Restaurant with drive-through	P	C		11.31
Restaurant with micro-brewery or micro-winery	P	P		
Restaurant with outdoor dining or service	P	P		
Tavern	P	P		
Theater, movie, indoor	P	S		
<b>Agricultural</b>				
Agricultural operation or farm				11.3
Agribusiness and feed store (without animal sales)				
Agribusiness and feed store (with animal sales)				
Agritourism				
Farmers market				

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- Commented [KB27]: Ordinance 630
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- Commented [KB29]: Ordinance No. 619

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<b>Table 7.2 Schedule of Uses: Employment Center Districts</b>				
<b>Use</b>	<b>EC 1</b>	<b>EC 2</b>	<b>EC 3</b>	<b>Other</b>
Greenhouse and nursery, commercial				11.15
Keeping of animals, hobby farm				
Roadside (produce) stand				11.32
Stables, private				
Stables, public/commercial				
Winery, with vineyard				
<b>Industrial</b>				
Impound vehicle storage facility				11.19
Landfill				
Manufacturing, processing and packaging- light				11.20
Manufacturing, processing and packaging- light, and associate retail sales				11.20
Manufacturing, processing and packaging- heavy				11.20
Mining and mineral extraction operation				11.22
Outdoor storage, commercial and industrial				11.25
Salvage operations				11.33
Warehousing				
Wholesale and distribution				
Mini-warehouse/self-storage				
Winery, without vineyard				
<b>Infrastructure, Transportation, Communications</b>				
Airport				11.5
Airstrip				11.5
Bus terminal				
Essential services				11.9
Drilling and production of oil and gas				11.7
Freight terminal, railroad				
Freight terminal, trucking				
Gathering and compression station				11.7
Helicopter landing pad				11.5
Infrastructure and utilities- regional				
Parking facility, public or commercial				
Satellite transmission antenna				11.34
Waste management facility				
Waste management facility- transfer station				
Wind energy turbine	c	d		11.41
Wireless communication facilities				11.42
<b>Institutional/Civic</b>				
Cemetery				
Community oriented cultural facility	P	P		
Community public safety- fire	P	P		
Community public safety- police	P	P		
Community public safety- prison or penitentiary				
Governmental facility	P	P		
Meeting facility	P	P		
Parks, playgrounds, outdoor recreation	P	P	P	
Place of worship	P	P	P	
School, college or university	P	P		

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Table 7.2 Schedule of Uses: Employment Center Districts				
Use	EC 1	EC 2	EC 3	Other
School, elementary, middle, high school	P	P		
School, nursery or kindergarten	P	P		
School, specialized/training	P	P		
<b>Offices and Services</b>				
Animal services, animal clinic/hospital	P	P		11.4
Animal services, commercial kennel				11.4
Animal services, shelter or rescue				11.4
Body branding, piercing and tattoo facility				
Child care center	P	P		11.6
Crematorium				
General offices and services, alternative financial establishments				11.11
General offices and services, bank/financial services with drive-through	P C	P C		
General offices and services, bail bond establishment				11.12
General offices and services- business services	P	P		
General offices and services- business support services	P	P		
General Offices & Services- Construction and Building Services, indoor storage				
General Offices & Services- Construction and Building Services, outdoor storage				11.25
General offices and services- gunsmith and sales				
General offices and services- personal services	P	P		
General offices and services- personal services- funeral home (without crematory services)				
General offices and services- personal services- laundry and dry cleaners	P	P		
General offices and services- professional and administrative services	P	P		
General offices and services- with a drive through facility	P C	P C		
Medical services, clinics	P	P		
Medical services, medical offices	P	P		
Medical services, hospital	P	P		
Vehicle repair, major				11.39
Vehicle repair, minor	C	C		
Vehicle wash				
Vehicle wash, trucks and heavy equipment				
<b>Residential</b>				
Day care, child day care home				11.6
Day care, group home day care home				11.6
Dwelling, attached accessory				11.8
Dwelling, detached accessory				11.8
Dwelling, multi-family				
Dwelling, multi-family, upper floor	P	P		
Dwelling, single-family				
Dwelling, single-family attached			P	
Dwelling, two-family				

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<b>Table 7.2 Schedule of Uses: Employment Center Districts</b>				
<b>Use</b>	<b>EC 1</b>	<b>EC 2</b>	<b>EC 3</b>	
Group housing, adult group home				11.16
Group housing, boarding (rooming) house				
Group housing, convalescent or nursing home				
Group housing, fraternity or sorority home				
Group housing, halfway house				
Group housing, independent and assisted living				
Live-work unit	P	P	P	
Manufactured home community				11.21
<b>Retail</b>				
Bakery, retail- under 2,000 square feet of gross floor area				
Bakery, retail- 2,000 square feet or more of gross floor area				
General retail (indoor)	P	P		11.13
General retail (indoor)- over 50,000 gross floor area				
General retail (outdoor)				11.14
General retail, alcohol sales				
General retail (indoor)- auto parts				11.11
General retail (indoor)- pawnshop				
General retail with a drive-through	P	P		
Liquefied petroleum gas (LPG) sales				
Service station				11.35
Vehicle sales and rental: automobiles, light trucks, boats	P,C	P,C		11.40
Vehicle sales and rental: heavy equipment/tools, heavy trucks, RVs, manufactured homes				11.40
<b>Other</b>				
Similar uses	P,S C	P,S C	P,S C	2.7
Sexually oriented business				11.36
Temporary construction office	S	S	S	11.38
<u>Temporary use – mobile food establishment</u>				<u>11.38</u>
<u>catering truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>11.38</u>
<u>ice cream truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>11.38</u>
<u>lunch truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>11.38</u>
<u>mobile food preparation truck</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>11.38</u>
<u>produce truck</u>				<u>11.38</u>
Temporary sales office	S	S	S	11.38
Temporary use- special function				11.38

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## Section 7.3 Spatial Requirements

- A. *Spatial Requirements.* All lots shall meet the spatial requirements of *Table 7.3*. New lots shall not be created, except in conformance with these requirements. All buildings and their placement on a lot shall conform to the minimum dimensional requirements listed in *Tables 7.3 A-C*.

<b>Table 7.3.A Siting: Employment Districts</b>				
<b>Requirement</b>		<b>EC-1</b>	<b>EC-2</b>	<b>E-3</b>
<b>Lots</b>				
Min. Area (s.f.)		-	-	-
Min. Width (ft.)		-	-	18
Min. Depth (ft.)		-	-	50
Max. Impervious (%)		-	-	-
<b>Setbacks</b>				
Min./Max. Front (ft.)	287 Bus/I-20 access Frontage	20/60	20/60	-
	Type A Frontage	20/25	10/25	10/25
	Type B Frontage	10/-	10/-	10/20
Min. Side (ft.) <sup>1</sup>		0	0	0
Min. Rear (ft.)	287 Bus/I-20 access Frontage	8/-	8/-	8/-
	Type A Frontage	8/-	10/-	10/-
	Type B Frontage	8/-	10/-	10/-
Min. Parking	Type A Frontage	Behind front building line		30'
	Type B Frontage	6	6	30'
<b>Build-To Minimum<sup>2,3</sup></b>				
287 Bus/I-20 Access Frontage		50%	50%	-
Type A Frontage		70%	70%	65%
Type B Frontage		-	-	65%
<b>Building Footprint</b>				
Max. (ft.)		-	-	6,000

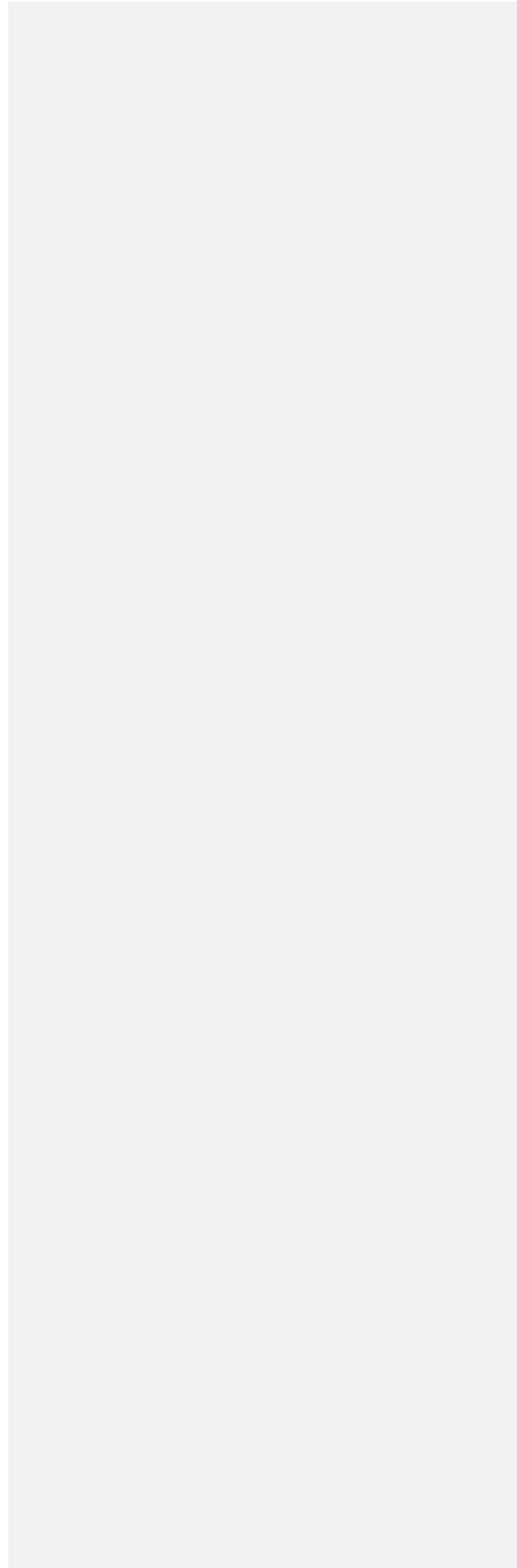
<sup>1</sup> Subject to Fire Code compliance.

<sup>2</sup> Build-to minimums cannot be met by canopies, service bays, or drive-through areas.

<sup>3</sup> For corner lots the secondary frontage build-to minimum is 25 percent when a front build-to minimum is required.



*Figure 7-1 Parking Placement and Setback Examples*



<b>Table 7.3. B Height: Employment Districts</b>			
<b>Requirement</b>	<b>EC-1</b>	<b>EC-2</b>	<b>E-3</b>
Max. Height (stories)	5	3 <sup>4</sup>	3
Max. Height (ft.)	-	-	38
Ground Floor Min. Clear Height (ft.)	12	12	9
Upper Stories Clear Height (ft.)	9	9	9
Min./Max. Finished Ground Level Floor (inches)	0 – 12	0 – 12	3 – 8

<b>Table 7.3.C Elements: Employment Districts</b>				
<b>Requirement</b>		<b>EC-1</b>	<b>EC-2</b>	<b>E-3</b>
<b>Fenestration</b>				
Type A Frontage (%)	Structures w/ 4 visible sides	20-60 (3 sides)		-
	Structures w/ 3 visible sides	20-60 (2 sides), 10-60 (1 side)		-
Type B Frontage (%)	Front	20-60		-
	One other side	10-60		-
Other Frontage (%)	Front	20-60		-
	One other side	10-60		-
Ground Floor Visible Transmittance		.06		-
Max. Number of Windows and Doors (over four feet in height)		1 per 60 feet		-
Max. Sill Height (ft.)		4	4	-
<b>Articulation</b>				
Max. Blank Wall (ft.)		40	50	-
<b>Masonry Requirement</b>				
Min. for Principal Structures (%)	287 Bus Frontage	100	90	80
	Type A Frontage	100	90	80
	Type B Frontage	80	80	80
Min. for Accessory Structures (%)		80	80	80

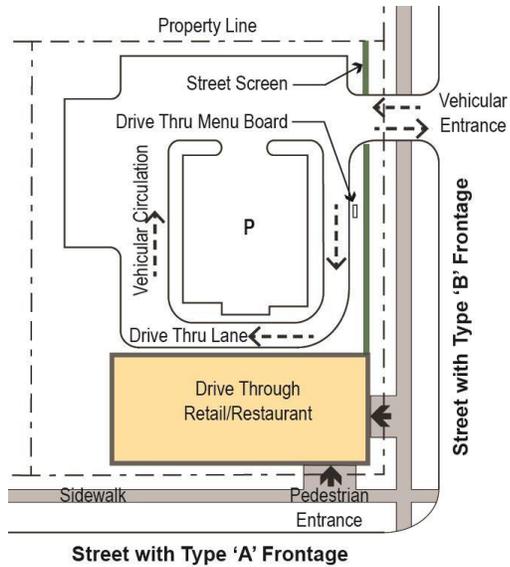
## Section 7.4 Form and Character EC-1 and EC-2

### A. Auto-Oriented Businesses.

- Entrances.** Any automobile related retail sales or service use of a site or property with Type A Frontage designation shall have a primary building entrance along that frontage. A primary building entrance may be along a building's Type B Frontage only if the site has no Type A frontage designation.
- Access.** Drive-through access (driveways only) may be from a Type A Frontage only if the lot has no access to any Type B, parkway, alley or highway access road. In cases where drive-through access is provided from a Type A Frontage, a shared/joint access easement shall be required to adjoining properties providing alternative (future) access to a Type B or alley frontage (see *Figures 7-2 and 7-3*)

<sup>4</sup> Hotels may be up to five (5) stories.

for corner and interior lot illustrations).



Street with Type 'A' Frontage

Figure 7-2 Auto-Oriented Business

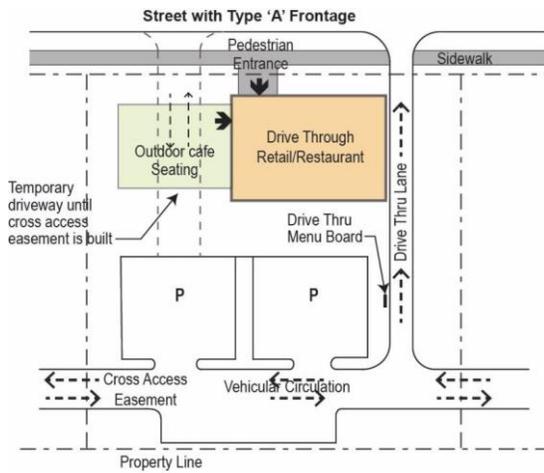


Figure 7-3 Auto-Oriented Business

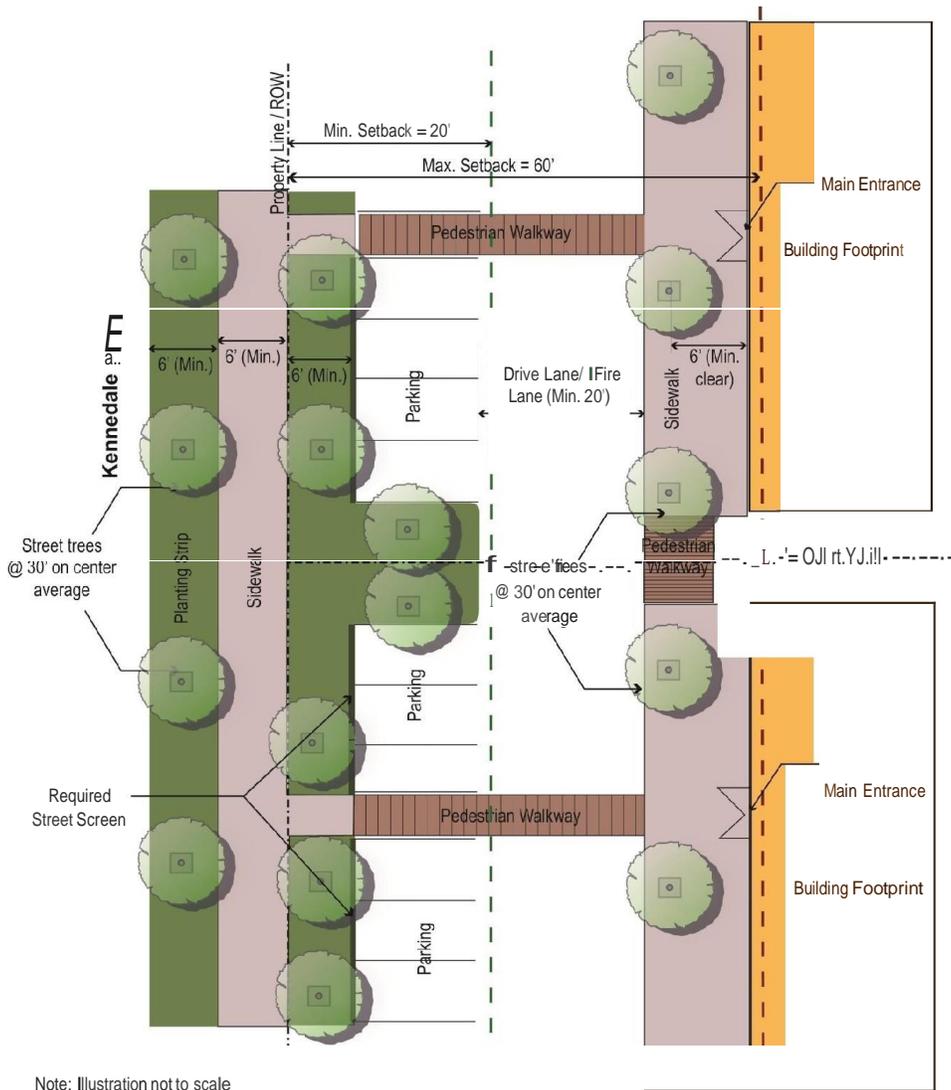


Figure 7-4 Example of Parking Area Showing Required Streetscape and Site Design for Properties along Parkway Street Type and 1-20 Frontage Road.

- B. **Trash Pickup.** All off-street loading, unloading, and trash pick-up areas shall be located internal to the site, along alleys, or Type B frontages only. If a site has no Type B frontage or Alley access, off-street loading,

unloading, and trash pick-up areas may be permitted along the side of a building or a Type A frontage. Off-street loading, unloading, and trash pick-up areas shall not be located along I-20 Access Road or Kennedale Parkway frontages.

- C. *Outdoor Storage.* Outdoor storage is not permitted between the principal building and the primary street. Screening is required in accordance with *Section 13.9*.
- D. *Entryway.* For each primary building whose primary entrance is oriented toward an off-street parking area, a pedestrian-oriented entrance shall be provided on at least one (1) street-facing side of the building (at least one (1) side of the building not oriented toward the off-street parking area). The entrance shall provide a connection to the closest street or sidewalk (or a farther street/sidewalk if another street or sidewalk is more pedestrian-oriented).
- E. *Orientation.* For properties with primary access from a Type A frontage street, the primary building shall be oriented so that the primary entrance is along the Type A street. The entrance shall provide a connection to the closest street or sidewalk. A secondary entrance may be provided to the building from the side facing the off-street parking area.
- F. *Internal Arrangement.* Buildings shall foster a strong connection to the street by placing internal functions that require or benefit from window openings and pedestrian entrances (such as offices or retail shopfronts) in the front of the building. Other internal functions (such as warehousing and storage) shall be placed in the back of the building or interior of the building.
- G. *Fenestration.* Glazing cannot be mirrored or darkly tinted glass that obscures visibility. For this section, "visible transmittance ('vt')" means the amount of light transmitted through a window. VT is expressed as a number between 0 and 1; the closer the number is to 1, the higher the potential for daylighting. See *Table 7.3 C*.
- H. *Façade Articulation.* For all new buildings and new building additions, primary building façades must be articulated, per *Table 7.3 C*. Examples of acceptable articulation are as follows:
1. Construction of building entrances, display windows, storefronts, balconies, columns, and arcades (obstructing of sidewalks or frontage zones is prohibited);
  2. Inclusion of awnings meeting the requirements of the UDC;
  3. Inclusion of a roof element projecting a minimum of five (5) feet from the building;
  4. Additional architectural elements may be used to meet this requirement. Elements not listed above require written approval from the Administrator.
- I. *Masonry.*
1. EC-1.
    - a. *Parkways and Type A Streets.* A minimum of 50 percent of the masonry material shall be similar in color and style to Acme brand Burgundy type brick (see *Figure 7-6*), with contrasting color permitted for trim and/or cornice and other architectural details.



Figure 7-5 Blank Wall- Prohibited

- b. Type B Streets. Masonry materials used shall include a minimum of 50 percent brick and the remaining materials permitted may be of other masonry materials. For example, materials may be 40 percent brick, 40 percent stone, and 20 percent non-masonry materials such as cedar or architectural metal. The primary color shall be similar in color and style to Acme brand Burgundy brick (see *Figure 7-6*), with contrasting color permitted for trim and/or cornice and other architectural details.



*Figure 7-6 Burgundy Brick*

2. EC-2.

- a. Type A Frontage Streets. Masonry materials

used shall include a minimum 50 percent brick and the remaining materials permitted to be other masonry materials. For example, materials may be 50 percent brick, 40 percent stone, and 10 percent non-masonry materials such as cedar or architectural metal. A minimum of 50 percent of the masonry material shall be similar in color and style to Acme brand Burgundy type brick (see illustration), with contrasting color permitted for trim and/or cornice and other architectural details.

- b. Type B Streets. Masonry materials used shall include a minimum 50 percent brick and the remaining materials permitted to be other masonry materials. For example, materials may be 40 percent brick, 40 percent stone, and 20 percent non-masonry materials such as cedar or architectural metal. The primary color shall be similar in color and style to Acme brand Burgundy brick, with contrasting color permitted for trim and/or cornice and other architectural details.

3. Other Materials. The remaining materials used may be determined by the builder/developer subject to the following:

- a. Board and batten, vinyl siding, and corrugated metal is prohibited.
- b. Hardie-Plank™ (or equivalent) shall be permitted on façades 10 feet or more above the finished grade of the sidewalk along that façade.
- c. EIFS shall only be permitted on façades 10 feet or more above the finished grade of the sidewalk along that façade.

## Section 7.5 Form and Character EC-3

### A. General Standards.

#### 1. Height.

- a. The height of all buildings is measured in stories, with an ultimate building height in feet, measured to the top of the wall plate. At no time may a building exceed the prescribed maximum height in stories or in feet.
- b. All heights are measured from the average fronting sidewalk elevation unless otherwise noted.
- c. A half-story (or attic story), defined as habitable space within a pitched roof, does not count against the maximum height in stories or feet, but may provide no greater than 75 percent of the square footage of the floor immediately below.
- d. The prescribed minimum story clear height shall be met within 30 feet of the front building line and by at least 80 percent of each story floor area.

- e. The required ground story finished floor level shall be measured within 30 feet of the front building line.
  - f. Residential entrances may be at grade, with transitions to meet the minimum finished floor elevation within the building interior.
2. Siting.
- a. All lots, including corner lots and through lots, shall satisfy the build-to requirements.
  - b. The building façade shall be built within the build-to zone within 30 feet of a block corner, unless otherwise specified.
  - c. Vehicle parking shall be located behind the parking setback line, except where parking is provided below grade, on street, or otherwise indicated.
  - d. All lots, including corner lots and through lots, shall satisfy the build-to requirements.
- B. *Elements*.
- 1. Encroachment. Front porches and stoops may not encroach past the minimum setback.
  - 2. Garage Doors. In no case shall a garage door be located at or face the front lot line.
  - 3. Privacy Fences. No privacy fences may be constructed forward of the front building line.
- C. *Buildings and Lots*.
- 1. Type. Single-family attached dwellings in the form of townhouses or row houses are permitted in EC-3. This frontage is of moderate intensity, created by a series of smaller attached structures. There are frequent street-oriented entrances. The character and intensity varies depending on the street-space and the location of the required building line- the buildings may be placed up to the sidewalk with stoops, or further back with small dooryard gardens and/or front porches. Depending on the lot size, townhouses may include small, private backyards. Parking is accommodated on-site, at the rear of the lot, and may be surface or rear-loaded or detached garages.
  - 2. Frontage. All lots shall have a street (or public space) frontage.
  - 3. Orientation. All primary structures shall be street oriented, with a functioning (primary) entrance, and a percentage of the building façade placed at a required building line, as designated in the building form standards and street types, typically at the back of the sidewalk or behind a small front yard.

## **Section 7.6      Minor Modifications**

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- A. *Minor Modifications*. The Administrator is authorized to approve minor modifications to the requirements of this article. Permitted minor modifications are as follows:
- 1. Requirements.
    - a. Alternative masonry materials when new materials have been developed and are not yet listed in the Code but clearly meet the intent of the UDC;
    - b. Change in landscaping plants to similar plants that meet the intent of the UDC and achieve the same effect; and
    - c. Changes to any numerical requirement in this article by no more than 10 percent (increase or decrease) with the exception of additional building stories.
  - 2. Site Plans. Minor changes in the site plan that do not significantly alter building orientation, vehicle or pedestrian traffic flow, location of parking areas, or building placement, or does not allow an increase
-

in building height; and

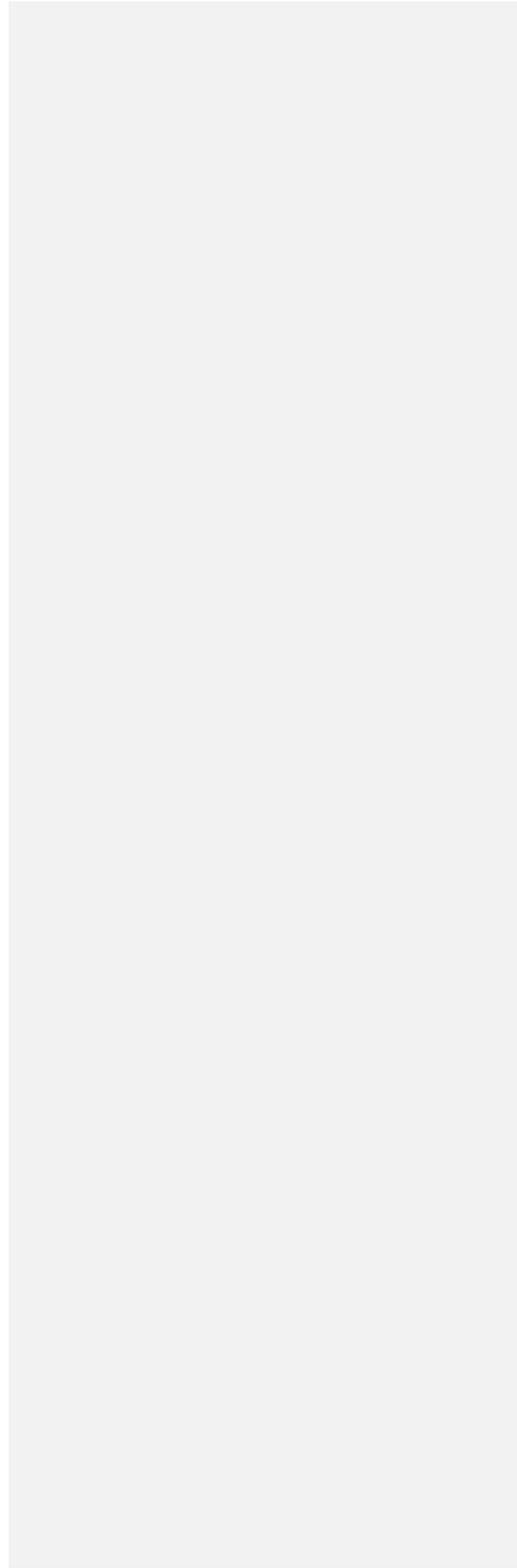
3. Signs. Permit use of a sign type not authorized by *Article 14*, provided the sign is prohibited by the UDC.

### **Section 7.7 Other Requirements**

In addition to the requirements of this article, all development in the Employment Districts shall meet the applicable requirements as listed elsewhere in the UDC:

- A. *General Provisions for All Districts. Article 10*, as applicable and if noted in the far right column in *Table 7.2*.
- B. *Specific Use Requirements. Article 11*, if noted in the far right column in *Table 7.2*.
- C. *Mobility, Connectivity and Parking. Article 12*.
- D. *Landscaping and Lighting. Article 13*.
- E. *Signs. Article 14*.
- F. *Site Plan Review. Article 23*, as applicable.
- G. *Conditional Uses. Article 24*, if noted as "C" in *Table 7.2*.
- H. *Special Exception Uses. Article 25*, if noted as "S" in *Table 7.2*.

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**Overlay Districts**

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**Article  
8**

**City of Kennedale Unified Development Code**

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## Section 8.1 Purpose

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- A. *Commercial Corridor Overlay District (CCOD)*. The CCOD is established to provide for a consistent development pattern to enhance the visual image of the corridors and maximize traffic safety.
- B. *Floodplain Overlay District (FOD)*. The FOD is established to provide for the appropriate use of land that has a history of inundation or is determined to be subject to flood hazard and to promote the general welfare and to provide protection from flooding. The restrictions contained in the FOD shall take precedence over any applicable underlying base district and shall be the controlling regulations for that district or portion of that district.

## Section 8.2 Commercial Corridor Overlay District

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- A. *Location and Applicability*. In addition to any other applicable regulations, the requirements contained in this section shall govern the development of land and structures along the Business 287 corridor and the Interstate 20/Loop 820 corridors. The CCOD is applicable to the following areas:
  - 1. Business 287. The entire length of Business 287 between southeast Loop 820 (to the northwest) and F.M. 1187 (to the southeast) and passing through the City of Kennedale. The CCOD shall include all property that has its access to and is located within 300 feet of the centerline of Business 287 on both sides of the highway except for that portion which is in an unincorporated area. Any area within these boundaries that is annexed into the city after the adoption of this section shall automatically be included in the CCOD.
  - 2. Interstate 20/Loop 820. The corridor which is located along the south side of the entire length of the Loop 820 and Interstate 20 access road adjacent to the Kennedale city limits, between the Union Pacific railroad tracks to the west and the westernmost side of the access road bridge over Village Creek to the east. The CCOD shall include all property that has its access to and is located on the south side of the road within 300 feet of the centerline of the Loop 820 and the Interstate 20 access road adjacent to the Kennedale city limits.
  - 3. Exceptions. The CCOD does not apply to the Village Districts (*Article 5*) and Employment Center Districts (*Article 7*).
- B. *Applicability in Event of Conflict*. This section is to be superimposed in addition to the regulations applicable to any approved underlying zoning district. The existence or use of any building or land within the CCOD shall be subject to the time limitations and amortization provisions set forth in this section and in *Article 30*. To the extent of any conflict between this section and any other provision in any city ordinance, the stricter provision shall prevail.
- C. *Setbacks*.
  - 1. Underlying District. The minimum setbacks for the underlying district apply to all land within the CCOD.
  - 2. Commercial Build-To Zones. Principal buildings within the C-0, C-1, and C-2 Districts are subject to the minimum building setback for the underlying zoning district and a maximum setback of 55 feet, forming an area known as the build-to zone. A minimum of 75 percent of the front principal building line shall be placed within the build-to zone.
  - 3. Accessory Structures. Accessory structures shall not be placed forward of the principal building front building line.
  - 4. Exempt Existing Buildings. Any building in lawfully constructed and in existence before the establishment of the previous Business 287 and Interstate 20/Loop 820 overlay districts or the CCOD, or any building in the previous Business 287 overlay district that was in existence before September

9, 1993, is consider conforming if compliant with the applicable setback requirements in existence at the time of construction.

D. *Masonry Requirement.*

1. Applicability. Any building wall that faces Business 287 or the access road to Interstate 20/Loop 820 shall have a minimum of 80 percent of the surface area of the exterior walls from the grade to the eave area, excluding doors and windows (see masonry requirement in *Section 10.7*).
2. Existing Buildings. All buildings shall be required to comply with the building construction regulations of this masonry requirement when gross square footage of the structures on the entire lot is proposed to increase by 30 percent or more.

E. *Parking.* In addition to the requirements of *Article 12*, parking lots within the CCOD are subject to the following requirements:

1. Limitation. Parking is limited to a single row, parallel to the front lot line, forward of principal buildings in the C-0, C-1, and C-2 Districts.
2. Setback. Parking rows and aisles shall be subject to a six foot (6) landscaped setback from the fronting road right-of-way.

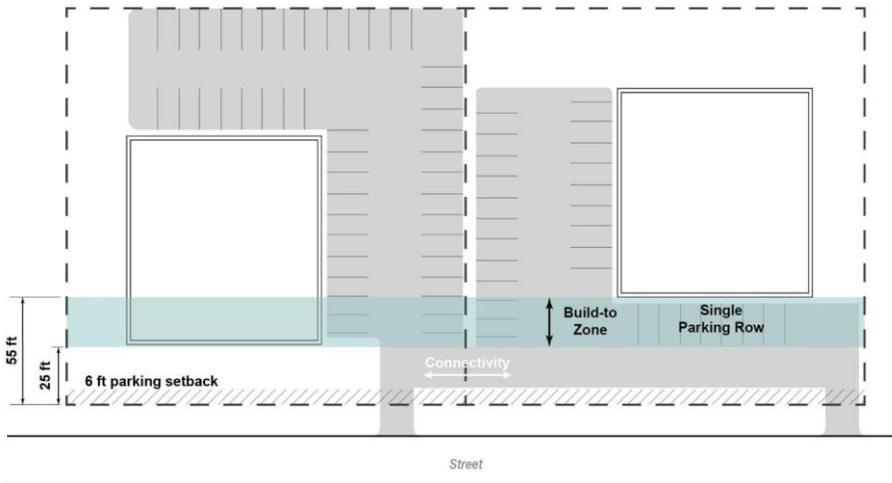


Figure 8-1 CCOD Build-To Zone, Parking Restriction, and Connectivity

F. *Front Building Walkways.* Walkways are required in front of all principal buildings along Kennedale Parkway if surface parking is located between the building and the street right of way.

1. Walkway. A pedestrian walkway of at least six (6) feet clear width shall be located immediately adjacent to the building.

2. Trees. Canopy trees shall be located within this walkway in tree planting strips (minimum 5 feet by 5 feet) at a rate of one (1) tree per 30 linear feet of building frontage.
  3. Lighting. Pedestrian scale lighting shall be added at a rate of one (1) per 50 linear feet of building frontage.
  4. Connectivity. This walkway shall be clearly linked (through pavers or pavement markings and barrier-free ramps) to the public sidewalk within the right-of-way of Kennedale Parkway and to the walkway in front of any adjoining building.
- G. *Connectivity*.
1. Design. C-0, C-1, and C-2 sites shall be designed to preserve the possibility of future connectivity and cross access movements of vehicles and pedestrians between adjacent parcels.
  2. Stub Street. When an abutting owner refuses in writing to allow construction of the connecting internal vehicular circulation on their property, a stub for future cross-access shall be provided as close as possible to the common property line.

### **Section 8.3 Floodplain Overlay District**

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- A. *General*. No building or structure shall be erected in the FOD unless such building or structure has been constructed in accordance with the flood damage prevention regulations in *Article 19* of the UDC. Owners of buildings in flood-prone areas are encouraged to participate in the flood insurance program made available by insurance companies with the support of the Federal Insurance Administration of the Department of Housing and Urban Development (HUD).
- B. *Liability*.
1. City Waiver of Responsibility. The fact that land is, or is not, within a district having a floodplain designation, shall not be interpreted as assurance that such land or area is, or is not, subject to periodic flooding. The city shall not be held responsible for failure to designate any lands as flood-prone areas and shall not be responsible for any such damages caused by any such failure or action.
  2. Indemnification. No building permit shall be issued for the construction of any building or structure in a floodplain designated area unless and until deed restrictions are executed in favor of the city reciting that the owner and his successors will indemnify and hold harmless the city from any damages caused by flooding.

**Planned Development District**

**Article  
9**

**City of Kennedale Unified Development Code**

## Section 9.1 Purpose

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- A. *Intent.* The intent of this article is to offer an alternative to conventional development by permitting flexibility in the regulations for development by authorizing Planned Development Districts (PD). The standards in this article are intended to promote and encourage development on parcels of land that are suitable in size, location, and character for the uses proposed while ensuring compatibility with adjacent land uses.
- B. *Purpose.* The PD rezoning process is provided as a design option to allow for one (1) or more of the following:
1. Encourage innovation in land development in terms of variety, design, layout, and type of structures constructed;
  2. Promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use, and utilities;
  3. Encourage the adaptive re-use of significant or historic buildings;
  4. Provide the opportunity to mix compatible uses or residential types;
  5. Preserve and protect significant natural features, open space, and cultural/historic resources;
  6. Ensure that new development is consistent with the character of the community;
  7. Promote efficient provision of public services and utilities;
  8. Minimize adverse traffic impacts and accommodate safe and efficient pedestrian access and circulation;
  9. Encourage development of convenient recreational facilities; and
  10. Encourage the use and improvement of land where site conditions make development under conventional zoning difficult or less desirable.
- C. *Design Flexibility.* The PD process and standards provide for flexibility in design and permit variation of the specific spatial requirements on the basis of the total PD plan, subject to the approval of the PD by the City Council in accordance with the requirements set forth in this article. A PD shall not be sought primarily to avoid the standards and requirements of other zoning districts.

## Section 9.2 Qualifying Conditions

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The following criteria shall apply to all PDs:

- A. *Unified Control.* The development shall be under the control of one (1) owner or group of owners and shall be capable of being planned and developed as an integral unit.
- B. *Minimum Acreage.* The gross area of a tract of land to be developed in a Planned Development District shall be a minimum of five (5) acres.
- C. *Recognizable Benefit.* The applicant shall demonstrate that the PD provides at least four (4) of the following site design elements, which could not be attained through a project designed under conventional zoning:
1. Mixed-use development with residential and non-residential uses, or a variety of housing types;
  2. Pedestrian/transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site;
  3. High quality architectural design beyond the site plan requirements of this article;
  4. Extensive landscaping beyond the site plan requirements of this article;

5. Preservation, enhancement, or restoration of natural resources (trees, slopes, wetland areas, views, etc.);
  6. Preservation or restoration of significant or historic resources;
  7. Provision of open space or public plazas or features;
  8. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (e.g. topography, shape etc.);
  9. Effective transition between higher and lower density uses, and/or between non-residential and residential uses; or allowing incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach;
  10. Shared vehicular and pedestrian access between properties or uses;
  11. Mitigation to offset impacts on public facilities (such as street improvements); or
  12. Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality, or other elements identified as sustainable by established groups such as the US Green Building Council (LEED) or ANSI National Green Building Standards.
- D. *Compatibility with Adjacent Uses.* The proposed location of uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, waste receptacles, swimming pools, tennis courts, and facilities of a similar nature, shall not be located near the perimeter of the PD or so as to negatively impact the residential use of adjacent lands.
- E. *Comprehensive Plan.* The proposed PD shall be consistent with the Comprehensive Plan.

### **Section 9.3 Permitted Uses**

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- A. *Uses.* Any permitted use, special exception, or conditional use allowed within the base district may be permitted in a PD, provided that all of the objectives and standards of this article are determined to be met and there is compliance with the procedures of this article.
- B. *Mixed Use.* Residential and non-residential uses may be permitted in combination to create an integrated, mixed-use development.
- C. *Approval of Uses.* Approval of a PD shall include the identification of the specific uses permitted within the PD, and only those uses approved through this process shall be permitted.

### **Section 9.4 Process**

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Consideration of a PD shall be processed in accordance with *Article 27*.

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**Development Provisions and  
Design Standards**

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**Part  
III**

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**General Provisions for all Districts**

**Article  
10**

### Section 10.1 Purpose

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This article outlines requirements that are applicable for situations that may occur in any location in the City of Kennedale, regardless of the zoning district designation.

### Section 10.2 General Zoning Compliance

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- A. *Compliance.* The regulations established by the UDC for each zoning district shall be minimum regulations and shall apply uniformly to each class and kind of structure or land, and in accordance with the following:
1. Conformity. No building, structure or land shall be used or occupied, and no building or addition to a building shall be erected, reconstructed, enlarged, or structurally altered except in conformity with all of the regulations of the UDC specified for the zoning district in which it is located.
  2. Setbacks. Building setbacks shall be no less than the requirements of the UDC, and they shall not be further reduced in size without a variance.

### Section 10.3 Access and Frontage

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- A. *Access.* All lots shall have frontage on a public street or approved private street and all buildings shall be located on lots in a manner that provides safe and convenient access for servicing, fire protection, and required off-street parking.
- B. *Minimum Frontage.* Minimum lot frontage shall be equal to the minimum lot width required for the applicable zoning district, unless otherwise permitted by the UDC.

### Section 10.4 Grading and Excavation

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- A. *Drainage.*
1. Slope. Elevations for any site with a building located on it, or a site proposed for a building, shall have a grade sloping away from the walls of the building to prevent the ponding of surface water along foundations.
  2. Runoff. No site shall be filled or graded in a way that will discharge surface runoff onto adjacent properties in a manner that increases the amount of runoff in excess of predevelopment conditions.
- B. *Elevating a Building Site.* Grading and/or filling of materials to elevate the first floor elevation of a structure is permitted, but shall count against the height measurement of the building if the increase is three (3) feet or greater.
- C. *Excavation.* The construction, maintenance, or existence of any unprotected, un-barricaded, open or dangerous excavations, holes, pits, or wells, which in the opinion of the Administrator, constitute or are likely to constitute a danger to the public health, safety, or welfare is prohibited; provided, this section shall not apply to any excavation for which a building permit or a temporary permit has been issued by the city and which is properly protected and warning signs posted.

### Section 10.5 Height

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- A. *Measurement.* Vertical distance of building height is measured from the elevation of the finished grade at the front of a building, on a level lot, to:
1. Mansard, Gable, Hip or Gambrel Roof. The average height between the eaves and ridge (*Figure 10-1*).

2. Parapet/Flat Roof. The highest point of the roof for a flat roof.
3. Other Roof Type. A point equivalent to the roof types specified in this section, as determined by the Administrator.

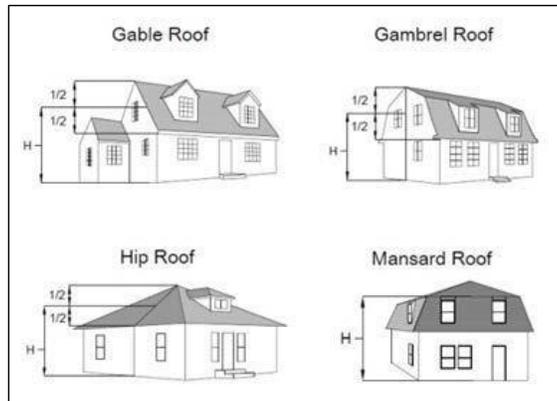


Figure 10-1 Measurement by Roof Type

- B. Sloping Grade and Walkout. On a sloping grade, the height shall be measured from the average grade, between front and rear building lines, or between side building lines, whichever dimension reflects the greater degree of slope, to the point of measurement noted in Section 10.5 A (Figure 10-2). The height of building additions shall be measured in the same manner.

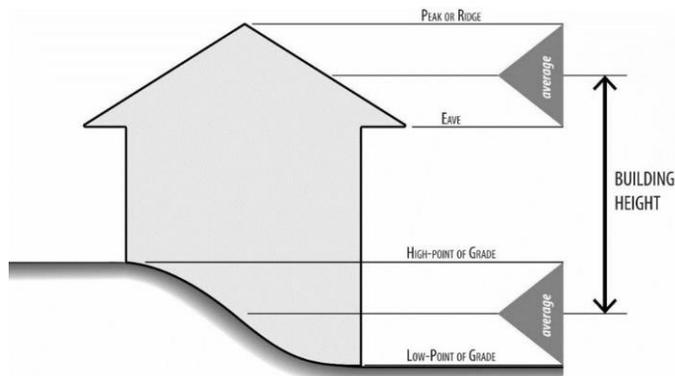


Figure 10-2 Building Height-Sloping Grade and Walkout

- C. Maximum Height. Unless otherwise authorized by the UDC, height maximums are subject to the limitations of Tables 3.3, 4.3, 6.3 and 7.3 B, and Section 5.3.
- D. Exceptions. The following shall be exempt from height regulations in all zoning districts, provided, any other applicable specific use requirement (Article 11) is satisfied: chimneys, non-commercial television receiving antennas, satellite dishes as part of a residential development, steeples or spires, belfries, cupolas, cooling towers, tanks, water towers, microwave radio and television relay or broadcasting towers,

mast or aerials and necessary mechanical appurtenances, elevator bulkheads, or other architectural or structural elements and appurtenances determined by the Administrator to be similar.

## Section 10.6 Manufactured and Mobile Homes

- A. *Location.* No person shall place, keep, maintain or occupy any mobile home or manufactured home upon any lot or parcel of ground within the city for a period exceeding 12 hours, except in a manufactured home park or recreational vehicle park approved by the city.
- B. *Mobile Homes Prohibited.*
1. Movement and Occupancy. It shall be unlawful for any person to locate or occupy a mobile home within the city unless such mobile home was legally permitted at that location for use or occupancy as a residential dwelling prior to October 28, 1971. In the absence of water connection records, it shall be the responsibility of the owner of the mobile home to establish proof of the date that the mobile home was legally permitted.
  2. Replacement. A previously existing mobile home which is removed from the city may be replaced with a manufactured home, subject to the requirements of the UDC and any other city ordinances regarding abandonment or termination of nonconforming uses.
- C. *Unlawful Occupancy.*
1. Restriction. It shall be unlawful for any person to occupy any manufactured or mobile home or to permit the occupancy of any such manufactured home or mobile home except as specifically permitted in this article.
  2. Exemption. This section shall not apply to any manufactured home or mobile home lawfully placed upon any property within the city before October 28, 1971.
- D. *Unlawful Use on Streets and Public Ways.* No manufactured home or mobile home shall be used for living quarters upon any street, alley, or other public way in the city.
- E. *Utility Connections.*
1. Electrical. Connections to any source of electricity without approval of the electrical inspector and the payment of the required fee is prohibited. All electrical connections must comply with the requirements of the adopted National Electric Code.
  2. Plumbing. Connections to any source of water supply or sewage disposal without the approval of the plumbing inspector and the payment of the required fee is prohibited. All plumbing connections must comply with the requirements of the adopted International Plumbing Code.

## Section 10.7 Masonry Requirements

The following materials shall be considered masonry for the purposes of the masonry requirements throughout the UDC: glass, natural stone, face brick, face tile, concrete, split face concrete masonry units (haydite block), decorative pattern concrete block masonry units, masonry veneer, and cement/concrete stucco. This definition excludes cement or concrete fiber cement siding except as otherwise specifically permitted. ~~brick or stone veneer, and cement stucco.~~ In determining the percentage of masonry required, the surface of the exterior walls exclusive of the doors and windows shall be measured, up to the eave area or up to a maximum of 12 feet in height, whichever is less.

Commented [KB37]: Ordinance 624

## Section 10.8 Noxious Impacts Prohibited

Every use shall be conducted and operated in a way that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise, or vibration beyond the parcel on which the use is located.

## Section 10.9 Principal Use and Dwellings

- A. *Principal Buildings.* No more than one (1) principal building shall be placed on a parcel. In the case of residential condominium projects, each building site shall be limited to one (1) principal building.
- B. *Principal Use Collectively.* A parcel shall not be devoted to more than one (1) principal use, or contain more than one (1) principal building, except for mixed uses where permitted, or groups of retail, industrial, or agricultural buildings which are determined by the Administrator to be a principal use collectively, based on the following considerations:
1. Individual buildings share common parking areas.
  2. Access to the buildings/uses is provided via shared access drives or streets.
  3. Buildings are under single ownership.
  4. Individual activities support one another (such as auto dealership/vehicle repair or a convenience store/restaurant/gas station), unless it is a mixed commercial and residential use allowed by the UDC.
  5. The buildings are architecturally consistent and compatible.
- C. *Dwellings.*
1. Dwellings per Lot. No more than one (1) primary dwelling shall be permitted on any lot of record which is zoned as an AG, R-1, R-2, R-3, ~~R-4~~ *or* MH *or* TH District.
  2. Accessory Dwellings. Attached and detached accessory dwellings may be permitted as identified *Section 11.8*.
  3. Conversions. No dwelling shall be converted to create additional units unless located in a district which allows multiple units and unless the structure complies with all requirements for new structures in such district.

Commented [KB38]: Ordinance 674

Commented [KB39]: 709

## Section 10.10 Recreational Vehicle Parking

- A. *Applicability.* Recreational vehicles may be used for temporary living quarters in an approved recreational vehicle park, subject to the requirements of this section.
- B. *Unlawful Occupancy.*
1. Compliance. It shall be unlawful for any person to occupy a recreational vehicle, or to permit the occupancy of any recreational vehicle except as specifically permitted in this article.
  2. Exemption. This section shall not apply to any recreational vehicle lawfully placed upon any property within the city before October 28, 1971.
- C. *Timeframe.*
1. Limitation. No person shall place, keep, maintain, or occupy a recreational vehicle upon any lot or parcel of ground within the city for a period exceeding 12 hours, except in a manufactured home park or recreational vehicle park approved by the city.
  2. Temporary Occupancy. A recreational vehicle may be occupied on the driveway of a residential lot by out of town guests for living, sleeping, and housekeeping purposes for no more than 15 days in any three (3) month period.
- D. *Parking.* Parking of recreational vehicles on private property is subject to the following requirements:
1. Front Yard Restriction. A recreational vehicle may not be parked in a primary or secondary front yard.

2. Surface. The recreational vehicle is located on a parking surface made of concrete, asphalt or other hard all-weather surface approved by the Administrator which is kept free of litter, debris, weeds, and other objectionable material or objects.
- E. *Utility Connections*.
1. Electrical. Connections to any source of electricity without approval of the electrical inspector and the payment of the required fee is prohibited. All electrical connections must comply with the requirements of the adopted National Electric Code.
  2. Plumbing. Connections to any source of water supply or sewage disposal without the approval of the plumbing inspector and the payment of the required fee is prohibited. All plumbing connections must comply with the requirements of the adopted International Plumbing Code.

### **Section 10.11 Refuse Containers**

Refuse containers or dumpsters shall not be located in the front or side yard of any commercial, office, mixed use, or multi-family building. This restriction shall not apply in cases where compliance would cause such containers to be inaccessible to refuse collection vehicles; however, such containers or dumpsters shall be screened from public view (*Section 13.9*). The Administrator shall determine after reasonable investigation whether the container is so accessible or not.

### **Section 10.12 Setbacks, Lots, and Yards**

A. *Setbacks and Width*.

1. Minimum Requirement. Unless otherwise stated, principal and accessory buildings are subject to a minimum required horizontal separation from right-of-way lines or property lines as required by the UDC.
2. Exemption. Structures such as mailboxes, fences, planters, landscaping beds, flagpoles, yard decorations, and other elements determined by the Administrator to be similar, are not subject to setbacks.
3. Average Front Setback. The minimum front setback requirement for a single-family dwelling may be reduced in cases where two (2) adjacent lots on each side of the subject parcel are occupied by principal single-family dwellings of which the actual building setbacks are less than required by the zoning district. The average of the established setbacks for those buildings shall be the minimum required front setback for the subject lot.
4. Cul-De-Sac Lots. The front yard setback shall follow the curve of the front lot line.
5. Lot Width. Lot width shall be measured at the front lot line and at the front setback line. On cul-de-sac lots, width shall only be measured at the front setback line.

B. *Projections into Setback Areas*.

1. Architectural Features. Certain architectural features, such as cornices, bay windows, windows without foundations, window wells, gutters, chimneys, pilasters, and other elements determined by the Administrator to be similar, may project no further than three (3) feet into any setback area.
2. Covered and Enclosed Additions. Any permanently constructed porch, patio, carport, terrace, addition, deck, or balcony that is covered by a roof or trellis, or enclosed by a barrier, wall or screen, shall meet the minimum setback requirements of the principal building or accessory building to which it is attached. Any other similar covering or enclosing structural element shall be subject to the same requirement.

3. Open and Uncovered Elements. An open, uncovered, and unenclosed porch or paved terrace and other structural elements determined by the Administrator to be similar, may project into a setback area for a distance of not more than 10 feet.

C. *Lot Requirements and Designations.*

1. Interior Lots.

- a. Yards and Lot Lines. Interior lots shall have one (1) front lot line, one (1) front yard, two (2) side lot lines, two (2) side yards, one (1) rear lot line, and one (1) rear yard.
- b. Setbacks. Buildings on interior lots shall be subject to one (1) front setback, one (1) least side setback, one (1) greater side setback, and one (1) rear setback.

2. Corner Lots.

- a. Yards and Lot Lines. A corner lot with street frontage on two (2) connecting sides shall have the following yards and lot lines:
  - i. A corner lot shall have one (1) primary front lot line, one (1) secondary lot line (side street), one (1) interior side lot line, and one (1) rear lot line. A corner lot has one (1) primary yard, one (1) secondary front yard, one (1) side yard, and one (1) rear yard.
  - ii. On lots with existing structures, the primary front lot line and primary front yard shall be the location of the traditional front entrance of the structure.
  - iii. For undeveloped lots or lots to be redeveloped, the narrower front lot line shall be the primary front lot line and location of the primary front yard.
  - iv. Where the lot lines are of equal length, and/or the primary front lot line is not evident, the Administrator shall determine the primary front lot line and primary front yard.
- b. Setbacks. On a corner lot with street frontage on two (2) sides, buildings shall be subject to the following setbacks: one (1) primary front setback, one (1) secondary front setback, one (1) least side setback, and one (1) rear setback.

3. Multi-Frontage Lots.

- a. Yards and Lot Lines. A multi-frontage lot with street frontage on three (3) sides shall have the following yards and lot lines:
  - i. If the dwelling is oriented toward one (1) of the two (2) parallel streets, the lot shall have two (2) front lot lines and two (2) front yards, one (1) secondary front lot line and one (1) secondary front yard (street side), one (1) interior side lot line and one (1) interior side yard, and no rear lot line and rear yard.
  - ii. If the dwelling is oriented toward the middle street, the lot shall have three (3) primary front lot lines and three (3) primary front yards abutting the streets, and one (1) rear lot line and one (1) rear yard.
- b. Setbacks. On a multi-frontage lot with street frontage on three (3) sides, buildings shall be subject to the following setbacks:
  - i. If the dwelling is oriented toward one of the two (2) parallel streets, buildings shall be subject to two (2) primary front setbacks, a secondary (street side) front setback, and a least side setback.
  - ii. If the dwelling is oriented toward the middle street, buildings shall be subject to three (3) primary front setbacks and a rear setback.

4. Through Lots.

- a. Yards and Lot Lines. Through lots shall have two (2) front lot lines, two (2) front yards, two (2) side lot lines, and two (2) side yards.
- b. Setbacks. Buildings shall be subject to two (2) front setbacks, one (1) least side setback, and one (1) greater side setback.

D. *Residential Lots.*

1. Lots of Record. In districts where allowed, a single family dwelling may be permitted on any platted lot at the effective date of this ordinance, regardless of area or width, as long the building can comply with required setbacks.
2. Duplex Lots. Duplex development may be platted so that two (2) units are placed on one lot in accordance with the requirements of the dimensional table of the district in which the duplex is located, or so that the units are placed on pairs of lots with the lot line through the common wall between the units. If lots are platted so that each unit is on an individual lot, the plat shall indicate which lots are paired. Paired lots shall each provide half of the required minimum size and width, but may together meet other requirements of the applicable dimensional standards.

E. *Orientation of Structures.* The Administrator shall consider the following when determining orientation of the dwelling:

1. Location and orientation of existing or proposed buildings on the through lot in relation to existing buildings on properties in the same general neighborhood, historic development patterns, and existing developed through lots.
2. Location and impact of existing vegetation, water, or other natural features affecting the location of buildings or structures on the lot in question.

## Section 10.13 Sewer and Septic Systems

- A. *Sewer Connection.* Per Article III of the Kennedale Code of Ordinances, the owner or owners of each and every building situated upon any lot, tract, or parcel of land within the corporate limits of the city, the outside line of which lot, tract or parcel of land abuts upon an alley, street, or easement in or through which a public sanitary sewer extends, or the outside line of which lot, tract or parcel of land is within a distance or radius of 100 feet of such public sanitary sewer main, or across which lot, tract, or parcel of land a public sanitary sewer extends, shall cause such building or buildings, if persons reside, congregate, or are employed within the building, to be connected with such public sanitary sewer main. An accessory building shall not be considered as a separate building when such accessory building is not used for human occupancy. Accessory buildings under single ownership may be connected to a common building sewer in accordance with other applicable ordinances of the city.
- B. *Septic Tanks.* Per Article III of the Kennedale Code of Ordinances, when there is not a public sanitary sewer within 100 feet of any lot, tract, or parcel of land within the corporate limits as hereinabove provided, buildings on the parcel used for human occupancy or use may be connected to an approved septic tank. Application for the use of a septic tank must be made in writing to the Building Official, and such septic tank and the underground drains connections shall be constructed and maintained so as to meet the minimum requirements of the county health department and the state health department, as well as the applicable ordinances of the city.

## Section 10.14 Steep Slopes

### A. Objectives. The objectives of this section are to:

1. Guard against property damage and personal injury, and minimize the potential for erosion, slope failure;
2. Stream siltation, increased runoff, flooding and contamination of surface waters caused by the adverse effects of site preparation and construction on steep slopes;
3. Conserve existing woodlands for air and water quality benefits;
4. Permit land uses by right that are compatible with protection of steep slope areas, and encourage the use of steep slope areas for open space and conservation uses.
5. Require development to avoid steep slope areas wherever possible, and require all land use, clearing, grading and construction to satisfy development standards;
6. Regulate expansion of land use or development that existed on steep slope areas prior to enactment of these requirements; and
7. Protect adjoining properties from harmful consequences of development permitted under these requirements.

### B. Applicability.

1. Slope. The steep slope restrictions shall apply to all building sites with slopes 15 percent or greater.
2. Regulations. When applicable, steep slope regulations shall take precedence over the regulations of the applicable zoning district.
3. Land Disturbance. These regulations apply to lots where the proposed land disturbing activity is greater than 5,000 square feet.
4. River and Creeks. Certain requirements apply to properties with river and creek frontage.

### C. Steep Slope Area Categories.

1. Category 1. Average slope of 15 percent but less than 25 percent.
2. Category 2. Average slope of 25 percent or more.

### D. Determination.

1. Determination. The City Engineer shall determine steep slope category.
2. Accuracy. Submitted plans must be sufficiently accurate to make this determination. The burden of proving the correct category boundaries shall be on the applicant, supported by engineering and/or surveying data or mapping, testimony of a soil scientist, or other acceptable evidence.

### E. Lot Requirements. Lots with building envelopes that are 15 percent or more, or average 15 percent or more, shall be increased according to *Table 10.4 A*.

15 percent to 24.99 percent	3 x
25 percent and above	5 x

### F. Cut and Fill.

1. Slope. Finished slopes of all cuts and fills shall not exceed 33 percent, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately to the satisfaction of the

City Engineer.

2. Retaining Walls.

- a. All cuts shall be supported by retaining walls or other appropriate retaining structures when, depending upon the nature of the soil characteristics, such structures are approved by the City Engineer in order to prevent erosion.
- b. No retaining wall shall exceed five (5) feet in height, and there shall be at least 10 feet between stepped retaining walls. All retaining walls require a certification by a professional engineer that the wall was constructed in accordance with approved plans and applicable building codes.

3. Stabilization. Permanent vegetative cover shall be planted prior to occupancy of a building.

- G. Tree Preservation. No trees with a diameter at breast height (DBH) of eight (8) inches or more shall be removed from areas with slopes of 25 percent or more.
- H. Rivers and Creeks. Grading may occur adjacent to rivers and creeks but shall not exceed a slope of 4:1 from the toe of the creek, upward.
- I. Driveways and Roads. The alignment of roads and driveways shall follow the natural topography and minimize regrading.
- J. Land Use. Buildings or land shall not be used and buildings shall not be erected on Category 1 and 2 sites, except for the following specified uses, unless otherwise provided for in the UDC. Land and/or buildings in the districts indicated at the top of *Table 10.4 B* may be used for the purposes denoted by the following abbreviations:
  - 1. Permitted Use (P). Land and/or buildings in this district may be used by right, subject to all other applicable provisions of the UDC.
  - 2. Conditional Use (C). Land and/or buildings are subject to review and permitting in accordance with *Article 24*.
  - 3. Special Exception Use (S). Land and/or buildings are subject to review and permitting in accordance with *Article 25*.
  - 4. Not Permitted. Blank cells indicate that a use is not permitted.

Table 10.4 B Schedule of Uses: Steep Slope Areas			
Use	Category		Other
	1	2	
<b>Accessory Uses</b>			
Accessory buildings	P		11.2
Garage sales	P		11.10
Home occupation	P		11.18
<b>Accommodations, Hospitality, Entertainment</b>			
Hobby Farm	P	P	
Recreation facility, campground	P		
Recreation facility, community based	P		
<b>Agricultural</b>			
Agricultural operation or farm	P	P	11.3
Roadside (produce) stand	P		11.32
<b>Institutional/Civic</b>			
Community oriented cultural facility	S		
Parks, playgrounds, outdoor recreation	P	S	

Use	Category		Other
	1	2	
<b>Residential</b>			
Dwelling, single-family	P		

### Section 10.15 Swimming Pools

- A. *Applicability.* The water's edge of swimming pools must be located at least eight (8) feet from the principal building, eight (8) feet from the side lot lines, and eight (8) feet from the rear lot line. Swimming pools may not be placed in front yards, public utility easements, or drainage easements.
- B. *Fences.* Pool fencing shall meet the requirements of the State Construction Code.
- C. *Health Code.* Any person who owns or controls a multi-unit rental complex upon which a swimming pool is located shall completely enclose the pool yard with a pool yard enclosure, in accordance with the requirements of V.T.C.A. Health and Safety Code, Chapter. 757, as amended (1995).

### Section 10.16 Visibility at Intersections

- A. *Applicability.* On a corner lot or a lot with a driveway, no use, structure, or plant material, such as off-street parking spaces, fences, signs, berms, hedges, or planting of shrubs, between two and one-half (2 ½) and 10 feet above the ground, or which obstructs safe vision at a street corner, shall be located, erected, or maintained within the following clear vision areas:
1. Intersection of Streets. The triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines 30 feet from the point of the intersection of the right of way lines (*Figure 10-3*).
  2. Street and Driveway. The triangular area formed by the intersection of a street right-of-way line and a driveway and a line connecting two (2) points that are located on the right-of-way line and the driveway 20 feet from the point of intersection of the right-of-way line and driveway (*Figure 10-4*).
- B. *Exemption.* Public utility structures, traffic signs, or other items approved by the Administrator are exempt from this provision. This section does not apply to the Village Districts.
- C. *Variations.* The requirements in this section may be modified by the Board of Adjustment based on geometric design and other traffic controls at the particular intersection and only after consultation with the City Engineer, Administrator, and other public safety officials.



Figure 10-3

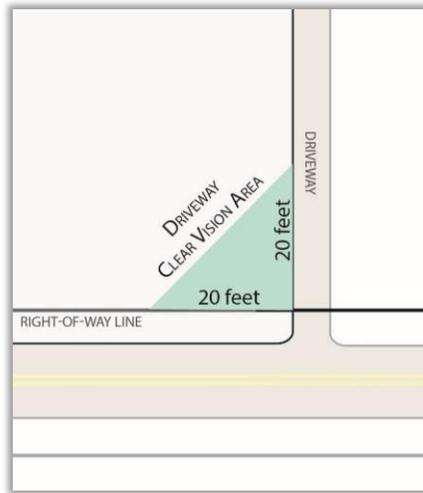


Figure 10-4

### Section 10.17 Walls and Fences

- A. *Purpose.* The requirements set forth in this section are intended to:
1. Promote safety;
  2. Protect the character and stability of residential, commercial, and industrial areas;
  3. Conserve the value of land, building, and neighborhoods; and
  4. Enhance the aesthetic and visual image of the city.
- B. *Compliance.* The construction, modification and maintenance of fencing and screening shall comply with the requirements of the UDC.
- C. *Permitting.*
1. Applicability.
    - a. It shall be unlawful for a person to erect or cause to be erected a fence, or freestanding wall or any part thereof without first obtaining a permit from the city's permit office. Any existing fence may be repaired or modified in place without obtaining a permit. Any existing fence may be replaced by the same or different type of fence in the same location without first obtaining a permit from the city's permit department if the replacement fence is completed within one (1) year from the removal of the existing fence, unless the fence is nonconforming to the requirements of this section. Any repair, modification or replacement performed without a permit shall be in accordance with the requirements of the City Code.
    - b. A person who erects or maintains a fence shall comply with the applicable provisions of the building code and the UDC.

2. Duration.

- a. The Building Official shall review the application and if the Building Official finds that the work described in the permit application conforms to the requirements of the UDC, and that the application fee has been paid, the Building Official shall issue a permit to the applicant.
- b. The permit shall expire by limitation and become null if the work authorized by the permit is not commenced within 180 days from the date of the permit, or the work authorized by the permit is suspended for a period of 180 days or more.

3. Denial. The Building Official shall deny a permit if:

- a. The applicant fails to submit any information as required by this section;
- b. The application reveals that the work proposed to be performed does not comply with the requirements of the UDC; or
- c. The application reveals that the work proposed to be performed is planned to be placed on the property line and is not approved and/or requested by the owners of all adjacent properties.

4. Exemption. Fences constructed in accordance with approved plats shall not require permits and shall be deemed in accordance with UDC requirements for fencing and screening.D. Application. In addition to the materials required by *Section 22.3*, an application shall contain the following:

1. The name, address and phone number of the applicant and of the contractor who proposes to perform the work, if different than the applicant.
2. The name and address of the owner of the property for which the application is submitted, and a description of the property which is to be fenced, by legal description or street address.
3. A description of the materials to be used in constructing the fence or wall.
4. A copy of the plans, specifications and diagrams for the construction of the fence or wall, unless this requirement is waived by the Building Official.
5. A statement that the information contained in the application is true and correct and the signature of the applicant.

E. Responsibility. Every owner, tenant and agent, of any property upon which a fence or screening device is maintained, shall be jointly and severally responsible for installing and maintaining the fence or screening device.F. Maintenance. Fences, screening devices, and freestanding walls shall be maintained in a good state of repair so as to meet the requirements of the Uniform Housing Code.G. Types.1. Materials.

- a. ~~Wood fences must may have metal posts and metal brackets framing.~~
- b. All fences shall be erected with fence posts and supports on the interior side.
- c. The finished side of the fence shall face the exterior of the lot.
- d. Walls and fences, including gates, shall be constructed of new, durable, weather-resistant, rustproof, and easily maintainable materials customarily used in the construction of walls and fences, such as wood, wrought iron, exposed aggregate tilt wall, fired masonry, or wood rail construction. This shall not preclude the use of decorative ~~metal materials architectural materials~~ when consistent with the intent of this section, the character of the area in which the fence is to be placed, and as approved by the Administrator.

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2. Electric Fences. Electric fence and fence charging devices shall be permitted under the following circumstances:
    - a. They are UL approved;
    - b. They are used in conjunction with agricultural activities for the purpose of containing livestock, protecting water supplies, or for the security of crops grown on the property; and
    - c. They are plainly labeled or marked.
  3. Barbed Wire Fences. Barbed wire fences shall be permitted for the following purposes:
    - a. Agricultural or related activities.
    - b. Security purposes in nonresidential zoning districts if the barbed wire is mounted on the top of a fence at least six (6) feet in height.
  4. Razor Wire. Concertina wire or razor fences shall only be authorized by a Special Exception Permit issued by the Board of Adjustment.
- H. Spatial Requirements.
1. Placement. A person shall not construct or maintain a fence in such a manner as would endanger the health or safety of the general public.
  2. Front. A person shall not construct a fence or freestanding wall exceeding 30 inches in height which extends into the required front setback area except that a person may construct a decorative fence, agricultural fence or security fence that is no more than 25 percent solid above 30 inches.
  3. Side. A person shall not construct or maintain:
    - a. A fence or freestanding wall greater than 30 inches in height less than five (5) feet from any side or rear property line that is adjacent to a public street except for decorative fences, agricultural fences, or security fences that are not more than 25 percent solid above 30 inches; or
    - b. A fence over 30 inches in height closer than 15 feet from the front corner property pin of an adjoining lot.
  4. Visibility. Fences and walls are subject to *Section 10.16*.
  5. Height. A person shall not construct or maintain a fence in a residential zoning district which exceeds eight (8) feet in height above ground level.
  6. Public property. A person shall not construct or maintain a fence, guy wire, brace, or any post in such a manner that it protrudes over property that the city or the general public has dominion and control over, owns or has an easement over, under, around, or through except upon utility easements, which are permitted to be fenced.
  7. Subdivision Perimeter Fences. Subdivision perimeter fencing shall conform to the requirements and provisions for screening and fencing contained in this article.

**Specific Use Requirements**

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**Article  
11**

**City of Kennedale Unified Development Code**

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## Section 11.1 Purpose

- A. *Applicability.* Specific requirements apply to all of the uses listed in this article. These requirements apply in addition to all of the regulations of the zoning district in which the use is located, as well as all other applicable requirements in the UDC:
1. Accessory buildings.
  2. Agricultural operation or farm.
  3. Animal services.
  4. Airport, airstrip, helicopter landing pad.
  5. Child day care center and day care, child day care home.
  6. Drilling and production of oil and gas, gathering and compression station.
  7. Dwelling unit, attached and detached accessory.
  8. Essential services.
  9. Garage sales.
  10. General offices and services, alternative financial establishments; General retail, pawnshop.
  11. General offices and services, bail bond establishment.
  12. General retail (indoor)- over 50,000 gross floor area.
  13. General retail, alcohol sales.
  14. Greenhouse and nursery, commercial.
  15. Group housing, adult group home.
  16. Holiday tree and firewood sales.
  17. Home occupations.
  18. Impounded vehicle storage facility.
  19. Industrial.
  20. Manufactured home community.
  21. Mining and mineral extraction operation.
  22. Outdoor, display, accessory retail sales.
  23. Outdoor, display, temporary accessory retail sales.
  24. Outdoor storage, commercial and industrial.
  25. Recreational facility, commercial indoor- amusement machine establishment.
  26. Recreation facility, commercial indoor- gun shooting range.
  27. Recreation facility, commercial outdoor.
  28. Recreation facility, recreational vehicle parks.
  29. Residential sales.
  30. Restaurant with drive-through.
  31. Roadside (produce) stand.

32. Salvage operation.
  33. Satellite transmission antenna.
  34. Service station.
  35. Sexually oriented businesses.
  36. Solar energy equipment.
  37. Temporary uses.
  38. Vehicle repair, major.
  39. Vehicle sales and rental.
  40. Wind energy turbine.
  41. Wireless communication facilities.
- B. *Special Exceptions and Conditional Uses.* A use identified the UDC as a special exception or condition use shall be established only according to the procedures and standards of *Article 24 and Article 25*. All requirements listed in this article, in addition to any other applicable standards and requirements shall be met.

## Section 11.2 Accessory Buildings

- A. *Intent.* Accessory buildings shall be incidental to a principal use and be located on the same lot.
- B. *Residential.*
1. Commercial Activity. Unless permitted as a home occupation, accessory uses shall not involve the conduct of any business, trade, or industry in any dwelling.
  2. Accessory Buildings. In any zoning district, an accessory building may be detached from the principal building or be an integral part of the principal structure, subject to the following requirements:
    - a. Attached Accessory Buildings.
      - i. An accessory building or garage shall be considered part of the principal building if it is structurally and architecturally integrated into the principal building, or is attached by an enclosed breezeway or similar architectural feature not greater than 10 feet in length.
      - ii. Attached accessory buildings are subject to the spatial requirements for principal buildings for the applicable zoning district.
    - b. Detached Accessory Buildings.
      - i. Detached accessory buildings are prohibited in front yards and are subject to the spatial requirements for accessory buildings for the applicable zoning district.
      - ii. Farm (produce) stands may be placed within the front yard and within the front setback, subject to any other applicable requirements.
  3. Building Materials.
    - a. Attached and detached accessory buildings shall be of new construction and have exterior walls made of wood, stone, brick, or vinyl siding. The Board of Adjustment may approve accessory buildings with an exterior building material other than wood, stone, brick or vinyl siding in the R-1, R-2, R-3, ~~R-4, D, and Old Town and TH~~ Districts.
    - b. The architectural character of all attached and detached accessory buildings and additions shall

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be compatible and similar to the principal structure.

- C. Non-Residential Uses and Districts. The size of accessory buildings is subject to the spatial requirements for accessory buildings for the applicable zoning.

### **Section 11.3      Agricultural Operation or Farm**

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- A. *Commercial Crop Production*.
1. Requires a minimum of a two (2) acre tract.
  2. Permits no retail or wholesale activity.
  3. Barns and agricultural structures are regulated as accessory structures, but are not subject to square footage restrictions.
- B. *Commercial Livestock Production*.
1. Requires a minimum of a five (5) acre tract.
  2. Shall be compliant with the State of Texas Agriculture Code.
  3. Barns and agricultural structures are regulated as accessory structures, but are not subject to square footage restrictions.
  4. No more than one (1) head of cattle or horse per acre with supplemental feeding or per three (3) acres without supplemental feeding.

### **Section 11.4      Animal Services**

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- A. *Construction*. Buildings, or units in multi-tenant buildings, shall incorporate ventilation and noise attenuation measures.
- B. *Outdoor Kennels*. Outdoor kennels are prohibited.
- C. *Separation*. Buildings must be located at least 100 feet from any residentially zoned property.
- D. *Screening*. Outdoor runs and enclosures shall include a solid fence or wall at least six (6) feet in height, subject to the requirements of *Section 10.17*.

### **Section 11.5      Airport, Airstrip, Helicopter Landing Pad**

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- A. *Compliance*. Requires compliance with FAA regulations.

### **Section 11.6      Child Day Care Center and Day Care, Child Day Care Home**

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- A. *State Licensing*. State licensing is required.

### **Section 11.7      Drilling and Production of Oil and Gas, Gathering and Compression Station**

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- A. *Purpose and Intent*. The exploration, development and production of oil or gas in the city is an activity that necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. The purpose of this section is to establish reasonable and uniform limitations, safeguards and regulations for present and future operations

related to the exploring, drilling, developing, producing, transporting and storing of oil or gas and other substances produced in association with oil or gas within the city to protect the health, safety and general welfare of the public, minimize the potential impact to property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

- B. *Uses and Permit Type.* The drilling and production of oil and gas, gathering stations, and compressor stations within the corporate limits of the city shall be permitted by special exception.
- C. *Oil and Gas Well Drilling and Production.* The following requirements apply:
1. General Separation Requirements. No drilling, production, compressors, compressor station or gathering station shall be permitted within the floodway or 500-year floodplain as defined by FEMA or within 600 feet of any cultural, historic or archeological resources, or groundwater recharge areas; or environmentally sensitive areas excluding floodplain or floodways; or within 600 feet of any habitable structure or public building, institution, park, school, or commercial building, for which a building permit has been issued on or before the date the application for a drilling permit is filed with the city; provided, however, that drilling shall be permitted as close as 300 feet if all affected property owners agree in writing. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the primary structure of the protected use or park boundary.
  2. Residential Separation Requirements. No drilling, production, compressor, compressor station, or gathering station shall be permitted within 300 feet of a neighboring property line unless all affected property owners agree in writing. If 80 percent of affected property owners agree in writing to permit drilling as close as 300 feet or 300 feet of a neighboring property line, then the operator may apply to the Board of Adjustment for a special exception from the requirement that all affected property owners must agree in writing. When four (4) or fewer waivers are required, if all but one (1) property owners agree in writing to permit drilling or production within the reduced distance, then the operator may apply to the Board of Adjustment for a special exception from the requirement that all affected property owners must agree in writing.
  3. Separation between Sites. No drilling or production site or compressor station shall be permitted within 3,500 feet of an existing drill site or compressor station, except that existing pad sites may be expanded so that different operators may share space at the same pad site ("co-location"). Co-locations must have a common drive, common sound walls, and commons screening.
  4. Site Plan. A development site plan in accordance with *Article 23*.
  5. Road Repair Agreement. An approved road repair agreement in accordance with the provisions of this section.
  6. Application. An oil and gas permit application shall be filed with the city concurrently with the request for a special exception; provided, however, that the city shall not be required to consider the oil and gas permit application unless and until a special exception is granted by the Board of Adjustment.
  7. Timeframe. If drilling is not commenced on at least one (1) well covered by the special exception for oil or gas drilling or production within two (2) years from the date of issuance, the special exception shall expire. The Board of Adjustment may establish a lesser expiration timeline at the time of issuance of the special exception. If an extension is desired but drilling has not commenced, the operator(s) shall submit to the Board of Adjustment an application to extend the special exception before the expiration of the special exception.
  8. Other Requirements. The special exceptions required by the UDC are in addition to and are not in lieu of any permit, exception, variance, or other requirements that may be required by any other provision of the City Code or by any other governmental agency.
- D. *Gathering Stations and Compressor Stations.* The following requirements apply:

1. General Separation Requirements. No gathering station shall be permitted within the floodway or 500-year floodplain as defined by FEMA or within 2,000 feet of any cultural, historic or archeological resources, or groundwater recharge areas, or environmentally sensitive areas, excluding floodplain and floodways; or within 2,000 feet of any habitable structure or public building, institution, park, school, or commercial building for which a building permit has been issued on or before the date the application for a drilling permit is filed with the inspector, provided, however, that this minimum setback may be reduced to 1,000 feet if all affected property owners agree in writing. No gathering station shall be permitted closer than 1,000 feet to a neighboring property line unless all affected property owners agree in writing. If 80 percent of affected property owners agree in writing to permit a gathering station as close as 1,000 feet, then the operator may apply to the Board of Adjustment for a special exception from the requirement that all affected property owners must agree in writing. When four (4) or fewer waivers are required, if all but one (1) property owners agree in writing to permit a gathering station within the reduced distance, then the operator may apply to the Board of Adjustment for a special exception from the requirement that all affected property owners must agree in writing. No gathering station shall be located within 200 feet of a railroad right-of-way.
2. Erosion Control. Construction of the gathering station shall comply with the erosion control regulations set forth in the city's stormwater pollution prevention plan and *Article 17*.
3. Floodplain and Floodways. No gathering station shall be permitted in a floodplain or floodway.
4. Security.
  - a. There shall be a locked entrance gate to the gathering station site. The entrance gate shall be fire accessible with a knock box rapid entry system.
  - b. The equipment and facilities at a gathering station site must be enclosed, individually or collectively, in accordance with the requirements of this section.
5. Warning Signage. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" in a minimum of four (4) inch lettering shall be posted at the entrance of each gathering station site. The sign shall include the phone number for emergency services (9-1-1), the name and phone number for the owner/operator in three (3) inch lettering. In addition, if the special exception is approved, a case number shall be assigned to the approved operation and such number must be displayed on the sign in a minimum of three (3) inch lettering.
6. Parking and Driveways. All facilities used for parking, loading, unloading, driveways and all other vehicular access, including private roads or driveways, shall be constructed and maintained in compliance with the City of Kennedale Public Works Design Manual and must meet all minimum fire code requirements, provided that the drive approach from the street be constructed of concrete. The surface for such facilities and drive approach must always be maintained in good condition and repair.
7. Compliance.
  - a. Compliance with the requirements set forth in *subsection O*, as they relate to the gathering station site.
  - b. Gathering stations shall be subject to the operation and equipment practices and standards in the same manner as they apply to an operation site.
  - c. Gathering stations shall be operated in compliance with all applicable federal, state, and local law. All applicable construction permits shall be obtained prior to development of the site.
8. Inspections. The city shall inspect each gathering station site for compliance with all applicable regulations of the state and city ordinances. An annual inspection fee as established in the city's fee ordinance shall be paid by the owner of the gathering station to the city.

E. *Oil and Gas Well Permits.*

1. Permit. Any person, acting for himself or acting as an agent, employee, independent contractor, or servant for any person, shall not engage in the drilling and production of oil or gas wells within the corporate limits of the city without first obtaining an oil and gas well permit issued pursuant to this section. Each proposed well hole shall require a separate permit and shall not be permitted on a "blanket" basis.
2. Authority. When an oil and gas well permit has been issued covering a well, the permit shall constitute authority for drilling, operation, production, gathering of production, maintenance, repair, reworking, testing, site preparation consisting of rigs or tank batteries, plugging and abandonment, and any other activity authorized by this section associated with drilling or production by the operator and their respective employees, agents, and contractors. An oil and gas well permit shall also constitute authority for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines, by the operator and its respective employees, agents, contractors and subcontractors.
3. Re-Entry. An oil and gas well permit shall not, however, constitute authority for the re-entering and drilling of an abandoned well. Re-entry and drilling of an abandoned well shall require a new oil and gas well permit.
4. Expiration. Oil and gas well permits shall automatically expire 365 days from the date of the issuance of the oil or gas well permit if no drilling has commenced or as stipulated in the special exception, whichever occurs first.
5. Other Requirements. The permits required by this ordinance are in addition to and are not in lieu of any permit, exception, variance, or other requirements that may be required by any other provision of the City Code or by any other governmental agency.
6. Restrictions. No oil or gas well permit shall be issued for any well to be drilled within any of the streets or alleys of the city and/or streets or alleys shown by the comprehensive land use plan, and no street shall be blocked or encumbered or closed due to any exploration, drilling, or production activities unless prior consent is obtained from the city, and then only temporarily.

F. *Application.* Applications for oil and gas well permits shall include the information on required checklists.

G. *Review.*

1. Filing. All applications for oil and gas well permits shall be filed with the Administrator who shall immediately forward a copy of all applications and plans to the fire department for review. Incomplete applications shall be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies if requested by the applicant. All applications for an oil and gas permit shall be accompanied by a permit fee as listed in the city's fee schedule. The city may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.
2. Timeframe.
  - a. The development department, public works department, and fire department shall review each application within 30 days after filing and shall determine whether the application includes all of the information required by this section, whether the application is in conformance with the applicable oil and gas well development site plan, the terms of the applicable special exception, the road repair agreement, the fire code and whether the application is in conformance with the insurance and security requirements set forth in this section.
  - b. The failure of the petroleum specialist, development department, or fire department to review an oil and gas well permit application within the time limits specified above shall not require the city

to approve an application that does not meet the minimum requirements set forth in this section.

3. Required Improvements. No oil or gas well permit shall be issued unless all improvements required under section including fencing and screening, landscaping, and parking, have been made and approved by the city. The Board of Adjustment shall review proposed improvements for compliance with all applicable requirements of the UDC. Proposed landscaping improvements shall meet the requirements of *Article 13*. Parking improvements shall meet the standards of the public works design manual for the City of Kennedale and *Article 12*.
- H. *Contents of Permit*. Each oil and gas permit shall contain the following information:
1. Identify the name of each well and its operator;
  2. Specify the date on which the city issued each permit;
  3. Specify the date the permit shall expire;
  4. Incorporate, by reference, the insurance and security requirements set forth in this section;
  5. Incorporate, by reference, the requirement for periodic reports and for providing notice of reworking an existing well, as set forth in this section;
  6. Incorporate the full text of the release of liability provisions set forth in this section;
  7. Incorporate, by reference, the conditions of the applicable development site plan and applicable special exception;
  8. Incorporate, by reference, the information contained in the permit application;
  9. Incorporate, by reference, the applicable rules and regulations of the railroad commission, including the applicable "field rules";
  10. Specify that no drilling operations (including the construction of internal private access roads) shall commence until the operator has provided the security required by this section;
  11. Contain the name, address, and phone number of the person designated to receive notices from the city, which person must be a resident of Texas, that can be served in person or by registered or certified mail; and
  12. Indicate required compliance with all additional permits and payment of all additional fees required by the city related to the proposed operations.
- I. *Denial*. If the city denies an application for an oil and gas well permit, nothing shall prevent a new permit application from being submitted to the city for the same well.
- J. *Insurance and Indemnification*. The operator shall provide or cause to be provided the insurance described below for each well for which an oil and gas well permit is issued, such insurance to continue until the well is abandoned and the site restored. The operator may provide the required coverage on a "blanket basis for multiple wells". The operator shall provide an affidavit from the operator's insurance company certifying that the insurance provided complies with the requirements of this section.
1. General requirements; indemnification and express negligence provisions.
    - a. Each oil and gas well permit issued by the city shall include the following language: Operator does hereby expressly release and discharge all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Kennedale and/or its departments, its agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under an oil and gas well permit and the

operator caused by or arising out of, that sequence of events which occur from the operator under the oil and gas well permit and work performed by the operator shall fully defend, protect, indemnify, and hold harmless the City of Kennedale, Texas, and/or its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the City of Kennedale, Texas, and/or its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under an oil and gas well permit, and the operator agrees to indemnify and hold harmless the City of Kennedale, Texas, and/or its departments, and/or its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the city and/or, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Kennedale, occurring on the drill site or operation site in the course and scope of inspecting and permitting the gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE SOLE NEGLIGENCE OF THE CITY OF KENNEDALE OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE OIL AND GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF KENNEDALE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF KENNEDALE, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE. LIABILITY FOR THE SOLE NEGLIGENCE OF THE CITY IN THE COURSE AND SCOPE OF ITS DUTY TO INSPECT AND PERMIT THE GAS WELL IS LIMITED TO THE MAXIMUM AMOUNT OF RECOVERY UNDER THE TORT CLAIMS ACT.

- b. All policies shall be endorsed to read "This policy will not be cancelled or non-renewed without 30 days advanced written notice to the owner and the city except when this policy is being cancelled for nonpayment of premium, in which 10 days advance written notice is required".
  - c. Liability policies shall be written by carriers licensed to do business in Texas and with companies with a: VIII or better rating in accordance with the current Best Key Rating Guide, or with non-admitted carriers that have a financial rating comparable to carriers licensed to do business in Texas, and approved by the city.
  - d. Liability policies shall name as "additional insured" the city and its officials, agents, employees, and volunteers. Waivers of subrogation shall be provided in favor of the city.
  - e. Certificates of insurance must be presented to the city evidencing all coverages and endorsements required by this section, and the acceptance of a certificate without the required limits and/or coverages shall not be deemed a waiver of these requirements.
  - f. Claims made policies will not be accepted except for excess policies.
2. Required Insurance Coverage.
- a. Commercial general liability insurance.
    - i. Coverage should be a minimum combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage. This coverage must include premises, operations, blowout

or explosion, products, completed operations, blanket contractual liability, underground property damage, broad form property damage, independent contractors protective liability and personal injury.

- ii. Environmental impairment (or seepage and pollution) shall be either included in the coverage or written as separate coverage. Such coverage shall not exclude damage to the lease site. If environmental impairment (or seepage and pollution) coverage is written on a "claims made" basis, the policy must provide that any retroactive date applicable precedes the effective date of the issuance of the permit. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants. Coverage shall be a minimum combined single limit of \$1,000,000.00, per occurrence.
- iii. Automobile liability insurance. Minimum combined single limit of \$500,000.00 per occurrence for bodily injury and property damage. Such coverage shall include owned, non-owned, and hired vehicles.
- iv. Worker's compensation insurance. In addition to the minimum statutory requirements, coverage shall include employer's liability limits of at least \$100,000.00 for each accident, \$100,000.00 for each employee, and a \$500,000.00 policy limit for occupational disease, and the insurer agrees to waive rights of subrogation against the city, its officials, agents, employees, and volunteers for any work performed for the city by the operator.
- v. As an alternative to worker's compensation the operator may provide the equivalent to employer's liability insurance meeting the requirements of this section.
- vi. Excess (or umbrella) liability insurance. Minimum limit of \$10,000,000.00 covering in excess of the preceding insurance policies.
- vii. Control of well insurance. Minimum limit of \$5,000,000.00 per occurrence. Policy shall cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage. Damage to property in the operator's care, custody, and control with a sub-limit of \$500,000.00 may be added.

K. *Security Instrument.*

1. Requirement. A security instrument that covers each well must be delivered to the city before the issuance of the oil and gas well permit for the well. The instrument must provide that it cannot be cancelled without at least 30 days prior written notice to the city and, if the instrument is a performance bond, that the bond cannot be cancelled without at least 10 days prior written notice for nonpayment of the premium. The instrument shall secure the obligations of the operator related to the well to:
  - a. Repair damage, excluding ordinary wear and tear, if any, to public streets, including, but not limited to, bridges caused by the operator or by the operator's employees, agents, contractors, subcontractors or representatives in the performance of any activity authorized by or contemplated by the oil and gas well permit.
  - b. Comply with the insurance and security provisions set forth in this section.
  - c. Pay fines and penalties imposed upon the operator by the city for any breach of the oil and gas well permit.
  - d. Reimburse the city and other public safety service providers for costs incurred in responding to an incident or emergency event caused by or related to the permit holder's operations.
2. Form. The security instrument may be in the form of an irrevocable letter of credit or payment bond issued by a bank or surety approved by the city. The instrument shall run to the city for the benefit of

the city, shall become effective on or before the date the oil and gas well permit is issued, and shall remain in effect until the well is abandoned and the site restored.

3. Substitution. A certificate of deposit may be substituted for the letter of credit or payment bond. The certificate shall be issued by a bank in the City of Kennedale, Texas, shall be approved by the city, shall be payable to the order of the city to secure the obligations of the operator described above, and shall be pledged to the bank with evidence of delivery provided to the city. Interest on the certificate shall be payable to the operator.
  4. Applicability. The security instrument may be provided for individual wells or on a "blanket" basis for multiple wells. The amount of the security shall be a minimum of \$50,000.00 for any single well and a minimum of one hundred thousand dollars \$100,000.00 for multiple wells on a "blanket" basis.
  5. Appeal. An appeal of the determination of the amount of security required under this section may be made to the City Council for final determination.
- L. Periodic Reports. Beginning on December 31st; after each well is completed, and continuing on each December 31st thereafter until the operator notifies the city that the well has been abandoned and the site restored, the operator shall prepare a written report to the city identifying any changes to the information that was included in the application for the applicable oil and gas well permit that have not been previously reported to the city.
1. Changes. The operator shall notify the Director of Public Works and the Fire Marshal of any changes to the following information immediately, within one (1) business day after the change occurs:
    - a. The name, address, and phone number of the operator;
    - b. The name, address, and twenty-four-hour phone number of the person(s) with supervisory Authority over drilling or operations activities;
    - c. The name, address, and phone number of the person designated to receive notices from the city, which person must be a resident of Texas that can be served in person or by registered or certified mail; and
    - d. The operator's emergency action response plan including "drive-to-maps" from public rights-of-way to each drilling and operation site.
  2. Incidents. The operator shall provide a copy of any "incident reports" or written complaints submitted to the railroad commission or any other state or federal agency within 30 days after the operator has notice of the existence of such reports or complaints.
- M. Amended Oil and Gas Well Permits.
1. Application. An operator must submit an application to the Director of Public Works to amend an existing oil and gas well permit, to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) the existing permit, to relocate a drill site or operation site that is shown on (or incorporated by reference as part of) the existing permit, or to otherwise amend the existing permit.
  2. Content. Applications for amended oil and gas well permits shall be in writing, shall be on forms provided by the petroleum specialist, shall be signed by the operator, and shall include the following:
    - a. The original application fee as set forth herein;
    - b. A description of the proposed amendments;
    - c. Any changes to the information submitted with the application for the existing oil and gas well permit (if such information has not previously been provided to the city);
    - d. Such additional information as is reasonably required by the petroleum specialist or city staff to

- demonstrate compliance with the applicable development site plan and applicable special exception;
- e. Such additional information as is reasonably required by the petroleum specialist or city staff to prevent imminent destruction of property or injury to persons;
  - f. All applications for amended oil and gas well permits shall be filed with the Director of Public Works. The application shall be immediately forwarded to the petroleum specialist and Fire Marshal for review. Incomplete applications may be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies. The city may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator;
  - g. If the activities proposed by the amendment are not materially different from the activities covered by the existing oil and gas well permit, and if the proposed activities are in conformance with the applicable development site plan and applicable special exception, then the petroleum specialist shall review the amendment within 10 days after the application is filed;
  - h. If the activities proposed by the amendment are materially different from the activities covered by the existing oil and gas well permit, and if the proposed activities are in conformance with the applicable development site plan and applicable special exception, then the petroleum specialist shall review the amendment within 30 days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the petroleum specialist, might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing permit or that was not otherwise taken into consideration by the existing permit, the amendment must be processed as a new oil and gas well permit application;
  - i. The failure of the petroleum specialist or Fire Marshal to review an amended oil and gas well permit application within the time limits specified above, shall not require the city to approve an application that does not meet the minimum requirements set forth in this section; and
  - j. A decision to deny an amendment to an oil and gas well permit shall be provided to the operator in writing within 10 days after the decision is made, including an explanation of the basis for the decision. The operator may appeal any such denial to the City Council.
- N. *Transfer of Oil and Gas Well Permits.* An oil and gas well permit may be transferred by the operator if the transfer is in writing signed by both parties, and the transferee agrees to be bound by the terms and conditions of the transferred permit, if all information previously provided to the city as part of the application for the transferred permit is updated to reflect any changes and if the transferee provides the insurance and security required by this section. The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the city. The transfer shall not relieve the transferor from any liability to the city arising out of any activities conducted prior to the transfer.
- O. *On-Site Operation Requirements.*
1. Security.
    - a. A secured entrance gate and a sign shall be required. The sign identifying the entrance to the drill site or operation site shall be reflective and shall indicate a physical address in compliance with the fire code, the name and/or number of each well, an emergency contact phone number, the oil or gas well permit number, and shall indicate the nature of the operation, i.e. natural gas well. The Fire Marshal must approve the size and location of the sign prior to commencing operations.
    - b. Permanent fencing is required for all drill sites and production or operation sites. Fencing shall be predominantly masonry and shall be a minimum of eight (8) feet in height and shall be higher than

the enclosed equipment. Fencing and gates shall remain locked at all times when no one is present. All permanent fencing structures shall have a wrought iron gate. For the purposes of this section, masonry shall mean that form of solid construction composed of stone, brick, concrete, gypsum, hollow clay tile or other similar building units or materials or combination of these materials which must be laid up unit by unit and set in mortar, or pre-cast panels designed and built to mimic the appearance of masonry. Fencing design and materials must be approved by the Administrator before installation.

- c. All fences and gates shall be secured to prevent unauthorized public access to the site and/or equipment. This includes, but is not limited to the following:
  - i. Securing any permitted temporary fencing to the ground;
  - ii. Installing a knock box rapid entry system or padlock, and providing the Fire Marshal with a master key to all padlocks and gate locks, or providing twenty-four-hour on-site security personnel with access keys.
2. Gate. A vehicular access gate for the drill site shall be located within 90 feet of the public road connecting to the drill site. If there are multiple gates along the same access road, a knock box shall be required only for the gate closest to the entrance.
3. Compressors. Temporary compressor for each well shall be classified as temporary for six (6) months for noise and screening regulation purposes. Compressors shall be classified as permanent thereafter and shall be required to meet noise and screening requirements for permanent compressors, as described under subsection (b) herein.
  - a. Sound blankets shall be permitted for noise abatement on temporary compressors.
  - b. No sound blankets shall be permitted for permanent compressors. All acoustical structures for permanent compressors must be constructed of permanent material and constructed of metal, masonry or other structurally sound material in compliance with the zoning district regulations and as approved by the Administrator, for compatible use.
4. Drives and Parking. All drive approaches and facilities used for parking, loading, unloading, driveways and all other vehicular access to each drill site, operation site, and gathering station or compressor station, including private roads and driveways, shall be constructed and maintained in compliance with the City of Kennedale Public Works Design Manual and must meet all minimum fire code requirements, or as stipulated as part of the special exception, provided that the drive approach from the public street be constructed of concrete. The surface for such facilities and drive approach must always be maintained in good condition and repair.
5. Refining and Extraction. No refining process, or any process for the extraction of products from gas, shall be carried on at a drill site or operation site, except that a dehydrator and separator may be maintained on a drill site or operation site for the separation of liquids from gas. Any such dehydrator or separator may serve more than one (1) well. All production equipment on an operation site shall be painted and maintained at all times, including pumping units, storage tanks, buildings, and structures.
6. Signage. Permanent weatherproof signs reading "DANGER NO SMOKING ALLOWED" in a minimum of four-inch lettering shall be posted at the entrance of each drill site and operation site. The sign shall include the phone number for emergency services (9-1-1), the name and phone number for the operator, and the well designation required by the railroad commission in three-inch lettering.
7. Illegal Discharges. No person shall place, deposit, or discharge or cause or permit to be placed, deposited, or discharged any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substance, or any refuse, including wastewater or brine, from any oil or gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public right-of-way, storm drain,

ditch or sewer, sanitary drain or sewer, any body of water, or any private property within the corporate limits of the city.

8. Electric Lines. All electric lines to production facilities shall be located underground in a manner compatible to those required to be installed in the surrounding areas or subdivision and shall comply with the city building code.
  9. Fire Suppression and Prevention. All fire suppression and prevention equipment required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and maintenance and upkeep of such equipment shall be the responsibility of the operator.
  10. Restriction.
    - a. No operator shall excavate or construct any lines for the conveyance of fuel, water, gas or petroleum liquids on, under, or through the streets or alleys or other land of the city without an easement or right-of-way license from the city, at a price to be agreed upon, and then only in strict compliance with this section, with other ordinances of the city, and with the specifications established by the city.
    - b. The digging up, breaking, excavating, tunneling, undermining, breaking up, or damaging of any public street or leaving upon any public street any earth or other material or obstruction, is prohibited unless the operator has first obtained written permission from the city, and then only in compliance with specifications established by the city.
  11. Fracturing Operations. Fracturing operations must comply with all regulations and standards established by the Environmental Protection Agency, the Railroad Commission of Texas, and any other appropriate local, state or federal agency.
- P. *Operations and Equipment Practices and Standards.*
1. Nuisance Prevention. Adequate nuisance prevention measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration.
  2. Lighting. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within 300 feet.
  3. Railroad Commission Requirements. The operator shall at all times comply with the rules and regulations of the railroad commission including, but not limited to all applicable field rules.
  4. Noise.
    - a. Internal combustion engines may be used in drilling and producing operations if they have mufflers that will reduce noise to comply with required noise levels set forth in this ordinance at any point 300 feet from the boundary of the drill site or operation site and prevent the escape of noxious gases, fumes or ignited carbon or soot.
    - b. The noise level during fracing, drilling, production, or other operations shall not exceed 70 decibels at any point 300 feet from the boundary of the drill site between 8:00 a.m. and 7:00 p.m. The noise level between 7:00 p.m. and 8:00 a.m. shall not exceed 60 decibels at any point within 300 feet from the boundary of the drill site. If noise levels at a distance of 300 feet exceed 70 decibels, a sound reduction enclosure shall be required for compliance. Only electric motors shall be used for the purpose of pumping oil wells. Electric motors shall be used for compressors located at gas well sites. If averaging is used to measure sound levels, time periods for averaging shall not exceed three (3) minutes.

5. Flow Back Line. In parallel to gas gathering pipeline, a flow back line shall be installed to handle water and gas flow back following well fracture treatment.
  6. Fire Protection.
    - a. Vehicles, equipment, and machinery shall not be placed or located on a drill site or operation site or on any public street, alley, driveway, or other public right-of-way in such a way as to constitute a fire hazard or to unreasonably obstruct or interfere with fighting or controlling fires and shall not be placed or located in violation of any city ordinance.
    - b. Oil and gas wells are considered an industrial use; hence, adequate fire flow is necessary for public safety. The extension of water lines shall be done consistent with the city's water line extension policy. The operator shall install, at its own expense, a sufficient number of fire hydrants to provide fire protection service to the drill site. The fire hydrant system shall be designed according to the specifications contained in the city's design manual and approved by the fire chief. Fire hydrants shall be located within a 500 hose lay of fire department connections to the protection system(s).
  7. Parking. Adequate parking facilities shall be provided and constructed in compliance with *Article 12*.
  8. Hours. Well servicing and fracing operations shall occur Monday to Friday between the hours of 8:00 a.m. and 7:00 p.m. only. Well servicing and fracing operations may be conducted on Saturdays with a waiver from the city.
  9. Drilling Restriction. Air, gas, or pneumatic drilling shall not be permitted.
  10. Street Cleaning. For vehicular safety reasons, the operator shall immediately notify the city of any substantial accumulations of dirt, dust, mud or other debris deposited on city thoroughfares by vehicles involved in the well drilling or servicing or pipeline installation process. If for safety reasons, the city elects to perform the removal, the cost of such removal shall be paid by the operator.
  11. Removal. The drilling rig and associated drilling equipment shall be removed from the well site within 30 days of the completion of drilling of the well.
  12. Stormwater Protection. If a well site is adjacent to a planned stormwater drainage detention/retention pond, a frac pond may be required to be constructed, and if required, shall be consistent with *Article 16*.
- Q. Storage Tanks and Separators.
1. Location. An operator is allowed to construct, use, and operate such storage equipment and separation equipment as shown on the application for the oil and gas development site plan. The use of centralized tank batteries is permitted as shown on the applicable development site plan.
  2. Floodplain. No meters, storage tanks, separation facilities, or other above ground facilities shall be placed in the 100-year floodplain.
- R. Flow Lines and Gathering Lines.
1. Signage.
    - a. Each operator shall place an identifying sign at each point where a flow line or gathering line crosses a public street or road.
    - b. Each operator shall place a warning sign for lines carrying H<sub>2</sub>S (Hydrogen Sulfide) gas as required by the railroad commission. If a gas field in the city is identified as a H<sub>2</sub>S gas field the operator shall be required to cease operations.
  2. Allowable Operating Pressure. All flow lines and gathering lines within the corporate limits of the city (excluding city utility lines and franchise distribution systems) that are used to transport oil, gas, and/or

water shall be limited to the maximum allowable operating pressure applicable to the pipes installed and shall be installed with at least the minimum cover or backfill specified by the American National Safety Institute Code, as amended.

3. Easements. Easements must be acquired for all flow lines, gathering lines and flow back lines. The location of easements shall be shown in a pipeline easement map approved by the zoning Board of Adjustment prior to the installation of any pipelines.
  4. Pipelines.
    - a. Structures shall not be built over flow lines or gas gathering pipelines.
    - b. The location of all pipelines must be marked with warning signs in accordance with industry standards. Within the City of Kennedale, the distance between such signs shall not exceed 500 feet. In addition, during backfill of pipeline excavations, "buried pipeline" warning tape shall be buried one foot above the pipeline to warn future excavators of the presence of buried pipeline.
- S. *Additional Safety and Environmental Requirements.*
1. Compliance. The drilling and production of oil and gas and accessing the oil or gas well site shall be in compliance with all state and federal environmental regulations and shall not occur within environmentally sensitive areas designated by the Army Corps of Engineers.
  2. Target and Bottom-Hole Location. Oil and gas wells may have a target location or bottom-hole location that is under an environmentally sensitive area when the oil or gas well is drilled directionally from a location outside the environmentally sensitive area.
  3. Valves. Each producing well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All wellheads shall contain an emergency shut off valve to the well distribution line.
  4. Level Control Device. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
  5. Secondary Containment. Storage tank facilities shall be equipped with a secondary containment system including lining with an impervious material. The secondary containment system shall be of a sufficient height to contain one and one-half (1½) times the contents of the largest tank in accordance with the Fire Code, and the impervious liner shall be covered with at least one foot of sand. Drip pots shall be provided at pump out connections to contain the liquids from the storage tank.
  6. Fire Safety.
    - a. Tank battery facilities that contain flammable liquid shall be equipped with a remote foam line utilizing a two and one-half inch (2.5) National Standard Hose Thread female inlet connection in locations approved by the Fire Marshal. The remote foam lines connection must be located no closer than 150 feet to the area(s) being protected, which location must be approved by the Fire Marshal.
    - b. An approved hazardous materials management plan shall be on file with the fire department. The costs of cleanup operations due to hazards associated with a well site shall be the responsibility of the operator.
    - c. A fire hydrant must be located within 600 feet of the well. If a fire hydrant is located further than 600 feet from the well, special provisions for water supply may be required by the Fire Marshal. This may include, but is not limited to, the provision of specialized fittings to connect fire hoses to water tankers.
    - d. The Fire Marshal must be notified a minimum of 24 hours in advance of any explosives being transported onto, used on or transferred off of the site. Storage of any explosives on-site for longer

than 24 hours is prohibited. Transportation handling and use of explosives shall comply with all ATF (Federal Bureau of Alcohol, Tobacco, Firearms and Explosives) and fire code requirements.

7. Abandonment.

- a. All wells shall be abandoned in accordance with the rules of the railroad commission; however, all well casings shall be cut and removed to a depth of at least 10 feet below the surface. All wells and pipelines shall be abandoned in accordance with this section.
- b. No structures shall be built over an abandoned well.

8. Saltwater Disposal Wells. Saltwater disposal wells are prohibited.

9. Closed Loop Mud Systems. A closed loop mud system shall be required for all drilling and reworking operations for all gas wells. Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a closed loop mud system. All disposals must be in accordance with the rules of the railroad commission and any other appropriate local, state or federal agency. Wells permitted before June 10, 2010 may use reserve pits. An impervious lining of all pits to prevent water pollution shall be required for wells permitted prior to June 10, 2010 that use reserve pits.

10. Lightning Arresting. A lightning arrester system shall be installed according to the most current edition of the National Electric Code.

11. Flaring or Burning. Flaring or burning of gas or petroleum of any kind after the well is in production is prohibited. Temporary flaring or burning to accommodate public safety may be performed but only when approved by the Fire Marshal. Appropriate public notice for planned and unplanned flaring events must be given to designated city staff. Operators shall notify the city 48 hours before planned flaring begins and should provide an estimate of how long flaring is expected to last. Operators must notify the city within three (3) hours of discovery of a situation that calls for unplanned flaring to accommodate public safety.

12. Air Quality Monitoring. Operators will be assessed a fee at time of permitting to cover the cost of air sampling and shall pay an annual fee each year thereafter to cover additional sampling if required by the city.

T. Supplemental Drilling.

1. Deeping or Directional Drilling. Supplemental drilling to deepen or directional drill an existing well shall be conducted in accordance with the conditions for the applicable special exception. The operator shall provide the city with a copy of additional railroad commission permits that allow drilling to a deeper depth.

2. Compliance. Supplemental drilling to deepen or directional drill an existing well shall be conducted in accordance with the approved oil and gas well permit for the well on file with the city.

U. Reworking of Well; Notice. Any person who intends to rework a well using a drilling rig, to fracture stimulate a well after initial completion, or to conduct seismic exploration involving explosive charges shall give written notice to the city at least 10 days before the activities begin. The notice shall identify where the activities will be conducted and shall describe the activities in reasonable detail, including but not limited to the duration of the activities and the time of day they will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. The person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address, and 24-hour phone number of the person conducting the activities.

V. Abandonment of Wells and Pipelines.

1. Abandonment of Wells. Upon abandonment of a well or well site, within 60 days, the well shall be

plugged in accordance with the Texas Railroad Commission standards, the site shall be cleaned and cleared of all equipment, holes or excavations filled, and the land graded and returned to its original condition including replanting of vegetation to match the surrounding area. All well casings shall be cut and removed to a depth of at least 10 feet below the surface.

2. Abandonment of Pipelines. Upon abandonment of a pipeline, within 60 days of abandonment, a pipeline must be purged and plugged in accordance with the rules and regulations of the State of Texas in effect at that time.

### **Section 11.8 Dwelling Unit, Attached and Detached Accessory**

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- A. *Number*. Only one (1) accessory dwelling unit shall be permitted per principal structure and per lot or parcel.
- B. *Restriction*. The attached accessory dwelling unit shall be restricted to use by family members or guests of the owner or occupant of the principal dwelling, and shall not be made available for rental on a commercial basis.
- C. *Metering*. The accessory dwelling shall not have a separate meter for public utilities, such as electric and gas service, or a separate mailing address.
- D. *Appearance*. The accessory dwelling shall retain a residential appearance consistent with the design and materials of the principal dwelling portion of the building.
- E. *Attached Accessory Dwellings*.
  1. Setbacks. An attached accessory dwelling shall comply with all setback requirements applicable to the principal dwelling.
  2. Design. The attached accessory dwelling may be designed as an independent housekeeping unit that can be isolated from the principal dwelling space, or an internal connection to the principal dwelling may be provided.
- F. *Detached Accessory Dwellings*.
  1. Setbacks and Placement. A detached dwelling unit shall generally be located behind the rear façade of the principal structure and comply with the accessory building setbacks.
  2. Separation. A minimum five (5) foot building separation shall be provided between the principal dwelling and a detached accessory dwelling as measured from the closest exterior wall of each unit. If the minimum building separation cannot be met, an alternative fire protection measure approved by the Fire Marshal may be considered.

### **Section 11.9 Essential Services**

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- A. *Intent*. It is the intent of this section to ensure conformity of all structures and uses to the requirements of this ordinance when maintaining conformity is practicable and not in conflict with the specific requirements of such franchise, legislation, or other city ordinance. In the absence of such conflict, the UDC shall prevail.
- B. *Authorization*. Essential services shall be permitted in all zoning districts as authorized under any franchise in effect within the city, subject to regulation as provided in any law of the State of Texas or in any city ordinance.
- C. *Non-Essential Services*. Wireless communication facilities and satellite communication facilities are not considered essential services.

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**Section 11.10 Garage Sales**

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- A. *Applicability.* A person shall not conduct a garage sale without first obtaining a permit from the city. A garage sale permit may only be issued to the owner or occupant of the residential property upon which the garage sale will take place.
- B. *Permitting.* Before the proposed garage sale, a person shall make a written application for a garage sale permit on a form provided by the city.
1. Application. The application shall be filed with the city in accordance with *Section 22.3* and shall include the following information:
    - a. The complete name and address of each applicant;
    - b. The address at which the garage sale is to be held;
    - c. The date or dates upon which the garage sale is to be held;
    - d. The date or dates of any other garage sales participated in or conducted by each applicant within the current calendar year; and
    - e. An affirmative statement that the property to be sold at the garage sale is personal property owned by the applicant, was neither acquired nor consigned for the purpose of resale, and is not from an inventory or stock of goods in trade.
  2. Timeframe. The permit shall indicate the date or dates on which the garage sale will be held. The permit shall be kept at the location of the garage sale throughout the duration of the sale.
- C. *General Regulations.*
1. No more than three (3) garage sales may be conducted on a residential premises per calendar year.
  2. The duration of a garage sale may not exceed three (3) consecutive days.
  3. One (1) garage sale permit per calendar year may be deferred to the following weekend of the scheduled garage sale at the discretion of the applicant.
  4. No more than six (6) signs may be displayed to advertise the garage sale. Garage sale signs are subject to the following rules, regulations and restrictions:
    - a. Signs shall be no greater than two (2) square feet in area.
    - b. The top of the sign shall be no higher than 30 inches above the surrounding grade.
    - c. All stakes must be wood to minimize risk to buried utilities.
    - d. Signs shall be placed no closer than six (6) feet from any road surface or curb, nor closer than 20 feet of any intersection.
    - e. Signs shall have the garage sale permit number clearly and legibly marked on them with numbers at least one (1) inch high.
    - f. Signs shall not be placed on any utility pole, traffic sign pole, or other structure within the right-of-way.
    - g. Signs shall not be placed within CCOD.
    - h. Any person placing a sign on private property must first obtain permission from the owner or occupant of the premises.
    - i. All signs shall be removed by the garage sale applicant no later than noon on the day following the completion of the garage sale.

- j. Garage sale signs not in compliance with the rules, regulations and restrictions in this section shall be subject to removal, and a fine.

### **Section 11.11 General Offices and Services, Alternative Financial Establishments; General Retail, Pawnshop**

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- A. *Separation.*
  - 1. Distances.
    - a. The use shall be located at least 1,000 feet from any lot containing another alternative financial establishment or pawnshop.
    - b. The use shall be located at least 500 feet from any lot zoned or used for residential purposes, school, place of worship, or child day care center.
  - 2. Measurement. Measurements shall be made in a straight line between the nearest points of one lot to the other lot.
- B. *Restricted Districts.* No alternative financial establishment or pawnshop shall be permitted within the CCOD.
- C. *Nonconformity.* A use that existed and was lawfully constructed, located, and operating on the effective date of the UDC and that does not conform to zoning district and/or separation distance requirements shall be deemed a nonconforming use and may continue in operation subject to the provisions in *Article 30* and the provisions set forth below:
  - 1. Cease of Operation. If the business ceases operations at a particular location, a new certificate of occupancy shall not be issued for a new use at that location without first complying with all the requirements of this section.
  - 2. Termination. The ability to continue a nonconforming use shall cease and such use shall terminate whenever either of the following occur:
    - a. A certificate of occupancy for a change of owner, occupant, tenant, or business is required.
    - b. The certificate of occupancy for the use is relinquished, canceled, or terminated in accordance with other applicable ordinances.

### **Section 11.12 General Offices and Services, Bail Bond Establishment**

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- A. *Separation.*
  - 1. The use shall be located at least 1,000 feet from any lot containing another bail bond establishment, as measured in a straight line between the nearest points of one lot to the other lot.
  - 2. The use shall be located at least 500 feet from any lot zoned or used for residential purposes, school, place of worship, or child day care center.
  - 3. Measurements shall be made in a straight line between the nearest points of one lot to the other lot.
- B. *Restricted Districts.* No bail bonds businesses shall be permitted within the CCOD.
- C. *Visibility.* The premises shall be fully visible from a public street.

### Section 11.13 General Retail (Indoor)- Over 50,000 Gross Floor Area

- A. *Requirements.* The following specific requirements apply to retail facilities 50,000 square and over. In this section, residential property means property used for residential use and undeveloped property zoned for residential use.
1. Central Features and Community Spaces. The project shall provide attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lot locations shall be functional and inviting with walkways conveniently tied to logical destinations. Customer drop-off/pick-up points that may be provided should be integrated into the design and should not conflict with traffic lanes or pedestrian paths. Pedestrian ways shall be anchored by special design features, such as towers, arcades, porticos, light fixtures, planter walls, seating areas, or other architectural features that define circulation paths and outdoor spaces.
  2. Delivery, Trash Collection, and Loading Spaces. If the area is adjacent to residential property, the delivery, trash collection, and loading spaces must be set back at least 150 feet from a residential use, unless such operations are located entirely within an enclosed building that meets the required building setback. If the area is adjacent to residential property, delivery, trash collection, and loading operations shall not be permitted between 10:00 p.m. and 7:00 a.m. Regardless of whether the area is adjacent to residential property, the delivery, trash collection, and loading areas shall be screened or enclosed so they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent properties.
  3. Location. Large retail facilities may only be located on and have direct access to an Interstate Highway or Business 287 (Mansfield Highway).
  4. Outdoor Storage and Display. Outside storage and display areas, combined, shall be limited to five (5) percent of the gross floor area, but no larger than 10,000 square feet, be screened from public view by an eight (8) foot wall of like material to the building when facing a public right-of-way or residential property, and shall in no case be allowed within 150 feet of residential property or more than 150 feet from the building.
  5. Pedestrian and Bicycle Access. Pedestrian and bicycle access separate from vehicular access is to be provided between the storefront and the main entrance from a public right-of-way, and along the full length of any building where it adjoins a parking lot. Such access shall be a minimum of six (6) feet wide and shall be delineated by paving bricks, stone, or raised concrete with appropriate access impaired ramps in accordance with standard building code regulations with painted stripes at parking isle and drive lane crossings.
  6. Design Features. The building shall incorporate design features that minimize the building's visual impact, including:
    - a. Construction of all facades with a minimum of 90 percent masonry materials, excluding all windows, doors, and glass construction materials. Masonry shall mean brick, stone, concrete masonry units, or stucco. However, the use of standard concrete block shall be limited to 10 percent of any facade that is visible. Stucco shall be allowed only when applied by using a three-step process over diamond metal lath mesh to a seven-eighths (7/8) inch thickness or other processes producing comparable stucco finish with equal or greater strength and durability. Cement or concrete tilt wall materials shall be prohibited.
    - b. All masonry colors shall be light to medium earth tones ranging from light beige to medium earth yellows, tans, rays, ochres, rust, etc. Primary accent colors may be used on a maximum of 10 percent of all building facades for decorative impact.
    - c. All facades shall have horizontal and vertical articulation that provides a visual break to the

expanse of masonry.

- d. The building shall contain at least 40 percent non-reflective glass on the first floor of the front facade to create an attractive store-front appearance.
- e. Canopies or other design or architectural features designed to enhance the appearance of the building's facade.

### **Section 11.14 General Retail, Alcohol Sales**

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- A. *Compliance.* Sales of alcoholic beverages are subject to *Chapter 11, Article XI*, of the Kennedale Code of Ordinances.
- B. *Separation.* It shall be unlawful for any person or entity who is engaged in the business of selling alcoholic beverages to sell the same at a place of business that is within 300 feet of a church, public or private school, or public hospital. To the extent applicable under V.T.C.A. Alcohol Beverage Code § 109.331, the provisions of this section relating to a public school also apply to a day-care center and child-care facility as those terms are defined in V.T.C.A. Human Resources Code § 42.002.
  1. Church or Public Hospital. The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
  2. Measurement. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:
    - a. In a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
    - b. If the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
    - c. Subsection A does not apply to the holder of a license or permit covering a premises that is located within 300 feet of a private school if the permit holder also holds a food and beverage certificate for the covered premises or if the permit covers a premises where minors are prohibited from entering under V.T.C.A. Alcohol Beverage Code § 109.53.
- C. *Exceptions.* This section does not apply to the holder of:
  1. A retail on-premises consumption permit or license if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages; or
  2. A retail off-premises consumption permit or license if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages.

### **Section 11.15 Greenhouse and Nursery, Commercial**

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- A. *Materials.* The outdoor display/storage of trees, shrubs, and plants shall be permitted at plant nurseries, including garden centers associated with home improvement and general merchandise stores. The display of lawn and garden supplies, grass pallets, and other bulk items shall be permitted, but shall be accessory and ancillary to the primary display of trees, shrubs, and plants.
- B. *Site Plan.* The storage/display area shall be designated and approved on the site plan for the use.

- C. *Paving*. Paving within a plant display area shall be required only for pedestrian walkways.
- D. *Setbacks*. All items shall be displayed outside of the setbacks applicable to principal buildings, and no such display shall obstruct or eliminate any designated parking or loading space, access drive, or fire lane.
- E. *Fences*. Construction of fences shall be in accordance with *Section 10.17*.
- F. *Fire Lanes*. Minimum fire lanes must be marked and maintained throughout the display/storage area in accordance with the requirements of the Fire Code. Buildings in a display/sales area shall be separated by a minimum distance of 10 feet.

### **Section 11.16      Group Housing, Adult Group Home**

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- A. *State License*. Requires State licensing and only permits homes complying with the Community Homes for Disabled Persons Act.

### **Section 11.17      Holiday Tree and Firewood Sales**

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- A. *Timeframe*. The outdoor sales of Christmas trees may be permitted for a period of not more than 30 days.
- B. *Parking*. Sales lots located on undeveloped property shall identify and provide adequate off-street parking.
- C. *Electrical Connections*. Electrical connections must be permitted by the Building Department.
- D. *Permanent Outdoor Sales*. Sales lots on developed sites which comply with the requirements for outdoor sales shall not require a permit under this section.

### **Section 11.18      Home Occupations**

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- A. *Purpose*. The purpose of this section is to permit the conduct of home occupations that are compatible with the neighborhoods in which they are located.
- B. *Requirements*. Such home occupations are permitted as an accessory use in the residential district and are subject to the requirements of that district in which the use is located, in addition to the following:
  1. Only the person or persons residing in the dwelling shall be engaged in the home occupation.
  2. The home occupation shall be conducted only within the enclosed area of the dwelling unit, garage, or accessory buildings. No storage or display of materials, goods, supplies, or equipment related to the operation of home occupation shall be visible outside any structure located on the premises.
  3. Not more than 25 percent of the living area of the principal building, up to a maximum of 300 square feet, shall be devoted to the home occupation.
  4. There shall be no exterior alterations which change the character thereof as a dwelling or exterior evidence of the home occupation.
  5. No home occupation shall create smoke, fumes, glare, noise, dust, vibration, electrical interference or any other nuisance not normally associated with the average residential use in the district.
  6. No home occupation shall become a fire hazard.
  7. The home occupation shall not create any significant increase in vehicular flow or parking and shall not create greater pedestrian traffic than normal for the residential district.
  8. No home occupation shall cause a significant increase in the use of any utilities, or generate trash or refuse beyond the average of the residences in the neighborhood.

9. No advertising sign may be placed on premises.
- C. *Permitted Uses.* The following are home occupations that are permitted to be conducted in a residential zoning district provided it is in accordance with this section or other city ordinance or state and federal law: music instruction, handicraft, dressmaking, preserving, accountant, artist, author, business or management consultant, individual tutoring, millinery, child care of no more than six (6) children, and home-based computer service businesses. Other uses may be permitted based *Section 2.7, Similar Uses.*

### **Section 11.19 Impounded Vehicle Storage Facility**

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- A. *Time Limit.* Temporary parking and storage of impounded operable or inoperable motor vehicles is limited to a period of time not to exceed 90 days.
- B. *Surface.* All unenclosed facilities must be paved with an all-weather surface.
- C. *Licensing.* An impounded vehicle storage facility must be a licensed vehicle storage facility pursuant to V.A.T.C.S. § 6687-9a.
- D. *Restriction.* Vehicles may not be salvaged, dismantled or repaired at the facility.

### **Section 11.20 Industrial**

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- A. *Industrial District Performance Standards.* All industrial uses shall conform to the following standards, which are established as minimum requirements.
- B. *Fire and Explosion Hazards.* All buildings, storage and handling of flammable materials, and other activities shall conform to city building and fire codes and to any applicable state and federal regulations or requirements. A land use shall not represent a fire or explosion hazard to another adjacent property or to the general public. The storage, use, or manufacture of materials, goods or products, ranging from free or active burning to intense burning, as determined by the Fire Marshal, is permitted subject to compliance with all other yard requirements and performance standards previously described and providing that the following conditions are met:
1. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater or soil shall be stored within a building. Secondary containment measures shall be installed and utilized to prevent ground contact by any spills.
  2. All such materials or products shall be produced, stored, or used in a completely enclosed building or structure that has noncombustible exterior walls and that also meets all related building code requirements.
  3. The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with state rules and regulations.
  4. All handling of flammable or hazardous substances shall be in accordance with state and federal laws, all required permits shall be obtained, and the establishment shall remain in conformance with all such requirements.
- C. *Smoke and/or Air Pollution Control.* Smoke, radiation, fumes, gases, dust, odors or other atmospheric pollutants shall not be emitted beyond the boundaries of a lot in a manner that may cause property damage or hazards to public health, be detrimental to the property rights of others, or constitute a nuisance. Emissions shall be in strict conformance with all applicable federal, state and county health laws.
- D. *Vibration.* Vibration caused by an industrial activity shall not be detectable beyond the boundaries of the site on which the activity is conducted.

- E. *Noise*. Noise created by an industrial activity shall not adversely affect an adjoining property.
- F. *Glare and Radioactive Materials*. Any process that results in glare (such as arc welding or acetylene torch cutting), shall not emit ultraviolet light, measured at the property line, that exceeds safe levels as established by the National Institute of Standards and Technology and/or the Atomic Energy Commission.

### **Section 11.21      Manufactured Home Community**

- A. *Minimum Acreage*. The minimum size of any manufactured home community shall be five (5) acres.
- B. *Waste Removal*. Adequate provisions for the collection and removal of waste and garbage.
- C. *Electric*. A separate electrical outlet shall be provided for each unit in the park. If such outlet is of a plug-in type approved and inspected by the city upon installation, then it shall not be necessary to obtain city inspection upon connection and disconnection of individual manufactured homes thereto, provided there has been no modification to the approved outlet.
- D. *Water and Sewer*.
  - 1. City water connections furnishing an ample and adequate supply of water for both health and firefighting purposes, including the adequate provisions of fire hydrants.
  - 2. Connection with the municipal sanitary sewer system.
  - 3. Separate water and sewer outlets may be provided to each unit in the park. If the original installations are inspected and approved by the city, and in the opinion of the city water superintendent are of such a nature to safely permit connection and disconnection by untrained persons, it shall not be necessary to obtain city inspection and approval upon connection or disconnection of individual manufactured homes thereto, provided there has been no modification to the approved outlet. Notwithstanding the above, sewer connections for lots located within floodplain areas must be inspected for each re-connection.
- E. *Lighting*. The park shall have adequate and sufficient electrical lighting of the streets. The cost of this lighting will be borne by the owner of the park.
- F. *Amenities*. The park shall have an adequate and ample area set aside for a play area if children are permitted in the park, which play area shall be enclosed with a fence so that vehicles may not enter.
- G. *Identification*. Each lot or space shall be identified by lot number painted or displayed on a sign board at the front of the lot. Numerals shall be dark in color against a light background so as to assure easy identification by emergency personnel. Minimum numeral size will be six (6) inches in height. The sign board must be at least 10 inches by 10 inches in size.

### **Section 11.22      Mining and Mineral Extraction Operation**

- A. *Applicability*. This section does not apply to oil and gas operations.
- B. *Setbacks*.
  - 1. Property Lines. No quarrying operation shall be carried on or any stockpile placed closer than 50 feet to any property line, unless a greater distance is specified by the Board of Adjustment is deemed necessary for the protection of adjacent property; provided that this distance requirement may be reduced to 25 feet by written consent of the owner of the abutting property.
  - 2. Right-of-Way. In the event that the site of the mining or quarrying operation is adjacent to the right-of-way of any public street or road, no part of such operation shall take place closer than 25 feet to the nearest line of such right-of-way.

- C. *Slopes.* Slopes shall not exceed 4:1 for portions of a pit more than six (6) feet deep and within 25 feet of a property line or right-of-way without an approved slope stabilization or shoring plan.
- D. *Fencing.* Fencing shall be erected and maintained around the entire site or portions thereof where in the opinion of the Board of Adjustment, such fencing is necessary for the protection of the public safety and shall be of a type specified by the city.
- E. *Equipment.* All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise, and vibration. Access roads shall be maintained in a dust-free condition by surfacing or other treatment as may be specified by the City Engineer.
- F. *Processing.* The crushing, washing, and refining or other similar processing may be authorized by the Board of Adjustment as an accessory use, but such processing shall not be in conflict with the use regulations of the district in which the operation is located.
- G. *Operational and Site Plan.* An operational plan must be submitted and shall include the following information:
1. The areas to be mined and proposed phases.
  2. The location of permanent structures.
  3. Locations for storage piles.
  4. The points of access upon public roads and internal roads.
  5. Screening and reclamation plans.
  6. Hours of operation.
  7. Estimated type and quantity of mineral materials to be removed.
  8. Description of extraction and processing methods and location of processing plant.
  9. Equipment to be placed on the site.
  10. A summary of the procedures and practices that will be used to ensure compliance with the requirements of this section.
  11. A plan disclosing the final grades and elevation.
- H. *Noise.*
1. Engines. Internal combustion engines may be used if they have mufflers that will reduce noise to comply with required noise levels set forth in this ordinance at any point 300 feet from the boundary of the site or operation site and prevent the escape of noxious gases, fumes or ignited carbon or soot.
  2. Levels. The noise level during operations shall not exceed 70 decibels at any point 300 feet from the boundary of the site between 8:00 a.m. and 7:00 p.m. The noise level between 7:00 p.m. and 8:00 a.m. shall not exceed 60 decibels at any point within 300 feet from the boundary of the site. If noise levels at a distance of 300 feet exceed 70 decibels, a sound reduction enclosure shall be required for compliance.
- I. *Road Repair Agreement.* A road repair agreement shall be filed with the city. A road repair agreement must obligate the operator to repair damage to public streets, including, but not limited to, bridges, caused by the operator (or by the operator's employees, agents, contractors or representatives) in the performance of any activity authorized by or contemplated by the approved oil and gas well permit. A video documenting the existing conditions must be submitted prior to approval of the road repair agreement.
- J. *Reclamation.* To guarantee restoration, rehabilitation, and reclamation of mined-out areas, every applicant granted a mining permit shall furnish a surety bond to the City of Kennedale, in an amount of not less than

\$2,000, the upper limit to be determined by the Administrator, as a guarantee that such applicant, in restoring, reclaiming, and rehabilitating such land, shall within a reasonable time and to the satisfaction of the Administrator meet the following requirements:

1. **Surface Rehabilitation.** All excavation shall be made either to a water producing depth, such depth to be not less than five (5) feet below the low water mark, or shall be graded or backfilled with non-noxious, non-flammable and non-combustible solids, to secure that the excavated area shall not collect stagnant water or that the surface of such area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions, so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.
2. **Vegetation.** Vegetation shall be restored by appropriate seeds, grasses, or planting of shrubs or trees in all parts of the mining area where such area is not to be submerged under water.
3. **Banks of Excavations.** The banks of all excavations not backfilled shall be sloped to the water line at a slope which shall not be less than four (4) horizontal feet to one (1) foot vertical and the bank shall be stabilized and maintained in accordance with the final stabilization requirements of the Texas Pollution Discharge Elimination System (TPDES) Construction General Permit in effect at the time of construction.
4. **Additional Requirements.** The Board of Adjustment may impose such other conditions, requirements, or limitations concerning the nature, extent of the use and operation of such mines, quarries, or gravel pits as the city may deem necessary for the protection of adjacent properties and the public interest. The conditions and the amount of the surety bond shall be determined by the Board of Adjustment prior to the issuance of the permit.

### **Section 11.23 Outdoor Display, Accessory Retail Sales**

- A. **Requirements.** A principal building of permanent construction is required.
- B. **Setbacks.** Display areas for non-vehicular items must maintain a minimum front yard setback of 25 feet.
- C. **Site Plan.** The display area is designated and approved on the site plan for the use.
- D. **Parking Lot and Access.**
  1. **Paving.** Paving is required for all parking, display and storage areas in accordance with City standards.
  2. **Fire Lanes.** Minimum fire lanes must be marked and maintained throughout the display/storage area in accordance with the requirements of the Fire Code. Buildings in a display/sales area shall be separated by a minimum distance of 10 feet.

### **Section 11.24 Outdoor Display, Temporary Accessory Retail Sales**

- A. **Requirements.** All outside/outdoor display shall be temporary and when permitted, shall:
  1. Not be located within 10 feet of the nearest right-of-way line to a public street, except in the Old Town, NV and UV Districts; and
  2. Not be located within any required setbacks or within any required landscaped areas.
  3. Not block or restrict sidewalks or other pedestrian or required handicapped-accessible paths and access ways for safety.
  4. Not block or restrict required parking spaces or vehicular flow within parking lots.

5. Not block or restrict fire lanes or fire lane visibility.
  6. Not block or restrict access to building entrances and exits.
  7. Not impede vehicular traffic flow or restrict or block the line of sight for incoming and outgoing vehicles.
  8. Not block or restrict any required lighting.
  9. Not be used as outside/outdoor storage.
- B. *Exceptions.* The Administrator may allow exceptions to this section for small lots that otherwise meet the requirements of this section and when granting an exception will not negatively affect the city's ability to protect the health, safety, and welfare of the city.
- C. *Timeframe.* In the Old Town, C-0, C-1, NV and UV Districts items shall not be placed outdoors outside of regular open hours of operation.

### **Section 11.25 Outdoor Storage, Commercial and Industrial (Accessory or Principal)**

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- A. *Coverage.* Outdoor storage shall not cover more than 33 percent of a lot if considered an accessory use.
- B. *Type of Materials.* Storage shall be limited to goods and materials customarily stored outside and resistant to damage and deterioration from exposure to the elements.
- C. *Location.* Outdoor storage shall not be located in any required setback area; shall not obstruct or eliminate any required parking or loading space, required lighting, sidewalk, pathway, building exit, access drive, or fire lane; or occupy any street right-of-way.
- D. *Height.* Storage of stacked materials shall not exceed the height of the screening fence or eight (8) feet, whichever is less. Individual items of greater height may be stored, but may not exceed one-half the height of the principal building.
- E. *Screening.* All outdoor storage shall be screened by a permanently maintained solid fence at least six (6) feet in height along any side facing a front or exterior side property line, any side facing a rear or interior side property line which is adjacent to a district which does not allow outdoor storage as a permitted use, or any other side generally open to public view. Fencing for this purpose shall be designed according to *Section 13.9*.
- F. *Surface.* Storage areas shall be surfaced as follows:
1. Storage of goods and materials shall be conducted only on a paved surface or an approved all-weather surface of crushed rock which is maintained in a dust-free condition.
  2. The storage of vehicles, trailers, and equipment which are normally intended to be mobile, whether self-propelled or towed, shall be conducted only on an approved asphalt or concrete surface which is provided in accordance with the requirements for parking areas.
- G. *Site Plan.* The storage/display shall be designated and approved on the site plan for the use.
- H. *Compliance.* Any building or use in existence before the effective date of this article shall be required to comply with the outside/outdoor storage regulations when the land use or ownership changes.

### **Section 11.26 Recreation Facility, Commercial Indoor Amusement Machine Establishments**

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- A. *Compliance.* Amusement machine establishments are subject to Chapter 11, Article V, of the Kennedale

City Code.

B. *Hours of Operation.*

1. Except as provided in subsection 2 and 3 of this section, no amusement machine may be allowed to be operated in an amusement machine establishment between the hours of 12:01 a.m. to 9:00 a.m., seven (7) days a week.
2. In an amusement machine establishment that is within 500 feet of a district restricted to residential use under the Comprehensive Zoning Ordinance of the City of Kennedale, no amusement machine may be allowed to be operated between the hours of 11:00 p.m., Sunday through Thursday, and 9:00 a.m. the following day, or between the hours of 12:01 a.m. to 9:00 a.m. on Saturday and Sunday.
3. In an amusement machine establishment that is within 500 feet of a public or private elementary or secondary school, no amusement machine may be allowed to be operated between the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday during the fall or spring term when students are required to attend school in the school district in which the center is located.
4. For purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest entry door in the portion of the building used as an amusement machine establishment to the nearest point of a district restricted to residential use or nearest entry door of a school.

### **Section 11.27 Recreation Facility, Commercial Indoor- Gun Shooting Range**

- A. *Separation.* The use shall be located at least 500 feet from any lot zoned or used for residential purposes, school, place of worship, or child day care center.
- B. *Measurement.* Measurements shall be made in a straight line between the nearest points of one lot to the other lot.

### **Section 11.28 Recreation Facility, Commercial Outdoor**

- A. *Separation.* Outdoor activities shall be separated at least 300 feet from any residential district.

### **Section 11.29 Recreational Facility, Recreational Vehicle Park**

- A. *Temporary Occupancy of Recreational Vehicles.* Recreational vehicles may be used for temporary living quarters in a properly zoned and approved recreational vehicle park subject to the following conditions:
1. Timeframe. No recreational vehicle may remain on a lot in a recreational vehicle park in excess of 15 days in any three (3) month period.
  2. Records. The owner, operator and manager of the recreational vehicle park shall maintain a written record showing the date that each recreational vehicle is placed in the park, a description and license number of the recreational vehicle, the name of the occupant and upon departure, the date the recreational vehicle is removed from the park. Entries shall be made in this book promptly upon arrival of the recreational vehicle and these records shall be open to inspection by city officials during normal business hours.
- B. *Utilities.* Every recreational vehicle park shall be equipped with sewage pumping and storage facilities approved, inspected and permitted by the city. Additionally, temporary electrical and water hook-ups meeting the approval of the city must be provided for each lot or space reserved for use by recreational vehicles.

- C. *Location.* A recreational vehicle park shall not be located in a floodplain or floodway as designated on the city's flood insurance rate map.

### Section 11.30 Residential Sales

- A. *Ownership.* It shall be unlawful for any person to display or allow to be displayed for sale or lease on any lot any motor vehicle, boat or vessel subject to registration under V.T.C.A., Parks and Wildlife Code, Chapter 31, or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises.
- B. *Limits.*
1. No more than two (2) motor vehicles, boats or other similar vessels subject to registration under V.T.C.A., Parks and Wildlife Code, Chapter 31, camper shells, tractors, plows, mowing equipment, or other implements of farming, or combination these items, shall be displayed on a lot at any one (1) time on a parcel in the AG, R-1, R-2 Zoning Districts.
  2. No more than two (2) motor vehicles, boats or other similar vessels subject to registration under V.T.C.A., Parks and Wildlife Code, Chapter 31, camper shells, or combination these items, shall be displayed on a lot at any one (1) time on a parcel in the R-3, ~~R-4~~ and MH and TH Zoning Districts.
  3. No more than one (1) motor vehicle, boat or other similar vessel subject to registration under V.T.C.A., Parks and Wildlife Code, Chapter 31, or camper shell shall be displayed on a lot at any one (1) time on a parcel in the D, MF, OT-1, OT-2, OT-3 and OT-4 Zoning District.

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### Section 11.31 Restaurant with Drive-Through

- A. *Hours of Operation.* In the EC-2 District, hours of operation for food service with drive-through shall begin no earlier than 6:00 p.m. and end no later than 10:00 p.m., except where the use is located entirely within 100 feet of the I-20/I-820 frontage road.

### Section 11.32 Roadside (Produce) Stand

- A. *Right-of-Way.* Stands shall be placed outside of public right-of-way and clear visibility areas (*Section 2.16*).
- B. *Front Yard.* Stands may be placed within the front yard and within the front setback, subject to any other applicable requirements.

### Section 11.33 Salvage Operation

- A. *Setback.* Outside storage is subject to a 50 foot front setback.
- B. *Screening.* Screening is subject to the requirements of *Section 13.8 G.6*.
- C. *Fence Signs.* No signs or advertising shall be attached to or otherwise appear on any fence or wall.
- D. *Height.* Outside storage, salvage, and/or scrap shall not be stacked, accumulated, kept, or otherwise placed higher than the required screening material.
- E. *Compliance.* Any building or use in existence before the effective date of *Ordinance No. 187* shall be required to comply with the screening regulations by the earliest of the following dates:
1. March 9, 2002; or
  2. The date on which ownership changes; or

3. The date on which a lease for the property terminates or is renewed.

### **Section 11.34 Satellite Transmission Antenna**

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- A. *Purpose.* The purpose of these regulations is to establish general standards for the siting of satellite antennas greater than one (1) meter in diameter.
- B. *Standards of Approval.* Where authorized as a special exception, the following additional standards of approval shall be considered:
1. Consider the public health and safety of satellite antenna facilities.
  2. Protect residential areas and land uses from potential adverse impacts of satellite antennas;
  3. Encourage users of satellite antenna facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
  4. Configure satellite transmission antennas in a way that minimizes the adverse visual impact of the facilities through careful design, siting, landscape screening, and innovative camouflaging techniques.
  5. Avoid potential damage to adjacent properties from satellite antenna failure through engineering and careful siting of facilities.
- C. *Governmental Antennas.* Governmental satellite antennas shall be allowed as an accessory use in all zoning districts regardless of the size of the antenna.
- D. *Requirements.* Satellite antennas (whether receive-only or transmission) that exceed one (1) meter in diameter in a residential zoning district or two (2) meters in diameter in a non-residential zoning district, subject to the following conditions:
1. Placement.
    - a. A satellite antenna may be placed on the roof of a residential structure provided it is not placed on the side of the roof that faces a public street unless this would cause an unreasonable increase in the cost of installing, maintaining or using the antenna or would prevent reception of an acceptable quality signal. A satellite antenna may be placed on the roof of a nonresidential structure if screened from public view from line of sight at ground level from the property line.
    - b. The satellite antenna shall not be permitted in front or side yards. The satellite antenna shall be permitted in the rear yard provided it meets the minimum setback as is required for accessory buildings in residential districts and as for all buildings in nonresidential districts.
    - c. Satellite antennas shall not be permitted in easements.
    - d. No part of an antenna, or any attachment thereto may extend beyond the property lines of the owner of such antenna site.
  2. Lighting. No auxiliary or outdoor lighting shall be allowed on the satellite antenna except such lights or lighting as may be required by the Federal Aviation Administration or the Federal Communications Commission.

### **Section 11.35 Service Station**

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- A. *General Requirements.*
1. Pump islands shall be set back a minimum of 25 feet from any street right-of-way line.
  2. Pump islands shall be located a minimum of 100 feet from any residential district.

3. Columns and/or other supports for the canopy shall provide a masonry exterior finish that matches the exterior masonry construction of the structure.
  4. No outdoor storage shall be permitted in conjunction with a service station.
- B. *Removal of Improvements.* Associated service station site improvements, i.e., gasoline pump islands, canopies, underground tanks, freestanding car washes, shall be removed from a site where the sale of gasoline has been discontinued for a period of six (6) months.

### Section 11.36 Sexually Oriented Businesses

- A. *Intent.* It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the city. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- B. *Applicability.* Sexually oriented business are subject to Article VIII of the Kennedale Code of Ordinances and are subject to the licensing and application requirement of that Article.
- C. *Hours.* No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 12:00 a.m. (midnight) and 8:00 a.m. on weekdays and Saturdays, and 12:00 a.m. (midnight) and 2:00 p.m. on Sundays.
- D. *Location.* Except as otherwise permitted, a person commits an offense if he establishes, operates or causes to be operated, or expands a sexually oriented business within 1,000 feet of any of the following uses or locations within the city limits or extraterritorial jurisdiction of the city:
1. A church or synagogue;
  2. A public or private elementary or secondary school or licensed day-care center;
  3. A boundary of a residential district (including, but not limited to, zoning classifications AG, R-1, R-2, R-3, ~~R-4~~, OT, D, MF ~~and MH and TH~~);
  4. A public park;
  5. A public library;
  6. The property line of a lot devoted to a residential use as defined in this article; or
  7. Another sexually oriented business.
- E. *Offense.* A person commits an offense if he establishes, operates or causes to be operated, or expands a sexually oriented business within the CCOD.
- F. *Exception.* A person may establish, operate or cause to be operated, a sexually oriented business at the following sites, even if such sexually oriented business is within 1,000 feet of a protected use listed or within the CCOD:
1. Tract 31C of Abstract 1376 in the David Strickland Survey (1.0 acre);
  2. Lot 8, Block 14, Oakcrest Addition (1.056 acres);
  3. Tract 3G, Abstract 716, W.H. Hudson Survey (3.5 acres);
  4. Lot 1, T.W. Moore Addition; and

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5. Tract 31K1F, David Strickland Survey, Abstract 1376.

- G. *Limitation.* A person commits an offense if he establishes, operates or causes to be operated, a sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
- H. *Measurement.* For the purposes of measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsections C (1-7) of this section.

### Section 11.37 Solar Energy Equipment

- A. *Freestanding Equipment.* Freestanding solar collectors are accessory use structures and shall be subject to the requirements for such, together with all other applicable building codes and ordinances, including height limits.
- B. *Attached Equipment.* A structurally attached solar collector is attached to an existing structure's roof or wall or serving as a structure's roof, wall, window or other structural member.
1. Structurally attached solar collectors installed on a building with a sloped roof shall not project vertically above the peak of the roof.
  2. Structurally attached solar collectors installed on a building with a flat roof shall not project vertically more than five (5) feet above the roof.
  3. Roof-mounted or structurally attached solar energy systems shall comply with the maximum height requirements in the applicable zoning district.
- C. *Permitting.* A building permit, electrical permit, or any other permit related to work required to install solar energy equipment shall be obtained prior to installation of any solar energy equipment.

### Section 11.38 Temporary Uses

- A. *Temporary Construction Office.* The location of a temporary office may be permitted on a site for which a building permit has been issued. Such office permit may be issued for no more than one (1) year, but may be extended if the builder maintains active and continuous construction on the site.
- B. *Temporary Sales Office.* A residential real estate sales office, located on a platted lot, may be permitted within a subdivision for which building permits have been issued and may be located either in a model home, in a temporary building, or in a portable trailer. Each permit shall specify the location of the office and area and shall be valid for a period set by the Board of Adjustment.
- C. *Temporary Batch Plant.* A temporary concrete or asphalt batch plant may be permitted for use by a contractor for the period of active and continuous construction requiring concrete or asphalt. A batch plant shall be located at least 500 feet from any occupied residential lot, and shall not be used for construction at any other location than the project for which it is permitted. An application shall include a copy of the approved State permit for such operation.
- D. *Temporary Use- Special Functions.*
1. Locations. Special functions may be permitted in an R-1, R-2, ~~or R-3~~ or R-4 Districts.
  2. Term. The maximum term of initial special exception approval will be for a period of one (1) year. The special exception may thereafter be renewed for longer periods of time if the use is in compliance with all applicable conditions.

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3. Authorized Organizations. Special exceptions for special events shall only be granted to non-profit organizations or for events for which all proceeds benefit a non-profit organization. Documentation of the 501(c)(3) status of the non-profit hosting the event or benefiting from the event shall be submitted as part of the application for a special exception.
4. Permit. Regardless of the granting of a special exception for special functions, no special function shall be permitted unless the recipient of a special function special exception has applied for and received a special function permit from the city. The application for a special function permit shall be submitted to the city at least 30 calendar days before the date the special function is proposed to be held. The application shall state, at a minimum, the date and hours of the event, the number of people expected to attend, and the type of event.
5. Venue Plan. Each applicant for a special function special exception shall be required to submit a venue plan as part of the application, in addition to any other standard application requirements for a special exception. The applicant must include at least the following information in the venue plan:
  - a. Proposed hours of events, including set-up and take-down time;
  - b. Proposed number of people who will attend events at the property;
  - c. The type of screening that will be installed between the property on which the events will be held and adjacent properties;
  - d. Plans for maintaining adequate traffic flow and preventing traffic congestion on the property and on public streets providing access to the property;
  - e. A description of any special sound equipment that may be used;
  - f. A copy of the TABC permit for any events at which alcohol will be served;
  - g. A description of any security that will be provided, as needed; and
  - h. A description of sanitation facilities provided that will serve the number of people who will be attending the events.
6. Number of Events. Maximum of three (3) events per calendar year.
7. Maximum Participation. The Board of Adjustment shall designate the maximum number of persons allowed per function based on the recommendation of the Building Official or Fire Department on a case by case basis.
8. Hours. Each function may only occur during hours specifically prescribed by the board, but in no case shall any event last past midnight, with all take-down for the event to be completed by 2:00 a.m.
9. Parking. Parking shall be in compliance with *Article 12*. Parking in a yard is prohibited except on paved surfaces as approved by the Board of Adjustment. The number of paved parking spaces required shall be set by the Board of Adjustment, with a minimum of one (1) paved space required per 10,000 square feet of site area of the property for which the special exception is to be granted. Notwithstanding the minimum requirement for number of parking spaces, the Board of Adjustment may set a requirement for more or fewer parking spaces based on past performance of the applicant and/or the venue plan.
  - a. Paving materials shall be adequate to prevent wear and tear on any yards in which parking will occur and to prevent tracking mud, dirt, or other materials onto public streets but shall also be practical and unobtrusive in a residential zoning district.
  - b. Asphalt and concrete are prohibited paving materials for parking provided in a front or side yard but may be used for parking in a rear yard if located behind the primary structure.
  - c. Permitted paving materials include, but are not limited to: pervious reinforced concrete covered with grass, such as Grasscrete; or Turfstone; pervious pavement covered or interspersed with

grass, including plastic grid pavers, such as or Grasspave; crushed rock or flex base, if screened so that the parking area appears vegetated from the public street and adjoining properties; grass stabilizers such as Turfguard; and brick or stone pavers interspersed with grass. Proposed paving materials are subject to review and approval of the Board of Adjustment as part of the application for a special exception;

10. **Notice.** Applicants for a special function permit shall send two (2) notices to each adjacent property owner for each special function. The first notice shall be sent within three (3) days of submitting the application to the city. The second notice shall be sent within three (3) days of receiving the permit from the city but no fewer than 10 before the special function is to be held, provided the permit is issued at least 10 days before the special function. Such notice shall state the date, time, and location of the permitted special function and may be given by depositing the same properly addressed and postage paid in the United States Post Office.
11. **Screening.** Screening shall be provided to protect the neighbors from adverse effects of the special function regardless of the zoning district classification of adjoining properties.
12. **Lighting.** Light levels from the special function or from the facilities or equipment used for the special function shall not exceed two (2) footcandles (fc) at the property line.
13. **Noise.** The special function shall not create noise levels that are in violation of city noise regulations. No single event maximum sound disturbance shall exceed 70 db, measured from the property line. In addition, the owner of any property on which more than four special events per calendar year is permitted to be held shall be required to submit a sound mitigation plan under Section 15-158 of the Kennedale City Code, as approved by city staff, as part of the special exception application.
14. **Time between Events.** There must be at least 14 days between special functions.
15. **Alcoholic Beverages.** If alcohol is to be served at a special function, the property owner shall submit documentation that appropriate permissions from the Texas Alcoholic Beverage Commission have been received. If the documentation is not required at the time the venue plan is approved by the Board of Adjustment, the documentation shall be submitted to city staff as part of the application for a special function permit.
16. **Conditions and Considerations.**
  - a. The Board of Adjustment shall consider the density and kind of development surrounding the property as part of its decision for any terms or conditions that may be applied to a special exception granted for a special function;
  - b. Such other reasonable terms and conditions as may be prescribed by the Board of Adjustment to assure that the special function will not unreasonably impact the use and enjoyment of adjoining properties.
17. **Enforcement.** The board shall have the authority to revoke the special exception permit upon a determination that the special functions are being conducted in a manner that adversely impacts the use and enjoyment of adjoining properties.

**E. Temporary Use – Mobile Food Establishments.** Mobile food establishments, as permitted by this Code, are also regulated by Chapter 10 of the Kennedale City Code, as amended.

**Commented [KB49]:** Ordinance 623

### **Section 11.39 Vehicle Repair, Major**

- A. **Separation.** Buildings shall be located at least 50 feet from any residential district.
- B. **Enclosure.** Repair activities must occur within an enclosed building.

C. *Outdoor Storage.* All outdoor storage requires compliance with *Section 11.25.*

## Section 11.40 Vehicle Sales and Rental

### A. General Requirements.

1. Setbacks. All items shall be displayed outside of the setbacks applicable to principal buildings.
2. Minor Repairs. Vehicle sales lots may include minor repair and maintenance if conducted totally within an enclosed building. Major vehicle repair and collision services are only allowed if permitted within the applicable zoning district and in accordance with *Section 11.38, Vehicle Repair, Major*.
3. Operational Vehicles. Outdoor display shall consist only of operational vehicles with current inspection stickers; with hoods, trunks, and doors closed when not open for inspection; and with tires properly inflated. The appearance of the lot shall be orderly.
4. Barrier. Barriers shall be provided on all vehicular sales lots to retain vehicles completely within the property and prohibit ingress and egress except at approved drive approaches.
5. Arrangement. Display areas shall be arranged in an orderly manner with items generally parallel to each other.
6. Fences. Construction of fences shall be in accordance with *Section 10.17*.

### B. Site Plan. The storage/display area is designated and approved on the site plan for the use.

### C. Parking Lot and Access. Paving is required for all parking, display, and storage areas in accordance with city standards, except that paving shall not be required for the display of residential buildings, e.g. mobile or modular homes, if the following conditions are met:

1. Units are anchored according to the manufacturer's specifications required for occupancy;
2. The space between the ground and the floor level is completely enclosed, i.e. skirted;
3. Access sidewalks are provided; and
4. Unpaved areas are landscaped and regularly maintained in accordance with a landscape plan approved by the Administrator.

### D. Fire Lanes. Minimum fire lanes must be marked and maintained throughout the display/storage area in accordance with the requirements of the Fire Code. Buildings in a display/sales area shall be separated by a minimum distance of 10 feet.

## Section 11.41 Wind Energy Turbine

### A. Use and Requirements.

1. Freestanding wind energy equipment shall be considered an accessory building and shall be subject to the requirements spatial requirements for accessory buildings, together with all other applicable building codes and ordinances, including height limits.
2. Use. Wind energy production/generation shall not be the primary use of any property within the Employment Center Districts.

### B. Noise. Wind energy equipment shall be subject to *Chapter 15, Article V* of the Kennedale City Code concerning loud noises (nuisances).

### C. Color and Finish. All portions of the wind energy system shall be a non-reflective, non-obtrusive color, subject to the approval of the Administrator.

### D. Advertising. Wind energy equipment shall not be used for displaying any advertising and shall not be

illuminated.

- E. *Electric Collection System.* The electrical collection system shall be placed underground within the interior of each parcel.
- F. *Permitting.* A building permit and any other permit related to work required to install wind energy equipment shall be obtained prior to installation of any wind energy equipment.

#### **Section 11.42 Wireless Communication Facilities**

- A. *Use and Restrictions.* Fleet parking and outdoor storage are prohibited.
- B. *General Conditions of Use.*
  - 1. Wireless communication facilities (WCF) are limited to freestanding monopoles, self-enclosed monopoles, stealth, and WCFs attached to existing buildings or structures.
  - 2. All WCFs above 75 feet shall be structurally designed for the co-location of multiple carrier antenna arrays.
  - 3. All new construction of WCF monopoles exceeding 75 feet in height shall be screened, around the base of the pole and related appurtenances, with a masonry wall of a height no less than six (6) feet.
  - 4. The new construction of freestanding monopoles and stealth facilities shall follow the site development and building permit processes.
  - 5. Unless authorized by a specific use permit, all wireless telecommunication facilities in the City Limits, where permitted by right with land use conditions in the applicable zoning district, shall conform to the provisions stated herein.
- C. *Collocations.*
  - 1. The collocation of antennas on existing, legal non-conforming wireless telecommunication facilities shall not be considered an expansion of a non-conforming use, structure, or site, provided the expansion of the WCF does not increase the height of the tower for which it is situated.
  - 2. Provided the collocation of antennas does not increase the height of the tower for which it is situated or require additional structural engineered support at the base of the tower that substantially changes its physical dimensions, the co-location of antennas on existing WCF towers shall not require a site development permit or building permit. A electrical permit shall be required, as applicable.
  - 3. If attached directly to the vertical side(s) of a building or structure other than a monopole, the attached WCF antennas and related appurtenances shall be painted to blend in with the structure for which it is attached.
- D. *Setback and Heights.*
  - 1. Any WCF equal to or less than 50 feet in height shall have a minimum setback from the right-of-way equal to the height of the tower.
  - 2. Towers may not exceed 150 feet in height and must have a minimum setback from any single-family residentially zoned property line or conforming single-family use, and arterial and freeway rights-of-way, a minimum distance equal to three (3) times the maximum height of the tower.
  - 3. Any attached WCF on a roof of an existing building shall not exceed 15 feet in height above the top plate of the building.
  - 4. Setbacks from roadways shall be measured from the edge of the right-of-way to the base of the pole. Setback distances shall not apply to antenna attachments to building rooftops, water utility tanks, or other existing vertical infrastructure.

E. *Prohibitions.* The following are prohibited:

1. Interference with City and public safety communication systems and/or area television or radio broadcast;
2. Lattice towers;
3. Advertising signage, with the exception of the minimum signage required by the Federal Communications Commission (FCC) regulations or necessary for the operation of WCF; and
4. The use of guy wires are prohibited unless utilized in conjunction with an attached WCF to an existing building.

**Mobility, Connectivity, and Parking**

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**Article  
12**

**City of Kennedale Unified Development Code**

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**Section 12.1 Purpose**

The purpose of this article is to preserve safety from fire, panic, and other dangers; to lessen congestion in the streets; to facilitate the adequate provision of motorized and non-motorized transportation; to conserve the value of buildings; and to encourage the most appropriate use of land.

**Section 12.2 Traffic Impact Mitigation**

A. *Applicability.* The transportation system for new development shall be capable of supporting the proposed development in addition to the existing and future uses in the area. Evaluation of system capacity shall be undertaken through a Traffic Impact Analysis (TIA). A TIA shall be required with applications for development review and approval when:

1. Trips. If a proposed subdivision or any interim phase or combination of phases, or site development is expected to generate over 100 peak hour trips according to the latest edition of the Institute of Transportation Engineers' (ITE) Trip Generation Manual, a licensed engineer shall prepare a TIA and sign it to certify its completeness and accuracy. A TIA, including the initial scope, shall meet the minimum requirements of the City Engineer. The TIA shall be prepared by an engineer with experience in traffic flow analysis. The scope of the Traffic Impact Analysis shall be based on the peak hour trips projected to be generated by the proposed development, as set for in the following table.

Peak Hour Trips	TIA Scope
100 or less	Not required
101 to 300	The frontage of the property, all access points (including common access), and all intersections within a quarter (1/4) mile to half (1/2) mile radius of the proposed development.
301 to 500	The frontage of the property, all access points (including common access), and all intersections within a half (1/2) mile to one (1) mile radius of the proposed development.
501 or more	The frontage of the property, all access points (including common access), and all intersections within a one (1) mile radius of the proposed development.

2. Other Factors. If any of the following occur:
  - a. A TIA is required by the Planning and Zoning Commission or City Council as a condition of any land use application approved pursuant to the requirements of the UDC; or
  - b. The Administrator, at their discretion, may require a TIA for:
    - i. Any application for a rezoning or specific plan review;
    - ii. Any case where the previous TIA for the property is more than two (2) years old;
    - iii. Any case where increased land use intensity will result in increased traffic generation; or
    - iv. Any case in which the Administrator determines that a TIA should be required because of other traffic concerns that may be affected by the proposed development.

B. *Considerations.* The TIA in general should consider the following factors without limitation: street capacity and level of service; vehicle access and loading; on-street parking impacts; the availability of transit service and connections to transit; impacts on adjacent neighborhoods; and traffic safety including pedestrian

safety.

1. The analysis should include the following conditions:
  - a. Existing traffic volumes and roadway conditions.
  - b. Existing traffic volumes and roadway conditions plus projected site generated traffic.
  - c. Existing traffic volumes with improved roadway conditions plus projected site generated traffic.
2. The analysis should be performed for a typical week day unless specified by city staff. The analysis shall include both the a.m. and p.m. peak hours, 24-hour generations, and special times or days of the week dependent of the land use's peak traffic generating time periods as determined from the ITE Trip Generation Manual.

C. *Traffic Impact Analysis and Development Review Process.*

1. Meeting. A scoping meeting between the developer and the Administrator shall be required prior to the start of the TIA in order to determine the parameters of the study.
2. Scope. The Administrator shall define the TIA study in as limited of a vicinity as is feasible to make adequate traffic determinations for the project.
3. Requirement. If required, the TIA shall be submitted with the applicable development application.

D. *Traffic Mitigation Measures*. The applicant shall, as supported by the TIA, propose measures to minimize and mitigate the anticipated impacts and determine the adequacy of the planned access points. Proposed mitigation measures shall be acceptable to the Administrator and City Engineer, must be installed as a condition of development approval, and may include, but are not limited to:

1. Improvements. Street improvements on or off the site:
  - a. Left turn bays;
  - b. Increased storage lanes;
  - c. Right turn declaration lanes;
  - d. Roadway expansion or extension; and/or
  - e. Other capital improvement projects such as traffic calming infrastructure or capacity improvement.
2. Traffic Control. Traffic control measures:
  - a. Conversion of Two-way Stop control to All-way Stop control, if warrants are met and staff approves;
  - b. Conversion of All-way Stop control to roundabout or traffic signal, if warrants are met and staff approves;
  - c. The installation of a traffic signal, if warrants are met and staff approves; and/or
  - d. Improved signal timing or phasing.
3. Access Management Plan. An access management plan and access management measures to improve overall circulation and/or safety.
4. Non-Motorized Facilities. Installation of pedestrian, bicycle, or transit facilities on or off the site.

### Section 12.3 Non-Motorized Transportation

- A. *Sidewalks and Trails Required*. Sidewalks shall be installed on both sides of streets (including loop streets



and cul-de-sacs), and within and along the frontage of all new development or redevelopment pursuant to the requirements of the Public Works Design Manual.

B. *On-Site Pedestrian Connections.*

1. Required Connections. All commercial, industrial, multi-family, mixed-use, and attached residential development shall provide a network of on-site pedestrian walkways with a minimum width of five (5) feet, unless otherwise noted, to and between the following areas:
  - a. Entrances to each commercial, industrial, multifamily, mixed-use, and/or attached residential building on the site, including pad site buildings;
  - b. Public sidewalks, walkways, or trails on adjacent properties that extend to the boundaries shared with the subject development;
  - c. Public sidewalks along the perimeter streets adjacent to the development;
  - d. Adjacent land uses and developments;
  - e. Adjacent public park, greenway, or other public or civic use; and
  - f. Adjacent public transit station areas, transit stops, park and ride facilities, or other transit facilities.
2. Parking Areas. Internal pedestrian walkways shall be provided through parking areas in excess of 50 spaces, constructed of materials distinguishable from the driving surface as described in the following section.
3. Crosswalks. Pedestrian walkways and crosswalks shall be identifiable to motorists and pedestrians through the use of one or more of the following methods:
  - a. Changing paving material, patterns, or paving color;
  - b. Changing paving height;
  - c. Decorative bollards;
  - d. Painted crosswalks; or
  - e. Raised median walkways with landscaped buffers.
4. Design Features. Pedestrian circulation routes shall be identified with special design features that establish them as areas where pedestrians are physically separated from the flow of vehicular traffic and/or are protected from the elements. Techniques shall include one (1) or more of the following:
  - a. Arcades, porticos, or other shade structures;
  - b. Pedestrian light features;
  - c. Seat walls or benches;
  - d. Drinking water fountains; or
  - e. Landscape planters.

C. *Trail Linkages.*

1. Design. Trail linkages shall be incorporated into the design of all new development. Trail linkages shall be located and designed so as to provide public access, connect residences and businesses to open space and the city's existing or planned trail system, and promote pedestrian and bicycle movement between residential areas and employment/business areas.
2. Review. All development, either at the time of platting or during site plan approval, shall be required to demonstrate that the design of the proposed development includes open space and trail linkages

pursuant to the City of Kennedale Comprehensive Plan.

D. *Responsibility.* Trails shall be constructed at the time of development at the sole expense of the developer or builder. Notwithstanding any written agreement between the city and any other person or entity, in no case is the city obligated to install sidewalks. Where it is not feasible to install sidewalks at the time of development, the developer or builder shall pay a fee in lieu of installation.

E. *Construction Requirements.*

1. *Design.*

- a. Sidewalks shall be installed according to the standards in the Kennedale City Code, the Public Works Design Manual, and the NCTCOG standards adopted by the City of Kennedale Public Works department.
- b. Sidewalks may be installed using Low Impact Development (LID) standards if approved, in writing, by the Public Works Department only when the materials will meet the same durability and safety standards as expected from sidewalk construction materials and construction practices required by Kennedale City Code and the Public Works Design Manual. Additionally, materials must be approved by the Administrator to ensure they are visually compatible with nearby sidewalks, civic areas, and other construction materials.

2. *Width.* Sidewalks shall be installed at the minimum widths and additional requirements shown in *Table 12.3*.

<b>Table 12.3 Minimum Sidewalk Width</b>	
<b>Sidewalk Location</b>	<b>Min. Width (in feet)</b>
Parkway	8
Boulevard	6
Avenue	6
Rural Road/Street	5

**Section 12.4 Bicycle Parking**

A. *Applicability.* Parking for bicycles must be provided in the UV, NV, OT-3, O-4, EC-1, EC-2, C-0, C-1 and C-2 Zoning Districts.

B. *Amount.* Bicycle parking shall be provided at a minimum amount of five (5) percent of the number of spaces provided for car parking.

C. *Location.* Bicycle rack(s) shall be located within 60 feet of the main entrance of the building served, and may be located between the street curb and the building, subject to the approval of the Administrator. Each bicycle parking area shall be separated from motor vehicle parking and maneuvering areas by a barrier, post, or bollard or by at least five (5) feet of open space.

D. *Design.* For each required bicycle parking space, a stationary object shall be provided to which a user can secure a bicycle with at least two (2) points of contact with a six (6) foot cable and lock. The stationary object shall be either a freestanding bicycle rack or a wall-mounted bracket.

1. *Features.* Acceptable bicycle racks shall:

- a. Be installed on a permanent foundation (e.g., concrete pad) to ensure stability.
- b. Be securely anchored into or on the foundation with tamper-proof nuts if surface mounted.
- c. Support bikes in an upright position by their frames, horizontally, in two (2) or more places.

- d. Keep both bike wheels on the ground.
  - e. Prevent bicycles from tipping over.
  - f. Support a variety of bicycle sizes and frame shapes.
  - g. Include space to secure the frame and one or both wheels to the rack with a cable, chain, or u-lock.
  - h. Incorporate a locking pole with a diameter no more than one and a half (1 ½) inches.
  - i. Be built of galvanized or stainless steel.
  - j. Have two-point support and fit a variety of bicycle types.
  - k. Meet the standards of this section. Acceptable racks, like the "Inverted U," "Swerve," "Post and Ring," or custom designs may be used.
2. **Prohibited Features.** Bicycle racks shall not:
- a. Be grid/fence-type or wave/ribbon-type.
  - b. Serve any other purpose (e.g., signage, traffic safety).
  - c. Support the bicycle at only one point.
  - d. Allow the bicycle to fall, which can damage the bike and block pedestrian right-of-way.
  - e. Have sharp edges that can be hazardous to the visually impaired.
  - f. Support the bicycle by one wheel.
  - g. Connect to each other with a bar on top (that can block handlebars and baskets).
  - h. Suspend any part of the bike in the air or require that the bicycle be lifted to get it into position.

## Section 12.5 Streets and Vehicular Circulation

- A. **Applicability.** These requirements and standards apply to all streets, private or public, in subdivisions and site development projects. Street requirements within the *Article 5* for the UV and NV Districts supersede these requirements, when more restrictive.
- B. **Street Standards.** All streets shall meet the adopted engineering standards and requirements and shall be consistent with the transportation element of the Comprehensive Plan and adopted Thoroughfare Plan.
- C. **Street Connectivity.** Street and block patterns should include a clear hierarchy of well-connected streets that distribute traffic over multiple streets and avoid traffic congestion on principal routes. Within each development, the access and circulation system should accommodate the safe, efficient, and convenient movement of vehicles, bicycles, and pedestrians through the development, and provide ample opportunities for linking adjacent neighborhoods, properties, and land uses. Local neighborhood street systems are intended to provide multiple direct connections to and between local destinations such as parks, schools, and shopping. These connections should knit separate developments together, rather than form barriers between them.
- D. **Internal Street Connectivity.**
  - 1. **Connections to Existing.** New and infill development shall provide for multiple connections to the existing city street network wherever possible.
  - 2. **Through Streets.** The design of street systems shall use through streets. Permanent cul-de-sacs and dead-end streets shall only be used when topography, the presence of natural features, and/or

vehicular safety factors make a vehicular connection impractical.

3. Dead-Ends. All permanent dead-end streets shall be developed as cul-de-sacs and extend no further than 600 feet. The starting point for the measurement shall be at the intersection of the centerline of the proposed cul-de-sac with the projected edge of the right-of-way of the nearest intersecting through street, measured along the centerline of the cul-de-sac to the nearest point of curvature of the cul-de-sac bulb or the nearest angle of hammerhead turn around.
  4. Fire Code. All cul-de-sacs shall conform to the requirements of the Fire Code.
  5. Cul-De Sac Path Connection. Whenever cul-de-sac streets are created, at least one eight (8) foot wide pedestrian access easement shall be provided, to the extent practicable, between each cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian pathway. This requirement shall not apply where it would result in damage to or intrusion into significant natural areas such as stream corridors, wetlands, and steep slope areas. The pedestrian access easement will be dedicated to the city and maintained as part of the sidewalk system.
- E. External Street Connectivity. In addition to the internal street connectivity requirements, all new development shall maintain external street connectivity in accordance with the following standards:
1. Alignment. The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are undeveloped and intended for future development or in which the adjoining lands are developed and include opportunities for such connections.
  2. Traffic Calming. Traffic calming measures shall be integrated into the development to mitigate the impact of potential future "cut-through" traffic.
  3. Right-of-Way. Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development at least every 1,500 feet for each direction (north, south, east, and west) in which development abuts vacant lands. Such street stubs shall not be required to abut adjacent development lacking existing or planned street connections, floodplains, wetlands, riparian buffers, or other unique site conditions preventing a street connection in the opinion of the Administrator. When connections to surrounding streets are proposed or required by the city, public right-of-way shall be dedicated and streets developed to existing paved rights-of-way. The city may also require temporary turnarounds to be constructed for temporary cul-de-sacs between development phases.
  4. Commercial Connections. Street and sidewalk connections shall be made between neighborhood commercial centers and adjacent residential neighborhoods.
  5. Future Extension. At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "STREET TO BE EXTENDED BY THE AUTHORITY OF THE CITY OF KENNEDALE" to inform property owners.
  6. Platting Stub Streets. The final plat and the deeds for all residential dwellings shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped property.
- F. Residential Streets.
1. Through Traffic. Residential streets shall be designed so that use by through-traffic will be discouraged. Traffic-calming techniques are encouraged.
  2. Mid-Block Feature and Crossing. Should topography or other constraints require the use of streets that extend more than 600 feet without being punctuated by cross streets, an oblong median, traffic-

calming device, or similar feature shall be used to slow traffic and break-up the "runway" appearance. Location, dimensions, and design of such features shall be coordinated with required mid-block pedestrian connections so as to maximize pedestrian safety.

3. **Natural Contours.** To the maximum extent practicable, streets shall be arranged to follow the natural contours of the site.
- G. **Vehicular Access to Public Streets and Adjacent Land.** All development shall provide public street connections to all existing, proposed, or preliminary platted adjacent public streets. Corner lots are only required to have access to a single street, to be determined, if necessary, by the Administrator.

## Section 12.6 Access Management

- A. **Purpose.** Poor design and placement of parking lots and driveways can impede traffic flow and can also inhibit connectivity among sites and may reduce pedestrian safety. To enhance connectivity and increase safety, therefore, parking lots and driveways shall be planned to reduce the number of curb cuts and shall be designed to support pedestrian safety, connections, and comfort.
- B. **General Requirements.**
1. **Design.** Primary driveways should be designed as streets. This includes designing pedestrian sidewalks and appropriate traffic control measures, as well as providing streetscape improvements and lighting to improve way-finding.
  2. **Connections.** Parking lots and driveways shall provide pedestrian connections to storefronts. Dedicated walkways through parking lots and sidewalks shall be included in the design of access roadways.
  3. **Traffic Calming.** Traffic calming techniques shall be employed in parking and driveway areas to support pedestrian circulation concepts.
  4. **Sizing and Construction Standards.** Drive approach size and construction standards shall be governed by the City of Kennedale Public Works Design Manual.
- C. **Driveways.**
1. **Location.** Access drives shall be located to interfere as little as possible with the use of adjacent properties and the flow of traffic on adjacent streets, to avoid undue interference with pedestrian access, and to provide the required site distance and the most favorable driveway grade.
  2. **Separation.** Access drives on corner lots shall be located as far from the street intersection as practicable.
  3. **Shared Driveways.** When it is determined that reducing the number of access points may have a beneficial impact on traffic operations and safety while preserving the property owner's right to reasonable access, a shared commercial driveway, frontage road, or rear service drive connecting two (2) or more properties or uses may be required. In particular, near existing traffic signals or near locations having potential for future signalization, parkways and boulevards or other streets with high traffic volumes, and along segments with a relatively high number of accidents or limited sight distance.
  4. **Easements.** Shared commercial driveways and service roads shall be within an access easement recorded with Tarrant County. A draft of the access easement shall be provided to the city for review prior to filing.
  5. **Kennedale Parkway and I-20 Frontage Road.** Placement and dimensions of curb cuts along Kennedale Pkwy and I-20 Frontage Roads shall be determined by the Texas Department of Transportation (TxDOT). To the extent authorized by TxDOT, cross access or shared access

easement shall be required. No new certificate of occupancy or building permit will be issued until cross or shared access is in place.

D. *Employment Center District.* The following requirements apply to Type A and B frontage streets as established in the Employment Center District.

1. Type A Frontage Streets.

- a. Curb cuts on Type A streets shall be not be allowed if the property has access to a Type B street. If permitted, curb cuts shall be limited to one (1) per 400 feet (as measured between curb cuts).
- b. Cross access or shared access easements shall be required. No new certificate of occupancy or building permit will be issued until cross or shared access is in place.

2. Type B Frontage Streets.

- a. Curb cuts on Type B streets shall be limited to one (1) per 250 feet (as measured between curb cuts).
- b. Cross access or shared access easements shall be required. No new certificate of occupancy or building permit will be issued until cross or shared access is in place.

## Section 12.7 General Parking Requirements

A. *Location.*

1. Residential. Required off-street parking for residential uses shall be provided on the lot or tract occupied by the principal use.
2. Non-Residential. Required off-street parking for non-residential uses shall be provided on the lot or tract occupied by the principal use; however, the city may permit either required or additional off-premise parking, as a special exception, under such regulations and conditions as the Board of Adjustment may deem advisable when the proposed parking facility is on a platted lot within 300 feet of the principal use property. In the case of churches, off-site parking may be permitted by the Board of Adjustment; provided, it is located within 1,000 feet of the church building.

B. *Calculations.*

1. Rounding. In determining the required number of parking spaces, fractional spaces shall be counted to the nearest whole space. Parking spaces located in buildings used for repair garages or car washes shall not be counted as meeting the required minimum parking.
2. Multiple Uses. The off-street parking requirements shall be the composite or sum of the requirements for each type of use and no off-street parking space provided for one (1) type use or building shall be included in calculation of the off-street parking requirements for any other use or building, except in accordance with this article.
3. Head-In Exclusion. Existing head-in parking spaces situated so that the maneuvering of a vehicle in entering or leaving such spaces is done on a public street or within public right-of-way shall not be classified as off-street parking in computing required parking.

C. *Requirements.*

1. Restrictions.

- a. The construction of head-in parking off public streets is prohibited. Legally constructed head-in parking facilities are declared to be a nonconforming use of land subject to the provisions of *Article 30*.
- b. No off-street parking facility shall be located, either in whole or in part, in a public street or sidewalk,

parkway, alley, or other public right-of-way, except for on-street parking authorized in the OT Districts.

- c. No off-street parking shall be located, either in whole or in part, within any fire lane required by the city or within aisles, driveways or maneuvering areas necessary to provide reasonable access to any parking space.
  - d. Tandem parking is prohibited, except as permitted in *Article 5*.
  - e. No required off-street parking facility shall be used for sales, non-vehicular storage, repair, or service activities.
2. Striping. For all multifamily and nonresidential uses, parking spaces shall be striped or otherwise clearly designated on the parking facility surface. Parking spaces shall be designed to not interfere with or encroach into fire lanes or other areas necessary for aisles or maneuvering of vehicles.
- D. *Commercial and Large Vehicle Parking Restrictions*.
1. Parking of Vehicles in Right-of-Way. It is unlawful for any person to park and/or permit any other person to park a recreational vehicle, utility vehicle, commercial vehicle, boat, or trailer that intrudes into the public right-of-way or obstructs visibility from adjacent driveways or street corners.
  2. Truck Tractors, Trailers, and Large Commercial Vehicles. Parking of commercial vehicles over 10,000 pounds gross weight, exceeding 20 feet in length and/or seven and a half (7 ½) feet in width, is prohibited in residential areas, except on a temporary and non-regular basis not exceeding six (6) hours when sight visibility is not obstructed.
  3. Extended Parking. No motor home, travel trailer, or other recreational vehicle, and no 18-wheeler (including the tractor or the trailer, or both) may be parked in a public parking lot for more than five (5) consecutive hours.

## Section 12.8 Required Off-Street Parking

### A. *Specific Residential Parking Requirements*.

1. Parking In Yards Prohibited. No person shall park any vehicle or trailer in any front or side yard in any residential district except on an all-weather parking surface which is provided to accommodate off-street parking.
2. AG District. Parking spaces for at least two (2) vehicles shall be outside of the front setback.
3. R-1 District. Parking spaces for at least two (2) vehicles shall be outside of the front setback. A front entry garage is prohibited unless the vehicle entryway is screened from view from the front public right-of-way by the dwelling or other structure. For the purposes of this section, a porte-cochere shall constitute sufficient screening of a front entry garage provided the vehicle entryway of the garage is located no less than 80 feet from the front property line. Regardless of the orientation of the garage required by this section, any gate or door to a porte-cochere must be of wrought iron construction and must not screen more than 25 percent of its entryway.
4. R-2, R-3 and R-4 Districts. Parking spaces for at least two (2) vehicles shall be provided in an enclosed garage for any single-family dwelling constructed after the date of adoption of this section. A front entry garage is prohibited unless the vehicle entryway is screened from view from the front public right-of-way by the dwelling or other structure. For the purposes of this section, a porte-cochere shall constitute sufficient screening of a front entry garage provided the vehicle entryway of the garage is located no less than 80 feet from the front property line. Regardless of the orientation of the garage required by this section, any gate or door to a porte-cochere must be of wrought iron construction and must not screen more than 25 percent of its entryway.

Commented [KB50]: Ordinance 674

- 5. D District. Parking spaces for at least two (2) vehicles shall be provided in an enclosed garage or under a carport for each dwelling unit of the two-family dwelling.
- 6. MF District. Parking spaces must be enclosed or covered and in compliance with Section 3.6 of this Code shall be located within the rear yard.
- 7. MH District. No enclosed or covered parking is specifically required, however, carports and garages are encouraged. Carports or other detached accessory buildings shall be located within the rear portion of the lot and shall not exceed one (1) story in height nor shall any such structure be located closer than 15 feet to the main building nor closer than four (4) feet to a side lot line, nor closer than 10 feet to any rear lot line nor closer than 10 feet to any side street.
- 8. TH District. Parking spaces must be enclosed or covered and in compliance with Section 3.7 of this Code.

Commented [KB51]: Ordinance 673

Commented [KB52]: Ordinance 709

B. *Specific Commercial Parking Requirements.*

1. Employment Center Districts.

Table 12.8 A Parking Requirements By Use- Employment Center Districts	
Use	Number of Spaces
All non-residential except lodging	1 per 250 square feet of building area
Residential	1 per unit
Lodging	1 per guest room plus 1 per 250 square feet for all areas not in a guest room or corridor for circulation such as lobby, restaurant, meeting rooms and similar space.

2. Village Districts. Parking shall be in accordance with *Article 5*.

3. Parking Requirements by Use.

Table 12.8 B Parking Requirements By Use	
Use	Number of Parking Spaces
<b>Accessory Uses</b>	
Dwelling, accessory	1 space per dwelling unit.
<b>Accommodations, Hospitality, Entertainment</b>	
Banquet hall, private clubs, lodge hall	1 for every 3 persons allowed within the maximum occupancy load as established by the city fire and building codes.
Bed and breakfast	2 for the owner/operator and 1 per leasable room.
Hotel/motel	1 per room, plus 1 per employee. In addition, spaces required for ancillary uses such as lounges, restaurants or places of assembly shall be provided and determined on the basis of the individual requirements for that use.
Restaurant	1 per 100 square feet of UFA.
Restaurants with carry-out or limited seating for eating on premises	6 per service or counter station, plus 1 per employee.
Restaurant with drive-through	1 for every 2 employees plus 1 for every 2 seats intended for patrons within the building, plus 1 for every 30 square feet of building floor area within the waiting area, plus 10 stacking spaces per food pickup window.

Recreation facility, commercial indoor, athletic club, exercise establishment, health studio, sauna bath, martial art schools and other similar uses	1 per 3 persons allowed within the maximum occupancy load as established by city fire and building codes, plus 1 per employee. In those instances where memberships are provided, not less than 1 per each 5 memberships shall be provided plus 1 per employee, or 1 per 2 clothing lockers plus 1 per employee, whichever is the larger.
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**Table 12.8 B Parking Requirements By Use**

Use	Number of Parking Spaces
Recreation facility, commercial indoor, billiard parlor	1 per 3 persons allowed within the maximum occupancy load as established by city building and fire codes or 1 per 300 square feet of GFA, whichever is greater.
Recreation facility, commercial indoor, bowling alley	8 per bowling lane plus additional for accessory uses such as bars.
Recreation facility, commercial indoor, gymnasium, tennis court and handball, roller or ice-skating rink, exhibition halls, dance hall, and banquet hall	1 space for every 3 persons allowed within the maximum occupancy load as established by the city fire and building codes.
Recreation facility, commercial outdoor, golf courses open to the public, excepting miniature or "par-3"	6 per 1 golf hole plus 1 per employee plus additional for any bar or restaurant.
Recreation facility, commercial outdoor, miniature or "par-3" course	3 per 1 hole plus 1 per employee.
Recreation facility, commercial outdoor, stadium, sports arena, sports fields (ball diamonds, soccer fields, etc.) or similar place of outdoor assembly	1 for every 3 seats or 1 for every 6 feet of bench, plus 1 per employee. For fields without spectator seating, there shall be a minimum of 30 spaces per field.
Tavern	1 per 75 square feet of UFA.
Theater	1 for every 3 seats in the main place of assembly or 1 for every 6 feet of pew or bench.
<b>Industrial</b>	
Industrial, general	1 for every 1½ employees or 550 square feet of UFA, whichever is greater.
Warehousing	1 per employee computed on the basis of the greatest number of persons employed at any one time during the day or night, or 1 for every 1,500 square feet of UFA, whichever is greater.
Mini warehouses/self-storage	Unobstructed parking area equal to 1 for every 10 door openings, plus parking for other uses on site such as truck rental.
<b>Institutional/Civic</b>	
Community oriented cultural facility	1 space per 300 square feet of UFA plus 1 space per person working on the premises.
Meeting facility	1 space per 3 seats, based on maximum seating capacity in the main place of assembly therein, as established by the city fire and building codes
Place of worship	1 for every 3 seats in the main place of assembly or 1 for every 6 feet of pew or bench.
School, elementary or middle	1 per teacher, employee, or administrator, in addition to the requirements for places of assembly such as auditorium, gymnasium, or stadium.
School, specialized/training, high school	1 per teacher, employee, or administrator, and 1 for every 10 students, in addition to the requirements for places of assembly such as auditorium, gymnasium, or stadium.
<b>Offices And Services</b>	
Animal services, animal clinic/hospital	1 for every 300 square feet of UFA.
Animal services, kennel	1 for every 300 square feet of UFA.
Child care center	1 per 350 square feet of UFA, plus 1 per employee. Sufficient area shall be designated for drop-off of children or adults in a safe manner that will not result in traffic disruptions.
General offices and services	1 per 300 square feet of UFA.

<b>Table 12.8 B Parking Requirements By Use</b>	
<b>Use</b>	<b>Number of Parking Spaces</b>
General offices and service with a drive through facility	1 per 300 square feet of UFA, plus 3 per walkup ATM, and drive-up windows/drive-up shall be provided with 4 stacking spaces per window or drive-up ATM.
Offices and services, such as a landscaping and tree removal company, exterminator, carpet cleaner, contractors' office.	1 per 350 square feet of UFA.
Medical service, clinic and medical office	1 for every 300 square feet of UFA.
Mortuary establishment, funeral home	1 for every 50 square feet of assembly room or parlor floor space.
Personal services, beauty parlor, barber shop; body branding, piercing and tattoo facility	3 parking spaces per chair/station.
Personal services, dry cleaner	1 per 500 square feet of UFA.
Personal services, laundromat	1 per 2 combinations of washer-dryer machines plus 1 space per employee.
Vehicle repair, major and minor	2 per service stall, plus 1 per employee.
Vehicle quick oil change	2 stacking spaces per service stall, rack or pit plus 1 per employee.
Vehicle wash, full-service	4 spaces, plus 1 per employee. 15 stacking spaces for every washing stall or line, plus a minimum 30-foot long drying lane to prevent water from collecting on street.
Vehicle wash, self-service (coin operated)	4 spaces plus 4 stacking spaces for every washing stall.
<b>Residential</b>	
Day care, adult	1 per 350 square feet of UFA, plus 1 per employee. Sufficient area shall be designated for drop-off adults in a safe manner that will not result in traffic disruptions.
Dwellings, multiple-family residential dwellings	2 spaces per dwelling unit, plus 1 guest parking space for every 4 units, which may be met through on-street parking.
Dwellings, multi-family, independent and assisted living	1.5 spaces per unit, and 1 space per employee. Should units revert to general occupancy, the requirements for multiple family residential dwellings shall apply.
Dwellings, single-family	2 spaces per dwelling unit.
Dwellings, two-family	2 spaces per dwelling unit.
Dwellings, units on upper floors of buildings with non-residential uses at street level (single or multiple)	1 space per dwelling unit.
Home, convalescent or nursing	2 per 3 beds or occupants and 1 space per staff member or employee on the largest shift.
<b>Retail</b>	
General retail	1 for every 300 square feet of UFA.
General retail (outdoor)	1 for every 500 square feet of lot area for retail sales, uses, and services.
General retail, grocery store/supermarket	1 for every 200 square feet of UFA.
General retail, home improvement or hardware store	1 for every 300 square feet of UFA.
Service station	1 per pump plus requirement for general retail.
Vehicle sales and rental, automobiles, light trucks, boats	1 for every 300 square feet of floor space of sales room and 1 per automobile service stall, plus 1 per employee.

**Section 12.9 Location and Design of Parking Lots**

A. *Dimensions and Layout.*

1. **Dimensions.** Each off-street parking space shall open directly upon an aisle or driveway at least 12 feet wide or such additional width and design, as required by *Table 12.9*, to provide safe and efficient vehicular access to the parking spaces. All aisles or driveways shall be unobstructed and allow for the passage of emergency vehicles at all times.

Table 12.9 Minimum Dimensional Requirements (Feet)				
Parking Pattern	Parking Space		Maneuvering Lane Width	
	Width	Length	One-Way	Two-Way
0° (parallel)	8.5	22	12	22
30° to 53°	9	18	14	22
54° to 74°	9	18	18	22
75° to 90°	9	18	24	24

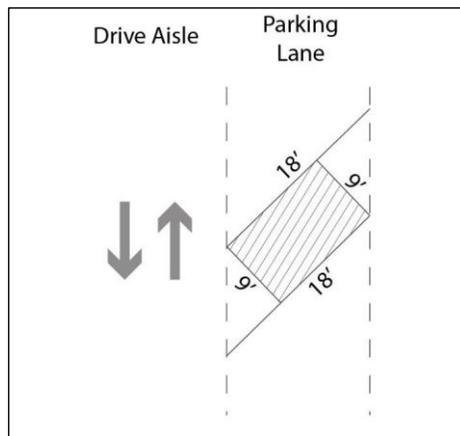


Figure 12-1 Angled Parking Space Measurement- Shaded Area Subject to Requirements

2. **Exception.** Parking spaces may be reduced in length when a tire-stop curb is installed 16 feet from the maneuvering lane and a clear space of two (2) feet is provided for a vehicle overhang. The overhang is not permitted over public property or a setback in which parking is not permitted.
- B. **Parking and Driveway Surfaces.** Off-street parking required by the UDC, and driveway and drive aisles connecting parking areas to streets, shall be all-weather surfaces, such as asphalt, concrete, or similar material to provide a durable and dustless surface. Gravel, crushed rock, and other alternative surfaces may be considered and permitted by the Administrator in AG and I Zoning Districts on properties two (2) acres or greater if dust is not anticipated to affect adjacent properties.
- C. **Striping.** Parking areas shall be striped to identify each parking space. The striping shall be maintained at all times. Parking spaces shall be designed to not interfere with or encroach into fire lanes or other area necessary for aisles or maneuvering of vehicles.

- D. *Drainage or Runoff.* Parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto adjacent property or public sidewalks. Any runoff generated by parking areas shall be disposed of in appropriate drainage facilities.
- E. *Wheel and Bumper Guards.* Each parking space shall be equipped with wheel or bumper guards, so no part of a parked vehicle will extend beyond the parking area onto a street right-of-way or adjacent property and to protect landscaped areas, unless a raised curb serves the same function.
- F. *Accessible Parking.* Pursuant to the State of Texas Accessibility Standards, as amended, accessible parking shall be provided for any building or use initiated after the effective date of this ordinance according to the minimum requirements of the Act and other requirements that may be adopted by federal, state, or local law.
- G. *Temporary and Overflow Parking.* It is recognized that there may be special events or situations that occur infrequently which would result in the temporary reduction in the availability of required parking spaces or the need for temporary or overflow parking arrangements. Such events could include festivals, recreation and sporting activities, fairs, carnivals, church/school car washes, garage sales or other community or special events. The Administrator may authorize temporary parking arrangements subject to the requirements below while permanent overflow parking for special land uses and other uses that require site plan review shall be approved by the Planning and Zoning Commission. Temporary and overflow parking areas are subject to the following requirements:
1. Parking areas shall be located and designed to ensure safe and efficient circulation for both pedestrians and vehicles, including designated maneuvering lanes, ingress and egress.
  2. Aisles and parking rows shall meet the minimum widths required in this section.
  3. Maneuvering lanes and parking rows shall be designated by temporary markings, such as paint, cones, flags or ribbons.
  4. The city may require supervision by attendants or staff during major events.
  5. Overflow parking lots shall only be permitted if parking projections for periodic events or uses exceed the off-street parking requirements or the existing availability of on-site parking. Overflow lots are subject to the following additional requirements:
    - a. Parking areas and maneuvering lanes shall be gravel, stone or a similar material, or shall be grassed. Grassed lots shall be maintained, mowed, and seeded to ensure a passable and stable surface.
    - b. Parking lots shall be graded and/or properly drained to dispose of all surface and storm water and to prevent drainage onto abutting properties.
    - c. Overflow parking areas may not be used to satisfy minimum parking requirements for a site, excluding parking for fairgrounds and similar uses.

### **Section 12.10 Shared Parking**

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- A. *Definition.* The shared parking option is defined as the dual function of off-street parking spaces where operating hours or parking needs associated with individual buildings or uses occur at distinctly different times, for instance office and restaurants or places of worship and retail businesses.
- B. *Justification.* To take advantage of this option the developer is required to explain in detail, as part of the site plan review, how the shared parking option would function in a specific application to receive an exemption.

C. *Requirements.*

1. Facilities located on adjoining separate properties must be within 600 feet of each other.
2. A convenient pedestrian connection shall be provided between the properties.
3. The availability of parking for all affected properties or uses shall be indicated by directional signs.
4. Interior vehicular access shall be provided to interconnect all properties sharing the parking facility(ies).

D. *Reduction.* A reduction of up to 20 percent of the required parking may be permitted through the shared parking provision.

E. *Change in Conditions.* Any change to the conditions giving rise to the shared parking option exemption shall require a review by the Administrator in order for the exemption to remain in force, such uses that have conflicting hours of operation.

F. *Agreements.* Prior to establishing shared use of parking, the property owner or owners shall submit to the Administrator a written agreement providing for the shared parking use. All shared parking agreements shall run with the land and shall be filed with the Tarrant County Clerk. If any party to the agreement withdraws, that party shall be responsible to provide the required parking individually, in accordance with the provisions of this article.

## Section 12.11 Reduction of Parking

A. *Permitted Reductions.* Parking minimums may be reduced when it is demonstrated to the approving authority that parking demand is expected to be lower than the requirements of *Table 12.3* and the following standards are met.

1. Single Building or Use.

- a. There is convenient municipal off-street parking or on-street spaces located within 500 feet of the subject property.
- b. Walk-in trade is reasonable due to sidewalk connections to adjacent residential neighborhoods or employment centers. To allow for a parking space reduction, the site design shall incorporate pedestrian connections to the site and on-site pedestrian circulation, providing safe and convenient access to the building entrance.
- c. The applicant has provided a parking study, conducted by a qualified traffic engineer or parking expert, demonstrating that another standard would be more appropriate based on actual number of employees, expected level of customer traffic, or actual counts at a similar establishment.

2. Mixed Occupancy or Multiple Buildings. Parking may be reduced for shared/common parking lots by multiple uses where:

- a. There will be a high proportion of multipurpose visits.
- b. Uses have peak parking demands during differing times of the day or days of the week and meet the following requirements:
  - i. Parking facilities at a church or place of worship may be used to meet up to 50 percent of the off-street parking required for theaters, stadiums, other places of public assembly, retail stores, personal services establishments, office buildings, and industrial facilities lying within 600 feet of the church or place of worship. Distance shall be measured from the nearest point of public entrance to the building to the nearest point of the parking lot.
  - ii. There is no conflict between times when the uses are in need of the parking facilities.

- iii. The church or place of worship makes the spaces available and enters into a recordable agreement with the owners of the affected uses who will be sharing the parking.

### Section 12.12 Deferred Parking

- A. *Intent.* Where a reduction in the number of required parking spaces may not be warranted, but an applicant demonstrates that the parking requirements for a proposed use would be excessive, the approval authority may defer some of the required parking.
- B. *Requirements.* Deferred parking plans shall be in accordance with the following:
1. Site Plan. A site plan shall be presented showing all required parking, but identifying those spaces that will not be constructed until needed. All deferred parking spaces and aisles shall meet the design and dimensional requirements of this article.
  2. Landscaping. Any area designated for deferred parking shall be maintained in a landscaped appearance and not occupy required buffers or landscaped areas, or be used for any other purpose such as outdoor storage or accessory buildings. Landscaping, such as parking lot trees, that would otherwise be required for the deferred spaces shall be installed within the deferred parking area.
  3. Timeframe. Construction of all or a portion of the deferred parking spaces may be initiated by the owner or required by the city, based on parking needs or as required by *Table 12.3*. The deferred parking shall meet all requirements of this article in effect at the time of construction.

### Section 12.13 Off-Street Loading

- A. *Off-Street Loading Requirements.* All commercial and industrial uses shall be provided with off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. Such off-street loading space may be adjacent to a public street or alley, private service drive, or may consist of a truck berth within the structure. No loading docks shall be constructed facing on any public street or highway unless said loading dock is at least 75 feet from the right-of-way line of the street or highway on which said loading dock fronts. Such off-street loading space or truck berth shall consist of a minimum area of 10 feet by 45 feet and such spaces or berths shall be provided in accordance with the following schedule:

Structure GFA (sq. ft.)	Minimum Required Loading Spaces
0 to 5,000	0
5,000 to 25,000	1
25,000 to 45,000	2
45,000 to 65,000	3
65,000 to 100,000	4
Each additional 50,000 or portion thereof	1

- B. *Alleys.* The existence of a 20-foot alley adjacent to the property shall be construed as equivalent to one (1) berth. All off-street loading spaces shall have an all-weather surface of asphalt or concrete construction and shall be accessible by a street, driveway or alley.
- C. *Calculations.* Counting parking and loading space twice is prohibited. No part of any off-street parking or loading space required in connection with any building for the purpose of complying with these regulations shall be included as a part of any off-street parking or loading space similarly required for any other building.

D. *Loading Docks.* Shall not be located within 75 feet of the nearest right-of-way line of the public street.

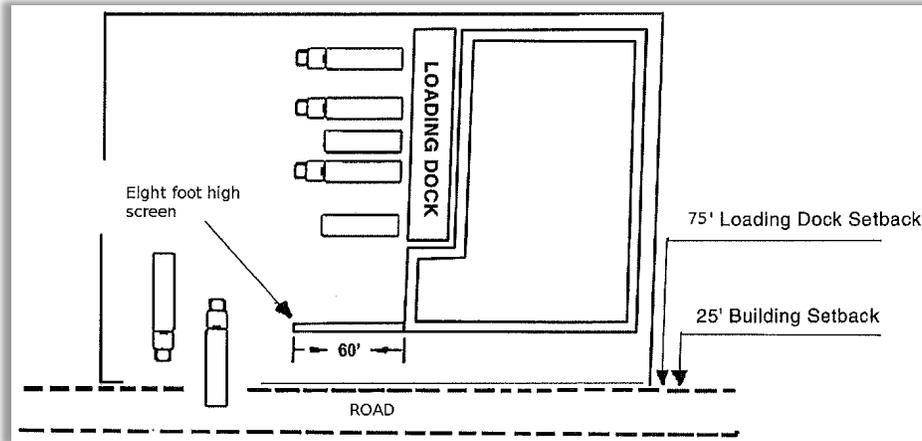


Figure 12-1 Loading Docks

E. *Restriction.* No loading dock shall be permitted or approved unless it is shown that it is set back a sufficient distance from any public street and right-of-way so that all loading operations, parking, storage, and vehicular maneuvering into or out of loading dock spaces shall take place outside of any public street or right-of-way. The Administrator shall determine whether the setback distance is sufficient.

**Landscaping, Screening, and Lighting**

**Article  
13**

**City of Kennedale Unified Development Code**

### Section 13.1 Purpose

It is the purpose of this article to establish certain regulations pertaining to landscaping, screening, and lighting within the city. These regulations provide standards and criteria which are intended to:

- A. Protect and promote appropriate native vegetation;
- B. Create larger, more connected plant populations, helping ensure the future of native plant species by increasing their ability to migrate in response to changes in climate;
- C. Provide landscape elements which conserve water, moderate air temperatures, reduce pollution, and minimize erosion and flooding;
- D. Promote the use of native and adaptive plants for all proposed development and for existing development expansion or modifications;
- E. Promote the value of property, enhance the welfare, and improve the physical appearance of the city;
- F. Reduce the negative effects of glare, noise, erosion, and sedimentation caused by expanses of impervious and un-vegetated surfaces within the urban environment;
- G. Preserve and improve the natural and urban environment by recognizing that the trees can contribute to the processes of air purification, oxygen regeneration, groundwater recharge, abatement of noise, glare and heat, provision of habitats for wildlife, and enhance the overall beauty of the city;
- H. Screen obtrusive and incompatible land uses from sight to reduce potential impacts; and
- I. Reduce distracting and harmful light pollution and spillover impacts to adjacent properties, the public right-of-way, and the night sky.

### Section 13.2 General Landscaping Requirements

- A. *Applicability.* The requirements contained in this article shall be applicable to all zoning districts in the city except for the AG, R-1, R-2, and R-3 and R-4 zoning districts; however any non-residential use (such as, but not limited to, governmental, nonprofit, religious, institutional, and educational facilities) located within the AG, R-1, R-2, and R-3, and R-4 zoning districts, which involves the construction of any principle building, parking area, or sign, shall comply with the requirements contained in this article. The requirements in this article shall apply in the following situations:
  1. When an existing building is proposed for remodeling, alteration, addition, or expansion, and the value of the proposed construction exceeds 75 percent of the current appraised value of the existing structures, excluding the value of the land;
  2. When an existing building is proposed for an addition that will have the cumulative effect of increasing the footprint of the original building existing on the date of the adoption of this article by more than 50 percent;
  3. When new construction is proposed on the property;
  4. As a requirement of the approval of a rezoning, special use permit, or PD;
  5. When a new certificate of occupancy is requested and two (2) or more years has passed since the last occupancy of the property; or
  6. There is a change in use of the property. A change in use shall be defined as occurring when one (1) of the following conditions is satisfied:
    - a. The new use of the property is first allowed in a less restrictive (more intensive) zoning district than

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the most recent use; or

b. A rezoning to a less restrictive (more intensive) zoning district classification is necessary.

- B. *Kennedale Parkway*. Development along Kennedale Parkway shall follow the landscaping plans approved for the City of Kennedale's landscaping on the TxDOT green ribbon grant program.
- C. *Certificate of Occupancy*. Required landscaping shall be installed in accordance with the approved landscape prior to a certificate of occupancy, unless the approving authority authorizes occupancy prior to complete landscape installation, due to unforeseen weather conditions or the timing of construction as it relates to the planting season. In cases where deferment is approved, a performance guarantee may be required.
- D. *Installation and Maintenance*. Landscaped areas are subject to the following conditions:
1. All required landscaped area shall be permanently landscaped with living plant material.
  2. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Maintenance shall include mowing, watering, trimming, pruning, etc.
  3. Required plant materials which die shall be replaced with plant material of similar variety and size.
- E. *Number*.
1. Substitution. No substitution of plant species or sizes shall be allowed unless approved by the Administrator in writing.
  2. Existing Trees and Shrubs. Existing plant material that complies with the standards and intent of this article may be credited toward meeting the landscape requirements. An applicant must clearly demonstrate the size and type of existing vegetation used to meet the requirement or part of a requirement.
  3. Variety. The overall landscape plan shall not contain more than 33 percent of any one (1) tree species.
  4. Rounding. Where this article requires landscaping based on a particular distance measured in feet along a property boundary and a dimension results in a fraction of the given requirement, any fractional result less than 25 percent of the required distance may be disregarded.
- F. *Review*. The following criteria shall be used to evaluate proposed landscape plans:
1. Native Plants and Plan. The landscape design should incorporate native plants and have proportion, balance, unity and color.
  2. Defining Space. Landscape design should define spaces including entrance area, pedestrian paths, vehicular avenues, parking areas, sitting areas, etc.
- G. *Exemptions*. The following areas are exempt from this ordinance, however, the use of invasive exotic plant species is prohibited.
1. Community gardens.
  2. Community play areas.
  3. Food plants on residential properties, such as vegetable gardens and fruit trees.
  4. Golf courses.
  5. Turf grass in storm water management area and in public rights-of-way.
  6. Agricultural lands.
  7. Scientific and educational areas.



H. *Pruning of Trees.* Pruning of trees required by this article is subject to the following requirements.

1. Clearance. For trees in close proximity to public streets and sidewalks, minimum clearance is 14 feet and maximum pruned clearance high is 18 feet.
2. Cuts.
  - a. All cuts shall be close enough to the parent limb or trunk without cutting into the branch collar or leaving a protruding stub, so that closure can readily start under normal conditions. All lateral cuts shall be made to a lateral that is least one-third (1/3) the diameter of the parent limb. Clean cuts shall be made at all times.
  - b. Trees shall be pruned in a manner that will not destroy or alter the natural shape and character of the tree.
  - c. Selective removal of dead, diseased, and/or broken limbs is permitted.

### **Section 13.3 Landscape Plans**

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- A. *Applicability.* A scaled landscape plan shall be submitted that indicates all landscaping features to meet the minimum turf and/or screening requirements. If there are no landscaping requirements to be fulfilled other than the requirement for turf, the landscape plan shall be waived.
- B. *Landscape Plans.* When required, landscape plans shall include the following:
  1. Landscape plans shall be prepared by a registered landscape architect and sealed.
  2. A separate plan sheet shall be drawn at the same scale as the required site plan. To ensure that landscaping is not affected by, nor interferes with utilities, the plans shall indicate all existing or proposed utilities and easements.
  3. Plans shall show all landscaped areas and plants listed in a table by common and scientific name, including quantities, size at installation, and anticipated mature height and spread. Anticipated mature height and spread shall be shown on the plan with circles indicating anticipated plant size at maturity.
  4. Text shall accompany the landscape plan that provides calculations for the proposed landscaping and describes how the plan complies with the regulations of this article.
  5. Existing natural and man-made landscape features and proposed buildings and structures, as required for the overall site plan, shall be clearly indicated.
  6. Landscape plans shall show all existing trees four (4) inch caliper or greater located in portions of the site that will be built upon or otherwise altered. Trees shall be labeled "To Be Removed" or "To Be Saved" on the plan.
  7. Measures to protect existing trees to be saved shall be noted on the plans.

### **Section 13.4 Materials and Planting List**

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- A. *Materials.*
  1. Type. All plant materials shall be hardy, drought-tolerant, free of disease and insects, and indigenous to Tarrant County.
  2. Restriction. Artificial plant material shall not be used within any required landscaped area. This shall not preclude the use of stone, shredded bark, wood chips, lava rock, or similar accent materials within planting beds.

- B. *Ground Covers and Turfs.* Ground covers and turfs are limited to types listed in *Table 13.4 A-B* as they are demonstrated to be drought resistant and provide a dense covering.

<b>Table 13.4 A Ground Covers</b>	
Common Name	Botanical Name
Creeping Liriope	Liriope Spicata
Euonymous	Euonymous Fortunei Kewenis
Purple Leaf Honeysuckle	Lonicera Japonica Halliana
Asian Jasmine	Trachelospermum Asiaticum
Chinese Juniper	Juniperus Chinesis Sargentii
Shore Juniper	Juniperus Conferta
Tamarix Juniper	Juniperus Sabina
Santolina	Santolina Chamaecyparissus
	Santolina Virens
Vinca	Vinca Major
Mondograss	Ophiopogon Japonicus

<b>Table 13.4 B Turfs</b>	
Common Name	Botanical Name
Bermuda Grass	Cynodon Dactylon
Bermuda Grass hybrids	
St. Augustine	Stenotaphrom Secundatum
Buffalo Grass	Buchloe Dectyloides
Fescue and combinations	Festuca Arundinacea

- C. *Street and Canopy Trees.* Tree types will attain a minimum height of 20 feet and a six (6) inch caliper, which can be demonstrated to be drought resistant and possess compact root systems posing minimum danger to the integrity of public utilities are recommended in all landscape setbacks. Street and canopy trees are limited to types listed in *Table 13.4 C*.

<b>Table 13.4 C Street and Canopy Trees</b>	
Common Name	Botanical Name
Shumard Red Oak	Quercus Shumardii
Texas Red Oak	Quercus Exana
Live Oak	Quercus Virginian
Bur Oak	Quercus Macrocarpa
Cedar Elm	Ulmus Crassifolia
Bald Cypress	Taxodium Distichum
Pond Cypress	Taxodium Distichum (var. Nutans)
Pecan Carya	Illinoionenses
Pistachio	Pistachio Chinensis
Lacebark Elm	Ulmus Paryifolia

- D. *Flowering and Ornamental trees.* These trees are limited to types listed in *Table 13.4 D* as they are demonstrated to be drought resistant and possess compact root systems posing minimum danger to the integrity of public utilities.

<b>Table 13.4 D Flowering and Ornamental Trees</b>	
<b>Common Name</b>	<b>Botanical Name</b>
Crepe Myrtle	Lacterstroemia Indica
Bradford Pear	Pyrus Calleryana Bradford
Mexican Plum	Prunus Mexicana
Deciduous Holly	Ilex Dedicua
Redbud-Oklahoma	Cercis Canadensis Oklahoma
Japanese Black Pine	Pinus Thunbergiana
Austrian Pine	Pinus Nigra
Desert Willow	Chilopsis Linearis
White Saucer Magnolia	Magnolia Heptapeta
Afgan Pine	Pinus Eldarica

- E. *Screening Shrubs.* Shrubs for screening purposes are limited to types listed in *Table 13.4 E.*

<b>Table 13.4 E Screening Shrubs</b>	
<b>Common Name</b>	<b>Botanical Name</b>
<b>Large Shrubs</b>	
Photina	Photina Serrulata
Fraser's Photina	Photina Fraseri
Burford Holly	Ilex Cornuta Burfordi
Chinese Holly	Ilex Cornuta Rotunda
Waxmyrtle	Myrica Cerifera
Yaupon Holly	Ilex Vomitoria
Nellie R. Stevens Holly	Ilex Cornuta
<b>Small Shrubs</b>	
Compact Nandina	Nandina Compacta
Dwarf Abelia	Abelia Edeard Goucher
	Abelia Prostata
Dwarf Burford Holly	Ilex Cornuta Burfordii Nana
Dwarf Yaupon Holly	Ilex Vomitoria Nana

- F. *Size at Installation.* When landscaping is required, unless otherwise noted, shall be installed at the minimum sizes shown in *Table 13.4 F.*

<b>Table 13.4 F Landscaping Minimum Installation Size</b>	
<b>Type</b>	<b>Minimum Size</b>
Street and Canopy Tree	2 ½ inch (dbh)
Flowering and Ornamental Tree	1 ½ inch (dbh)
Shrub	24 inch wide spread

- G. *Credit for Existing Trees.* When landscaping is required and existing trees within yards or buffer areas can be preserved, healthy, native and desirable trees may be counted to satisfy the requirements of this section, according to *Table 13.4 G.*

Type	Minimum Size	Tree Type Credits
Street/Canopy	4 to 8 inches	1
	Greater than 8 inches	2
Flowering and Ornamental	6-10 feet tall	1
	Greater than 10 feet tall	2

## Section 13.5 Development Landscaping

### A. General Landscaping Requirement.

1. Applicability. This section does not apply to the Village Districts.
2. Minimum. At least 15 percent of the total land area in any proposed non-residential development shall be landscaped. Grass, groundcover, berms, trees, shrubs, flowering and nonflowering plants, stonework, and water features may all be used as components of required landscaping in conjunction with the following minimum planting standards.
3. Canopy Tree. For every 500 square feet of required landscape area, or fraction thereof, one (1) tree of three (3) inch caliper or larger is required.
4. Shrub Alternative. Up to 50 percent of the required number of trees may be replaced by five (5) gallon shrubs at the rate of one (1) tree equals 10 shrubs.

### B. Location Criteria.

1. Location. Except in the UV and NV Districts, at least 50 percent of the total required landscape area and landscape vegetation shall be located between the front property line and the building(s) being constructed. The remaining required landscaping may be located throughout the site.
2. Utilities. Canopy trees may not be planted beneath utility lines.

## Section 13.6 Buffering

### A. General Requirements.

1. A landscape buffer area is required when any use in a Commercial or Industrial District (*Article 6*) is adjacent to Agricultural or Residential Zoning Districts (*Article 3*), Old Town District (*Article 4*) or Neighborhood or Urban Village District (*Article 5*). Additionally, any principal non-residential and non-agricultural use permitted in the agricultural and residential zoning districts is subject to buffering requirements when adjacent to properties within the same districts.
2. A buffer area is not required if the qualifying adjacent zoning districts are separated by a public right-of-way.
3. The buffer area shall abut the applicable property line, and plantings shall fall within the required buffer area width.
4. A buffer area shall be required even when the adjacent property is undeveloped.
5. Buildings, structures, and parking lots may not encroach into the buffer area. Driveways may cross the required buffer areas perpendicularly.
6. Stormwater management measures, such as areas for infiltration or retention, may be located in the buffer area, provided the planting requirements can still be met.

7. For development within an "I" Industrial zoning district or within a "C-2" general commercial

zoning district adjacent to a Type 1 zoning district (as shown in Table 13.6), a solid screening fence is required, and the minimum landscaping requirement shall be reduced by in accordance with Section 13.6.C.3.

- a. The fence shall have a minimum height of six (6) feet and a maximum height of eight (8) feet.
- b. The fence shall be of the following materials: wood, exposed aggregate tilt wall, fired masonry, or other approved masonry material. Wood screening fences must have metal framing.
- c. A person erecting a wood screening fence shall ensure that the smooth side faces adjoining streets and the posts and rails face the interior of the lot.
- d. Compliance with the buffering and screening requirements shall be the responsibility of the owner or property owner of the development within the "I" Industrial or "C-2" general commercial district.
- e. The fence shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.

**Commented [KB55]:** Ordinance No. 622

B. *Buffer.* Buffer area types applicable to the following zoning districts are indicated in *Table 13.6*.

District	Type	Min. Width	Min. Landscaping Requirements per 50 Linear Ft.
AG, R-1, R-2, R-3, <del>R-4</del> , D, MF, MH <del>and TH</del> (non-agricultural and residential)	1	10 ft.	<ul style="list-style-type: none"> <li>▪ 1 canopy tree or 1 evergreen tree</li> <li>▪ 1 ornamental tree or 12 shrubs</li> </ul>
<del>MF</del>	<del>In compliance with Section 3.6</del>		
C-0, C-1, C-2	2	10 ft.	<ul style="list-style-type: none"> <li>▪ 1 canopy tree</li> <li>▪ 1 evergreen tree or 1 ornamental tree</li> <li>▪ 8 shrubs</li> </ul>
I	3	25 ft.	<ul style="list-style-type: none"> <li>▪ 2 canopy trees</li> <li>▪ 1 evergreen tree or 1 ornamental tree</li> <li>▪ 12 shrubs</li> </ul>

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**Commented [KB58]:** Ordinance 673

C. *Alternatives.*

1. Arrangements. Plants may be arranged formally or informally for a more natural effect.
2. Berms. Berms may be constructed in a buffer area to supplement landscaping. Minimum landscaping requirements shall be reduced by 50 percent where a berm at least three (3) feet in height is constructed for at least 85 percent of the length of the buffer area. Minimum buffer width shall be maintained.
3. Privacy Fence.

a. A privacy fence maybe be used to supplement landscaping. For the linear footage a privacy fence is used, the minimum landscaping requirement shall be reduced by 75 percent for "C-1 Restricted commercial zoning districts and by 50 percent for "C-2" General commercial and "I" Industrial zoning districts. Minimum buffer width must shall be maintained. ~~For development within an "I" Industrial zoning district or within a "C-2" general commercial zoning district adjacent to a Type 1 zoning district (as shown in Table 13.6), a privacy fence is required, and the minimum landscaping requirement shall be reduced by 50 percent.~~

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b. To qualify for the reduction in minimum landscaping requirement, privacy fences must meet all of the following requirements:

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- i.a. Six (6) foot minimum height.
- ii.b. Placed at least five (5) feet from the property line.
- iii.e. Gaps between pickets must be no greater than one-half (½) of an inch.
- iv. ~~Materials shall be as required under 13.6.A.7.b regardless of the zoning district.~~
- v. ~~A person erecting a wood screening fence shall ensure that the smooth side faces adjoining streets and the posts and rails face the interior of the lot. Wood fences shall have metal posts and framing.~~
- vi. ~~The privacy fence shall extend downward to within three (3) inches of the ground and shall test plumb and square at all times.~~

4. Reduction. Where the distance between the building, parking area, or use is more than 200 feet from a side or rear lot line, the minimum landscaping requirement along that lot line may be reduced by 50 percent.

**Section 13.7 Street Trees**

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- A. *Applicability.* Street trees shall be installed adjacent to public rights-of-way in Agricultural and Residential Zoning Districts (Article 3) and the Commercial or Industrial Districts (Article 6). This requirement is intended to produce an aesthetically attractive tree-lined streetscape along city roadways.
- B. *Requirements.*
1. Street trees shall be planted along all street frontages at the rate of one (1) tree for every 40 linear feet or fraction thereof, of street frontage as measured at the front property line.
  2. Street trees shall be planted within 25 feet of the front property line and shall be a minimum of 25 linear feet apart and a maximum of 50 linear feet apart.
  3. On corner and double-frontage lots, street trees shall be planted along all street frontages in the same manner.
  4. Street trees shall be placed in an area between parking areas, drive aisles, buildings, and the adjacent right-of-way.

## Section 13.8 Screening

- A. *Purpose.* The requirements set forth in this section are intended to promote safety; protect the character and stability of residential, commercial, and industrial areas; to conserve the value of land, building, and neighborhoods, and enhance the aesthetic and visual image of the city. The construction, modification and maintenance of fencing and screening shall comply with the requirements of the UDC.
- B. *Deviations.* The Planning and Zoning Commission and the City Council may approve deviations from these requirements, and may approve such deviations or special exceptions when the commission and the council find that adherence to the requirements of the UDC will hinder the orderly subdivision of property and will be detrimental to the public health, safety, or welfare.
- C. *Subdivision Screening.* Fences and screening constructed in accordance with approved plats shall not require permits and shall be deemed in accordance with UDC requirements for fencing and screening.
- D. *Approval of Screening Design.* Screening designs must be approved by the Administrator before construction or installation of screening may begin.
- E. *Maintenance.* Every screening wall, fence or landscape treatment shall be continuously maintained by the property owner. All plant materials used for screening shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials that die shall be replaced with plant material of similar variety and size.
- F. *Types.*
1. Walls. Screening walls shall be constructed of masonry or pre-cast stamped concrete, and screening materials shall be consistent with the exterior finish of the main building in material and color. No screening wall or fence shall be constructed of materials not manufactured or designed for the primary purpose of wall or fence construction. Gates shall be steel and painted in color corresponding to the primary structure.
  2. Vegetation. Vegetative screening materials shall be native and adapted, drought tolerant plants are preferred.
  3. Fences. ~~Fences shall be constructed of materials as described in Section 10.17.G.1. When specifically permitted, chain-link fences with slats or wood privacy fences may be used for screening.~~
- G. *Specific Screening Requirements.*
1. Mechanical Equipment. Commercial roof or ground-mounted mechanical equipment shall be screened to mitigate noise and views in all directions.
    - a. Roof-mounted screening shall be designed to conform architecturally to the design of the building. A wood fence or similar treatment is not acceptable.
    - b. Ground-mounted mechanical equipment shall be screened by a masonry wall of a sufficient height to block the view and noise of the equipment.
  2. Loading Docks. When permitted to face a public street or residential property, loading docks shall be screened.
    - a. Loading docks shall be screened from view by an eight (8) foot high wall with no openings except for driveway access; and
    - b. Walls shall be constructed of masonry or pre-cast stamped concrete, and screening materials shall be consistent with the exterior finish of the main building in material and color. No screening wall or fence shall be constructed of materials not manufactured or designed for the primary purpose of wall or fence construction. Gates shall be steel and painted in color corresponding to

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the primary structure.

3. Playgrounds, Ballfields, Tennis Courts, and Swimming Pools. Playgrounds, ballfields, tennis courts, or swimming pools, when adjacent to any residential use or district, shall be screened with shrubs (one per three feet) or masonry wall. Screening shall be at least two (2) feet in height.
4. Garbage, Cisterns, Refuse and Trash Collection/Storage Areas. Garbage, cisterns, refuse, and trash collection/storage areas in any multifamily residential district, condominium or townhouse project, or nonresidential district or use, shall be screened on at least three (3) sides to adequately screen such area from view of the surrounding area.
  - a. Height. Screening walls, fences, and vegetation shall be a minimum of one (1) foot in height above the top of the dumpster or container, or other materials stored. Screening shall not be greater than eight (8) feet in height.
  - b. Gate. The fourth side shall be screened by a gate. The gate shall be made of wrought iron or architectural metal.
5. Outdoor Storage. When permitted, shall be screened on all sides.
  - a. Height. Screening shall be a minimum of six (6) feet and a maximum of eight (8) feet in height. Screening walls, fences, and vegetation shall be a minimum of one (1) foot in height above the top of the materials stored.
  - b. Type.
    - i. In the ECD, Village Districts or Commercial Districts, screening may be masonry or a combination of masonry and evergreen vegetation.
    - ii. Industrial zoned properties may use fence screening in a privacy-style or with slats sufficient to fully screen activities and storage.
6. Salvage Operations. All outside storage, salvage, and scrap shall be screened from view by an eight (8) foot high solid fence or wall that complies with the following requirements:
  - a. All fences and walls shall form an opaque, solid barrier, without gaps or openings, except as provided in subsection c., below.
  - b. All fences and walls shall be constructed of wood or a permanent building material with no openings except for driveway access.
  - c. Only openings in fences and walls that are necessary for reasonable access to the salvage yard shall be permitted, but shall be equipped with a solid gate or door constructed and maintained in accordance with the requirements for fences and walls set forth in this subsection. All openings so permitted shall be closed and securely locked at all times except for needed access.
  - d. All fences and walls shall extend downward to within three (3) inches of the ground and shall also test plumb and square at all times.
  - e. Any painting, staining, coating, covering, or other coloring of any fence or wall shall be of a uniform color in earth tones, except rust.

H. *Materials.* Unless otherwise required by this code, fences or walls shall be constructed of materials as described in Section 10.17.G.1 of this code.

I. *Height of screening materials.* Height of materials used for screening shall not exceed eight feet; however, when changes in grade or topography allow materials or property that are required to be screened to be visible from the public right-of-way even after installation of the required screening fence, then the fence shall be placed on a berm

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or retaining wall meeting city regulations to ensure the materials or property are not visible from the right-of-way. The berm or retaining wall and fence shall be installed so that the top and bottom fence lines are even and consistent at all times. In spite of the requirement that a berm or retaining wall shall be used, in no case shall the berm or retaining wall exceed a height determined by the building official to be safe.

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### Section 13.9 Parking Lot Screening and Landscaping

- A. *Screening Requirements.* All parking lots located within 50 feet of public right-of-way or adjacent agricultural or residential zoning districts shall be screened. The screen shall be at a minimum of three (3) feet in height and located within five (5) feet of the edge of the parking surface.
  - 1. Options. Screening shall and be achieved through one (1) of the following methods:

- a. A berm within a side slope no greater than 1:3;
  - b. A planting screen (hedge);
  - c. A wall, using masonry materials similar to those used in the main building facade;
  - d. A wrought-iron or metal fence, supported by masonry columns not greater than 25 feet apart and at least two (2) feet by two (2) feet in width; or
  - e. A combination of the above.
2. Visibility. Screens shall conform to the clear sight triangle provisions in *Section 10.16*.
- B. *Internal Parking Lot Landscaping Standard*. Landscaped areas in a parking lot shall be in addition to all other landscape requirements of this ordinance and shall be provided in any parking lot of five (5) spaces or more in accordance with the following requirements.
1. Commercial and Industrial Districts. One (1) tree shall be provided for each 20 parking spaces in all developments, however, no car parking space shall be located greater than a 100 feet from the center of a tree.
  2. Employment Center Districts and Village Districts. One (1) tree shall be provided for each 10 parking spaces in all developments, however, no car parking space shall be located greater than 75 feet from the center of a tree.
  3. Planting Area Width. Trees shall be planted within a planting island or peninsula with a minimum dimension of five (5) feet in width and the area must be further planted with a ground cover, grass, or shrubs and may be counted toward the total required square footage of required landscaping.
  4. Minimum Installation Width. Trees shall be a minimum of three (3) inch caliper measured one (1) foot from the ground.
- C. *Vehicle Protection*. All required landscape areas, planters, walls, and/or fences adjacent to vehicle use areas shall be protected by wheel stops, curbs, or other physical barriers. In no instance shall a parking area be designed so as to permit the encroachment or overhang of a vehicle beyond the required setback.

### Section 13.10 Irrigation

- A. *Automated Irrigation System*. Landscaped areas shall be controlled by an automatically controlled timer, unless the use of the property would otherwise prohibit use of a timer. Irrigation systems shall be installed with a rain shut off sensor.
1. Overspray. The irrigation system shall be designed so that overspray onto structures, streets, sidewalks, windows, walls, and fences is minimized.
  2. System Requirements. High-efficiency irrigation systems, such as (but not limited to) drip or soaker hose systems, are required for non-turf areas.
  3. Manual Shut-Off. Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required as close as possible to the point of connection of the water supply to minimize water loss in case of an emergency (such as a main line break) or routine repair.
- B. *Cisterns*. The use of cisterns for rainwater harvesting is permitted.
1. General Requirements. Harvest rainwater shall be used for irrigation only. Piping for rainwater harvesting systems shall be separate from and shall not include any direct connection to any potable water piping or to the city's sanitary sewer system. Cisterns shall not be used to provide potable water. Filter systems are required to remove solids and debris and shall be treated or controlled to prevent mosquito breeding.

## 2. Location and Screening.

- a. Cisterns shall be located in the rear yard or side yard and must meet the screening regulations of this article.
  - b. Cisterns shall be located a minimum of eight (8) feet from any side lot line and a minimum of eight (8) feet from any rear lot line.
3. Size and Height. Cisterns shall not exceed 10 percent coverage in any required yard. The maximum height of any cistern shall be 10 feet.
4. Materials. Cisterns shall be made of durable materials sufficient to withstand weight and pressure from water storage and resist leaking or corrosion.
5. Notice. Every irrigation outlet shall be permanently identified with an indelibly marked placard stating: "CAUTION: HARVESTED RAINWATER; DO NOT DRINK."
6. Permitting.
- a. Installation and repair of cisterns requires an irrigation permit or plumbing permit, as applicable, from the City of Kennedale. Cisterns larger than 175 square feet require an accessory building permit.
  - b. Rain barrels with capacity of 100 gallons or less shall not require an irrigation or plumbing permit but shall meet all other requirements of this sub-section.
7. Responsibility. Maintenance and use of rainwater harvesting systems are the responsibility of the individual system owners.

## Section 13.11 Exterior Lighting

### A. General Requirements.

1. Entrances and Exits. All entrances and exits shall be properly lighted to be distinguishable from surrounding ambient lighting.
2. Context. Lighting for each property shall be designed for the context of traffic (automobile, bicycle, or pedestrian) on the surface streets abutting the property, rather than for visibility from Interstate 20.
3. Luminaries. All luminaires used primarily for walkways, trails, security, decorative effects, lighting equipment or storage areas, fountains, art work, building walls, or similar lighting needs shall have a mounting height no higher than 14 feet.
4. Shielding and Fixture Types.
  - a. Fixtures for decorative lighting must be selected, located, aimed, and shielded so that direct illumination is focused solely on the building façade, plantings, and other intended site feature, and away from adjoining properties and the public street right-of-way.
  - b. Direct or directly reflected light shall be confined on-site.
  - c. Under-canopy lighting shall be mounted flush or recessed.
  - d. Wall pack and pole-mounted light fixtures shall be a down-lighted type and 100 percent cut off. Light fixtures shall be constructed and installed in such a manner that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the lowest light-emitting part.
  - e. Light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

- f. Government flag lighting shall only illuminate the flag and shall be placed so lighting or glare is not directed toward streets or adjacent properties.

**B. Prohibited Lighting.**

1. Laser lights or any similar high intensity light for outdoor advertisement or entertainment.
2. Any lighting where the light source creates glare and is a hazard to travelers on an adjacent street.
3. Lighting that flashes, moves, or is intermittent.
4. Lighting that is similar to that used for traffic control devices or emergency vehicles.
5. The operation of searchlights for advertising purposes is prohibited between the hours of 9:00 p.m. and 7:00 a.m. and is limited to the ECD and Commercial and Industrial Zoning Districts.

**C. Requirements for Non-Residential Uses.**

1. **Applicability.** Lighting shall be provided throughout any public parking lot. Lights to illuminate parking lots shall not be attached to any building. This requirement does not apply to home occupations and home based businesses.
2. **Height.** Light fixtures shall have a maximum height of 20 feet when within 300 feet of residential property. All other outdoor areas shall be lighted to at least two (2) foot candles of illumination at the surface. All other light fixtures shall have a maximum height of 25 feet. The height of a fixture shall be measured from the parking lot grade to the nearest portion of the light source. No portion of the fixture may extend more than one (1) additional foot higher than the maximum heights.
3. **Illumination Levels.** Light levels on commercial sites shall meet the requirements in Table 9-8 for the developed portion of the site containing buildings, drives and parking lots.
  - a. Sites are not subject to minimum lighting levels during closed hours.
  - b. *Table 13.11* shall not apply to ornamental street lighting, public street lights, or driveway/intersection lighting necessary for pedestrian and traffic safety.
  - c. The light level along a non-residential lot line may be increased to the maximum in cases where there is shared access/vehicular connections or the adjacent use is a similar use.

<b>Table 13.11 Required Site Illumination Levels</b>		
<b>Location on Site</b>	<b>Minimum Footcandles</b>	<b>Maximum Footcandles</b>
Parking Lots and Building Entrances	2.0	10.0
Walkways	0.2 (at any point) 1.0 (average)	10.0
Along Front Lot Line Adjacent to the Street Frontage	0.0	2.0
Along a Lot line Adjoining a Non-Residential Use or District	0.0	2.0
Along a Lot line Adjoining a Residential Use or District	0.0	0.5

- D. Demonstration of Compliance.** Compliance with the lighting design criteria shall be demonstrated by submitting the following information as part of the required site plan:

1. Lighting plan showing light fixture locations and type designations.
  2. Lighting equipment specifications and data sheets, including fixture height.
  3. Manufacturer's cut-sheets and any other materials or information required to convey the intent of the lighting design.
- E. *Photometric Plans.* The Administrator or Planning and Zoning Commission may require a photometric plan to ensure that the intent and requirements of this section are met. When required, a photometric plan (lighting grid) shall be prepared by an electrical engineer. The photometric plan shall show horizontal luminance levels (footcandles) in a point-by-point format.

13

Landscaping, Screening, and Lighting

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**Signs**

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**Article  
14**

**City of Kennedale Unified Development Code**

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## Section 14.1 Purpose

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The purpose of this article is to create the legal framework for a comprehensive and balanced system of signage in the city. These regulations are intended to provide an easy and pleasant communication between people and their environment and avoid visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance. In addition to protecting the health, welfare, and safety of the community, these standards are adopted to:

- A. Maintain and enhance the aesthetics of our community;
- B. Enhance automobile and pedestrian safety;
- C. Encourage the integration of signage with landscaping and building design;
- D. Protect and enhance scenic views and natural landscapes;
- E. Protect and enhance economic viability of the city's commercial corridors by assuring aesthetic appeal to businesses and residents alike;
- F. Promote the use of aesthetically pleasing sign materials, colors, and types;
- G. Require safe and effective signage; and
- H. Protect freedom of speech.

## Section 14.2 Administration and Enforcement

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- A. *Responsible Authority.* The Administrator, or designee, shall enforce the terms and conditions of this article.
- B. *Duties.* The Administrator shall periodically inspect each sign regulated by this article for the purpose of ascertaining whether the same is obsolete and whether it is in need of removal or repair.
- C. *Fees.* An application and fee are required in accordance with *Section 22.3*. An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this article.
- D. *Unsafe Signs.* The following shall occur based on the determination of the Administrator:
  - 1. Notice of Unsafe Sign. If the Administrator determines that any sign is unsafe or insecure, or is dilapidated or deteriorated, they shall give written notice to the person or persons responsible for such sign to remove or replace (in accordance with this article) said sign. If the permit holder, owner of the sign or owner of the site on which the sign is located fails to remove or repair the sign within 10 days after such notice or to file an appeal of the decision in accordance with this article, the Administrator is hereby authorized to cause the removal of such sign.
  - 2. City Removal of Signs. The Administrator shall cause to be removed any sign that they determine to endanger the public safety, such as an abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign requiring a permit for which no permit has been issued. The Administrator shall provide written notice to the permit holder or property owner that shall describe the sign, specify the violation involved, and state that if the sign is not removed or the violation is not corrected within a reasonable period of time not less than 10 calendar days from date of issuance of the notice, the sign shall be removed by the city in accordance with the provisions in this section. However, if the Administrator determines that a dangerous or defective sign may cause imminent peril to life or property, the Administrator may order removal on less than a 10-day notice, or may cause the immediate removal of the sign, with notice to be given as soon as practicable after removal.

3. Immediate Danger. Nothing contained in this article shall prohibit the immediate removal, without notice, of any sign or portion of a sign which is determined by the Administrator to be an immediate threat or danger to the public health, safety, or welfare. Any expense incident to the removal of a sign pursuant to this paragraph shall be paid by the permit holder, owner of the sign or owner of the site on which the sign is located. The removal of the sign or portion of the sign shall be limited to the extent necessary to eliminate the threat to the public health, safety, and welfare.

### Section 14.3 General Provisions

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- A. *Definitions*. All terms used in this article shall have the definitions provided in *Article 32*.
- B. *Applicability*. No sign shall be permitted in any district except as provided in this article. The provisions of this article shall apply to all signs of every nature, whether portable, freestanding, or attached, except as otherwise provided, either specifically or by necessary implications.
- C. *Design Standards*.
  1. Character and Appearance. All permanent signs must be of a professional character and shall not detract from the appearance of the general neighborhood in which located or adversely affect property values in the neighborhood.
  2. Hazard and Distraction. Signs shall not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for motorists.
  3. Relationship to Buildings. Every sign should be an integral, subordinate element within the overall building and site design. The scale and proportion of the signage shall not overpower the building or obscure the building's architectural features.
  4. Finish. Reverse sides of signs must be properly finished with no exposed electrical wires or protrusions and shall be of one (1) color.
  5. Monument Signs.
    - a. *Materials and Dimensions*. The sign base and sign structure shall be brick, stone, or masonry material matching the front facade of the building. The sign face shall be framed on the sides by a minimum of six (6) inches of brick, stone, or masonry material matching the front facade of the building. The sign base shall be a minimum of 18 inches in height, which shall be counted against the total sign height (*Figure 14-1*).
    - b. *Address Numbers*. Address numbers are required on business monument signs. If the area of the address number is five (5) square feet or less, the area will not count toward the maximum sign face area. The address numbers can be placed in or encroach into the masonry perimeter.
- D. *Installation*. Signs must be erected by a qualified and licensed sign erector.
- E. *Clear Vision Area and Visibility*. No sign shall be permitted within a clear vision area, the area outlined in *Section 10.16, Visibility at Intersections*. The area around the sign shall be properly maintained clear of brush, trees, and other obstacles so as to make signs readily visible.
- F. *Signs Prohibited in Public Right of Way*. Signs shall not be placed in any public easement, right-of-way, utility easement, clear vision triangle, or no-build zone, except publicly owned signs, such as traffic control signs and city authorized directional signs, or signs approved to be extended into city right-of-way within the Village Districts.
- G. *Measurement*. Signs shall not exceed the maximum sign area allowed for the district in which located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be



calculated as follows:

1. **Area.** The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

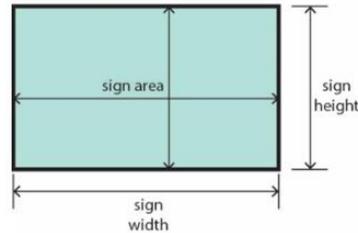
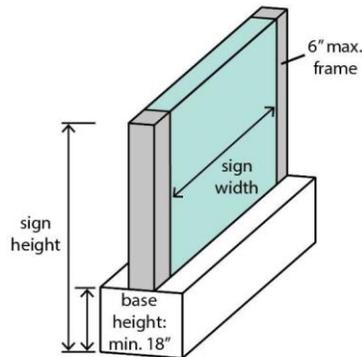


Figure 14-1 Ground Sign Measurement

Figure 14-2 Wall Sign Area and Height Measurement

2. **Double-Faced Sign.** The area of a ground or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) faces are placed back-to-back and are no more than two (2) feet apart at any point, the area of one face shall be counted toward the maximum size requirement. If the back-to-back faces are of unequal size, the larger of the sign faces shall be counted as the one (1) face.
3. **Wall Sign.** For a sign consisting of individual letters and/or a graphic affixed directly onto a building without a border, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and graphic (Figure 14-2).
4. **Height.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground or the average grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
5. **Multi-Tenant Buildings.** For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.

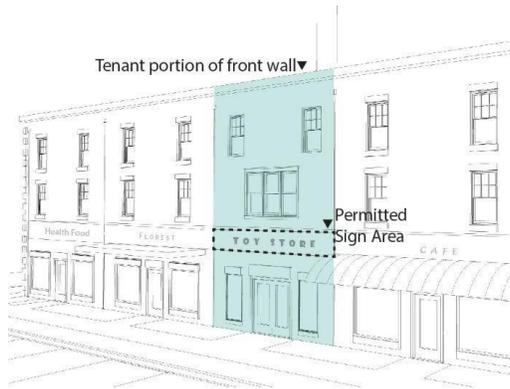


Figure 14-3 Multi-Tenant Building Sign Measurement

#### Section 14.4 Permitting

- A. *Permit Required.* No sign, unless exempted by this article, shall be erected, displayed, or altered within the City of Kennedale without a duly approved sign permit from the city. The Administrator shall ensure that all sign permits are granted only in compliance with the provisions of this article.
- B. *Application for Permit.* All applications for permits under this article be submitted in accordance with Section 22.3 with the materials required in the application checklist.
- C. *Action on Permit.* The Administrator shall review a permit application and make a decision on whether to grant or deny the permit within 14 days of submittal of a fully completed application. If additional information is required of an applicant in order to complete an application, the applicant shall be notified of that fact within 14 days. Thereafter, the Administrator shall make a decision on whether to grant or deny the permit within 14 days of receiving the additional information or a written certification from the applicant that the application is complete.
- D. *Permit Expiration.* If the work authorized by a permit issued under this article has not been commenced within 180 days after the date of issuance, the permit shall become null and void.

#### Section 14.5 Exempt Signs

The following regulations are applicable to all signs exempt from permitting in all zoning districts.

- A. *Exempt Actions.* The following actions shall not be considered to be creating a sign and shall not be required to have a sign permit, unless otherwise specified.
  1. Re-lettering and Rewording Changeable Copy. The changing of advertising copy or message, either electronically or manually, on an approved or existing nonconforming sign, such as a theater marquee, manual or electronic changeable message signs, and similar signs which are specifically designed for use of changeable copy.
  2. Maintenance. Painting, repainting, cleaning, or other normal maintenance and repair of a sign or sign structure unless a structural change is involved. The changing of sign wording or a sign face is permitted, provided the sign frame and structure do not change.

B. *Exempt Signs.* A sign permit shall not be required for the signs listed in Table 14.5 A; provided, all other applicable requirements of this article are met.

**Table 14.5 Exempt Signs**

Type	Requirements
Address sign	<p>1. Non-residential. Address signs no greater than five (5) square feet in area. Address signs in excess of five (5) square feet in area shall be considered attached business signs and shall be counted toward the area of signage permitted on a building facade or monument sign.</p> <p>2. Residential. Numeral height no greater than six (6) inches.</p>
Development/ commercial construction sign	<p>One (1) sign, not exceeding 48 square feet shall be permitted. The sign shall be set back a minimum of 10 feet from any right-of-way line. The sign may be erected when a building permit is issued for construction and shall be removed within 30 days following issuance of a certificate of occupancy for the building or project to which the sign relates.</p>
Government signs	<p>1. Off-Premise or On-Premise Signs:</p> <ul style="list-style-type: none"> <li>a. A temporary sign/banner shall be allowed up to five (5) times per calendar year.</li> <li>b. Signs shall be placed a maximum of seven (7) days prior to each event and shall be removed within one (1) day following the event.</li> <li>c. If the sign is located off-premise, the sign placer must obtain the written approval of the property owner of the property on which the sign is located.</li> </ul> <p>2. One (1) temporary on-premise sign/banner not exceeding eight (8) feet in height and 32 square feet in total area is allowed. The temporary on-premise sign/banner shall be located on the property owned by the entity upon where the sign is located. Only one (1) sign shall be permitted per street intersection at any given time.</p>
Flags	<p>1. Flagpoles must be located on a property with a principal building or use, 10 feet minimum setback from lot lines.</p> <p>2. 35 feet height maximum.</p> <p>3. 50 square feet maximum per flag.</p> <p>4. Three (3) maximum.</p>
Government signs	<p>Public notices by governmental bodies and other official signs and notices are exempt from the provisions of this section. The Administrator may authorize the erection of other signs reasonably necessary for the regulation of traffic and of parking areas on private property in nonresidential districts. Such signs shall relate only to traffic flow and safety. No such sign shall include advertising material nor shall it be larger than reasonably required for its purpose.</p>
Historic marker or commemorative plaque	<p>Historical markers, including plaques or signs describing a property's designation as a historical site or structure, not exceeding two (2) square feet in area; provided, an officially designated state or federal historical marker shall not be subject to a size limitation.</p>
Holiday decorations	
Incidental sign	<p>Less than two (2) square feet in area per sign face.</p>

<b>Table 14.5 Exempt Signs</b>	
Integral sign	Names of building, date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
Interior sign	Any sign which is located completely within an enclosed building, and is not visible from outside the building or which is primarily directed at persons within the premises where the sign is located.
Mural or art	Shall not project more than 12 inches from any side of a building. Shall not contain a commercial message that would require consideration as a sign.
Parking sign	Parking signs shall be set back three (3) feet from the right-of-way. Signs shall be a maximum six (6) feet high and six (6) square feet in area. Such signs shall not obstruct the view of traffic entering or leaving the premises.
Private traffic directional sign	Signs directing interior traffic circulation within a premise shall be a maximum of three (3) feet high and six (6) square feet in area.
Religious symbols	Religious symbols incorporated into the architecture on places of worship or structures owned and operated by religious organizations shall not be considered a sign unless accompanied by text.
Scoreboards	Approvals shall be tied to plan review.
Window signs	
Yard signs	<ol style="list-style-type: none"> <li>1. Ground mounted, outside of ROW and overhead powerline easements.</li> <li>2. Five (5) feet height maximum.</li> <li>3. Six (6) square feet maximum</li> <li>4. One (1) per lot or parcel maximum.</li> <li>5. 10 foot setback minimum.</li> </ol>

## Section 14.6 Temporary Signs

A. *Permits Required.* Certain temporary signs require city permits and are subject to the specific requirements noted in *Table 14.6*.

<b>Table 14.6 Temporary Sign Requirements</b>	
<b>Banner Sign</b>	
Location/Setbacks (min.)	Attached to building.
Size (max.)	60 square feet, not to exceed width of storefront.
Number (max.)	One (1) per business entity.
Duration (max.)	30 days.
Annual Permits (max.)	One (1) banner upon opening and two (2) per calendar year.
<b>General Temporary (Special Purpose Sign)</b>	
Location/Setbacks (min.)	Ground or building mounted.
Height (max.)	Nine (9) feet.
Size (max.)	64 square feet.
Number (max.)	Five (5) off premises, one (1) on premise.
Duration (max.)	30 days.
Annual Permits (max.)	No limit.
Other	Landowner authorization required for off premises signs Angle of V-shaped signs shall not exceed 90 degrees.
<b>Balloon/Inflatable Sign</b>	
Location/Setbacks (min.)	Ground or building mounted, outside of overhead powerline easements.

<b>Table 14.6 Temporary Sign Requirements</b>	
Size (max.)	75 feet maximum, five (5) foot diameter.
Number (max.)	One (1) per street frontage.
Duration (max.)	30 days.
Annual Permits (max.)	Two (2) per calendar year, 60 day separation minimum between permits.
Other	Shall be securely affixed to ground or building at all times.
<b>Search Light</b>	
Location/Setbacks (min.)	Ground or building mounted.
Number (max.)	One (1) per lot or parcel.
Duration (max.)	30 days.
Annual Permits (max.)	Two (2) per calendar year.
Other	Shall be securely affixed to ground or building at all times.
<b>Subdivision or Multi-Family Development Sign</b>	
Location/Setbacks (min.)	Ground mounted.
Height (max.)	10 feet.
Size (max.)	32 square feet.
Number (max.)	One (1) per entryway.
Duration (max.)	12 months from the date it is issued or until the project is 85 percent occupied, whichever is greater.
Annual Permits (max.)	One (1).
<b>Wind Sign</b>	
Location/Setbacks (min.)	Ground or building mounted, outside overhead powerline easements.
Size (max.)	30 feet.
Number (max.)	One (1) per lot or parcel.
Duration (max.)	30 days.
Annual Permits (max.)	Two (2).
Other	Shall be securely affixed to ground or building at all times.
<b>Sandwich Board Sign</b>	
Location/Setbacks (min.)	Sidewalk signs must be located on or adjacent to a sidewalk and shall not interfere with pedestrian travel or encroach upon the required accessible path.
Height (max.)	42 inches.
Width (max.)	30 inches.
Size (max.)	Six (6) square feet.
Number (max.)	One (1) per storefront.
Duration	Sidewalk signs may only be displayed during business hours and must be removed when the business is closed.

## Section 14.7 Permanent Signs

### A. Permanent Sign Requirements.

<b>Table 14.7 Permanent Sign Requirements</b>	
<b>Agricultural and Residential Districts, EC-3, Residential OT Uses</b>	
<b>Monument Sign, Non-Residential Use</b>	
Location/Setbacks (min.)	10 feet.
Height (max.)	Five (5) feet.
Size (max.)	32 square feet.
Number (max.)	One (1) per parcel.

<b>Table 14.7 Permanent Sign Requirements</b>	
<b>Wall Sign, Non-Residential Use</b>	
Height (max.)	Below the eave, below the roof line of a flat roof.
Size (max.)	One-half (½) square foot per linear foot of street front, but no more than 50 square feet.
Number (max.)	One (1) per principal building.
<b>Residential Development Sign, Attached to Wall or Fence</b>	
Location/Setbacks (min.)	10 feet.
Height (max.)	Eight (8) feet.
Size (max.)	32 square feet.
Number (max.)	Two (2) per street entrance, none if monument sign present
Other	Must be located on a commonly owned parcel or within a private easement held by the subdivision HOA.
<b>Residential Development Sign , Monument</b>	
Location/Setbacks (min.)	10 feet.
Height (max.)	Eight (8) feet.
Size (max.)	100 square feet.
Number (max.)	One (1) per street entrance, none if attached sign present.
Other	Must be located on a commonly owned parcel or within a private easement held by the subdivision HOA.
<b>Employment Center Districts (EC-1 and EC-2)</b>	
<b>Pole Signs</b>	
Location/Setbacks (min.)	Pole signs on High Ridge Road shall be located between the I-20 frontage road and Link Street, but shall not be located within 100 feet of Link Street. Pole signs on Wrey Crest shall not be located within 100 feet of the Kennedale Parkway. Pole signs in lawful existence before adoption of the UDC shall be considered non-conforming. Pole signs shall be spaced a minimum of 200 feet apart, as measured from center of pole to center of pole.
Height (max.)	75 feet.
Size (max.)	360 square feet.
Number (max.)	EC-1: three (3) pole signs total northeast of the Kennedale Parkway and two (2) southwest of Kennedale Parkway. No more than one (1) pole sign shall be permitted per lot. Five (5) total in EC-1. EC-2: Pole signs are prohibited in EC-2 except for on properties that have direct access along the I-20 frontage road. A maximum of three (3) pole signs shall be permitted within EC-2.
Other	Pole signs shall not be permitted without a signed, recorded agreement, and an approved sign plan.
<b>Monument Sign</b>	
Location/Setbacks (min.)	-
Height (max.)	12 feet.
Size (max.)	100 square feet.
Number (max.)	One (1) per lot or parcel.
<b>KEDC-Owned Multi-Tenant Monument Sign</b>	
Location/Setbacks	-

<b>Table 14.7 Permanent Sign Requirements</b>	
(min.)	
Height (max.)	15 feet.
Size (max.)	150 feet.
Number (max.)	One (1) total in the ECD.
Other	The sign base and sign structure shall be brick, stone, or masonry material matching the front façade of the building. The sign face shall be framed on the sides by a minimum of six (6) inches of brick, stone, or masonry material matching the front façade of the building.
<b>KEDC-Owned District Identification Sign</b>	
Location/Setbacks (min.)	-
Height (max.)	27 feet.
Size (max.)	135 square feet.
Number (max.)	One (1) total in the ECD.
Other	<ol style="list-style-type: none"> <li>1. On property owned by the Kennedale Economic Development Corporation (KEDC), the KEDC is permitted to install and manage one (1) identification sign, the purpose of which is to identify the ECD. The sign shall serve as a gateway feature and may also be used to provide way-finding information for sub-districts and features within the District. The sign shall not be used to identify or promote individual tenants of the District but may be used to indicate the location of particular businesses or sub-districts. Sign listings shall have a consistent font type, color, and size so as not to promote individual tenants.</li> <li>2. The sign(s) must be designed and maintained as an entry feature for the city and the district.</li> <li>3. The sign base and sign structure shall be brick, stone, or masonry material matching the primary design theme for the District.</li> </ol>
<b>Wall Sign</b>	
Height (max.)	Below the eave, below the roof line of a flat roof.
Size (max.)	400 square foot maximum per sign, but no more than 25 percent of the building façade. For multi-tenant buildings, no more than 25 percent of the building façade dedicated to each individual tenant.
Number (max.)	Two (2) per business entity.
<b>Awning Sign</b>	
Width (max.)	Any width, no more than one (1) feet from each edge of awning.
Size (max.)	16 square feet.
Number (max.)	One (1) per business entity, per street frontage.
Other	<ol style="list-style-type: none"> <li>1. Eight (8) foot minimum clear height.</li> <li>2. Awnings may encroach into the sidewalk to within two (2) feet of the curb (or within two (2) feet of the edge of the clear zone, if building is not adjacent to the sidewalk).</li> <li>3. Permitted materials shall be canvas cloth or equivalent (no shiny or reflective materials), metal, or glass.</li> <li>4. Awnings shall have a minimum depth of three (3) feet.</li> <li>5. No internal illumination is permitted through the awning/overhang.</li> <li>5) Lettering and/or logos on awning and canopies shall be limited to five (5) inches tall on the vertically hanging fabric/face at the curb side of the awning or canopy.</li> </ol>
<b>Off-Premises Directional Signs</b>	
Location/Setbacks	-

<b>Table 14.7 Permanent Sign Requirements</b>	
(min.)	
Height (max.)	Monument: Four (4) feet. Pole: 10 feet.
Size (max.)	Monument: 16 square feet. Pole: Sign blades for directional pole signs shall be a maximum of six (6) inches in height and three (3) feet in length. If sign blades extend on both sides of the sign pole, maximum sign blade length is one and a half (1 ½) feet.
Number (max.)	One (1) northeast of the Kennedale Parkway and one (1) southwest of Kennedale in EC-1. A directional sign may not be located on the same lot as a KEDC-owned multi-tenant monument sign.
Other	1. Lettering shall not exceed 50 percent of the sign height. 2. Written authorization from the property owner upon which the sign is located shall be required as part of the sign permit application.
<b>Commercial and Industrial Districts</b>	
<b>Business Center Sign</b>	
Location/Setbacks (min.)	-
Height (max.)	16 feet.
Size (max.)	100 square feet
Number (max.)	One (1) monument or pole sign.
Other	Developments containing two (2) or more businesses, whether in a single building or multiple buildings on a single lot or on contiguous lots, may share a sign structure for advertisement of multiple businesses located within the development. This provision is applicable to businesses located on the same lot upon which the sign is located. The sites involved must be contiguous with one another, and constitute a single cohesive development.
<b>Pole Sign</b>	
Location/Setbacks (min.)	10 feet
Height (max.)	10 feet, 32 feet if fronting I-20 frontage road.
Size (max.)	10 square feet, 32 square feet if fronting I-20 frontage road.
Number (max.)	One (1) per lot or parcel per 300 feet of frontage, none if monument or business center sign present.
Other	If fronting I-20 frontage road, the sign must be closer to that frontage than any other right-of-way.
<b>Monument Sign</b>	
Location/Setbacks (min.)	-
Height (max.)	Seven (7) feet.
Size (max.)	One-half (½) square feet per linear foot of street frontage, maximum 100 square feet.
Number (max.)	One (1) per lot or parcel per 300 feet of frontage, none if monument or business center sign present.
<b>Awning Sign</b>	
Width (max.)	Any width, no more than one (1) feet from each edge of awning.
Size (max.)	16 square feet.
Number (max.)	One (1) per business entity, per street frontage.
Other	1. Eight (8) foot minimum clear height.

**Table 14.7 Permanent Sign Requirements**

	<p>2. Awnings may encroach into the sidewalk to within two (2) feet of the curb (or within two (2) feet of the edge of the clear zone, if building is not adjacent to the sidewalk).</p> <p>3. Permitted materials shall be canvas cloth or equivalent (no shiny or reflective materials), metal, or glass.</p> <p>4. Awnings shall have a minimum depth of three (3) feet.</p> <p>5. No internal illumination is permitted through the awning/overhang.</p> <p>5) Lettering and/or logos on awning and canopies shall be limited to five (5) inches tall on the vertically hanging fabric/face at the curb side of the awning or canopy.</p>
<b>Projecting Sign</b>	
Height (max.)	Three (3) feet.
Width (max.)	Four (4) foot width and projection.
Size (max.)	Six (6) square feet.
Number (max.)	One (1) per business entity.
Other	Projecting signs shall be perpendicular to the façade of the building. Eight (8) foot minimum clear height.
<b>Suspended Sign</b>	
Height (max.)	Three (3) feet.
Width (max.)	Three (3) feet.
Size (max.)	Six (6) square feet.
Number (max.)	One (1) per business entity.
Other	Suspended signs shall be perpendicular to the façade of the building and shall not extend beyond the edge of the overhang under which it is suspended. Eight (8) foot minimum clear height.
<b>Wall Sign</b>	
Height	Below the eave, below the roof line of a flat roof.
Size	400 square foot maximum per sign, but no more than 25 percent of the building façade. For multi-tenant buildings, no more than 25 percent of the building façade dedicated to each individual tenant.
Number	Two (2) per business entity.
<b>Sign, changeable electronic variable message (CEVMS).</b>	
Location	Permitted only in the C-1, C-2, or I districts on a monument or pole sign.
Number (max.)	One (1) per parcel or lot.
Other	<p>1. Any change of pictures or information on the message board sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.</p> <p>2. Any change of pictures or information on the message board sign shall not change more often than once every 10 seconds.</p> <p>3. No lighted sign or message board sign shall have a luminance of greater than 300 foot-candles, nor shall any such sign have a luminance greater than 200 foot-candles for any portion of the sign within a circle two (2) feet in diameter. The restriction of luminance in this section shall be determined from any other premises or from any public right-of-way.</p> <p>4. Any message appearing on an electronic message board shall consist of a single line of text.</p>

<b>Table 14.7 Permanent Sign Requirements</b>	
<b>Old Town and Village Districts- Commercial Signs</b>	
<b>Awning Sign</b>	
Width (max.)	Any width, no more than one (1) feet from each edge of awning.
Size (max.)	16 square feet.
Number (max.)	One (1) per business entity, per street frontage.
Other	<ol style="list-style-type: none"> <li>1. Eight (8) foot minimum clear height.</li> <li>2. Awnings may encroach into the sidewalk to within two (2) feet of the curb (or within two (2) feet of the edge of the clear zone, if building is not adjacent to the sidewalk).</li> <li>3. Permitted materials shall be canvas cloth or equivalent (no shiny or reflective materials), metal, or glass.</li> <li>4. Awnings shall have a minimum depth of three (3) feet.</li> <li>5. No internal illumination is permitted through the awning/overhang.</li> <li>5) Lettering and/or logos on awning and canopies shall be limited to five (5) inches tall on the vertically hanging fabric/face at the curb side of the awning or canopy.</li> </ol>
<b>Projecting Sign</b>	
Height (max.)	Three (3) feet.
Width (max.)	Four (4) foot width and projection.
Size (max.)	Six (6) square feet.
Number (max.)	One (1) per business entity.
Other	Projecting signs shall be perpendicular to the façade of the building. Eight (8) foot minimum clear height.
<b>Suspended Sign</b>	
Height (max.)	Three (3) feet.
Width (max.)	Three (3) feet.
Size (max.)	Six (6) square feet.
Number (max.)	One (1) per business entity.
Other	Suspended signs shall be perpendicular to the façade of the building and shall not extend beyond the edge of the overhang under which it is suspended. Eight (8) foot minimum clear height.
<b>Wall Sign</b>	
Height (max.)	Below the eave, below the roof line of a flat roof.
Width (max.)	Any width, but shall be placed no less than two (2) feet from the any corner of the building.
Size (max.)	One (1) square foot per linear foot of building or tenant façade, as applicable. 32 square feet in the NV/OT Districts and 48 square feet in the UV District.
Number (max.)	One (1) per business entity, per street frontage, no more than two (2).
<b>Window Sign</b>	
Height (max.)	Three (3) feet.
Width (max.)	Five (5) feet.
Size (max.)	15 percent of shopfront window.
Other	Window signs shall have a clear background around letters, symbols, and features.

## Section 14.8 Prohibited Signs

- A. *General.* In addition to signs not specifically described or allowed in this article the following signs are prohibited, in addition to the following specifically prohibited signs:
1. Signs attached to light fixtures, poles, curbs, sidewalks, gutters, streets, utility poles, public buildings, fences, railings, public telephone poles, or trees except government signs or signs erected with the permission of the city, for public purposes.
  2. Signs which prevent free ingress to or egress from any door, window, or fire escape.
  3. Signs erected or displayed in such a manner as to obstruct free and clear vision by vehicular traffic at any location, street, intersection, or driveway.
  4. Any sign which interferes with vehicular or pedestrian traffic as a result of the position, size, shape, movement, color, fashion, manner, or intensity of illumination or any other characteristics causing such interference. No person shall erect or allow to be displayed any sign in such a manner as to interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, including, without limitation, signs making use of the words "stop," "go," "look," "slow," "danger," or any other similar word, phrase, symbol or character, or employ any red, yellow, green, or other colored lamp or light in such a manner as to cause confusion or otherwise interfere with vehicular or pedestrian traffic.
  5. Signs erected or displayed on or over public right-of-way or other public property, except government signs or signs erected with the permission of the city, for public purposes.
  6. Obscene signs in which the dominant theme of material taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts community standards relating to the description or representation of sexual matters or nudity, and is utterly without redeeming social value.
  7. Portable signs, with the exception of sandwich board signs in accordance with this article.
  8. Signs illuminated to such intensity or in such a manner as to cause a glare or brightness to a degree that it constitutes a hazard or nuisance to traffic.
  9. Signs that move or flash or have moving or flashing components; signs that are intermittently lighted or have changing colors; signs that revolve; or any other similarly constructed signs, except for reader board signs and wind signs as permitted under this article.
  10. No sign shall be illuminated to an intensity to cause glare or brightness to a degree that could constitute a hazard or nuisance. Moving, flashing, intermittently lighted, changing color, beacons, revolving or similarly constructed signs shall not be allowed.
  11. Roof signs.
  12. Any sign attached to a trailer, skid, or similar mobile structure, where the primary use of such structure is to provide a base for such sign or to constitute the sign itself. This provision shall not be interpreted to prohibit identification signs on vehicles used for business purposes, nor shall it be interpreted to prohibit bumper stickers.
  13. Signs placed on property without permission of owner or agent.
  14. Builder directional signs (except as allowed in kiosk sign plazas).
  15. Electronic Reader Board/Message Board signs and Changeable Electronic Variable Message signs (CEVMS) in the Employment Center Districts and Village Districts.
  16. The use of trucks, cars, trailers, aircraft, boats, or similar vehicles as signs is prohibited when the vehicle is parked on public or private property within 50 feet of any property line abutting a public street, except for those:

- a. Lawfully parked overnight or during non-business hours in a place not visible from a public street or designated truck parking or loading area;
  - b. Making deliveries, sales calls, or other customary practices relating to doing business;
  - c. Making trips to transport persons or property;
  - d. Used in conjunction with active construction operations on the site; or
  - e. Passenger vehicles, pick-up trucks, and vans containing signs that do not exceed 16 square feet in area painted on or permanently affixed to the doors or integral body panels and such vehicles are of a size that can fully fit within a standard parking space.
17. Feather signs.
18. Bench signs.
19. Signs that emit audible sound, odor, or visible matter.

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#### **Section 14.9 Wind Pressure and Deadload**

- A. *Requirement.* All permanent signs shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area and shall be constructed to receive dead loads as required by the city's currently adopted building code.
- B. *Certification.* The sign permit application must include a statement signed by the applicant which states compliance with this requirement.

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#### **Section 14.10 Maintenance and Disrepair**

- A. *Maintenance.* Every sign in the city, regardless of whether any permit is required for such sign, shall be maintained in a safe, presentable and sound structural and operational condition at all times, including replacing malfunctioning, broken, defective, or missing parts, painting, repainting, cleaning, and performing any other acts required for the maintenance of such sign. All signs and sign supports shall be kept painted or otherwise treated to prevent rust, rot or deterioration. Signs not meeting the standards imposed by this article shall be subject to removal or repair.
- B. *Repair.* The following regulations shall apply to alterations:
1. No sign shall hereafter be altered, rebuilt, enlarged, extended, or relocated except in conformity with the provisions of this article, and then not until a permit has been issued.
  2. The repainting of signs shall not be deemed to be an alteration within the meaning of this section.

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#### **Section 14.11 Illumination**

- A. *General.* Signs may be illuminated with internal or external lighting.
- B. *Requirements.* All illuminated signs shall meet the following requirements:
1. Prohibited Lighting. Except as otherwise specifically permitted in this article, signs shall not contain any intermittent, moving, blinking, flashing, oscillating, scrolling, or fluttering lights or animated parts; nor shall any device be utilized which has a changing light intensity, brightness of color or give such illusion, except as specifically required for electronic changeable message signs.
  2. Visibility. The light source for any externally illuminated sign shall not be directly visible from adjacent streets or property. Exposed neon-type tubing as part of any sign and/or on the building shall not be

permitted. Backlight silhouetted halo letters shall be permitted, provided the light source is fully concealed.

3. Hazards. For all signs, the level of illumination emitted or reflected from a sign shall not be of intensity sufficient to constitute a demonstrable hazard to vehicular traffic or pedestrians on any right-of-way or parking lot from which the sign may be viewed. All illumination must be of reasonable intensity and shall not spill onto adjacent properties or rights-of-way. Signs adjacent to residential buildings and streets shall not be of such brightness to cause reasonable objection from adjacent residential districts or uses nor to spill light and glare onto adjacent residential properties and structures.
4. Electric Code. Signs illuminated by electricity or equipped in any way with electric devices or appliances shall conform, with respect to wiring and appliances, to provisions of the building code relating to electrical installations. All wiring, fittings, and materials used in construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the adopted National Electrical Code.

#### **Section 14.12 Unified Sign Agreement Option**

- A. *Lots Eligible for Unified Sign Agreement*. Two (2) or more adjoining platted lots or two (2) or more platted lots that are separated only by right-of-way are considered to be a single premises for the purpose of erecting multi-tenant signs if a unified sign agreement has been signed by all property owners and is approved as to form by the city and executed in compliance with this section. To be adjoining, lots must be platted immediately adjacent to each other and not at cross corners or connected by narrow strips of land too small to serve as emergency access easements. Lots separated by right-of-way must be directly across the right-of-way and, except for the right-of-way, must be adjoining and not at cross corners or connected by narrow strips of land too small to serve as emergency access easements.
- B. *Criteria for Approval*. In determining whether to approve multiple lots as a single premises, the city shall consider the following criteria:
  1. All areas to be combined in the unified sign agreement must be part of a clearly defined unified commercial or business development constructed as a single destination point for customers and visitors. Attributes of a unified commercial or business development include:
    - a. Common name identification to the public;
    - b. Shared access to parking provided within the development;
    - c. Sign structures utilized for shared messages, including identification of the common name of the development; and
    - d. Physical layout of the development results in a cohesive development.
  2. The area should not be the combination of disparate premises joined solely for the purpose of initiating a unified sign agreement.
  3. The property proposed to utilize a unified sign agreement must have no additional pole signs within the development.
  4. The unified sign agreement may include more than one (1) sign, however there shall only be one (1) unified sign agreement per development.
- C. *Allowed Signs*.
  1. Removal and Compliance. Upon approval of a unified sign agreement, all existing signs shall be removed or brought into compliance with this article. All new signs constructed pursuant to the agreement shall comply with this article.

2. Spacing. Within the area included in the unified sign agreement, spacing between multitenant directory signs shall be:
  - a. For multitenant signs 100 square feet or less in size, not less than one hundred (100) feet to any other multitenant sign;
  - b. For multitenant signs between 101 and 200 square feet in size, not less than 300 feet to any other multitenant sign greater than 100 square feet in size; and
  - c. For multi-tenant signs between 201 and 400 square feet in size, not less than 500 feet to any other multi-tenant sign greater than 100 square feet in size.
3. Multitenant directory signs shall not exceed 30 feet in height nor 200 square feet.

D. *Sign Plan Required.*

1. Plan. A sign plan covering the entire area included in the unified sign agreement shall be submitted for approval. The sign plan shall contain the following information:
  - a. The location, size and height of all proposed and existing signs; and
  - b. Description of development within the area of the unified sign agreement demonstrating the attributes of a unified commercial or business development as described in subsection (b)(1).
2. Amendments. A copy of the sign plan shall be attached to the unified sign agreement and may be amended administratively providing the initial criteria are still met.

E. *Execution, Amendment, Termination and Filing of the Unified Sign Agreement.*

1. Compliance. The unified sign agreement shall comply with the following:
  - a. Contain the names and addresses of the owners and the legal descriptions of all properties included in the unified sign agreement;
  - b. State that all parties agree that the properties covered by the agreement may be collectively treated as a comprehensive development for the limited purpose of determining the number, size and location of signs;
  - c. State that the agreement constitutes a covenant running with the land with respect to all properties subject to the agreement;
  - d. State that all parties agree to defend, indemnify and hold harmless the City of Kennedale from and against all claims or liabilities arising out of or in connection with the agreement;
  - e. State that the agreement will be governed by the laws of the State of Texas;
  - f. State that the agreement may be amended or terminated only in accordance with subsection (2) below;
  - g. Be approved by the Building Official;
  - h. Be signed by all owners of the properties included in the agreement and notarized;
  - i. Provide that if a lot or tract within a premise covered by a unified sign agreement is foreclosed by a lien holder whose lien predates the unified sign agreement covering the property, then the lien holder has five (5) business days to file an application for a permit for a sign not allowed under the unified sign agreement. In the absence of such filing, the property shall be considered covered by the unified sign agreement;
  - j. Be properly completed as stated herein; and
  - k. Two (2) file-marked and recorded copies of the agreement shall be provided to the city.

2. Amendment and Termination. A unified sign agreement may be amended or terminated as follows:
  - a. The amendment or termination agreement shall be executed by all owners of the properties included in the unified sign agreement; and
  - b. The city shall administratively approve the termination agreement as to intent and form. Any signs not in compliance shall be removed or brought into compliance prior to execution of the agreement.
3. Effective Date. A unified sign agreement or an agreement to amend or terminate such an agreement is not effective until:
  - a. The agreement is approved by the city;
  - b. The agreement is filed in the deed records in Tarrant County; and
  - c. Two (2) file-marked and recorded copies of the agreement are delivered to the city.
- F. Application and Fee. Any application for a unified sign agreement or amendment thereto, or a termination thereof, shall be made on an application provided by the city for that purpose and shall be accompanied by a nonrefundable fee as adopted by the city.

#### **Section 14.13 Nonconforming Signs**

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See Section 30.11.

#### **Section 14.14 Variances, Special Sign Project Plan, Appeals, Enforcement**

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- A. *Variances*. See Sections 28.5 B and 28.9 B.
- B. *Sign Project Plan*. See Section 28.5 C.
- C. *Appeals*. See Section 28.9 A.
- D. *Enforcement*. See Section 31.6.

**Subdivision Design**

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**Article  
15**

**City of Kennedale Unified Development Code**

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## Section 15.1 Purpose

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- A. *Purpose.* The regulations in this article promote and encourage the development of high quality subdivisions by establishing standards for the provision of adequate light, air, open space, stormwater drainage, transportation, public utilities, and suitable building lots.
- B. *Intent.* These regulations are designed and intended to achieve the following purposes and shall be administered so as to:
1. Promote the health, safety, morals and general welfare of the city;
  2. Promote the orderly and healthful development of the city;
  3. Provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; to prevent overcrowding of the land and undue congestion of population; and to provide minimum width and depth of building lots and building lines;
  4. Protect and conserve the value of land throughout the city;
  5. Provide the most beneficial circulation of traffic throughout the city, having particular regard to the avoidance of congestion in the streets and highways, and pedestrian traffic movements; and to provide for the proper location and width of streets;
  6. Ensure that public facilities are available for every building site and with sufficient capacity to serve the proposed subdivision, and to provide public facilities for future developments;
  7. Assure the adequacy of drainage facilities; and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability, and beauty of the community;
  8. Preserve the topography of the city and to insure appropriate development with regard to natural features;
  9. Address other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources;
  10. Provide for the establishment of minimum specifications for construction and engineering design criteria for public infrastructure improvements to maintain land values, reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the city for correction of inadequate facilities that are designed to serve the public;
  11. Assure that new development adequately and fairly participates in the dedication and construction of public infrastructure improvements that are necessitated by or attributable to the development or that provide value or benefit that makes the development feasible; and
  12. Help prevent pollution, assure the adequacy of drainage facilities, control storm water runoff, safeguard the water table, and encourage the wise use and management of natural resources throughout the city and its extraterritorial jurisdiction in order to preserve the integrity, stability, and beauty of the community and the value of the land.

## Section 15.2 General Infrastructure Policy and Adequate Public Facilities

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- A. *Adequate Public Facilities.* Land proposed to be subdivided shall be served adequately by essential public facilities and services, including water and wastewater facilities, roadway and pedestrian facilities, drainage facilities, and park facilities. The city shall require an initial demonstration that a proposed subdivision shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development.

**B. Dedication.**

1. **Timing.** Dedication of rights-of-way and easements for public works improvements to support new development is required at the earliest stage of the development process.
  2. **Impact and Cost.** The city desires to assure both that impacts of new development are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a new development be required to contribute not more than its proportionate share of such costs.
  3. **Obligation.** The obligation to dedicate rights-of-way for or to construct one (1) or more public works improvements to serve a new subdivision may be deferred until approval of a subsequent phase of the subdivision, at the sole discretion of the city engineer, upon written request of the property owner, or at the city's own initiative. As a condition of deferring the obligation, the city may require that the subdivider include provisions in the developer's agreement, specifying the time for dedication of rights-of-way for or construction of public works improvements serving the subdivision. Pro rata reimbursement may be authorized under the provisions of Chapter 23 of the Kennedale City Code of Ordinances.
- C. **Conformance.** Proposed public works improvements serving new development shall conform to and be properly related to the public facilities elements of the city's adopted master plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans.

**Section 15.3 Water Facilities**

- A. **Connections.** All lots to be platted shall be connected to a public water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire protection.
- B. **Future Expansion.** All water mains constructed within a proposed subdivision shall be extended to the perimeter of the proposed subdivision to allow for future extension of the water system in to adjacent properties.
- C. **Responsibility and Design.** The developer shall furnish, install, construct, or extend, at his own expense, water distribution facilities necessary for the proper development of the subdivision. The water system shall provide individual service to every lot in the subdivision. The water system shall be designed and constructed in accordance with the specifications contained in the design manual.
- D. **Sizing.** Where considered necessary by the city engineer, the facilities shall be sized in excess of that dictated by the design manual to provide for future growth and expansion of the city water distribution system. In addition, the water system shall conform to the city's current master water distribution system plan.

**Section 15.5 Fire Hydrant Requirements**

- A. **Responsibility.** The developer shall install, at his own expense, fire hydrants to provide fire protection service to every lot in the subdivision.
- B. **Design.** The fire hydrant system shall be designed according to the specifications contained in the design manual.
- C. **Layout.** The layout of the system shall be approved and enforced by the Fire Chief.

## Section 15.6 Sewage Facilities

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- A. *Sewer Service Coverage.* All lots to be platted shall be served by an approved means of wastewater collection and treatment.
- B. *Phasing.* The city may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity.
- C. *Responsibility.* The developer shall furnish, install, construct, or extend, at his own expense, sewage collection facilities necessary for the proper development of the subdivision.
- D. *Design.* The sewage system shall be designed and constructed in accordance with the specifications contained in the design manual.
- E. *Future Expansion.* All sewer mains constructed within the proposed subdivision shall be extended to the perimeter of the proposed subdivision to allow for future extension of the sewer system into adjacent properties regardless of whether or not such extensions are required for service within the subdivision.
- F. *Sizing.* Where considered necessary by the city engineer, the facilities shall be sized in excess of that dictated by the design manual, to provide for future growth and expansion of the city systems. All sanitary sewer installations shall be in conformance with the city's wastewater system capital improvements plan.
- G. *Oversizing.* Where oversizing of sewer system improvements is required, city participation in any proposed sewer line shall be in accordance with the provisions of *Chapter 23* of the City of Kennedale Code. City participation will not be available for sewer lines which are not a part of the proposed improvements contained in the capital improvements plan.

## Section 15.7 Utilities in Right-of-Ways and Easements

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All public utilities shall be constructed within a public street right-of-way or an appropriate utility easement. When a proposed water or sewer line or a drainage facility will be placed adjacent to a public road maintained by the Texas Department of Transportation, a separate specific use easement shall be provided for each utility or drainage facility. If the developer cannot obtain the necessary easements to make required off-site improvements, he may request the city to institute condemnation proceedings to acquire the easement, provided that the developer shall bear all costs of such proceedings.

## Section 15.8 Street Right-of-Way Dedication

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- A. *Dedication.* Each subdivision plat shall dedicate public street right-of-way of sufficient width to comply with the standards contained on the master thoroughfare plan and the following requirements:
  - 1. All street rights-of-way shall be integrated with the existing and proposed system of thoroughfares and rights-of-way.
  - 2. Every lot shall front on a public right-of-way which complies with the width shown on the master thoroughfare plan or, when approved by the city, an acceptable public access easement.
  - 3. Street right-of-ways shall be configured so as to allow for future access to adjacent properties.

## Section 15.9 Street Improvement Requirements

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- A. *Design.* Design shall conform to *Section 12.5, Streets and Vehicle Circulation*, and all other standards and requirements of the UDC.

- B. *Construction.* The developer shall construct, at his own expense, street facilities necessary for the proper development of the subdivision. The street system shall provide access to every lot in the subdivision, and comply with the following:
1. All street surfaces within or abutting the proposed subdivision shall be paved, with curbs and gutters installed, and otherwise constructed in accordance with the standards and specifications contained in the design manual.
  2. All paving shall be constructed to the width specified by the "functional classification" of streets as contained in the most current revision of the master thoroughfare plan.
  3. Permanent dead-end roads shall not be allowed.
  4. Proposed new streets shall be laid out, where possible, so as to eliminate or avoid new perimeter half-streets.
- C. *Access and Circulation.* Proposed roads shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New subdivisions shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network.
- D. *City Participation in Thoroughfare Street Improvements.*
1. The city will only participate in the construction costs of a collector or arterial street as designated by the master thoroughfare plan and located in conventional single-family residential areas. When the Administrator and Director of Public Works have determined that the need for additional street capacity is not directly attributable to the traffic pattern of the proposed development, the city may participate in the portion of the roadway in excess of 36 feet, measured from curb face to curb face. The developer shall pay for 36 feet of roadway, including any extra depth of pavement, curb and gutter for both sides, all excavation required, all subgrade preparation, and all other costs involved in the street construction, including engineering costs.
  2. When a street is required to be constructed with extra width, or with special conditions by the city for aesthetic value or special circumstances, the city will participate on the same basis as in thoroughfare considerations. Where the oversizing of the street is at the discretion of the developer for aesthetic purposes or special considerations, no participation is allowed.
  3. In non-single-family residential areas, when existing development would require additional strength design or additional width of pavement to accommodate expected traffic use, no city participation is allowed.
- E. *Improvement of Adjacent and Abutting Existing Streets.* In the case of existing adjacent or abutting roads, the city may require that the entire right-of-way be dedicated and/or improved to the city's design standards, based upon factors including the impact of the proposed subdivision on the road, safety to the traveling public, conditions and life expectancy of the road, the impact of the proposed subdivision on other roads, the timing of this development in relation to need for improving the road, the impact of the traffic on the road and city's roadway system as a whole.

## Section 15.10 Sidewalk Policy

- A. *Requirement.* Every new subdivision, or replat of a subdivision, shall be required to install sidewalks, with appropriate curb ramps, adjacent to all public street rights-of-way. When a developer, contractor, or property owner applies for a building permit to perform primary new construction on any platted or unplatted lot that does not have sidewalks, the property owner shall be required to construct a sidewalk or sidewalks

for the lot.

- B. *Location and Placement.* Construction of any sidewalk shall conform to the standards and specifications contained in the design manual. Lots shall have sidewalks along all street frontages.
- C. Construction of all side yard sidewalks and rear yard sidewalks adjacent to perimeter streets. Front yard sidewalks shall be constructed for each lot prior to completion of any primary structure.
- D. *Responsibility.*
  - 1. Construction. Perimeter street sidewalks, sidewalk connection, and all other sidewalks that are not along residential lot frontage, shall be constructed at the property owner's expense, shall conform to the standards set forth in this article and *Section 12.3*, and shall be the developer's responsibility to construct after plat approval.
  - 2. Certificate of Occupancy. The city will not issue a certificate of occupancy for any structures or improvements constructed on a lot until the required sidewalks have been completed by the property owner, or developer, and approved by the city.

### Section 15.11 Subdivision Screening

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- A. *Applicability.* Every newly platted residential or nonresidential subdivision or resubdivision of lots adjacent to a thoroughfare, or larger, as shown on the prevailing master thoroughfare plan, shall comply with the screening wall requirements as provided in this section when proposed.
  - 1. Stormwater. All required screening walls shall be constructed so as to permit excess stormwater flow.
  - 2. Building Requirements. The screening wall shall be constructed of brick columns spaced no more than 20 feet apart with connecting panels of brick, stone, concrete, fired masonry, or exposed aggregate tilt-wall type material.
  - 3. Plans. Construction plans shall be approved by the Director of Public Works.
  - 4. Location. No subdivision screening wall shall be constructed within the right-of-way.

### Section 15.12 Drainage

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- A. *Responsibility.* The developer shall be required to furnish, install, construct, or extend, at his own expense, all storm sewers and drainage structure facilities necessary for the proper development of the subdivision.
- B. *Requirements.*
  - 1. Channels.
    - a. Concrete channel improvements shall be required where specified in the design manual and any adopted city drainage plans.
    - b. Alternate earthen channels may be approved when in accordance with the criteria established in the design manual.
  - 2. Easement and Right-of-Way. All public drainage facilities shall be constructed within a public drainage easement or drainage right-of-way as required by the city.
  - 3. Capacity. Drainage improvements serving new development shall be designed to prevent overloading the capacity of the downstream drainage system.
  - 4. Phasing. The city may require the phasing of development, the use of control methods such as retention or detention, the construction of off-site drainage improvements, or drainage impact fees in

order to mitigate the impacts of the proposed subdivision.

5. **Drainage Easements and Lot Lines.** The city will advise the developer when to utilize either a drainage easement or a drainage right-of-way to accommodate drainage facilities in the subdivision. When a drainage easement is utilized, lot lines shall normally be drawn to the center of the drainage easement and the drainage easement shown with a dashed line. Areas within drainage easements and drainage rights-of-way shall not be included within the required buildable area that is, at a minimum, 125 percent of the minimum square footage required for the proposed structure in the applicable zoning district.
6. **Grading and Lot Drainage.** Residential lot grading shall be conducted in a manner which will not allow runoff to cross more than two (2) lots, including the lot on which the drainage originates, before it enters a street or drainage easement. If this is not possible, then a drainage easement must be provided and any necessary facilities shall be constructed and installed by the developer. Lots shall be laid out so as to provide positive drainage away from all buildings. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Grading which will result in the need for earth restraining structures greater in height than four (4) feet will require installation of an engineered retaining wall constructed in accordance with the current building code.

C. *Off-Site Drainage.*

1. **Responsibility.** The developer shall be responsible for all runoff from fully developed property upstream of the proposed development to the extent that improvements required for the runoff are roughly proportional to the demand created by the proposed development.
2. **Overload.** Where a drainage study indicates that additional runoff from the developing property will overload downstream drainage facilities and result in hazardous conditions, the city may withhold approval of the development until appropriate provisions have been made. These provisions shall include any drainage design or construction plans necessary to accommodate the off-site drainage problem.

### Section 15.13 Street Lighting

The developer shall furnish, install, construct, or extend, at his own expense, street lighting facilities necessary for the proper development of the subdivision. The street lighting system shall comply with the location and spacing requirements for street lighting systems contained in the design manual.

### Section 15.14 Design Requirements

- A. **Applicability.** This section does not apply to the Village Districts, *Article 5*. Every subdivision plat shall be reviewed by the city for conformance with the design criteria contained in this section. The city recognizes that suitability characteristics vary from site to site, and the Planning and Zoning Commission shall provide oversight in their interpretation, application, and enforcement of these criteria.
- B. **Zoning Requirements.** Every lot shall be designed in such a manner that it complies with the minimum dimensions of the applicable zoning district as contained in the UDC.
- C. **Block, Lots, and Access.**
  1. **Intent.**
    - a. The intent of the maximum block perimeter and connectivity regulations is to provide a well-connected street network.
    - b. Large blocks with limited connectivity discourage walking, contribute to street congestion, and add driving distance that can negatively impact emergency services. New streets should be designed

to consider future development.

- c. The access regulations are intended to provide safe and convenient vehicular and pedestrian access within developments and between adjacent developments and to lessen traffic congestion. Pedestrian, bike, and vehicular access should be safe, direct, and convenient.
- d. Design adjustments to the requirements of this Article may be appropriate where topographic changes are too steep, where existing buildings, streams or other natural or man-made obstructions, or site layout of developed properties prevent cross access, where adjoining uses are incompatible, or where strict compliance with this UDO would pose a safety hazard.

## 2. Streets and Access.

- a. Access from Major Thoroughfares. Where a residential subdivision borders or contains an existing or proposed thoroughfare, as shown on the master thoroughfare plan, residential lots shall not in general, where possible, have frontage onto or derive access directly from an existing or proposed collector street, or larger. Nonresidential lots which have frontage onto or derive access directly from an existing or proposed collector street, as shown on the master thoroughfare plan, shall have driveway locations which comply with the spacing requirements contained in the design manual.
- b. Intersection Angles. Spacing of intersections along major streets shall conform to the design manual. Not more than two (2) streets shall intersect at any one (1) point unless specifically approved by the Planning and Zoning Commission. Proposed new intersections along one (1) side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Streets shall be laid out so as to intersect as nearly as possible at right angles. Intersections which are not right angles shall use the following criteria:
  - i. A proposed intersection of two (2) new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street intersection or curved street approaching an intersection shall be at right angles for at least 50 feet from the intersection.
  - ii. Street jogs with center-line offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection.
- c. Cul-De-Sac Length. No street may be designed to be dead-ended without the installation of a cul-de-sac with a fifty-foot right-of-way radius and a forty-foot pavement radius back to back of curb. No cul-de-sac street may 600 feet in length, as measured along the street centerline from the projected curb intersection to the farthest curb location and no cul-de-sac shall be permitted unless the water main is looped.
- d. Multiple Entrance and Exit Locations. The use of two (2) or more entrance and exit locations is required when the subdivision contains 40 or more lots. However, the Planning and Zoning Commission may recommend a waiver of this requirement when alternative proposals are determined to be practical and sound planning principles have been considered.
- e. Rights-Of-Way. Right-of-way widths shall be consistent with those shown on the master thoroughfare plan. Right-of-way widths in excess of the standards designated on the master thoroughfare plan shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Furthermore, street right-of-way widths in commercial, industrial and similar high intensity land use areas shall be appropriate for the type of development being proposed, but no street in such area shall be less than the minimum required for a collector street.

## 3. Blocks.

- a. Depth. Blocks shall have sufficient depth to provide for two (2) rows of lots of appropriate depths. Exceptions to this prescribed block depth may be permitted in blocks adjacent to major streets,

railroads, waterways or city limit lines. The use of a public alley shall be limited to nonresidential subdivisions.

- b. **Block Lengths.** Block lengths in residential areas shall not exceed 15 times the minimum lot width required in the zoning district or 1,000 feet long without an intersection with another street. Blocks designed for industrial uses may be of such length and width as determined suitable and appropriate by the Planning and Zoning Commission for the prospective use. In long blocks, the Planning and Zoning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, fire apparatus access, or pedestrian traffic. When such an easement is required, additional width shall be included in the adjacent lots.
  - c. **Buildable Area.** Every residential lot proposed for development shall contain a buildable area which contains, at a minimum, 125 percent of the minimum structure square footage required for the applicable zoning district. The buildable area shall be situated out of the one-hundred-year special flood hazard area and drainage easements or drainage rights-of-way.
  - d. **Double Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from collector or arterial streets or to overcome specific disadvantages of topography and orientation. The Planning and Zoning Commission may require that a restriction be placed on the plat to limit the facing of main structures or limit driveway access from any collector or arterial street.
  - e. **Lot Dimensions and Design.** Lot dimensions shall be consistent with the minimum standards for the applicable zoning district. Conventional design practices for subdivision planning requires that side lot lines be at right angles to street lines or as a radial. However, lot lines which are not at right angles to street lines, or shown as a radial, shall contain a bearing notation. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front and side yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the zoning requirements.
- D. **Character of the Land.** Land which the Planning and Zoning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed until adequate methods are formulated by the developer and approved by the Planning and Zoning Commission to solve the problems created by the unsuitable land conditions.
- E. **Conformity with Comprehensive Land Use Plan.** Every subdivision plat shall conform to the city's comprehensive land use plan, this UDC, and other applicable city standards.
- F. **Water Bodies.** If a tract being subdivided contains a water body, or portion thereof, lot lines shall be drawn so as to distribute the entire ownership of the water body among adjacent lots. The Planning and Zoning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility. If a water body is intended to be situated on its own lot, then the lot shall be numbered according to the numbering sequence of the subdivision. Furthermore, any lot intended to be used as a buildable lot which includes a water body shall contain a buildable area that is, at a minimum, 125 percent of the minimum square footage required for the applicable zoning district.

## Section 15.16 Public Infrastructure Standards

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### A. *Standards.*

1. Intent. The standards established in this section for dedication and construction of public works improvements and infrastructure are based upon engineering studies and historical usages and demands by different categories of development. These regulations identify certain minimum requirements and sizes for utilities, roadways, parks and other facilities that the City Council has determined to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety, and welfare and to assure the quality of life currently enjoyed by the citizens of Kennedale. It is the intent of these regulations that no development occurs until and unless these minimum levels of service are met. Therefore, each subdivision in the city shall be required to dedicate, construct and/or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.
2. Level of Service. For each category of public infrastructure, a minimum standard of infrastructure, and in some cases, service level, has been developed based upon historic studies and construction projects of the city and other cities. These minimum standards take into consideration the soil conditions and topographic configuration of the city, the use and impact analyses of the North Central Texas Council of Governments in developing standard specifications for public works installation, and other historical use and performance experiences of the city that reflect the minimum level of facilities and services that must be built to meet the health, safety and welfare of the citizens of Kennedale.

### B. *Dedication.* In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the city may require the dedication of easements and rights-of-way for or construction of on-site or off-site public works improvements for water, wastewater, road, drainage or park facilities to serve a proposed subdivision, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the city may deny the subdivision until the public facilities and services can be provided, or require that the development be phased so that the availability and delivery of facilities and services coincides with the demands for the facilities created by the development.

### C. *Oversizing.*

1. Reimbursement. Whenever the City Council determines that levels of service in excess of these minimum standards are necessary in order to promote the orderly development of the city, the owner shall qualify for reimbursement for any costs in excess of the minimum levels of service through city participation, to the extent funds are available by a pro rata reimbursement policy or other means adopted by the city.
2. Expansion and Cost. Where considered necessary by the city engineer, the facilities shall be sized in excess of that dictated by the design manual to provide for future growth and expansion of the city systems. Where oversizing of public facilities is required, or where the relocation of public facilities is required, the city may participate in the cost.

### D. *Responsibility.* The developer shall install all water and sewer systems, street and drainage facilities, and any other facilities required by these regulations which are necessary for the proper development of the subdivision. The design, construction and inspection of any public or semipublic improvements, as well as the cost of engineering review, shall be borne by the developer. All such facilities shall be designed and constructed in accordance with the design manual and be in conformance with the general layout of the city master land use plan, as adopted by the City Council.

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**Section 15.17 Private Streets**

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Private street developments are prohibited, except in the Village Districts. Private street developments in lawfully constructed and in existence shall be allowed to continue. However, such uses may not be expanded, and private infrastructure, easements, and open areas must continue to be maintained by the party responsible for maintenance prior to adoption of the UDC. Private streets in the Village Districts may be approved administratively during site plan review.

**Section 15.16 Appeals, Variances and Enforcement**

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- A. *Appeals.* See Section 28.7.
- B. *Variances.* See Section 28.7 B.
- C. *Enforcement.* See Section 31.8.

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**Stormwater Protection**

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**Article  
16**

**City of Kennedale Unified Development Code**

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## Section 16.1 Purpose

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The purpose of this article is to prevent untreated discharges that contribute high levels of pollutants, including heavy metals, toxics, oil and grease, solvents, nutrients, viruses, and bacteria to receiving waterbodies, and to protect water quality, aquatic life, wildlife, and human health.

## Section 16.2 General Prohibition

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- A. *Prohibited Activity.* No person shall introduce or cause to be introduced into the municipal separate storm sewer system ("MS4") any discharge that is not composed entirely of stormwater.
- B. *Discharges.* It is an affirmative defense to any enforcement action for violation of paragraph A of this section that the discharge was composed entirely of one (1) or more of the following categories of discharges:
1. A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
  2. A discharge or flow resulting from firefighting by the fire department;
  3. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials where treatment adequate to remove harmful quantities of pollutants has occurred prior to discharge;
  4. Agricultural stormwater runoff;
  5. A discharge or flow from water line flushing that contains no harmful quantity of chlorine or any other chemical used in line disinfection;
  6. A discharge or flow from lawn watering, landscape irrigation, or other irrigation water;
  7. A discharge or flow from a diverted stream flow or natural spring;
  8. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
  9. Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
  10. Uncontaminated discharge or flow from a foundation drain, crawl space pump, footing drain, or sump pump;
  11. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
  12. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
  13. A discharge or flow from individual residential car washing;
  14. A discharge or flow from a riparian habitat or wetland;
  15. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
  16. Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber or filter or any other source of pollutant; or
  17. Swimming pool water that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning; however, a discharge of filter backwash from a swimming pool shall not be an affirmative defense to any

enforcement of this section.

- C. *Affirmative Defense.* No affirmative defense shall be available under paragraph B of this section if the discharge or flow in question has been determined by the Director of Public Works to be a source of a pollutant or pollutants to the waters of the United States or to the MS4, written notice of such determination has been provided to the discharger, and the discharge has occurred more than 15 days beyond the date such notice is received by the discharger. The Director of Public Works' determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

### Section 16.3 Specific Prohibitions and Requirements

- A. *Inclusion.* The specific prohibitions and requirements in this section are not necessarily inclusive of all the discharges prohibited by the general prohibition in *Section 16.2*.
- B. *Prohibited Activity.* No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- C. *Prohibited Substances.* No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce, cause, allow, or permit to be introduced any of the following substances into the MS4:
1. Any used motor oil, antifreeze, or any other motor vehicle fluid;
  2. Any industrial waste;
  3. Any hazardous waste, including hazardous household waste;
  4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
  5. Any garbage, rubbish, or yard waste;
  6. Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than two (2) such vehicles;
  7. Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
  8. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
  9. Any wastewater from floor, rug, or carpet cleaning;
  10. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
  11. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
  12. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or material from the cleaning of vehicles or equipment containing, or used in transporting or applying,

such material;

13. Any runoff or washdown water from any animal pen, kennel, fowl or livestock containment area;
  14. Any filter backwash from a swimming pool, fountain, or spa;
  15. Any swimming pool water containing a harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
  16. Any discharge from water line disinfection by superchlorination or other means if it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
  17. Any fire protection water containing oil or hazardous substances or materials, unless treatment adequate to remove pollutants occurs prior to discharge;
  18. Any water from a water curtain in a spray room used for painting vehicles or equipment;
  19. Any contaminated runoff from a vehicle salvage yard;
  20. Any substance or material that will damage, block, or clog the MS4; and
  21. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by a leaking PST, or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge:
    - a. Complies with all state and federal standards and requirements;
    - b. Does not contain a harmful quantity of any pollutant; and
    - c. Does not contain more than 50 parts per billion (50 ppb) of benzene; 500 parts per billion (500 ppb) combined total quantities of benzene, toluene, ethylbenzene, and xylene; or 15 mg/l of total petroleum hydrocarbons.
- D. *Erosion and Sediment.* No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with land filling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on site or captured by employing sediment and erosion control measures as required by *Article 17*.
- E. *Sanitary Sewage.* No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
- F. *Pavement Wash Water.* No person shall cause or allow any pavement-wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- G. *Further Restrictions.* No person shall:
1. Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course;
  2. Mix or comeingle used oil with solid waste that is to be disposed of in a landfill or directly dispose of used oil on land or in a landfill; or
  3. Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.

#### Section 16.4 Compliance Monitoring

- A. *Right of Entry: Inspection and Sampling.* The Director of Public Works shall have the right to enter the

premises of any person discharging stormwater to the MS4 or to waters of the United States to determine if the discharger is complying with all requirements of this article. Dischargers shall allow the Director of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, or for the performance of any additional duties required to enforce this article. Dischargers shall make available to the Director of Public Works, upon request, any SWPPPs, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this article or compliance with any state or federal discharge permit.

1. Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the Director of Public Works will be permitted to enter without delay for the purposes of performing his responsibilities.
  2. The Director of Public Works shall have the right to set up on the discharger's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the discharger's operations.
  3. The Director of Public Works may require any discharger to the MS4 or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges, and may specify the frequency and parameters of any such required monitoring.
  4. The Director of Public Works may require the discharger to install monitoring equipment as necessary at the discharger's expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
  5. Any temporary or permanent obstruction of safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the Director of Public Works. The costs of clearing such access shall be borne by the discharger.
  6. Unreasonable delays in allowing the Director of Public Works access to the discharger's premises shall be a violation of this article.
- B. *Search Warrants.* If the Director of Public Works has been refused access to any part of the premises from which stormwater is discharged, and he is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director of Public Works may seek issuance of a search warrant from any court of competent jurisdiction.

## **Section 16.5 Appeals and Enforcement**

- A. *Appeals.* See Section 28.6.
- B. *Enforcement.* See Section 31.7.

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**Erosion and Sediment Control**

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**Article  
17**

### **Section 17.1 Purpose**

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During the construction process, soil is vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, the clearing of land and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat. As a result, it is the purpose of this article to preserve natural resources, protect the quality of the waters of the State of Texas and the city, and protect and promote the health, safety and welfare, and to provide a healthy living environment for citizens of the City of Kennedale to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged to lakes, streams and wetlands because of construction or land-disturbing activities.

### **Section 17.2 Erosion and Sediment Control Plan**

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- A. *Application of Regulations.* Regardless of a property's size, a responsible party engaging in construction or land-disturbing activities shall prepare an erosion and sediment control plan ("plan") and submit that plan to the Director of Public Works for approval unless the responsible party is granted a waiver under *Section 17.4 B*. This article shall apply regardless of whether a responsible party is required to obtain a permit from the city or a state agency to conduct construction or land-disturbing activities.
- B. *Liability of Third Parties.* The responsible party shall be held liable for violations of this article committed by third parties performing work on behalf of the responsible party related to the responsible party's construction or land-disturbing activities.
- C. *Plan Implementation and Compliance.* Prior to beginning any construction or land-disturbing activities, a responsible party shall implement and maintain the erosion and sediment control measures shown on its approved plan in a manner that minimizes the erosion and the transport of silt, earth, topsoil, etc., beyond the limits of the responsible party's site onto city streets, drainage easements, drainage facilities, storm drains or other city property due to water runoff, construction, or land-disturbing activities.

### **Section 17.3 Requirements**

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- A. *Plan review.* The Director of Public Works shall review each plan required by this article to ensure the plan clearly identifies all erosion and sediment control measures to be installed and maintained throughout the duration of the activity or project.
- B. *Erosion and Sediment Control Required.* The responsible party shall install and maintain erosion and sediment control measures in accordance with an approved plan, and as may be specified in *Section 17.5* and *Section 17.6*. Erosion and sediment control measures that are installed but not properly maintained in accordance with the Erosion and Sediment Control Manual are considered a violation of this article and may be enforced pursuant to *Section 31.2*.
- C. *Inspection of Residential Subdivisions.* When construction or land-disturbing activities are conducted on a residential lot or subdivision for which a building permit is required, the city shall not conduct an inspection until an approved plan is implemented by the responsible party.
- D. *Erosion and Sediment Control Measures.* General guidelines for erosion and sediment control measures are as follows:
  - 1. Maximum use shall be made of vegetation to minimize soil loss;
  - 2. Natural vegetation should be retained wherever possible;
  - 3. Vegetation used for vegetative cover shall be suitable for local soil and weather conditions. Ground

cover plants shall comply with listings from the Texas Agricultural Extension Service for North Central Texas;

4. Stripping of vegetation from project sites shall be phased so as to expose the minimum amount of area to soil erosion for the shortest possible period of time, phasing shall also consider the varying requirements of a plan at different stages of construction;
  5. Temporary erosion and sediment control measures should be installed promptly to minimize soil loss and ensure that erosion and sedimentation does not occur if inadequate natural vegetation exists or where it becomes necessary to remove existing natural vegetation;
  6. Erosion and sediment control measures should be implemented prior to any construction or land-disturbing activities;
  7. Erosion and sediment control measures shall be used on hillsides to slow drainage flow rate wherever possible during construction;
  8. Waste or disposal areas and construction roads should be located and constructed in a manner that minimizes the amount of sediment entering streams;
  9. Frequent fording of live streams will not be permitted; therefore, temporary bridges or other structures shall be used wherever an appreciable number of stream crossings are necessary;
  10. When work areas or material sources are located in or adjacent to live streams, such areas shall be separated from the stream by a dike or other barrier to keep sediment from entering a flowing stream. Care shall be taken during the construction and removal of such barriers to minimize the sediment transport into a stream;
  11. If preventative measures fail to function effectively, the responsible party shall act immediately to bring the erosion and/or siltation under control by whatever additional means are necessary;
  12. Erosion and sediment control measures shall be placed to trap any losses from stockpiled topsoil;
  13. The selection and timing of the installation of erosion and sediment control measures shall be based upon weather and seasonal conditions that could make certain controls impracticable; and
  14. Runoff shall be diverted away from construction areas as much as possible.
- E. *Installation of Utilities.* Developers, builders, or owners of property shall install all utilities, including franchise utilities, before final acceptance of a subdivision, property and/or structure.
- F. *Transfer of Property.* If the responsible party sells all or part of a residential or commercial development or subdivision, the purchaser becomes the responsible party for the development or subdivision and is required to comply with the approved plan and SWPPP, and shall be liable for any violation of this article. The sale of the development or subdivision shall be logged within the SWPPP kept at the project site along with written proof of transfer of a development or subdivision.
- G. *Off-Site Borrow, Spoil and Staging Areas.* Where applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered part of the project site and shall be governed by this article.
- H. *Related Land Areas.* The erosion and sediment control regulations of this article shall apply to all related land areas. Additionally, when construction or land-disturbing activities occur, all disturbed land areas related to a project must have permanent erosion and sediment control measures established before final occupancy of structures or final acceptance of a subdivision may be permitted. This section applies whether or not a responsible party must obtain a building permit from the city.
- I. *Below Ground Installations.* All discharges resulting from below ground installations shall be passed through approved erosion and sediment control measures or removed from the site and properly disposed of.

### Section 17.4 Exception to Plan Requirement

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- A. *Land Less Than One (1) Acre But Part of A Larger Common Plan or Sale.* Consistent with TCEQ TDPES General Permit TXR150000, a responsible party engaging in construction or land-disturbing activities that are or smaller than one (1) acre is required to prepare a plan and submit it to the Director of Public Works for approval and implement erosion and sediment control measures if the property is part of a larger common plan of development or sale.
- B. *Land Less Than One (1) Acre But Not Part of a Larger Common Plan or Sale.* Activities less than one (1) acre that are not part of a larger common plan of development or sale may petition the Director of Public Works for a waiver from the plan submission requirement and the implementation of erosion and sediment control regulations. A waiver may be granted if, in the Director of Public Works' opinion, the proposed construction or land-disturbing activities would not cause pollutant runoff, erosion or offsite sediment discharge.

### Section 17.5 Occupancy of Nonresidential and Multi-Family Construction

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- A. *Occupancy.* When construction or land-disturbing activities are conducted as part of a nonresidential or multifamily construction project, permanent erosion and sediment control measures shall be established prior to the occupancy of any nonresidential or multifamily structure.
- B. *Phased Occupancy.* When construction or land-disturbing activities are conducted as part of a nonresidential or multifamily construction project, phased occupancy will be allowed only when the project has no outstanding violations of this article.

### Section 17.6 Residential Lots and Subdivision Construction

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- A. *Final Acceptance of Residential Subdivisions.* When construction or land-disturbing activities are conducted as part of a residential subdivision construction project, a responsible party shall install all necessary permanent erosion and sediment control measures, and when applicable, temporary erosion and sediment control measures, before final acceptance of a subdivision, property and/or structure.
- B. *Exception to Installation Requirement.* Notwithstanding paragraph A of this section at the Director of Public Works' discretion, a subdivision, property and/or structure may be accepted without the installation of erosion and sediment control measures if perennial vegetative cover is actively growing.
- C. *Maintenance of Temporary Measures Required.* When construction or land-disturbing activities are conducted on a residential lot or subdivision for which a building permit is required, the Developer, builder, or owner shall continue to maintain all temporary erosion and sediment control measures until permanent erosion and sediment control measures are established on lots for which a building permit has not been issued.
- D. *Removal of Temporary Measures Required.* Upon establishing permanent ground cover on a lot, all temporary erosion and sediment control measures shall be removed.

### Section 17.7 Farming and Ranching Activities

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Prior to beginning any construction or land-disturbing activities, a responsible party that engages in construction or land-disturbing activities for farming and ranching purposes shall submit a plan to the Director of Public Works for approval. The approved plan shall be implemented and erosion and sediment control measures shall be maintained as specified in the plan. A responsible party engaging in farming or ranching activities shall comply with all other general requirements of this article.

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**Section 17.8      Enforcement**

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A. *Enforcement.* See Section 31.2.

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**Post-Construction Runoff**

**Article  
18**

## Section 18.1 Purpose

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### A. *Finding of Fact.*

1. Determination. It is hereby determined that:
  - a. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes flooding stream channel erosion and sediment transport and deposition.
  - b. Stormwater runoff contributes to increased quantities of water borne pollutants.
  - c. Stormwater runoff soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.
2. Policies. The city establishes this set of water quality and quantity policies applicable to all surface waters in the city to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation.
3. Public Interest. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

### B. *Purpose.* The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within the city. This article seeks to meet that purpose through the following objectives:

1. To minimize increases in stormwater runoff from any development or redevelopment in order to reduce flooding, siltation and streambank erosion and maintain the integrity of stream channels;
2. To minimize the total annual volume of surface water runoff which flows from any specific site during and following development or redevelopment to not exceed the pre-development hydrologic conditions to the maximum extent practicable;
3. To accommodate new development and redevelopment projects in a manner that protects public safety, groundwater and surface water quality and aquatic living resources and their habitats;
4. To employ permanent nonstructural and structural best management practices (BMPs) to protect water quality thereby raising public awareness to stormwater quality related issues;
5. To remove and/or treat stormwater pollutants prior to discharge to ground and surface waters throughout the city;
6. To ensure the long-term operation and maintenance of all permanent stormwater quality features; and
7. To reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, to the waters of the state through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to the public.

## Section 18.2 General Provisions

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- A. *Applicability*. This article shall be applicable to all land development or redevelopment applications for both small and large construction activities, as defined by the TCEQ, unless eligible for an exemption or granted a waiver by the Director of Public Works.

B. *Drainage Design Manual Development.*

1. Manual. The city may provide additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this article and may provide such information in the form of a drainage design manual.
  2. Amendments. The drainage design manual may be amended from time to time based on improvements in engineering, science, monitoring and local maintenance experience.
  3. Compliance. Stormwater treatment practices that are designed and constructed in accordance with these design criteria will be presumed to meet the minimum water quality performance standards.
- C. *Withholding of Permits*. No owner or operator shall be issued any building, grading or other land development permits that are required for land disturbance activities without first satisfying the requirements of this article prior to commencement of the proposed activity.

### Section 18.3 Requirements

A. *General Criteria for Post Construction Runoff Control.*

1. All applicable land development sites shall be designed according to the specific performance criteria outlined in the city public works design manual or in conformance with the regional ISWM manual.
2. Prior to design applicants are required to consult with the public works department to determine if they are subject to additional post-construction stormwater design requirements.

B. *Minimum Control Requirements*. All stormwater management practices shall be designed so that the specific storm frequency storage volumes (e.g., water quality, channel protection, 10-year, 100-year) as identified in the current drainage design manual are met unless the Director of Public Works grants a waiver or the owner is exempt from such requirements. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Director of Public Works may impose any additional requirements deemed necessary to control the volume, timing, and rate of runoff.

C. *Site Design Feasibility.*

1. Practices. Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:
  - a. Topography;
  - b. Total maximum drainage area;
  - c. Depth to water table;
  - d. Soils;
  - e. Slopes; and
  - f. Terrain.
2. Guidance. Applicants shall consult the drainage design manual for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

D. *Conveyance Issues*. All stormwater management practices shall be designed to convey stormwater and allow for maximum removal of pollutants and reduction in flow velocities, which shall include, but are not be limited to:

1. Use of structural and nonstructural best management practices BMPs and controls;
2. Maximizing of path flow distance from inflow points to outflow points;

3. Protection of inlet and outfall structures; and
  4. Elimination of erosive flow velocities.
- E. *Maintenance Agreements.* All stormwater management and/or treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater practice.
- F. *Structural Stormwater Practices.* Owners are required by the city to implement structural measures to reduce runoff volumes and velocities at sites where downstream infrastructure is insufficient to accommodate developed flows. The following methods shall be considered appropriate for consideration as structural stormwater practices:
1. Swales and channels;
  2. Culverts inlets and pipes;
  3. Detention;
  4. Energy dissipaters;
  5. Infiltration trenches;
  6. Stormwater ponds;
  7. Porous surfaces; and
  8. Re-use (rain harvesting, etc.).
- G. *Use of Other or New Stormwater Practices.*
1. New Practices. New and innovative technologies shall be evaluated and are encouraged for use providing that there is sufficient documentation as to their effectiveness and reliability.
  2. Alternatives. New structural stormwater practices will not be accepted for inclusion in the city until independent performance data shows that the structural control conforms to local and/or state criteria for treatment, conveyance, maintenance and environmental impact.
- H. *Landscaping and Stabilization Requirements.*
1. Clearing. Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within 10 calendar days from substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:
    - a. Reseeding must be done with a perennial, non-winter season cover crop accompanied by placement of matting or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over 90 percent of the seeded area.
    - b. Replanting with native woody and herbaceous vegetation must be accompanied by placement of matting, mulch or an equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.
    - c. Any area of revegetation must exhibit survival of a minimum of 70 percent of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum 70 percent survival for one (1) year is achieved.
  2. Plan. Upon instruction from the Administrator or Director of Public Works, a landscaping plan prepared by a Texas registered landscape architect shall be submitted with the final design describing the

vegetative stabilization and management techniques to be used at a site after construction is completed. The landscaping plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. The landscaping plan, if required, must be approved by the Administrator prior to land disturbing activities.

I. *Privately Owned Erosion Control Requirements.*

1. Stormwater System Responsible Party.

- a. For privately-owned stormwater drainage systems and/or water quality devices used for residential or commercial areas, the developer shall be responsible for all of the maintenance and repair of such stormwater drainage systems and/or water quality devices serving that residential or commercial area until the developer or owner no longer has an ownership interest in any property served by the stormwater drainage system and/or water quality device.
- b. Once a homeowners' association (HOA) is organized and becomes active for a residential area served by a stormwater drainage system and/or water quality device, the homeowners' association shall be responsible for the maintenance and repair of the stormwater drainage system and/or water quality device. In the event there is no active homeowners' association or the homeowners' association fails to maintain the privately-owned stormwater drainage system and/or water quality device, then the city may, but is not required, to maintain and repair the system and/or device.
- c. Maintenance of a storm drainage system and or water quality device shall include such items, but not be limited to:
  - i. Mowing of tall weeds and grass;
  - ii. Regular and routine removal of floatables and debris;
  - iii. Dredging of silt and removal off-site;
  - iv. Correcting failures of inlet or outlet control structures;
  - v. Implementation of erosion mitigation measures;
  - vi. Repair and maintenance of aeration equipment; and
  - vii. Maintaining optimal operation of underground and above ground detention.

2. Disclosure of HOA Information to the MS4.

- a. Upon the organization and formation of a homeowners' association, the HOA should provide updated contact information to the city for compliance and reporting communications. The minimum information to be provided by the HOA to the city includes:
  - i. Name of subdivision and homeowners' association;
  - ii. Name, address, telephone number and email address of any management company involved with activities related to the HOA (if applicable);
  - iii. Name, address, telephone number and email address of a direct contact person representing or authorized to act on behalf of the HOA;
  - iv. Date of formation of the HOA;
  - v. Current listing of stormwater drainage structures and/or water quality devices over which the homeowner's association has control; and
  - vi. Dates when any changes were made to the HOA board, structure or the storm drainage system and/or water quality device over which the HOA has control.

- b. Any changes to the contact information regarding the HOA must be reported immediately to the city planning department.
  - c. The HOA is required to annually contact with the city planning department to ensure that all information is up to date.
3. Authorization to Inspect, Adopt, and Impose Best Management Practices.
- a. The city has the authority to conduct stormwater inspections to require implementation of best management practices where appropriate.
  - b. The selection, application and maintenance of BMPs must be sufficient to prevent or reduce the likelihood of pollutants entering the receiving storm drainage system.
  - c. The city may adopt and impose requirements identifying specific BMPs for any activity, operation or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMPs are required, every person undertaking such activity or operation or owning or operating such facility shall implement and maintain BMPs at the person's own expense.

#### **Section 18.4      Enforcement**

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- A. *Enforcement.* See *Section 31.5.*

**Flood Damage Prevention**

**Article  
19**

## Section 19.1 Purpose

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- A. *Statutory Authorization.* The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.
- B. *Findings of Fact.*
1. Periodic Inundation. The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
  2. Flood Losses. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
- C. *Statement of Purpose.* It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life and health;
  2. Minimize expenditure of public money for costly flood control projects;
  3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  4. Minimize prolonged business interruptions;
  5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
  6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood-blighted areas; and
  7. Insure that potential buyers are notified that property is in a flood area.
- D. *Methods of Reducing Flood Losses.* In order to accomplish its purposes, this article:
1. Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
  2. Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  3. Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
  4. Controls filling, grading, dredging and other development which may increase flood damage; and
  5. Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## Section 19.2 General Applicability

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- A. *Applicability.* This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Kennedale.

- B. *Basis for Establishing an Area of Special Flood Hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Tarrant County, Texas and Incorporated Areas," dated September 25, 2009, with accompanying Flood Insurance Rate Maps.
- C. *Development Permit Required.* A floodplain development permit shall be required to ensure conformance with the provisions of this article.
- D. *Compliance.* No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.
- E. *Abrogation and Greater Restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. *Interpretation.* In the interpretation and application of this article, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and
  3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- G. *Warning and Disclaimer of Liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

### Section 19.3 Permitting

- A. *Application.* Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
  2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of *Section 19.4 B.2*;
  4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
  5. Maintain a record of all such information in accordance with *Section 29.6 B.1*.
- B. *Decisions.* Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this article and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
  2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such

damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable; and
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

#### **Section 19.4 Flood Hazard Reduction**

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- A. *General Standards.* In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
  3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
  4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
  6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
  7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- B. *Specific Standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in *Section 19.2 B*, *Section 29.6 B.8*, or *Section 19.4 C.2*, the following provisions are required:
1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two (2) feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in *Section 19.3 A.1*, is satisfied.
  2. Nonresidential Construction. New construction and substantial improvements of any commercial,

industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two (2) feet above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

3. Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade.
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Manufactured Homes.
  - a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:
    - i. Outside of a manufactured home park or subdivision,
    - ii. In a new manufactured home park or subdivision,
    - iii. In an expansion to an existing manufactured home park or subdivision, or
    - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of subsection (4) of this section be elevated so that either:
    - i. The lowest floor of the manufactured home is at two (2) feet above the base flood elevation, or
    - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements

of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. Recreational Vehicles. Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
    - a. Be on the site for fewer than 180 consecutive days, or
    - b. Be fully licensed and ready for highway use, or
    - c. Meet the permit requirements of *Section 19.3 A* and the elevation and anchoring requirements for "manufactured homes" in *Section 19.4 B.4*. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- C. *Standards for Subdivision Proposals.*
1. Subdivisions and Manufactured Home Parks.
    - a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with *Section 19.1* and shall meet floodplain development permit requirements of *Section 19.2 C*; *Section 29.6 B.8*; and the provisions of *Section 19.4*.
    - b. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
    - c. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
  2. Base Flood Elevation.
    - a. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to *Section 19.2 B* or *Section 29.6 B.8*.
    - b. Base flood elevation data shall be generated by a detailed engineering study for all Zone A areas, within 100 feet of the contour lines of Zone A areas, and other streams not mapped by FEMA, as indicated on the community's FIRM.
- D. *Standards for Areas of Shallow Flooding (AO/AH Zones).* Located within the areas of special flood hazard established in *Section 19.2 B*, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
1. Elevation. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
  2. Requirements. All new construction and substantial improvements of nonresidential structures are subject to the following:
    - a. The lowest floor (including basement) shall be elevated to two (2) feet above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified), or

- b. Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the base flood elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
  3. Certification. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in *Section 19.3* are satisfied.
  4. Drainage Paths. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- E. Floodways. Floodways located within areas of special flood hazard established in *Section 19.2 B*, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:
1. Encroachments. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  2. New Construction And Substantial Improvements. If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.
  3. Permitted Encroachments. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulation, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

## Section 19.5 Appeals and Variances

- A. *Appeals*. See *Section 28.3 D*.
- B. *Variances*. See *Section 28.3 E*.

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**Natural Resources Management**

**Article  
20**

**City of Kennedale Unified Development Code**

## Section 20.1 Purpose

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- A. *Purpose.* The responsibility of local governmental units to adopt regulations designed to minimize flood losses. The purpose of this article is to promote site planning which furthers the preservation of mature trees and natural areas, to protect trees during construction, to facilitate site design and construction which contribute to the long term viability of existing trees and to control the removal of trees when necessary. It is the further purpose of this article to achieve the following broader objectives:
1. Prohibit the indiscriminate clearing of property;
  2. Protect and increase the value of residential and commercial properties within the city;
  3. Maintain and enhance a positive image for the attraction of new business enterprises to the city; and
  4. Protect healthy quality trees and promote the natural ecological, environmental and aesthetic qualities of the city.

## Section 20.2 Permitting

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- A. *Applicability.* No person, directly or indirectly, shall cut down, destroy, remove, move or effectively destroy through damaging any protected tree situated on property regulated by this article without first obtaining a tree removal permit unless otherwise specified in this article.
- B. *Authority.* The Administrator shall be responsible for the review and approval of all requests for tree removal permits submitted in accordance with the requirements specified herein. The Administrator may defer the approval of a tree removal permit to the tree board at his discretion.
- C. *Submittal Requirements.* The Administrator shall establish administrative procedures necessary to facilitate the implementation and enforcement of this article.
1. Tree Removal Permit. A request for a tree removal permit must be submitted and approved prior to the removal of any protected tree in the city unless the tree is exempt under a provision of this article.
  2. Fees. All tree removal permits shall be accompanied by a payment made to the city in the amount specified by City Council.
  3. Required Documents. A tree survey, submitted in accordance with the requirements of Appendix D to Ordinance No. 268, and a construction plan, in accordance with Appendix E to Ordinance No. 268, shall be required and must include the items referenced in this article and its appendices.
  4. Permit Expiration. Permits for tree removal issued in connection with a building permit or site plan shall be valid for the period of that building permit's or site plan's validity. Permit(s) for tree removal not issued in connection with a building permit or a site plan shall become void 180 days after the issue date on the permit.
- D. *Action.* The issuance of a tree removal permit shall be based on the following criteria:
1. Whether or not a reasonable accommodation or alternative solution can be made to accomplish the desired activity without the removal of the tree.
  2. The cost of preserving the tree.
  3. Whether the tree is worthy of preservation. Trees listed as marginal trees by the City of Kennedale are usually not considered worthy of preservation but shall depend upon the individual characteristics of the tree.
  4. The effect of the removal on erosion, soil moisture, retention, flow of surface waters and drainage systems.

5. The need for buffering of residential areas from the noise, glare and visual effects of nonresidential uses.
6. Whether the tree interferes with a utility service.
7. Whether the proposed tree replacement pursuant to the tree replacement requirements hereof adequately mitigates the removal of the tree.
8. Whether the removal affects the public health, safety or welfare.
9. Whether the requirement places an unreasonable burden on the development.
10. Whether extraordinary hardship or practical difficulty will result from strict compliance with these regulations, and/or the purpose of these regulations may be served to a greater extent by an alternative proposal.

### Section 20.3 General Requirements

- A. *Clear Cutting.* The clear cutting of land as defined in this article is prohibited.
- B. *Selective Thinning.* The removal of selected trees from within a densely forested area, when done in a professionally accepted manner, shall be allowed as a single permit upon approval by the Administrator. Approval will only be granted when the Administrator determines that the selective thinning is being done in a manner that would enhance the environment and likelihood of survival for the remaining trees.
- C. *Ground Level Cuts.* Where protected tree removal is allowed through an exemption or pursuant to a tree removal permit and the root system is intertwined with protected trees which are intended to be saved, the tree shall be removed by flush cutting with the natural level of the surrounding ground. Where stump removal is also desired, stump grinding shall be allowed, or upon approval of the Administrator, a trench may be cut between the two (2) trees sufficient to cut the roots near the tree to be removed, thereby allowing removal of the remaining stump without destruction of the root system of the saved tree.
- D. *Park Trees.* No person shall prune, treat or remove park trees without the express written consent of the Administrator.
- E. *Overhead Lines.* Any required replacement trees shall not be planted within an area such that the mature canopy of the tree will be within 10 feet of overhead utility lines.
- F. *Proximity to Utilities.* Any required replacement trees or street trees shall not be planted within five (5) feet of electrical facilities (underground or surface), public utility lines, including water lines, sewer lines, transmission lines or other utilities. No trees shall be planted within 10 feet of a fire hydrant. Shrubs will be permitted outside of the minimum clearance of surface electrical facilities established by the franchise electrical company.
- G. *Street Corners.* No tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines.

### Section 20.4 New Developments

- A. *Applicability.* All new developments that have not yet made application to the city for development or plat approval as of the effective date of this article shall be subject to the requirements for tree protection and replacement set forth herein.
- B. *Residential Developments.* All areas within street rights-of-way, utility or drainage easements as shown on ~~a preliminary plat approved by the Planning & Zoning Commission, an approved final plat, and areas designated as cut/fill on the construction plan approved by the Administrator~~ shall be exempt from the tree protection and replacement requirements specified herein. The developer may request the Administrator to allow trees within potential building pad areas to be

Commented [KB64]: Ordinance No. 621

included in the exemption described herein. All other area shall be subject to these requirements. ... If trees are removed from exempt areas based on an approved preliminary plat, and a revised preliminary plat or a final plat is later approved such that the trees originally exempt would no longer be exempt if still in place, such trees shall be replaced in accordance with Section 20.8.

**C. Nonresidential Development.** All areas within street right-of-ways ~~and~~, utility or drainage easements as shown on a preliminary plat approved by the Planning and Zoning Commission, plus fire lands, parking areas to meet minimum parking requirements, and an approved final plat, areas designated as cut/fill on the master construction plan approved by the Administrator, plus fire lanes, parking areas and building pad as shown on an approved site plan, shall be exempt from the tree protection and replacement requirements specified herein. ... Any parking areas in excess of the minimum parking requirements shall not be exempt from the tree protection and replacement requirements. In addition, trees exempted from the protection and replacement requirements due to being located in an exempt area shown on an approved preliminary plat shall be replaced in accordance with Section 20.8 if they are removed and the areas shown as exempt on the preliminary plat are no longer exempt as shown on a revised preliminary plat or a final plat.

Commented [KB65]: Ordinance No. 621

**D. Permit Requirements.** A tree removal permit shall not be required for removal of a protected tree within an area noted in subsections (1) and (2) of this section. However, a permit must be obtained prior to the removal of any other protected tree on the property.

**E. Administrator Review.**

1. Residential Development. A developer shall be required to furnish a tree survey showing all proposed improvements (for example, right-of-ways, easements, lot patterns, cut/fill and the like) with the submittal of a site plan, development plan, preliminary plat or final plat, whichever occurs first. The tree survey shall be submitted in accordance with the requirements set forth in Appendix D to Ordinance No. 268 and shall be prepared on a sheet drawn to the scale of one (1) inch equal to 100 feet (1:100) or on a computer disk in the format of a commonly used computer-aided design (CAD) program.
2. Nonresidential Development. A developer shall be required to furnish a tree survey showing all proposed improvements (for example, right-of-ways, easements, lot patterns, cut/fill, fire lanes, parking areas and building pads and the like) with the submittal of a site plan, development plan, construction plan, plot plan or building permit application, whichever occurs first. The tree survey shall be submitted in accordance with the requirements set forth in Appendix D to Ordinance No. 268 and shall be prepared on a sheet drawn to the scale of one (1) inch equal to 100 feet (1:100) or on a computer disk in the format of a commonly used computer-aided design (CAD) program.
3. Pre-Application Meeting. It is highly recommended that the developer consult with the Administrator and submit the required tree survey for review as early as possible so as to minimize changes in preliminary or final plats and to determine that there is adequate area for the proposed improvements after tree protection and replacement have been taken into consideration.
4. Review. The Administrator will evaluate the required tree survey to determine whether the developer has made a good-faith effort to save as many protected trees as possible. The Administrator will forward review comments to the Planning and Zoning Commission for consideration regarding denial or approval of the development. If the review involves a document that normally does not require the approval of the Planning and Zoning Commission, the Administrator will follow the procedures in *Section 20.2*.

**F. Parking Area.** When a nonresidential development consists of extra parking spaces beyond 110 percent of the minimum parking spaces required by the zoning ordinance, the developer shall be required to replace a percentage of the trees removed or make a payment into the tree restoration fund. The replacement trees shall be calculated by multiplying the total diameter of trees removed in all parking spaces by the percentage of the extra parking spaces to the total number of parking spaces (total diameter of trees removed x extra parking spaces ÷ total parking spaces). The replacement trees shall be provided

in accordance with *Section 20.8*.

### **Section 20.5 Residential and Agricultural Property**

- A. *Homestead*. The owner of property that is used for an individual residence or homestead shall be exempt from the tree protection and replacement requirements specified herein.
- B. *Property Owned By Home Builder*. All areas within the building pad, driveway, sidewalks, patios, septic tank and lateral lines, parking area, pool and associated deck area as shown on a tree survey approved

by the Administrator shall be exempt from the tree protection and replacement requirements specified herein. All other areas of the lot shall be subject to these requirements.

- C. *Permit Requirements.* A tree removal permit shall not be required for removal of a protected tree within an area noted above; however a permit must be obtained prior to the removal of any other protected tree on the property.
- D. *Administrator Review.* A tree survey showing all proposed improvements shall be required with the submittal of a building permit application. The tree survey shall be submitted on a sheet drawn to a scale as required by the Administrator or on a computer disk in the format of a commonly used computer-aided design (CAD) program.
- E. *Agricultural Property.* The owner of property actively used for agricultural purposes shall be permitted to remove up to seven (7) protected trees per calendar year without obtaining a permit. Protected trees removed in excess of seven (7) will require permits. It is not the intent of this article to prohibit the clearing of land for legitimate, agricultural use. The property owner shall request the Administrator to make an on-site inspection of the property to be cleared and provide the Administrator the purpose for the clearing. If the Administrator determines the clearing of land to be for a legitimate, agricultural reason, he/she will issue a tree removal permit.

## Section 20.6 Public Property, Right-of-Way, and Easements

- A. *Applicability.* All construction and maintenance activities within municipal/public domain property, right-of-ways or easements held by the city, franchise utility companies or other entities shall be subject to the requirements for tree protection and replacement specified as follows.
  - 1. Removal of a Protected Tree. A tree removal permit shall not be required for removal of a protected tree. However, no construction or maintenance activity that may cause the removal of a protected tree shall begin until construction plans showing protected trees to be removed and the location of replacement trees have been approved by the Administrator.
  - 2. Acceptable Trees. The Administrator shall maintain a list of trees acceptable for planting along streets and within parks and other public areas. Trees other than those listed as acceptable may only be planted upon approval of the Administrator.
  - 3. Street Tree Spacing. The spacing of street trees shall be in accordance with recommendations of the Administrator. Closer spacing or group plantings may be approved by the Administrator in unique situations and when recommended by a registered landscape architect.
  - 4. Public Tree Care. The city shall have the right to plant, prune and maintain street trees and park trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of the public properties. The city may remove, cause or order to be removed any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or which is affected with any injurious fungus, disease, insect or other pest.

## Section 20.7 Exemptions

- A. *Applicability.* A tree removal permit and tree protection and replacement requirements shall not be required under any of the following circumstances. The burden of proof of a qualified exemption is upon the remover of a tree. It is highly recommended that qualification as an exemption be determined with the Administrator prior to removal of any tree.

1. Preexisting Conditions. All construction activities for which final construction plans and building permit applications have been submitted prior to the effective date of this article shall be exempt.
  2. Diseased Trees. The tree is diseased, damaged beyond the point of recovery or in danger of falling as determined by the Administrator prior to the removal of the tree. The removal of a diseased tree by the city or an individual is required to reduce the chance of spreading the disease to adjacent healthy trees.
  3. Public Safety. The tree endangers the public health, welfare or safety and immediate removal is required.
  4. Utility Service Interruption. The tree has disrupted a public utility service due to a tornado, storm, flood or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to reestablish and maintain reliable utility service.
- B. Landscape Nursery. All licensed plant or tree nurseries shall be exempt from the requirements of this article as they pertain to those trees planted and growing on the premises of the licensee that are so planted and growing for the sale or intended sale to the general public in the ordinary course of the licensee's business.

## Section 20.8 Tree Replacement Requirements

- A. Tree Replacement. In the event that it is necessary to remove a protected tree, the party (other than franchise utility companies) removing the tree shall be required to replace the protected trees being removed with quality trees as defined herein. A sufficient number of trees shall be planted to equal or exceed the diameter (measured at four and one-half (4½) feet above ground level) of each tree removed. This mitigative measure is not meant to supplant good site planning. Tree replacement will be considered only after all design alternatives which could save more existing trees have been evaluated and reasonably rejected. The replacement trees shall be a minimum of three-inch diameter (measured at one (1) foot above ground) and seven (7) feet in height when planted.
- B. Replacement Procedures. At the time of review, the time of replacement and the location of the new trees will be determined by the Administrator. The replacement trees shall be located on the subject site whenever possible. However, if this is not feasible, the Administrator has the authority to allow the planting to take place on another property, including public property. Franchise utility companies shall be exempt from this requirement. If the Administrator approves the planting of replacement trees more than 30 days after the removal of protected trees, the applicant shall provide the Administrator with an affidavit that all replacement trees will be planted within six (6) months. Any replacement tree required by this article must be covered by a one-year warranty that is acceptable to the Administrator.
- C. Tree Reforestation Fund. In a densely forested area, the applicant, upon approval of the Administrator, may make a payment into the tree reforestation fund in lieu of planting the replacement tree on the subject site. The funds shall be used only for purchasing and planting trees on public property or acquiring wooded property which shall remain in a naturalistic state in perpetuity. The amount of the payment required for each replacement tree shall be calculated based on a schedule published annually by the Administrator which sets forth the average cost of a quality tree added to the average cost of planting a tree.

## Section 20.9 Tree Protection

- A. Applicability. A major purpose of this article is to protect all protected trees which are not required to be removed to allow approved construction to occur. The following procedures are required.
- B. Construction Plan Requirements. All construction plans shall include the requirements set forth in Appendix E to Ordinance No. 268.

- C. *Prohibited Activities.* The following activities shall be prohibited within the limits of the critical root zone of any protected tree subject to the requirements of this article.
1. Material Storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree. However, this restriction shall not apply to material storage in areas exempt from the tree protection and replacement requirements (for example, building pad, driveway, patio, parking lot and the like.)
  2. Equipment Cleaning/Liquid Disposal. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.
  3. Tree Attachments. No signs, wires or other attachments, other than those of a protective nature shall be attached to any protected tree.
  4. Vehicular Traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.
  5. Grade Changes. No grade changes shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Administrator or if grading is as directed by the city's drainage inspector.
  6. Impervious Paving. No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree except as otherwise allowed in this article.
- D. *Preserved Tree.* A protected tree shall be considered to be preserved only if a minimum of 75 percent of the critical root zone is maintained at undisturbed natural grade and no more than 25 percent of the canopy is removed due to building encroachment.
- E. *Prior to Construction.* The following procedures shall be followed on all types of construction projects (including residential subdivisions, commercial, multi-family, industrial developments, residential builders and municipal/public).
1. Tree Flagging or Marking. Trees that are approved by the Administrator for removal shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk or marked with bright fluorescent orange paint at a height of four (4) feet or more such that it is very visible to workers operating construction equipment. This shall not include the flagging or marking of all protected trees adjacent to right-of-ways within approved residential subdivisions during the construction of the roadway. Trees that are not flagged or marked shall be saved and protected by fencing in accordance with this section.
  2. Protective Fencing. In those situations where a protected tree is so close to the construction area that construction equipment might infringe on the root system or is within 20 feet of the construction area, a protective fencing shall be required between the outer limits of the critical root zone of the tree and the construction activity area. Four (4) feet high protective fencing shall be supported at a maximum of 10 feet intervals by approved methods. All protective fencing shall be in place prior to commencement of any site work and remain in place until all exterior work has been completed.
  3. Bark Protection. In situations where a protected tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with two (2) inch x four (4) inch lumber encircled with wire or other means that do not damage the tree. The intent

here is to protect the bark of the tree against incidental contact by construction equipment.

F. *Permanent Construction Methods.*

1. Boring. Where it is not possible to trench around the critical root zone of a protected tree, boring of utilities under the protected tree shall be required. The length of the bore shall at least be the width of the critical root zone and the depth of the bore shall at least be 24 inches.
2. Grade Change. In situations where the grade change within the critical root zone of a protected tree exceeds the limits noted in subsection (2) of this section, the procedures noted in the city standard detail sheet shall be required.
3. Trenching. All trenching shall be designed to avoid trenching across the critical root zone of any protected tree. Although this section is not intended to prohibit the placement of underground services such as electric, phone, gas and the like, the placement of these utilities is encouraged to be located outside of the critical root zone of protected trees. Irrigation system trenching shall be placed outside of the critical root zone with only the minimum required single head supply line allowed within that area placed radially to the tree trunk.
4. Root Pruning. All roots two (2) inches or larger in diameter which are exposed as a result of trenching or other excavation shall be cut off square with a sharp medium tooth saw and covered with pruning compound within two (2) hours of initial exposure.

## Section 20.10 Pruning

- A. *General*. No protected tree should be pruned in a manner which significantly disfigures the tree without proper cause or in a manner which would reasonably lead to the death of the tree.
- B. *Permit Requirements*. All franchise utility companies shall be required to maintain at the city a set of pruning specifications (updated annually) to be followed by all pruning contractors working for the company within the city. Prior to beginning any pruning not requested by the owner of the tree, the contractor for a non-franchise entity shall submit to the city an application for a pruning permit for approval. Utility companies may prune trees as necessary to maintain safe and reliable service or to reestablish disrupted electric service without obtaining a permit.
- C. *Allowed Pruning*. The Administrator may approve pruning of a protected tree in cases where protected trees must be strategically pruned to allow construction or demolition of a structure. When allowed, all pruning shall be in accordance with this article, approved arboricultural techniques and the recommendations of Appendix F to Ordinance No. 268. This section is not intended to require a tree permit for reasonable pruning performed or contracted to be performed by the owner of the tree when unrelated to construction activity.
- D. *Required Pruning*. The owners of all trees adjacent to public right-of-ways shall be required to prune the trees, including any adjacent street trees, to maintain a minimum clearance of 14 feet above the sidewalk or curb of a public street. The owners shall also remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall also have the right to prune trees overhanging within public rights-of-way which interfere with vehicular traffic or the proper spread of light along the street from a street light or interfere with visibility of any traffic control device or sign or as necessary to preserve the public safety.
- E. *Tree Topping*. It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this article at the determination of the Administrator.

**Section 20.11 Appeals and Enforcement**

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- A. *Appeals.* See Section 28.4.
- B. *Enforcement.* See Section 31.3.

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**Wellhead Protection Areas**

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**Article  
21**

**City of Kennedale Unified Development Code**

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## **Section 21.1 Purpose**

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- A. *Purpose.* It is the purpose of this division to promote the public health, safety and general welfare and to minimize public and private losses due to contamination of the public water supply, to maximize groundwater protection/pollution abatement control procedures, and to provide land use restrictions that:
1. Protect human life and health;
  2. Minimize expenditure of public money for costly remediation projects;
  3. Minimize business interruptions;
  4. Minimize damage to public facilities and utilities such as water mains, sewer lines, and treatment facilities;
  5. Ensure that the public is provided with a safe potable water supply now and for future generations; and
  6. Protect the natural resources of the state.

## **Section 21.2 Permitting**

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- A. *Applicability.* It shall be unlawful for any person to drill or otherwise construct, repair, correct, abandon or plug a well, or to engage upon such work, within the jurisdiction of the city, or to employ anyone else to engage in such work, without first applying for and securing a permit therefore from the city. Application for the permit shall be made to the city utility billing department. No permit shall be issued until appropriate fees have been paid in the amount established by ordinance. No permitted activity shall commence until inspected by the city.
- B. *Authority.* The Director of Public Works and/or Utility Director shall administer and implement the provisions of this article and other appropriate sections of chapter 26.117 of the Texas Water Code.
- C. *Interpretation.* In the interpretation and application of this division, all provisions shall be considered as minimum requirements, liberally construed in favor of the city, and deemed neither to limit nor repeal any other powers granted under state statutes.

## **Section 21.3 General Requirements**

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- A. *Casing of Wells.* Every well constructed, whether drilled, dug, or excavated, which encounters salt water or water containing mineral or other substance injurious to health or vegetation, shall be securely plugged and sealed or cased in such manner that the waters be confined to the stratum or strata in which found. Any well or other opening which penetrates the underground water supply and which pollutes or contaminates any other wells or the city's water supply, is declared a nuisance, and upon notice issued by the city to the owner of such wells, or to the operator thereof, or to his agent in charge of the well or of the property on which it is situated, such nuisance shall be abated by the owner within 10 days from the date of such notice by filling and plugging the well or opening in the manner provided for in this article; and if he shall fail to abate such nuisance within such time, or if owner or his agent, the city shall have the right to go on the land or property upon which the well is situated and abate such nuisance in the manner provided and the owner thereof shall be liable to the city for the cost of such work and shall pay such cost upon demand.
- B. *Defective Wells.* Every well whether dug or drilled, which for any reason does not completely prevent the mixing of water or other liquid from above and below the source of the city's water supply, or which for any reason would tend to pollute or contaminate any other well or the water in the source of the city's water

supply, shall be considered a defective well and the city on its own initiative or upon information or complaint from any source may make such an examination of any well suspected of being defective. If such an examination of any well indicates that the well is a probable source of contamination of the city water supply or any other well, or that the water from such well is unsafe for human consumption, the city shall issue written instructions to the owner or his agent in charge of such well or the property with the provisions of this article, and shall be unlawful for the owner or operator of such defective well to fail to comply with such instructions within the time prescribed.

- C. *Abandoned Wells.* An abandoned well is any well which has been continuously out of use for a period of six (6) months, or longer. Whenever any wells have not been in active use for more than two (2) years, the owner or operator of such well shall report the fact to the city. Every abandoned well shall be filled and plugged with such materials and in a manner approved by the state water well drillers board that will prevent the pollution and contamination of the city's water supply or the contamination of any other well within the jurisdiction of the city, and such filling and plugging shall be done under the supervision of the city and at the expense of the owner of such well.
- D. *Wells Outside the City; Abating Nuisance; Drilling.* The owner or lessee of property on which any well heretofore drilled or that may be hereafter drilled outside the city which is found to be a contaminating or polluting influence to the underground water-bearing strata from which the municipal water supply of the city is taken or drawn or may hereafter be taken or drawn, as well as the owner or lessee of all wells drilled inside the area of city jurisdiction shall be subject to all the provisions of this article relating to the protection of the water supply of the city, and any such contaminating well may be abated as provided therein. Any person desiring to drill a well outside of the city at any location within the ETJ, prior to drilling such well shall fully comply with all provisions of this article relating to the protection of water supply to the city, and upon failure to do so shall be punished as provided herein.

#### **Section 21.4      Warning and Disclaimer of Liability**

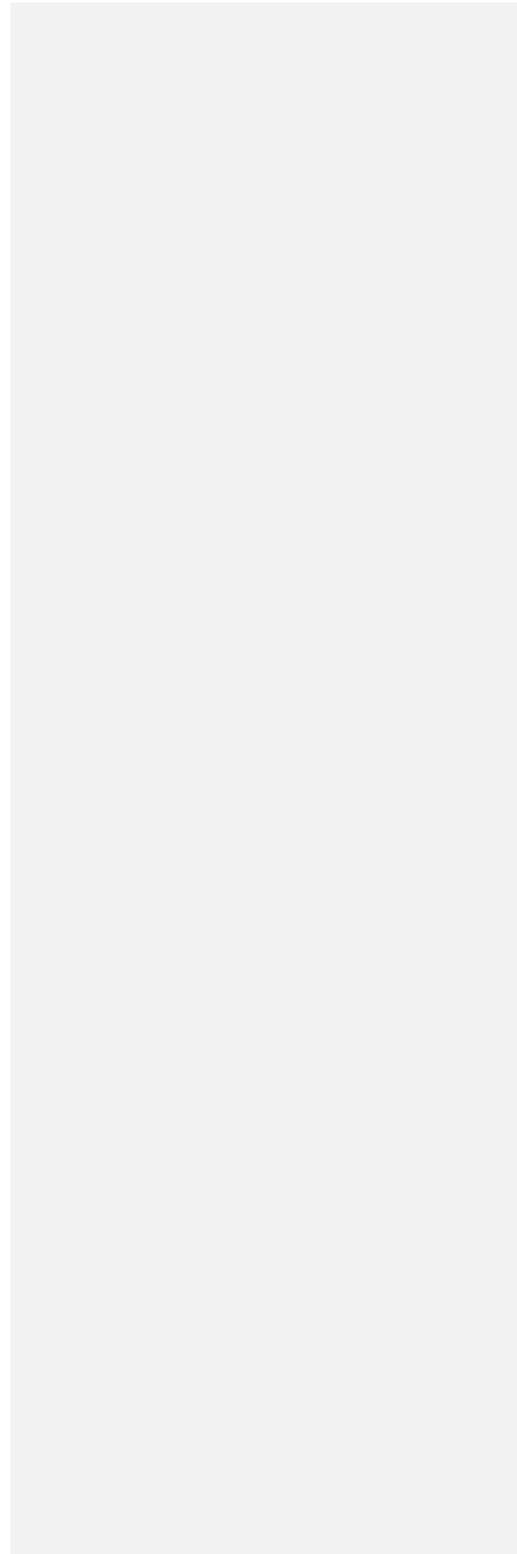
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The degree of protection of the city's PWS wells and public water supply is considered reasonable for regulatory purposes and is based on scientific and engineering considerations along with best professional judgment. It is recognized that not all potential sources of contamination are unavoidable and that a contamination event may occur due either to manmade or natural causes. This division does not imply that the WHPA(s) will totally preclude a contamination event from taking place. This division shall not create liability on the part of the city or any official or employee thereof for any damages that result from reliance on this division or any administrative decision lawfully made thereunder.

#### **Section 21.5      Variances**

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- A. *Variance.* See *Section 28.8.*



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**Review Procedures and Requirements**

**Part  
IV**

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**General Procedures and Amendments**

**Article  
22**

## Section 22.1 Purpose

This article describes the procedures for review of all applications for land use and development activity in the City of Kennedale.

## Section 22.2 Summary of Procedures

A. *Authorities.* Tables 22.2 A and 22.2 B summarize the land use and development procedures in this UDC and identifies the bodies that have review and decision-making responsibilities for each procedure. Other agencies and outside authorities may be asked by the Administrator, Planning and Zoning Commission, or City Council to review certain applications.

1. R = Review. Responsible for a review and a recommendation.
2. D = Decision. Responsible for the final decision on matter, approval or denial.
3. A = Appeal. Authority to hear and decide upon appeal requests.
4. PH = Public Hearing. A public hearing is required at this step.

Procedure	Section	Staff	P&Z	City Council	Board of Adjustment
Village Districts Streets and Blocks	Article 5.3 B	R (Admin.)	D	-	-
Signs	Article 14	D (Admin.)	-	-	A/PH
SWPPP	Article 16	D (Director of Public Works) A (City Manager)	-	-	-
Erosion and Sediment Control Plan	Article 17	D (Director of Public Works)	-	-	-
Post-Construction Runoff	Article 18	D (Director of Public Works)	-	-	-
Floodplain Plan	Article 19	D (Floodplain Admin.)	-	-	A/PH
Tree Removal	Article 20	D (Admin.)	-	A (2 <sup>nd</sup> )	A (1 <sup>st</sup> )

Wellhead	Article 21	D (Director of Public Works)	-	-	-
UDC Text Amendment	Section 22.10	R (Admin.)	R/PH	D/PH	-
Zoning Map Amendment	Section 22.10	R (Admin.)	R/PH	D/PH	-
Zoning Permit, Use and Building Compliance	Section 23.2	D (Admin.)	-	-	A/PH
Site Plan	Article 23.2	D (Admin.)	-	-	A/PH
Conditional Use Permit	Article 24	R	R/PH	D/PH	-
Special Exception	Article 25	R (Admin.)	-	-	D/PH
PD Rezoning and Concept Plan	Section 27.5	R (Admin.)	R/PH	D/PH	-

## General Procedures and Amendments

## Article 22



Procedure	Section	Staff	P&Z	City Council	Board of Adjustment
PD Major Change	Section 27.8 C	R (Admin.)	R/PH	D/PH	-
Final PD Site Plan	Section 27.6	D (Admin.)	-	-	A/PH
Signs- Special Sign Plan	Section 28.5 C	R (Admin.)	-	A/PH	D/PH

Procedure	Section	Staff	P&Z	City Council	Board of Adjustment
Preliminary Plat	Section 26.11	R (Admin., Engineer, Public Works, Fire Dept.)	D/PH	-	-
Construction Plans and Compliance Inspections	Section 26.13	D (Director of Public Works, Admin.)	-	-	-
Warranty	Section 26.13 G	D (Director of Public Works)	-	-	-
Construction Surety	Section 26.14	D (Director of Public Works)	-	-	-
Final Plats, Dedications	Section 26.16	R (Admin.)	R	D	-
Replats	Section 26.17	R (Admin.)	R/PH	D	-
Minor Plats	Section 26.18	R (Admin.)	R	D	-
Amending Plats	Section 26.19	R (Admin.)	R (if referred by City Council)	D	0
Rough Proportionality Appeal	Section 28.7 A	R (Director of Public Works, Admin.)	-	D/PH	-
Variance	Section 28.7 B	R (Admin.)	R/PH	D	-

### Section 22.3 Application Submission, Contents, and Fees

- A. *Applications.* Information concerning submittal requirements, contents, and fees are available at the Community Development Department. All applications required by this section shall be submitted to the Community Development Department, unless otherwise specified.
- B. *Authority to File Applications.* The person having legal authority to take action according to the approval sought shall file an application for development review or approval under the UDC. The person is presumed to be the record owner, purchaser under a sale or option to purchase, or the duly authorized agent of the record owner. Agents may only submit applications where the owner indicates consent in writing.
- C. *Contact Person.*
1. Contact. The applicant shall designate one person on the application as the primary contact person.

The Administrator will communicate with the contact person about the application and review procedures. It is the contact person's responsibility to inform the owners or applicant of such information.

2. Changes. The applicant shall notify the Administrator in writing if there is to be a change in the contact person. The Administrator will continue to communicate with the designated contact person until the notice of change has been received.

D. *Contents and Fees.*

1. Application Content. The Administrator is authorized to establish submittal requirements for all land use development applications required by the UDC and to update and amend such requirements as necessary to ensure effective and efficient review. Applicants shall refer to the Community Development Department for submittal requirements for each type of land use development application. The applicant shall provide any additional information, documents, or other material relevant to the application that the Administrator reasonably believes is necessary to evaluate, analyze, and understand the subject matter of the application.
2. Waivers. The Administrator may waive, or recommend that certain submittal requirements are waived, to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Administrator may waive, or recommend waivers, in cases where the projected size, complexity, anticipated impacts, or other factors associated with the proposed development or subdivision clearly justify such waiver.
3. Fees. Non-refundable fees are required at the time of the filing of any development application and are payable to the city in accordance with the fee schedules adopted by City Council. The City Council may require, in addition to the fees above, that the applicant pay all or a portion of the reasonable fees charged by private consultants retained by the city for the purposes of reviewing the application and advising city officials. The Administrator will notify the applicant prior to retaining any such consultant and the necessary required fees.
4. Authorization and Payment Required. The city shall adopt and amend from time-to-time a fee schedule setting forth an assessment of fees to defray the cost of processing land development applications under this section. The fee schedule, as amended, can be found at the Community Development Department. At the time of submittal, all applications shall include required fees.

## Section 22.4 Completeness Reviews

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- A. *Complete Application Required for Processing*. All application submissions must be complete prior to any processing by the Administrator. A complete application includes all of the submittal information identified on the application form and any items or exhibits requested by the Administrator that are consistent with the standards and requirements of the UDC. A complete application is also accompanied by the applicable fee.
1. Official Submission. An application shall be officially submitted when a hand-submitted copy of the application is presented to the Administrator on a business day during normal office hours. Under no other circumstances shall an application be considered submitted.
  2. Incomplete Applications. An incomplete application shall be denied. The acceptance of an application for completeness review does not bind the city to accept an incomplete application.
    - a. *Completeness Determination*. The Administrator shall determine whether an application is complete no later than 10 calendar days after the official submission of the application, and no later than 10 business days for plats. Staff shall make their determination of an incomplete application in writing. An e-mail to the applicant shall be considered a determination in writing. For

plats, determinations are sent by certified mail. Notice occurs upon dispatch or publication, not upon receipt. The determination shall identify the documents, studies, or other information needed to make the application complete. Once an incomplete application is deemed complete, an application will receive email notification.

- b. **Expiration of Application.** An incomplete application that has not been revised to meet the completeness requirements shall be considered expired on the 45th day after the original submission of the application. The city may retain the application fee paid. Following an expired application, any additional or further requests by the application must be accompanied by a new application and fee.
  3. **Application Deemed Complete.** If complete, the Administrator shall inform the applicant in writing. An e-mail to the applicant shall be considered a completeness determination in writing. For plats, completeness determinations are sent by certified mail. If the Administrator fails to identify an application as deemed complete where these regulations require that determination, the applicant may request the Planning and Zoning Commission to deem the application complete for the purposes of scheduling the application for review.
- B. **Vested Rights.** No vested rights accrue from the filing of an application that has expired pursuant to this section, or from the filing of an application that is subsequently denied by the Administrator.

## Section 22.5 Administrative Reviews

### A. *Review by other Departments and Agencies.*

1. **Review.** In addition to internal review, staff may distribute the complete application to other departments and to any other appropriate governmental or quasi-governmental agencies and bodies to solicit comments and ensure that the proposal complies with all applicable standards, requirements, and review criteria. The applicant shall be responsible for submitting any additional information or revised plans required by staff or the referral agencies in a timely manner. As applicable, the review and decision-making bodies shall consider the services and facilities provided by the referral agencies as a factor in approval of the complete application. The criteria for evaluating sufficiency of the services that must be satisfied for the approval of the application shall be provided to the review and decision-making bodies as a part of any referral response.
  2. **Comments.** Referral agencies shall comment in writing after receiving a complete application. The failure of any agency to respond shall be considered "no comment" on the application by that agency. As applicable, referring agencies will provide the review and decision-making bodies with a summary of any capacity evaluation study that assesses the availability of city-provided facilities or services to the proposed development. The summary will include an explanation of the agency's assumptions regarding available capacity.
- B. **Subsequent Requests for Information.** The Administrator and referral agencies shall use best efforts to identify all major issues and to request additional information, data, or reports from the applicant during the review period described above. This provision shall not be interpreted to preclude the Administrator or referral agencies from requesting revisions or corrections to previously submitted materials if such materials are subsequently found to be inaccurate, incomplete, or if subsequent plan revisions do not comply with this section.
- C. **Preparation of Staff Report and Recommendation.** The Administrator shall prepare a written report summarizing the review process and provide a recommendation on the application, when not serving as the approval authority. When the City Council is the approval authority, a Planning and Zoning Commission recommendation will also be forwarded for consideration.

## Section 22.6 Review and Action by City Authorities

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### A. Recommendations.

1. The proper review authority (Administrator, Planning and Zoning Commission, City Council, or Board of Adjustment) is established for each type of procedure in outlined in the UDC. The review authority shall evaluate the application, referral comments, staff report, and public testimony, if any, and make a recommendation to the decision-making authority to approve, approve with conditions, continue for additional information or for further study, or deny the application.
2. The review authority's recommendation shall be based on the evidence presented and compliance with the general review criteria identified in *Section 22.7* and the specific review criteria for each process outlined in the UDC.

### B. Review and Final Action.

1. Decisions. The proper decision-making authority (Administrator, Planning and Zoning Commission, City Council, or Board of Adjustment) is established for each type of procedure in the specific review procedures (see *Tables 22.2 A and B*). A decision-making authority may take action on an application or appeal by approving, approving with conditions, continuing, or remanding for additional information or for further study, or denying the application or appeal.
2. Review Criteria. The review authority's final action shall be based on the evidence presented and compliance with the general review criteria identified in *Section 22.7* and the specific review criteria for each process outlined in the UDC.

### C. *Withdrawal of Application by Applicant*. An applicant shall have the right to withdraw an application, without prejudice, at any time prior to action on the application at a public hearing or meeting. The applicant shall submit in writing the withdrawal request to the Administrator, and after such withdrawal, the city will not take further action on the application. The application shall be considered terminated and no rights shall vest based on the application. To re-initiate review, the applicant may resubmit the application; in all respects it shall be treated as a new application for purposes of review, scheduling, and payment of application fees. Withdrawal of an application from a public hearing or meeting agenda is at the review or decision-making authority's discretion.

### D. *Continuation of Public Hearings*. The review or decision-making authority may continue the public hearing for its consideration of the application for a definite time not to exceed 60 days, unless a longer period is agreed to by the applicant in writing or at a public hearing. The continuance may be granted by the review or decision-making authority on its own initiative or at the request of the applicant or affected property owners. A review or decision-making body may also deny a request for continuation.

### E. *Site Visits by Review or Decision-Making Authority*. As part of its consideration of the application, the review or decision-making authority may, as a group or through a committee appointed for that purpose, inspect the site of the proposed land use or development activity. The site visit may occur at any time prior to the review or decision-making authority's final recommendation or action on the application. Upon reasonable request by the Administrator, the applicant shall mark the development site prior to the site visit to generally locate property boundaries, building envelopes, and other key site planning features. Attendance at a site visit by a quorum of the subject review or decision-making authority membership shall be properly noticed according to law.

### F. *Written Findings of Fact*.

1. Findings of Fact. Recommendations or decisions at the conclusion of any required public hearing shall be accompanied by written findings of fact addressing how the application does or does not comply with the general review criteria or specific review criteria stated in the UDC for that type of application. All findings of fact shall be based on information contained in the application, staff report, or evidence

submitted or arising during the public hearing.

2. Variances. In-lieu of written findings, the minutes for each meeting shall include an enumeration of the reasons for which any variance is granted or denied.

G. *Conditions of Approval*. Conditions may be attached to approvals, subject to the following provisions.

1. The review or decision-making authority may recommend or impose such conditions upon the subject development as is necessary to carry out the general purpose and intent of the UDC. Conditions and additional information requirements shall be in written form and attached to the approved plan, plat, or permit.
2. Conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development and shall be based upon the review criteria specified in each procedure.
3. The decision-making authority may place specific time limits on the satisfaction of any condition of approval. If a time limit is not specified by Chapter 245 of the Texas Local Government Code, in the approval, or in the specific provisions of the UDC, a one (1) year time limit shall apply.
4. The decision-making authority may require financial guarantees from the applicant where it finds such guarantees are necessary to ensure compliance with conditions of approval and protect the public health, safety, or welfare. The city shall release such guarantees when the Administrator has determined that all conditions attached to the approval have been or will be satisfied.
5. Conditions of approval shall be met or financial guarantees provided prior to the issuance of a certificate of occupancy or the appropriate final permit required by the city.

## **Section 22.7      General Applicable Review Criteria**

A. *General*. Unless otherwise specified in this section or the specific procedure, city review and decision-making bodies shall review all development applications submitted pursuant to this section for compliance with the general review criteria stated below. The application may also be subject to additional review criteria specific to the type of application. In case of conflict between the general review criteria set forth in this section and the specific review criteria, the specific review criteria shall apply. A development application must be in compliance with these review criteria prior to the issuance of a certificate of occupancy or the appropriate final permit required by the city unless otherwise provided for in the development approval.

1. Consistent with Prior Approvals. Where a preliminary plan or plat was submitted and approved, a subsequent application for the same development shall be consistent with the terms and conditions of the preliminary plan or plat approval for the project including, without limitation, an approved phasing plan for development and installation of public improvements and amenities.
2. Consistent with Comprehensive Plan. The proposal is consistent with the City of Kennedale Comprehensive Plan and any applicable adopted plan. The decision-making authority shall weigh competing plan goals, policies, and strategies and may approve an application that provides a public benefit even if the development is contrary to some of the goals, policies, or strategies in the City of Kennedale Comprehensive Plan or other applicable plans.
3. Compliance with Use and Development Standards. The proposal complies with all applicable use standards, site development standards, design standards, subdivision standards, public improvement standards, floodplain management standards, and all other applicable substantive standards stated in the UDC or other applicable city code. Such compliance shall be applied at the level of detail required for the subject submittal, and those standards which are not otherwise modified, varied, or waived as allowed by the UDC.

4. Compliance with Other Applicable Regulations. As applicable, prior to final approval of the proposed development pursuant to the UDC, the proposed development complies with all other city regulations and with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.
5. Minimizes Adverse Environmental Impacts. The proposed development meets or exceeds all environmental protection standards of the UDC and is designed to minimize negative impacts, and does not cause significant adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, scenic resources, wildlife habitat, soils, native vegetation, and the natural functioning of the environment.
6. Minimizes Adverse Impacts on Surrounding Property. The proposed development protects the existing character of neighboring properties and uses, and does not cause significant adverse impacts on surrounding properties.
7. Minimizes Adverse Fiscal or Economic Impacts. The proposed use will not result in significant adverse fiscal or economic impacts on the city.
8. Compliance with Utility, Service, and Improvement Standards. As applicable, the proposed development complies with federal, state, county, and/or service district standards and design/construction specifications for roads, access, drainage, water, sewer, schools, and emergency/fire protection.
9. Provides Adequate Road Systems. There is adequate road capacity available to serve the proposed use, and the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site, including adequate access onto the site for fire, public safety, and EMS services.

## Section 22.8 Validity and Expiration of Approvals

### A. *Lapse of Approval Provisions/Extension of Approval Period.*

1. Lapse of Approval. All permits and approvals under this UDC, except for text adoption/amendments to the UDC and written interpretations, shall lapse if certain actions related to the approved application are not taken within a specified time period. Specific actions that must be taken with regard to each form of permit or approval to avoid lapsing of the approval are identified in the individual procedures. Pursuant to Texas Local Government Code §245.005(b), permits shall expire at two (2) years following their approval date and projects shall expire at five (5) years following their approval date unless progress is made toward the completion of the project, including any of the following:
  - a. An application for a final plat or plan is submitted to the city;
  - b. A good-faith attempt is made to file with the city an application for a permit necessary to begin or continue toward the completion of the project;
  - c. Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five (5) percent of the most recent appraised market value of the real property on which the project is located;
  - d. Fiscal security is posted with the city to ensure performance of an obligation required by the city;  
or
  - e. Utility connection fees or impact fees for the project have been paid to the city.

## 2. Extension of Approval.

- a. Site Plans.
    - i. The Administrator may grant an extension of an approval period up to 12 months for good cause. All requests for extensions shall be submitted to the Administrator in writing at least 30 days prior to the expiration of approval. An extension request shall include payment of required fees and written description of the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the comprehensive plan or the UDC that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project and/or the specific project. Additional review of the permit/plan may result in additional conditions.
    - ii. Any denial of the extension may be appealed to the Planning and Zoning Commission. If the extension is denied, the applicant may re-submit a new application, subject to the fees and regulations in effect at the time of re-submittal, for the same project.
  - b. Conditional Use Permits. The City Council may approve one (1) extension of up to six (6) months, if requested in writing by the applicant prior to the expiration date of the original approval. The extension may be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, conditional use approval shall become null and void.
  - c. Special Exceptions. The Board of Adjustment may approve one (1) extension of up to one (1) year, if requested in writing by the applicant prior to the expiration date of the original approval. The extension may be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, special exception approval shall become null and void.
- B. *Limitations on Successive Applications.* No application on the same request shall be permitted within one (1) year of an application denial unless the commission determines that extenuating circumstances exist. A notation of "denied without prejudice" on the minutes of the prior action on an application shall be evidence of the existence of extenuating circumstances and resubmission shall be permitted.

## **Section 22.9 Public Notice Requirements**

- A. *State Law.* Applications for development approval shall comply with the Texas Statutes and the provisions of this article with regard to public notification.
- B. *General.* Unless otherwise stated in the UDC, notice for all public hearings shall be given pursuant to this section. Notice may be written (mailed), published, or posted as further described in this section. Agenda notice shall be posted and published on the City's website a minimum of 72 hours prior to a meeting.
- C. *Types of Notice.*
  1. Published Notice. When the provisions of the UDC require that notice be published, the city shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation that has been selected by the city.
  2. Written Mailed Notice. When the provisions of the UDC require that written or mailed notice be provided, the Administrator shall be responsible for preparing and mailing the written notice, in accordance with the following:

- a. The owner of the property for which the approval is sought, and all property owners within 200 feet of the subject property, shall be notified of the public hearing by mail.
  - ~~b. Representatives of any neighborhood organizations that have registered with the City Secretary shall be notified if any area within the boundaries of such organization falls within the 200-foot radius area for property owner notice.~~
  - c. Mailed notice to property owners shall be required only for the initial presentation of the proposed development at a public hearing. Additional mailed notice in the case of a continuance or other situation where the application is not decided at the initial public hearing shall not be required unless otherwise directed by the city.
  - d. The applicant shall be responsible for paying any additional fees for the purposes of re-notifying adjacent property owners if the hearing is deferred or continued at the applicant's request. The Administrator shall be responsible for preparing and mailing additional notices.
  - e. If an item scheduled for initial presentation at a public hearing is withdrawn by the applicant without having been presented, then the applicant shall pay any additional fees for the purposes of re-notifying adjacent property owners of the future meeting at which the item will be considered in accordance with this section.
3. Posted Notice. Projects abutting more than one right-of-way may be required to post additional notices and all notices shall include the following information:
- a. Rezoning and Conditional Use Permits. At least one (1) sign erected on the property shall have a total area of at least four (4) square feet. This sign shall, if possible, be located adjacent to a street and in a conspicuous place. The sign 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 Council or when the applicant withdraws the request, whichever comes first. The sign shall state the category of request and the telephone number of the city offices from where dates of public hearings and more information about the request may be obtained. The erection or continued maintenance of sign shall not be deemed a condition precedent to the granting of any zoning change or conditional use permit or holding of any public hearing.
  - b. Special Exceptions and Variances. At least one (1) sign erected on the property shall have a total area of at least four (4) square feet. This sign shall, if possible, be located adjacent to a street and in a conspicuous place. The sign should state that a request for a special exception or variance has been made on that particular property and the telephone number of the city offices from where dates of public hearings and more information about the request may be obtained. The sign should be erected prior to the hearing as early as possible and convenient. The erection and continued maintenance of this sign, however, shall not be deemed a condition precedent to the granting of any zoning variance, special exception, or the holding of any public hearing.

Commented [KB66]: Ordinance 619

Table 22.9 Public Notice Requirements					
Board	Procedure	Section	Written	Published	Posted
City Council	Rezoning	Section 22.10	-	At least 16 days prior	Same as written notice
	UDC Amendment	Section 22.10	-	At least 16 days prior	-
	Conditional Use Permit	Article 24	-	At least 16 days prior	-
	Replat	Section 26.17	-	-	-
Planning and Zoning Commission	Rezoning	Section 22.10	At least 11 days prior	At least 11 days prior	Same as written notice
	UDC Amendment	Section 22.10	-	At least 11 days prior	-
	Conditional Use Permits	Article 24	At least 11 days prior	At least 11 days prior	Same as written notice
	Replats	Section 26.17	At least 16 days prior	At least 16 days prior	At least 16 days prior
Board of Adjustment	Special Exceptions	Article 25	At least 11 days prior	At least 11 days prior	-
	Appeals	Section 28.9 A	At least 11 days prior	At least 11 days prior	Prior to hearing
	Variances	Section 28.9 B	At least 11 days prior	At least 11 days prior	-

**Section 22.10 UDC Text and Map Amendments**

- A. *General.* The UDC regulations and zoning boundaries may from time to time be amended, supplemented, changed, modified or repealed. An amendment to the UDC or Zoning Map may be initiated at the request of the owner or his or her agent, the Administrator, the Planning and Zoning Commission, or the City Council on its own motion when it finds that the public may benefit from the consideration of such matter.
- B. *Procedure.* All requests for amendments to zoning district boundaries shall be submitted, together with required fees, to the Administrator or his or her designated administrative official, who shall cause notices to be sent and the petition or application placed on the Planning and Zoning Commission agenda. Requests for changes in zoning districts shall include the proposed designation or designations for the area concerned. Alternative proposals may be made at the time of filing the original request for amendment, however all hearings and deliberations shall be limited to the request as submitted by the applicant at the time of original filing.
- C. *Planning and Zoning Commission Consideration and Report.* The Planning and Zoning Commission, after conducting a hearing on a zoning request, shall report its recommendations on the zoning request to the City Council for their consideration. The Planning and Zoning Commission may recommend favorable approval of the request or that the request be denied, with or without prejudice. The recommendation of the Planning and Zoning Commission shall automatically be forwarded to the City Council for public hearing and consideration. When the Planning and Zoning Commission recommends that the proposal should be denied, it shall report the same to the City Council and the applicant. Furthermore, notwithstanding any provision to the contrary, the Planning and Zoning Commission in considering a rezoning application shall have the authority to consider and recommend approval of any zoning classification set forth in the zoning ordinance having a lesser intensity and being more restrictive than the

zoning designation requested by the applicant.

- D. *Reapplication.* No application for rezoning shall be considered within 90 days of denial of a request by the City Council for the same classification on the same property.
- E. *Protest Against Change.* In case of a protest against such change signed by the owners of 20 percent or more either of the land included in such proposed change, or of the land within 200 feet thereof, such amendment shall not become effective except by the favorable vote of three-quarters (¾) of all members of the City Council.
- F. *Action on Application.* The proponent of any zoning change shall satisfy the City Council that either the general welfare of the portion of the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning. If such is proved to the council's satisfaction, it may grant the requested zoning change; or it may change the zoning designation on a portion of such property; or it may initiate a request to consider changing all or a portion of such property to a district other than that requested and of a different character. Furthermore, notwithstanding any provision to the contrary, the City Council acting on the recommendation of the Planning and Zoning Commission or on its own initiative, in considering a rezoning application may consider and approve any zoning classification set forth in the city's adopted zoning ordinance having a lesser intensity and being more restrictive than the zoning designation requested by the applicant.

## **Section 22.11 Building Permits and Certificates of Occupancy**

### *A. Building Permits and Certificates of Occupancy.*

1. Zoning conformance required prior to issuance of building permits. No building permit shall be issued by the City of Kennedale for any structure unless the structure conforms with the provisions of this article.
2. Certificate of occupancy required for new, altered, or changed use. A certificate of occupancy shall be required for any building which is hereafter erected, changed, converted or altered in its use or structure. Application for this certificate of occupancy shall be made at the same time as the application for a required building permit. The certificate of occupancy shall not be issued unless the building or land conforms to the requirements of this article.
3. Use or occupancy, or allowing the use or occupancy, of such a building without having obtained a certificate of occupancy as required herein shall be deemed a violation of this article and shall be punishable by fine.
4. Certificate of occupancy required to change, alter, enlarge, or modify a nonconforming building or use. Should the owner or occupant of a nonconforming building or use desire to change, alter, enlarge, or otherwise modify the nonconforming building or use, he or she shall be required to: (1) file an affidavit with the city stating that such building or land occupied by the nonconforming building or use was, to the best of the owner or occupant's knowledge, in lawful use and lawfully existing as of the date of adoption of this article. The affidavit shall include a statement providing the basis for the person's knowledge of the statement made; and (2) submit an application to the city for a new certificate of occupancy. Upon proper application and satisfaction that the nonconforming building or use was in existence as of the date of adoption of this article, the city may issue a certificate of occupancy for the lawful nonconforming building or use in accordance with the rules and requirements for such issuance. Any person denied a certificate of occupancy under these provisions shall have the right to appeal the decision to the Board of Adjustment.
5. Use or occupancy or allowing the use or occupancy of such a building without having obtained a certificate of occupancy as required herein shall be deemed a violation of this article and shall be punishable by fine.

6. Temporary certificates of occupancy. A temporary certificate of occupancy may be issued by the city for a period not exceeding three (3) months during alterations or partial occupancy of a building pending its completion, provided that the temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.
  7. City to maintain record of certificates of occupancy. The City of Kennedale shall maintain a public record of all certificates of occupancy.
  8. Construction and use to be as provided in applications, plans, permits and certificates of occupancy. Building permits and/or certificates of occupancy issued on the basis of plans and applications approved by the City of Kennedale authorize only that specific use, structural arrangement, or construction as set forth in such approved plans and applications. Any other use, arrangement, or construction shall be deemed a violation of this article and shall be punishable by fine.
  9. Building permits and certificates of occupancy issued in error are voidable. Whenever a building permit or certificate of occupancy has been granted in error by an administrative official of the City of Kennedale, the permit or certificate may be voided by the City Council. Prior to such action by the City Council, the affected party shall be given an opportunity in a hearing before the City Council to show why such permit or certificate should not be voided. Notice of such hearing shall be served upon the affected party at least 10 days prior to such hearing by personal service or by mailing such notice by certified mail, prepaid, return receipt requested, to his or her address as it appeared in the application filed for the building permit or certificate of occupancy. The City Council shall give due consideration to the arguments of the affected party in determining whether to void the building permit or certificate of occupancy and shall render its decision after hearing and considering all such arguments.
- B. *Certificate of Occupancy.* No certificate of occupancy shall be issued until all fines for violations of this article have been paid to the city or otherwise disposed of through the municipal court. No certificate of occupancy shall be issued until all replacement trees have been planted, appropriate payments have been made to the tree reforestation fund, or an affidavit has been submitted in accordance with the requirements set forth in the UDC.

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**Site Plans and Zoning Permits**

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**Article  
23**

### Section 23.1 Purpose

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The purpose of the site plan review process is to ensure compliance with the development and design standards and provisions of the UDC. It is designed to encourage quality development reflective of the goals, policies, and objectives of the Kennedale Comprehensive Plan and adopted planning and policy documents.

### Section 23.2 Applicability

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- A. *Building Permits and Establishment of Use.* No building permit shall be issued until a site plan has been approved and any required performance guarantees have been received or conditions satisfied. A development permit shall be issued after the site plan has been approved.
- B. *Permits.*
1. Zoning Permit- Building Compliance.
    - a. *Applicability.* All structural alterations (except for wholly interior alterations), single-family dwellings, two-family dwellings, and residential accessory buildings must be issued a zoning permit for building compliance by the Administrator.
    - b. *Requirement.* A permit issued by the Administrator is nontransferable and must be obtained before any construction or land development may begin.
  2. Zoning Permit- Use Compliance.
    - a. *Applicability.* All change of use or establishment of a new use is subject to use compliance review. A use shall not be changed or established without a Zoning Permit for Use Compliance.
    - b. *Requirement.* A permit issued by the Administrator is nontransferable and must be obtained before the use is established.
  3. Site and Sketch Plans. A site plan shall be required for any permitted use involving site development in excess of the thresholds identified in this section other than a single-family or two-family residential dwelling or residential accessory building.
    - a. *Site Plan.* All new and expanded structures except very small or accessory structures as exempted by the Administrator; and any proposed redevelopment that is:
      - i. A minimum of 2,500 square feet; or
      - ii. Meets or exceeds 20 percent increase in existing gross square footage, calculated cumulatively over a five (5) year period.
    - b. *Sketch Plan.* Any proposal not meeting the thresholds for Site Plan review.

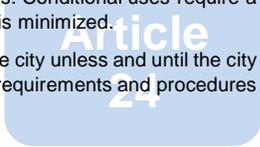
**Section 22.2 Procedures**  
**Site Plans and Zoning Permits**

**Article**  
**22**

- A. *Pre-Application Meeting.* The applicant is encouraged to schedule a pre-application meeting with the Administrator to discuss the process, requirements, and conditions of approval.
- B. *Application and Review.* Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6* and reviewed against the criteria of *Section 22.7*.



## Conditional Use Permits



### Section 24.1 Purpose

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- A. *Purpose.* The City of Kennedale recognizes certain uses that may be appropriate in specific zoning districts, but which may have characteristics that, depending upon the location, design, and manner of operation, may have a potential greater impact than permitted uses in the same districts. Conditional uses require a more comprehensive review to ensure that the potential for adverse impacts is minimized.
- B. *Applicability.* Any use that requires a conditional use permit is prohibited in the city unless and until the city council grants a conditional use permit for such use in accordance with the requirements and procedures set forth in this section.

### Section 24.2 Process

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- A. *Pre-Application Meeting.* The applicant is encouraged to schedule a pre-application meeting with the Administrator to discuss the process, requirements and conditions of approval.
- B. *Application and Review.* Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6* and reviewed against the criteria of *Section 22.7*.
- C. *Public Hearing.* Public hearings shall be held by the Planning and Zoning Commission and the City Council. Written notice must be provided according to *Section 22.9* prior to the hearings.
- D. *Planning and Zoning Commission Consideration.* The Planning and Zoning Commission shall review the request and provide a recommendation to the City Council.
- E. *City Council Consideration.* The City Council may approve, deny, or approve with conditions, a request for conditional use.
- F. *Appeals.* Approval of a conditional use permit shall not be considered a change in zoning and shall not be subject to the protest procedures set forth in *Section 22.10 E* of the UDC.

### Section 24.3 Standards of Approval

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- A. *Conditions.* In granting or denying an application for a conditional use permit, the City Council shall take into consideration *Section 22.7 General Applicable Review Criteria* and the following factors:
  - 1. Conformance with applicable regulations and standards established by the UDC;
  - 2. Compatibility with existing or permitted uses on abutting sites in terms of building height, bulk, scale, setbacks, open spaces, landscaping and site development, and access and circulation capacity;
  - 3. Potentially unfavorable effects or impacts on existing or permitted uses on adjacent sites, to the extent such impacts exceed those that reasonably may result from use of the site by a permitted use, including without limitation:
    - a. Location, lighting and type of signs, and the relation of signs to adjacent properties;
    - b. Noise producing elements;
    - c. Glare of vehicular and stationary lights and effect of such lights on the established character of the neighborhood;
    - d. Safety from fire hazard, and measures for fire control; and
    - e. Protection of adjacent property from drainage, floods, erosion or other water damage.
  - 4. Safety and convenience of vehicular and pedestrian circulation on the premises and in the area

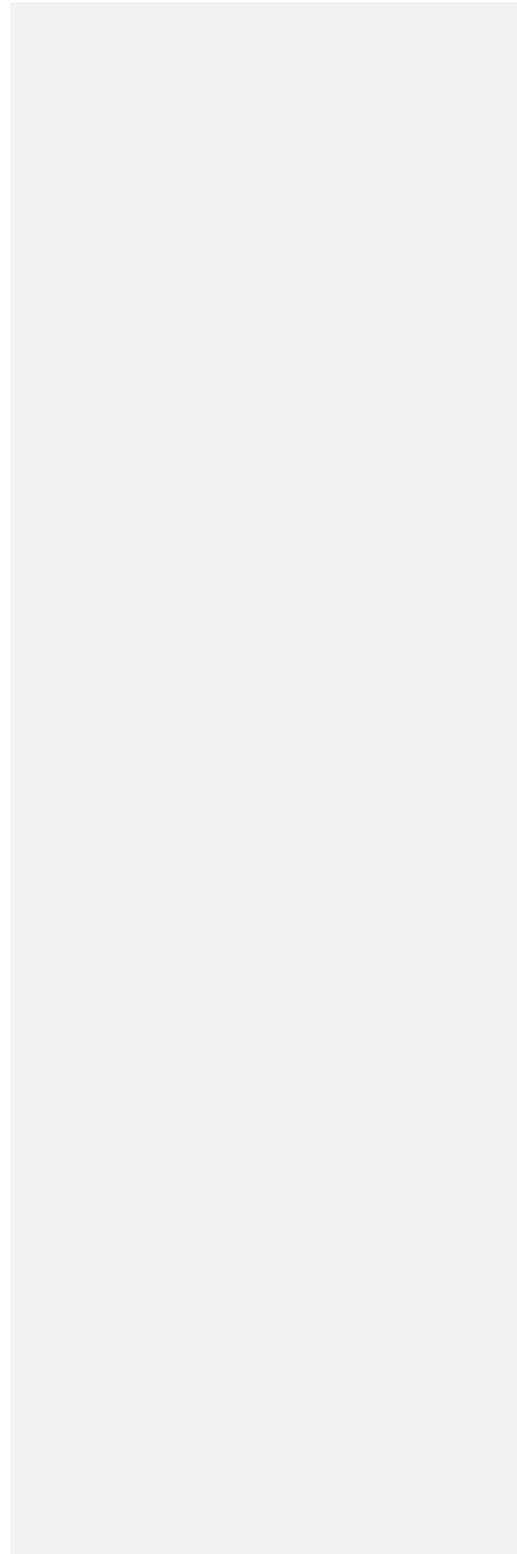
immediately surrounding the site, and the effect of traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and proposed land uses in the area and the ability of the city's existing transportation network to handle the traffic.

5. Compliance with the Comprehensive Plan and whether the proposed use is compatible with existing and planned development of surrounding properties and will promote economic growth.

#### **Section 24.4 Amendments and Validity**

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- A. *Amendments.* A request to modify, expand, or otherwise change an approved Conditional Use Permit not in substantial conformance with the approved permit shall be processed according to the provisions of this section as a new application.
- B. *Expiration.* A conditional use permit shall automatically expire in the following cases:
  1. Lapse of approval, per *Section 22.8*;
  2. There is a change in use on the property;
  3. The use is relocated; or
  4. The use ceases for a period of six (6) consecutive months.



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**Special Exceptions**

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**Article  
25**

**City of Kennedale Unified Development Code**

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### Section 25.1 Purpose

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The purpose of this article is to outline a procedure to consider land uses on a case-by-case basis against a site-specific criteria to ensure appropriateness and compatibility of the use.

### Section 25.2 Process

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- A. *Pre-Application Meeting.* The applicant is encouraged to schedule a pre-application meeting with the Administrator to discuss the process, requirements and conditions of approval.
- B. *Application and Review.* Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6* and reviewed against the criteria of *Section 22.7*.
- C. *Public Notice.* Public notice is required for a special exception. Written notice must be provided according to *Section 22.8* prior to the Board of Adjustment hearing.
- D. *Board of Adjustment Consideration.* The Board of Adjustment may approve, deny, or approve with conditions, a request for special exception.
- E. *Appeals.* The decision of the Board of Adjustment is final unless appealed to a court of record within 10 days in accordance with the provisions of state law.

### Section 25.3 Standards of Approval

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- A. *Conditions.* No application for a special exception shall be granted by the Board of Adjustment unless the board finds all of the following conditions are present, in addition to the satisfaction of *Section 22.7 General Applicable Review Criteria*.
  - 1. That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare;
  - 2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use;
  - 3. That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - 4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;
  - 5. That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
  - 6. That the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.

### Section 25.4 Conditions of Approval

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As a part of approval of any special exception, the Board of Adjustment may require conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special exception as deemed necessary to protect the public health, safety, and general welfare of the community and to secure compliance with the standards and requirements of this article. In all cases in which special exceptions are granted, the Board of Adjustment may require evidence and written guarantees to ensure compliance with approved

conditions.

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**Section 25.5      Effect of Denial**

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No application for a special exception which has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of 90 days from the date of the denial.

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**Section 25.6      Validity**

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Site improvements shall be completed within one (1) year after the date of approval special exception.

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**Subdivision Review**

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**Article  
26**

**City of Kennedale Unified Development Code**

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## Section 26.1 Purpose

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- A. *Purpose.* Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by establishing fair and rational procedures for developing land.
- B. *Intent.* The intent of the procedures outlined in this article are to:
1. Establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land; and to ensure proper legal descriptions and documentation of subdivided land; and
  2. Establish adequate policies and procedures to guide development of the city and its extraterritorial jurisdiction.

## Section 26.2 Policy

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- A. *Subdivision Policy.* In order to carry out the purpose of these regulations, it is hereby declared to be the policy of the city to consider the subdivision of land, and its subsequent development, as subject to the control of the municipality, pursuant to the comprehensive plan, for the orderly, planned, efficient and economical development of the city. Furthermore, it is the policy of the city that:
1. Land shall not be subdivided, for purposes of development, until proper provision has been made for drainage, water, sewerage, and transportation facilities.
  2. All public improvements shall conform to and be properly related to the comprehensive land use plan of the city and the design manual.
  3. These regulations shall supplement, and facilitate the enforcement of, provisions and standards contained in the zoning ordinance and building codes adopted by the city.
  4. Approval of a final plat shall not be deemed as acceptance of the proposed dedications and shall not impose any duty upon the city concerning the maintenance or improvement of such dedicated interests until the city has both given written acceptance of the improvements and have actually appropriated the same by entry, use, or making improvements.
  5. There shall be an essential nexus between the requirement to dedicate rights-of-way and easements and/or to construct public works improvements in connection with a new subdivision and the need to offset the impacts on the city's public facilities systems created by such new development.

## Section 26.3 General Provisions

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- A. *Plat Required.* It shall be unlawful for a person, firm, corporation or organization owning a tract of land located within the corporate limits or extra territorial jurisdiction of the city to hereafter divide the same tract into two (2) or more parts to lay out a subdivision, to lay out a building lot, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts for purpose of development without having a plat of the subdivision prepared and approved according to these subdivision regulations. A division of a tract includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method for purpose of development. A division of land under these regulations does not include a division of land into parts greater than five (5) acres, where each part has access and no public improvement is being dedicated. The provisions of these subdivision regulations shall apply to any development which is intended as a

single lot, tract or parcel where a primary structure will be located. Furthermore, no land shall be subdivided for purposes of development until:

1. A preliminary plat, when applicable, in the format as described within these regulations, has received approval from the Planning and Zoning Commission;
  2. A replat, final plat, minor plat, or amending plat, when applicable, in the format described within these regulations, has received approval from the Planning and Zoning Commission and the City Council;
  3. A minor plat or amending plat, when applicable, in the format described within these regulations, has received approval of the City Administrator; and
  4. The approved replat, final plat, minor plat, or amending plat, when applicable, has been filed with the County Clerk.
- B. *Applicability.* Whenever a subdivision of land is proposed, the Administrator will advise the applicant whether the review procedures of a preliminary plat, final plat, minor plat, amending plat or replat will apply and supply the applicant with the appropriate application forms.
- C. *Jurisdiction.* These subdivision rules and regulations shall apply to all subdivisions of land, as defined herein, and all land development activities located within the corporate limits and extra territorial jurisdiction of the city.
- D. *Authority.* These subdivision regulations are adopted under the authority of the constitution and laws of the state, as promulgated by V.T.C.A., Local Government Code Chapter 212, as amended.
- E. *Conflicts with Public and Private Provisions.*
1. Except where indicated, these regulations are not intended to interfere with, abrogate, or annul any other public ordinance, rule or regulation, statute, or other provision of law.
  2. These regulations are not intended to abrogate any easement, deed restriction, covenant or any other private agreement or deed restriction.
- F. *Enforcement of Regulations.*
1. Appropriate actions may be taken to prevent a violation of these regulations; to prevent unlawful construction; to restrain, correct, or abate a violation; or to prevent illegal occupancy of a building structure or premises. Furthermore, water meters, sewer taps or other utilities shall not be made available until the provisions of these regulations have been brought into compliance.
  2. It shall be the responsibility of the Administrator to enforce the administrative provisions of these regulations.
  3. It shall be the responsibility of the building official to enforce the development provisions of these regulations.
  4. The subdivision of any lot or any parcel of land by the use of a metes and bounds description for the purpose of sale, transfer, or lease with the intent of creating a building lot by evading these regulations, shall be considered as a violation of this article. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
  5. No building permit shall be issued for the construction of a building, or structure, located on a lot or plat subdivided or sold in violation of the provisions of these regulations.
  6. The Administrator shall be responsible for any interpretation of these regulations and where a determination of these regulations is in conflict with a request by a developer, the Planning and Zoning Commission shall rule and decide on these questions.
- G. *Conformance with Applicable Rules and Regulations.* These subdivision regulations shall be held to be

the minimum requirements for the development of a subdivision within the corporate limits of the city. In addition to the requirements established herein, all subdivision plats shall be in conformance with the following:

1. All applicable state statutory provisions contained in V.T.C.A., Local Government Code Ch. 212.
  2. The zoning requirements, building and housing codes, and other applicable laws of the city.
  3. The official comprehensive land use plan, capital improvements program of the city, parks plan, master thoroughfare plan, and any other official plan adopted by the City Council which has an effect on the subdivision of property in the city.
  4. Any regulations of the city health official and county health departments and appropriate state agencies.
  5. The regulations of the Texas Department of Transportation, when the subdivision, or any lot contained therein, abuts a state maintained highway.
  6. The standards, codes and regulations adopted for administration by the Building Official.
- H. *Plats Straddling Municipal Boundaries.* Whenever access to a subdivision is required across land situated in an adjacent municipality, written approval is required from the affected city.

#### **Section 26.4 Building Permits**

- A. *Plat Required.* No building permit for residential or commercial construction shall be issued for any primary building on any parcel of property for which a final plat has not been approved by the City Council and filed for record in the deed records of the county, except as follows:
1. Where a primary residential structure exists on an unplatted lot, a building permit may be issued to construct an addition to, or renovation of, the existing residential structure, provided that the value of such proposed construction does not exceed 50 percent of the current value of the existing structure, excluding the value of the land. Construction permits as used herein does not include electrical, plumbing or similar nonconstruction activities.
  2. A building permit may be issued for electrical, plumbing, fence or similar nonconstruction activities on an unplatted lot in any zoning district except for building permits which involve structural enclosures.
  3. A building permit may be issued for an accessory structure on an unplatted lot on agriculturally zoned property.
  4. Where a primary nonresidential structure exists, a building permit may be issued to construct an addition to, or renovation of, the existing nonresidential structure on an unplatted lot, provided that the value of such proposed construction does not exceed 50 percent of the current value of the existing structure, excluding the value of the land. Construction permits as used herein does not include electrical, plumbing or similar nonconstruction activities.
- B. *Public Facilities Available.* No building permit for a primary building will be issued until all proposed public facilities have been installed and have been approved by the Public Works Department.
- C. *Approval by Public Works Department.* The city will not issue building permits on any subdivision which remains unapproved by the Public Works Department for a period of four (4) years or more from the date of the final plat approval until a current engineering review of said plat has been conducted.

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## Section 26.5 Official City Map

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The Administrator shall maintain an official city map which shall indicate all subdivisions, lots and street right-of-ways. Subdivision plats hereafter approved shall be placed on the official map in a timely order. The official city map shall include the names of all streets and street suffix classifications. Where street name inconsistencies exist from one subdivision to another, the Administrator shall place on the official city map the generally accepted street name, its proper spelling, and suffix classification. The Administrator shall assign street address ranges for each block and coordinate these with the office of the Fire Chief.

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## Section 26.6 General Platting Procedures

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- A. The procedures for obtaining approval of a subdivision plat for unplatted property include the following steps completed in the sequence listed below:
1. Preliminary Plat. The submission of a preliminary plat application to the Planning and Zoning Commission, with subsequent approval thereof, is a prerequisite to the submission of a final plat.
  2. Zoning Change. Submission of an application for a zoning district change to the Planning and Zoning Commission and the City Council, with subsequent approval thereof, is required where the current zoning classification is not compatible with the type of development being proposed. This procedure may be concurrent with the submittal of the plat.
  3. Construction of Public Improvements. Upon approval of the preliminary plat by the Planning and Zoning Commission, approval of construction plans, and authorization from the Administrator, the developer may proceed with the construction of all public improvements. Certain public improvements may be deferred, subject to submittal and approval of a construction surety and approval of a city-developer agreement.
  4. Final Plat or Replat. Completion of public improvements and submission of a final plat or replat application to the Planning and Zoning Commission and the City Council, with subsequent approval, is required prior to the filing of a final plat with the County Clerk's office.
  5. Minor and Amending Plats. Minor plats and amending plats may be approved by the City Administrator or may be forwarded to the Planning and Zoning Commission and the City Council for approval prior to filing with the County Clerk's office.
  6. Vacating Plats. All actions for vacating a plat shall be consistent with applicable state statutes as contained in V.T.C.A., Local Government Code Ch. 212.

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## Section 26.7 Approval of City Council

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No improvements shall be initiated and no permit for the erection of a structure shall be granted until the subdividing owner, or authorized agent, shall apply for and obtain approval of such proposed subdivision from the City Council or City Administrator, when appropriate. Every subdivision plat considered by the City Council shall have received prior approval from the Planning and Zoning Commission. For minor and amending plats, see *Sections 26.18 and 26.19*.

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## Section 26.8 Application

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- A. Filing Date. For the purpose of these regulations, the filing date of an application for approval of a plat or plan for development shall be the date that the Administrator determines that the application satisfies all requirements of this section and other applicable ordinances, except for requested variances, and all applicable fees have been paid. The statutory period requiring formal approval or disapproval of the plat

shall commence on the filing date. Action shall be taken by the Planning and Zoning Commission within 30 days of the filing date unless a waiver is requested by the developer. A plat shall be submitted to the City Council within 30 days after the date the plat is considered by the Planning and Zoning Commission.

- B. *Taxes and Liens Paid.* Prior to the consideration of a final subdivision plat by the Planning and Zoning Commission, any delinquent taxes, fees, and outstanding liens due the city must be paid and the applicant shall submit an official tax certificate from the Tarrant County Tax Assessor's Office.
- C. *Plat Application Fees.* Every applicant requesting approval of a subdivision plat shall pay the applicable fee at the time of submittal. Such fee shall include any recording fees required by the County Clerk's office. Application fees for preliminary plats, replats, minor plats, amending plats and final plats shall be established by separate ordinance approved by the City Council.
- D. *Technical Specifications for Plat Drawings.* See submittal checklist.

## Section 26.9      Completeness Review

- A. *Applicability.* Every application for approval of a plat or plan for development shall be subject to a determination of completeness by the Administrator.
- B. *Completeness.* No application shall be deemed complete and accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this section.
  - 1. Compliance. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this section.
  - 2. Determination. For a determination of completeness to be issued, an application must include the following:
    - a. A completed application form signed by the owner or the owner's authorized agent, which shall be evidenced by written consent of the legal owner;
    - b. Every item, study and document required by this section, or other applicable ordinances, for the type of plat being submitted, or required for a plan of development;
    - c. A description of the project for which the permit or plat is sought, including proposed land uses and their locations; and
    - d. A non-refundable application submittal fee, as specified in the fee schedule.
- C. *Timeframe.*
  - 1. Determination. Not later than the 10th business day after the date an application is submitted, the Administrator shall make a written determination whether the application constitutes a complete application, for purposes of vested rights under V.T.C.A., Local Government Code ch. 245. This shall include a determination that all information and documents required by this section for the type of plat being submitted have been submitted. A determination that the application is incomplete shall be mailed to the applicant within such time period by United States Certified Mail at the address listed on the application, or hand delivered to the applicant or the applicant's representative. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information is not submitted within 45 days after the date the application was submitted.
  - 2. Notification. An application for approval of a plat or plan for development filed on or after the effective date of this article shall be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete. For

purposes of this section, the applicant shall be deemed to have been notified if the city has mailed or delivered a copy of the determination.

3. **Expiration.** An application for preliminary or final plat approval shall be deemed to expire on the 45th day after the application is submitted to the Administrator for processing if the applicant fails to provide documents or other information necessary to meet the requirements of this section as specified in the determination provided to the applicant. Upon expiration, the application will be returned to the applicant together with any accompanying documents. Thereafter, a new application must be submitted.
- D. **Additional Requirements.** The Administrator may from time to time identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in this article.
- E. **Non-Binding Effect.** The processing of an application by any city employee prior to the time the application is determined to be complete shall not be binding on the city as the official acceptance of the application for filing or the filing date. The filing date shall be determined pursuant to this section. The incompleteness of an application shall be grounds for denial of the application regardless of whether a determination of incompleteness was mailed to the applicant.
- F. **Vested Rights.** No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied.

#### **Section 26.10 Coordination of Zoning Application with Subdivision Approval**

- A. **Conformance.** Every subdivision plat shall be consistent with, and conform to, existing zoning regulations and the following criteria:
  1. **Zoning Requirements.** No subdivision plat will be submitted to the Planning and Zoning Commission for approval which contains any inconsistent zoning classification. However, this requirement may be waived when an application for a zoning change, seeking proper zoning classification, has been filed with the Planning and Zoning Commission.
  2. **Concurrent Rezoning.** In the event that a change in the zoning classification is required to accommodate the proposed development, it is the intent of these regulations that subdivision review be carried out simultaneously with the review of any zoning application.
- B. **District Boundaries.** No subdivision lot shall be approved which is bisected by a zoning district boundary, unless the lot contains multiple types of uses.

#### **Section 26.11 Preliminary Plats**

- A. **Processing.**
  1. **Completeness.** Upon receipt of a preliminary plat, all required documents, and payment of all required filing fees, the Administrator shall review the application for completeness. An application shall not be processed for review until the application is determined to be complete.
  2. **Review.** The Administrator shall coordinate the review of the preliminary plat with the applicable municipal departments, the City Engineer, and public utility companies. The plat shall be submitted to the planning and zoning Planning and Zoning Commission for its consideration within 30 days of the filing date.
  3. **Comments.** After the Planning and Zoning Commission has reviewed the preliminary plat, the applicant shall be advised of any required changes and/or additions. Upon satisfactory completion of any

requirements imposed by the Planning and Zoning Commission, the applicant may proceed with the submittal of a final plat.

- B. *Effective Period of Preliminary Plat Approval.* The approval by the Planning and Zoning Commission of a preliminary plat shall be effective for a period of one (1) year. If a final plat application has not been submitted on at least a portion of the area covered by the preliminary plat within one (1) year from the date of the approval of the preliminary plat by the Planning and Zoning Commission, the preliminary plat shall be declared null and void. If only a portion of the preliminary plat has been submitted for final plat action, those areas not platted within three (3) years of the date of preliminary plat approval shall be declared null and void, unless an extension of time is granted by the Planning and Zoning Commission. Any portion of a preliminary plat not receiving final approval by the Planning and Zoning Commission and the City Council within the period of time set forth herein shall be declared null and void, and the developer shall be required to resubmit for preliminary approval. Such resubmittal shall be subject to any new subdivision regulations and payment of all applicable fees.

### **Section 26.12 Preliminary Plat Requirements**

- A. *Preliminary Plat Approval Required.* All applicants seeking approval of a preliminary plat shall comply with the requirements of this article and the following:
1. Every preliminary plat shall require approval of the Planning and Zoning Commission.
  2. The procedures contained in this section shall be used when the property being proposed for development is considered an unplatted tract and which is not currently developed into platted lots and blocks, and filed for record in the County Clerk's office as a previously platted subdivision of record.
  3. When previously platted property is being combined with unplatted property and the redevelopment plan is substantially different from the existing lot configuration, the procedures for a preliminary plat will be used for the review of the proposal. Any public hearing requirements associated with previously platted property must comply with the provisions of V.T.C.A., Local Government Code §§ 212.014, 212.015, as amended.
  4. The developer shall show all factors necessary to enable the Planning and Zoning Commission to determine whether the proposed subdivision is satisfactory from the standpoint of the public interests and be consistent with the comprehensive land use plan, the zoning ordinance, and these subdivision regulations, as amended.
- B. *General Development Plan.* When a proposed development is a portion of a larger tract under one (1) ownership or is to be developed in phases, the developer shall submit a general development plan for review to obtain conceptual approval by the Planning and Zoning Commission in conjunction with or prior to submittal of a preliminary plat. When appropriate, more than one (1) tract or subdivision may be included with the general development plan. The general development plan will allow the Planning and Zoning Commission to review proposed major thoroughfare street patterns, land uses and relationships with adjoining areas. A general development plan shall be construed to be a detailing of the comprehensive land use plan. The general development plan shall contain the following information:
1. Proposed land uses by area with a tabulation summary of acres and units per acre densities.
  2. A layout of adjacent properties showing existing platted properties and the names of owners of unplatted tracts.
  3. Locations of all existing features such as streets, drainage channels, easements or other physical features which may influence the development pattern of the property.
  4. The locations of any collector or arterial streets as shown on the master thoroughfare plan.

- C. *Platting Land Under Same Ownership.* Every preliminary plat shall include all the land which the applicant proposes to subdivide and all contiguous tracts owned under the same ownership. This requirement will enable the Planning and Zoning Commission to:
1. Determine the need for public improvements or easements which may be required on portions of the land and make future subdivisions uneconomical to develop if the improvements are not installed as a part of the land being proposed for development;
  2. Plan for or require reservations for future rights-of-way; and
  3. This requirement may be waived by the Planning and Zoning Commission when the proposed subdivision appears to have no impact on, or from, the contiguously owned property which is not being developed.
- D. *Phasing Development.*
1. The preliminary plat shall indicate any phasing of the proposed development with a heavy dashed line. Each phase shall be numbered sequentially and in the proposed order of development. The proposed utility and drainage layout for each phase shall be designed in such a manner that the phases can be developed in numerical sequence. Thereafter, plats of subsequent units of such subdivision shall conform to the approved overall layout and phasing, unless a new preliminary plat is submitted. However, a subsequent reduction of a phase may be considered provided that it conforms to the original street arrangement.
  2. The Planning and Zoning Commission may impose such conditions upon the filing of the phases as it may deem necessary to assure the orderly development of the city.
- E. *Preliminary Plat Documents Required.* The application packet shall include all documents listed below and no preliminary plat will be reviewed by the city until all required documents are submitted in a completed format and all fees have been paid. A letter requesting any variances from these regulations shall be submitted in accordance with the provisions of *Article 28.6*.
1. Preliminary Plat Application.
  2. Preliminary Plat Drawing. The applicant shall submit the required number of copies of the preliminary plat drawing as indicated by the preliminary plat application. The preliminary plat drawing shall contain, at a minimum, all the information listed in the "requirements for all plat drawings" available at City Hall and include all the information listed as "additional requirements for preliminary plat drawings."
  3. Preliminary Drainage Analysis. The applicant shall submit a preliminary drainage analysis of the subdivision area to determine the need for drainage facilities within the area being considered for development or off-site on adjacent properties. The preliminary drainage analysis shall conform to the technical specifications contained in the design manual.
  4. Preliminary Utility Layout. The applicant shall submit a preliminary utility layout to show the general location and approximate sizes of all existing and proposed public utilities. The size of all proposed water and sewer lines shall be determined using methods prescribed in the design manual.
  5. Description of proposed uses and layout.
- F. *Review, Processing and Approval of Preliminary Plat.* Every preliminary plat shall be reviewed for conformity with the comprehensive land use plan, these regulations and any other applicable ordinance according to the procedures established for processing preliminary plats as contained in this article.

### **Section 26.13 Construction Plans and Installation of Improvements**

- A. *Review.* Subsequent to preliminary plat approval, construction plans shall be reviewed in accordance with the Site Plan review process.

- B. *Engineering/Construction Drawings.* When the city has determined that public improvements are required, the applicant, or his engineer, shall submit construction plans for all public improvements along with the final plat for approval by the city. The engineering drawings shall conform to the requirements of the design manual and shall be prepared and sealed by a registered professional engineer, licensed to practice in the state.
- C. *Public Works Construction Permit Required.* Construction shall not start on any street, sidewalk, drainage, utility or public improvement until a public works construction permit and an acceptable two (2) year maintenance bond has been issued for all facilities in the subdivision or the approved phase of the said subdivision.
- D. *Inspection of Proposed Public Facilities.* The Public Works Department shall provide for inspection of required public improvements during construction and insure their satisfactory completion. If the Administrator finds upon inspection that any of the required improvements have not been constructed in accordance with city construction standards and specifications, the applicant shall be notified that building permits will not be issued until all inconsistencies have been corrected. All construction debris or waste shall be removed from all areas of the subdivision prior to the issuance of the letter of acceptance of public improvements by the Public Works Department.
- E. *Final Walk-Through and Construction Debris.* The developer of a subdivision shall arrange for a final walk-through inspection with the ~~Director of Public Works~~~~building official~~. No cut trees, timber, debris, rocks, stones, junk, rubbish, or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of completion of public facilities. Removal of all debris and waste shall be required prior to approval and acceptance of all public improvements and prior to the issuance of any building permit or certificate of occupancy.
- F. *Acceptance.*
1. Public improvements shall not be officially accepted until the improvements have been inspected by the city, corrections are made in the field and on the approved infrastructure construction plans, a reproducible copy of the as-built drawings is provided to the Public Works Department, and a warranty is provided to the city.
  2. The Public Works Department shall issue a formal letter of acceptable of public improvement projects, upon completion and approval, which will and authorize the issuance of building permits.
- G. *Warranty.*
1. Public improvements must have a warranty guaranteeing the work against defects for a period of two (2) years from the date of final acceptance of construction.
  2. If public improvements are constructed at different times, then the guarantee shall continue until two (2) years from the date of final acceptance of the improvement last completed.
  3. The warranty shall list the City of Kennedale as a beneficiary.
  4. A warranty surety shall be provided in an amount of 15 percent of the estimated value of the warranted improvement. The surety shall expire six (6) months after the expiration of the warranty period.

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## Section 26.14 Construction Surety

- A. *Review.* If all development-related improvements and installations are not completed and accepted by the city prior a final plat application submittal, a security instrument shall be posted, in lieu of completion of the work, in an amount of 125 percent of the estimated construction cost of the development related improvements which remain incomplete and with surety and conditions satisfactory to the city, providing for and securing to the city the actual construction and installation of improvements.

- B. *Infrastructure.* All development-related improvements that are secured by a surety shall be installed prior to the issuance of the first home final approval or a certificate of occupancy for multi-family or commercial projects. However, the final coat of asphalt for street improvements and the installation of permitted street furniture or sidewalks may, at the option of the applicant, be installed within 24 months following the issuance of the first home final approval, provided a surety in the amount of 125 percent of these improvements is first provided to the city.
- C. *Landscaping.* Where the Public Works Director determines that landscaping in the public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125 percent of the value of the landscaping shall be provided to the city. The landscaping improvements shall be installed within six (6) months of the acceptance of the construction surety.

### Section 26.15 Final Plats, Amending Plats, and Replats

#### A. *Processing.*

1. Completeness. Upon receipt of a replat, amending plat, minor plat, or final plat, all required documents, and payment of all required filing fees, the Administrator shall review the submittal for completeness. An application shall not be processed until the application is determined to be complete. No final plat shall be processed for review for any area in which a preliminary plat has not been previously approved by the Planning and Zoning Commission.
2. Review. After the Administrator determines that the application is complete, they shall coordinate the review of the plat with the applicable municipal departments, City Engineer, and public utility companies. The plat shall be submitted to the Planning and Zoning Commission for its consideration within 30 days of the filing date.
3. Hearing. If applicable under these regulations, the Planning and Zoning Commission shall hold any required public hearing on certain replats in conformance with V.T.C.A., Local Government Code § 212.015. Such hearing shall be advertised in a newspaper having general circulation within the city at least 15 days prior to the hearing.
4. Decision. After the Planning and Zoning Commission has reviewed the plat, the commission may either:
  - a. Approve the plat as presented;
  - b. Approve the plat with conditions; or
  - c. Disapprove the plat.
5. City Council Review.
  - a. After the Planning and Zoning Commission has acted on the plat, it shall be forwarded to the City Council for consideration within 30 days of the date the Planning and Zoning Commission takes action. If the commission fails to take action within 30 days of the filing date, the plat shall be deemed approved by the commission. Disapproval of the plat by the commission shall require submittal to the City Council for final consideration.
  - b. The City Council may either approve or disapprove a plat. The City Council shall approve a plat if it conforms to the general plan of the city and to these regulations. However, the City Council may disapprove a plat which does not conform to the general plan or to these regulations. If City Council determines that additional conditions must be met, the plat shall be disapproved and returned to the Planning and Zoning Commission for reprocessing, including commission approval, prior to resubmittal to City Council. Any disapproval shall be deemed a refusal by the city to accept the offered dedications shown thereon. The action of the City Council shall be final in the consideration of the proposed plat.

## Section 26.16 Final Plat Requirements

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- A. *Final Plat Approval Required.* All applicants seeking approval of a final plat shall comply with the requirements of this section. Every final plat shall require approval of the City Council, but only after approval has been previously obtained from the Planning and Zoning Commission. The Administrator may approve minor plats and amending plats.
- B. *Conformity with Preliminary Plat.* The final plat and accompanying data shall substantially conform to the preliminary plat, as approved by the Planning and Zoning Commission, incorporating any and all changes, modifications, alterations, corrections and stipulations imposed by the Planning and Zoning Commission. Any submittals of a final plat which do not constitute a full phase as shown on the preliminary plat must be consistent with the preliminary plat in design and layout. Additional review time may be required where a final plat does not constitute a full phase as shown on the preliminary plat.
- C. *Final Plat Documents Required.* The application packet shall include all documents listed below and no final plat will be reviewed by the city until all required documents are submitted in a completed format and all fees have been paid.
1. Final Plat Application.
  2. Final Plat Drawing. The applicant shall submit the required number of copies of the final plat drawing as indicated on the final plat application. The final plat drawing shall contain, at a minimum, all the information listed in the technical specifications of all plat drawings available at City Hall and include all the information listed.
  3. Drainage Study. When the preliminary drainage analysis has determined that drainage facilities and related improvements are required, the applicant shall submit a drainage study with engineering drawings which shall conform to the technical specifications contained in the design manual. The Planning and Zoning Commission shall not recommend for approval any final plat which does not provide adequate facilities to accommodate storm or flood water runoff.
  4. Taxes and Liens Paid Certificates. The applicant shall submit a certificate, available from the Administrator, indicating that any delinquent taxes or liens due the city have been paid.
  5. City Developers Agreement (see *Section 26.21*).
- D. *Review, Processing and Approval of Final Plat.* Every final plat shall be reviewed for conformity to the comprehensive land use plan, these regulations and any other applicable ordinance according to the procedures established for processing final plats, amending plats, minor plats, or replats.

## Section 26.17 Replat Requirements

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- A. *Replat Approval Required.* All applicants seeking approval of a replat shall comply with the requirements of this section. Every replat shall require approval of the City Council, but only after approval has been obtained from the Planning and Zoning Commission. A replat is required when it is proposed to subdivide a previously approved subdivision, or portion thereof, into smaller lots or, to combine existing smaller lots into a development with larger lots and the proposed changes do not meet the criteria of amending plats or minor plats. The procedures contained in this section shall be used when the tract being proposed for redevelopment, or portion thereof, is currently developed into platted lots and blocks, and filed for record in the County Clerk's office as a platted subdivision of record, and the owner is requesting to redevelop the property into a new configuration. Minor plats and amending plats may be approved by the City Administrator as provided in V.T.C.A., Local Government Code §§ 212.0065, 212.016.
- B. *Replat Documents Required.* The application packet shall include all documents listed below and no replat will be reviewed by the city until all documents are submitted in a completed format and all fees have been

paid.

1. Replat Application.
  2. Replat Drawing. The applicant shall submit the required number of copies of the replat drawing as indicated by the replat application. The drawing shall contain, at a minimum, all the information listed in the "requirements for all plat drawings" available at City Hall and include all the information listed as "additional requirements for replats, amending plats, short form plats, and final plat drawings." No replat may be approved which does not contain the signatures of the owners of the property being replatted.
  3. Taxes and Liens Paid Certificates. The applicant shall submit a certificate available from the Administrator indicating that any taxes or liens due the city have been paid.
  4. Preliminary Drainage Analysis or Drainage Study. Due to the variable conditions of a replat, the Administrator will review the submittal and may require the applicant to submit a preliminary drainage analysis or a drainage study of the subdivision area which shall conform to the technical specifications contained in the design manual. The applicant may be exempt from this requirement when the Director of Public Works is satisfied that no drainage facilities are necessary or where a previously prepared drainage study has been approved within the previous four-year period.
  5. Utility Layout or Engineering Drawings. The applicant shall submit a utility layout to show the location and sizes of all existing and proposed public utilities to verify easement requirements. However, when the Public Works Department has determined that the proposed redevelopment of the subdivision will require public facility improvements, the applicant, or his engineer, shall submit engineering plans for all public improvements for approval by the city as a prerequisite to the approval of the plat by the Planning and Zoning Commission. Furthermore, when a replat results in the reconfiguration of lots so as to impact the location of any existing water, or sewer tap locations, the developer shall submit sufficient information regarding the location of the existing taps and provide for any utility adjustments so as to assure the availability of utility services to each lot. Any engineering drawings associated with a replat shall conform to the requirements of the design manual.
- C. *Review, Processing and Approval of Replats*. Every replat shall be reviewed for conformity with the comprehensive land use plan, these requirements and any other applicable ordinance in accordance with the procedures established for "processing final plats, amending plats, minor plats, or replats" of these regulations. Replats may not amend or remove any covenants or restrictions. If the proposed replat requires a variance and is protested in accordance with V.T.C.A., Local Government Code § 212.015, in order to be approved, the proposed replat must receive the affirmative vote of at least three-fourths (¾) of the members present of the Planning and Zoning Commission and the City Council.
- D. *Replat Public Hearing Requirements*. Certain replats are required to comply with the public hearing regulations contained in V.T.C.A., Local Government Code §§ 212.014, 212.015. The public hearing for replats shall be held by the City Council as required by state law.

## **Section 26.18 Minor Plat Requirements**

- A. *Minor Plat Approval Required*. All applicants seeking approval of a minor plat shall comply with the requirements of this section. Every minor plat shall require approval of the City Administrator who may forward the plat to the Planning and Zoning Commission for routine processing in lieu of granting approval.
- B. *Minor Plat Requirements*. The procedures contained in this section apply to a plat containing four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal utilities.
- C. *Minor Plat Documents Required*. The application packet shall include all documents listed below and no

minor plat will be reviewed by the city until all required documents are submitted in a completed format and all fees have been paid.

1. Minor Plat Application. The applicant shall submit a written minor plat application to the Administrator not less than 14 days prior to the regular meeting of the Planning and Zoning Commission for which approval is being sought.
  2. Final Plat Drawing. The applicant shall submit the required number of copies of the final plat drawing as indicated by the final plat application. The final plat drawing shall contain, at a minimum, all the information listed in the requirements for all plat drawings available at City Hall and all the information listed as "additional requirements for final plat drawings."
  3. Preliminary Drainage Analysis. The Administrator will review each request for a minor plat and determine whether the applicant shall be required to submit a drainage analysis or drainage study. When required, the drainage analysis or drainage study shall conform to the technical specifications contained in the design manual. The applicant may be exempt from this requirement when the Director of Public Works is satisfied that no drainage facilities are necessary.
  4. Taxes and Liens Paid Certificates. The applicant shall submit a certificate available from the Administrator indicating that any taxes or liens due the city have been paid.
- D. *Review and Processing of Minor Plats*. Every minor plat shall be reviewed for conformity with the comprehensive land use plan, this article, and any other applicable ordinance according to the procedures established for processing final plats, amending plats, minor plats, or replats. If the City Administrator declines to approve the proposed plat, the minor plat shall be placed on the agenda for the next regular meeting of the Planning and Zoning Commission for their consideration and forwarding to the City Council.

### **Section 26.19 Amending Plat Requirements**

- A. *Amending Plat Approval Required*. All applicants seeking approval of an amending plat shall comply with the requirements of this section. An amending plat may be approved by the City Administrator. However, the City Administrator may forward the amending plat to the Planning and Zoning Commission and City Council for approval action at his discretion. The procedures contained in this section shall be used to correct, or modify, a subdivision plat which has been previously filed in the County Clerk's office.
- B. *Amending Plat Prerequisites*. An amending plat submittal may be submitted on a property when it conforms to the requirements of V.T.C.A., Local Government Code § 2112.016.
- C. *Amending Plat Documents Required*. The application packet shall include all documents listed below and no amending plat will be reviewed by the city until all required documents are submitted in a completed format and all fees have been paid.
1. Amending Plat Application. The applicant shall submit a written amending plat application to the Administrator at least 14 days prior to the regular meeting of the Planning and Zoning Commission for which approval is being sought.
  2. Taxes and Liens Paid Certificates. The applicant shall submit a certificate available from the Administrator indicating that any taxes or liens due the city have been paid.
  3. Final Plat Drawing. The applicant shall submit the required number of copies of the final plat drawing as shown on the amending plat application. The final plat drawing shall contain, at a minimum, all the information listed in the "requirements for all plat drawings" available at City Hall and include all the information listed as "additional requirements for final plat drawings" as required
- D. *Review, Processing and Approval Of Amending Plat*. Every amending plat shall be reviewed for conformity to the regulations contained in V.T.C.A., Local Government Code § 212.016. If the City Administrator

declines to approve the proposed plat, the amending plat shall be placed on the agenda for the next regular meeting of the Planning and Zoning Commission for their consideration and forwarding to the City Council.

### **Section 26.20 Official Filing and Recording Final Plats**

- A. *Filing.* Upon approval of the plat by the City Council and upon final installation and Public Works Department approval of requirement improvements and infrastructure, the Administrator shall proceed with the official filing of record procedures using the following guidelines:
1. The signature showing final approval of the plat shall not be affixed until all taxes, assessment charges and other monetary obligations due to the city have been paid.
  2. The Administrator shall obtain the necessary signatures from the Mayor, City Secretary, Planning and Zoning Commission Chairman and Planning and Zoning Commission Secretary. The Administrator shall verify that all required covenants have been accepted by the applicant prior to submitting the plat to the County Clerk's office for filing.
  3. To be recorded, the plat must:
    - a. Describe the subdivision by metes and bounds;
    - b. Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and
    - c. State the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.
  4. The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
  5. The plat must be filed with the Tarrant County Clerk's Office.
  6. The plat is subject to the filing and recording provisions of V.T.C.A., Property Code § 12.002.
  7. Upon receipt of the official filed plat, the Administrator will place a mylar film and a blackline copy in the city plat file showing the official filing notation from the County Clerk's office.
  8. Approval of the plat by the City Council authorizes the developer to proceed with the installation of the public facilities in the subdivision provided such plans have been approved by the Director of Public Works and all fees have been paid.

### **Section 26.21 City-Developer Agreements**

- A. *Generally.* The developer of a proposed subdivision must execute a city-developer agreement (on file in the office of the city clerk) to provide for the construction of public and private improvements and other obligations of the developer under these regulations. The city-developer agreement shall be a legally binding agreement between the city and the developer specifying the individual and joint responsibilities of both the city and the developer in connection with the subdivision. The city-developer agreement may cover pro rata payments, city participation in construction costs, escrow deposits or other payments for future public improvements, waivers or variances granted to these regulations and other aspects of the development. The city-developer agreement shall contain a hold harmless/indemnification clause that protects the city against any claim arising out of the development of the subdivision.
- B. *Insurance.* The developer or contractor will comply with the insurance requirements applicable to the city's public works projects.

- C. *Bonds; Escrow Agreement.* Whenever public improvements (or private improvements in lieu thereof) are to be constructed in connection with the subdivision, the developer shall submit the following bonds to the city, executed by a surety company holding a license to do business in the State of Texas and in a form acceptable to the city:
1. Performance Bond. The performance bond will be in an amount equal to the cost of the improvements to be constructed in order to insure completion of all public improvements (and/or any private improvements being constructed in lieu thereof). Alternatively, cash in the amount of the cost of completing the improvements, as determined by the City Engineer, may be deposited with the city (or a financial institution acceptable to the city as escrow agent pursuant to an escrow agreement, the form and provisions thereof to be approved by the city attorney) to insure completion of the improvements.
  2. Payment Bond. A payment bond will be furnished in an amount equal to the cost of any contracts between the developer and its contractors, guaranteeing the protection of all claimants supplying labor and material for the construction of any public improvements (and/or private improvements being constructed in lieu thereof). Alternatively, if the total contract amount of all improvements is \$25,000.00 or less, as determined by the City Engineer, the developer and contractor may, in lieu of furnishing a payment bond, agree to pay and satisfy all claims, liens, charges, and encumbrances arising from construction of the improvements and furnish a written affidavit, in a form provided by the City Engineer, stating that all charges, accounts, and claims for labor performed and materials furnished in connection with the improvements have been paid in full and that there are no unreleased recorded liens filed against the improvements or land to which they are affixed that are to be dedicated to the public.
  3. Maintenance Bond.
    - a. Prior to acceptance by the city of any improvements, a maintenance bond will be furnished in an amount equal to the cost of the construction of any public improvements (and/or private improvements being constructed in lieu thereof) insuring the repair and replacement of all defects due to faulty materials or workmanship that occur within a period of two (2) years from the date of acceptance of the improvements by the city.
    - b. The developer's contractor shall be required to file a maintenance bond with the Administrator, prior to beginning construction by the city, in an amount and form satisfactory to the city, in order to assure the satisfactory condition of the required improvements for a period of two (2) years after the date of their acceptance by the city.
- D. *List of Contractors.* The City Engineer may require the developer or contractor or both to furnish a list of all contractors and subcontractors who performed labor on or persons supplying materials for the improvements and require a written release of all claims from any such persons prior to acceptance of the improvements.
- E. *Participation by City.* In developments where, by reason of city policy, the City Council deems it advisable to participate in the public improvements being constructed to the extent of \$25,000.00 or more, the contract for such construction shall be advertised for bids in accordance with the state requirements, and shall require the execution of a city-developer agreement as noted above. The developer shall deposit with the city the funds, or acceptable security as required by the applicable city ordinances, required to pay its portion of the construction costs prior to the construction. It shall be the responsibility of the developer's engineer to prepare all contract documents for use by the city and the contractor, as well as all copies of the engineering plans for the bidding and construction of the project.

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**Section 26.22 Street and Easement Vacations**

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- A. *Generally*. When a citizen, group of citizens, or a developer wishes to propose the closing or vacation of a specific public right-of-way, street, or easement which has been dedicated to the city, the following procedures must be followed:
1. **Petition**. A petition requesting the proposed closing or vacation must be presented to the Administrator together with the appropriate filing fee. Such petition must contain the names, addresses, phone numbers, and signatures of all property owners holding property adjacent to the portion of the street or easement which is proposed to be vacated. The applicant must submit a metes and bounds legal description and a graphic exhibit of the portion of the ROW to be abandoned which must be signed and sealed by a registered professional land surveyor. In addition, a standard form of vacation acknowledgment shall be completed and submitted for each utility currently located within the right-of-way or easement.
  2. **Public Hearing**. The Administrator will set a public hearing regarding the proposed closing before the Planning and Zoning Commission at a regularly scheduled meeting. Public notices will be mailed to all property owners affected by the proposed closing or vacation at least fifteen (15) days prior to the scheduled meeting.
  3. **Staff Role**. The city staff will perform the following:
    - a. Secure an appraisal of the value of the physical property involved in the closure.
    - b. Prepare and submit for City Council approval, recommendations for the proposed sale and or lease based upon the estimated value and the best interests of the city and owners of the adjacent property.
    - c. Prepare an ordinance and appropriate documents for transfer or lease of the property involved in the vacation or closure.
  4. **Recommendation**. The commission will conduct a public hearing allowing the opportunity for interested parties to express their opinions of the proposed closing or vacation. At the close of the public hearing the commission will make a recommendation to the City Council as to the advisability of approving the proposed closing or vacation.
  5. **City Council Hearing**. The proposed closing or vacation will then be set for public hearing before the City Council by the following notices:
    - a. The hearing will be advertised by the publishing of a legal notice in the official newspaper of the city at least 15 days prior to the scheduled hearing.
    - b. Adjacent property owners will be notified by mail of the proposed public hearing at least 15 days prior to the scheduled hearing.
    - c. Notice of the proposed hearing before the City Council will be posted in a public place within the city at least 15 days prior to the scheduled hearing.
  6. **Decision**. The City Council will conduct the public hearing on the proposed closing or vacation, allowing the opportunity for all interested parties to express their opinions on the matter. At the close of the public hearing, the City Council will make a determination as to whether the evidence presented at the hearing together with the recommendation of the Planning and Zoning Commission provide sufficient justification for proceeding with the closure or vacation.

## Section 26.23 Installation of Permanent Field Monuments

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- A. *Generally.* The applicant shall place permanent reference monuments in the subdivision as required herein and under the direction of a registered land surveyor or professional engineer. All such monuments shall be set flush with or below the ground and planted in such a manner that they will not be generally disturbed.
- B. *Subdivision Boundaries.* The external boundaries of a subdivision shall be documented in the field by monuments of not less than four (4) inches square or five (5) inches in diameter, and marked on top with a cross, brass plug, iron rod, or other durable material securely embedded; or by iron rods or pipes not less than 18 inches in length and one-half ( $\frac{1}{2}$ ) inch in diameter. These monuments shall be placed at all corners of the subdivision boundary, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along a meandering line.
- C. *Internal Block Corners.* All internal block corners, street intersections, street angle points and curves tangents shall receive permanent monuments in the field by iron rods or pipes at least 18 inches long and one-half ( $\frac{1}{2}$ ) inch in diameter.
- D. *Lot Corners.* All corners of all lots shall receive monuments in the field by iron rods 18 inches long and one-half ( $\frac{1}{2}$ ) inch in diameter.

## Section 26.24 Rough Proportionality

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- A. *Proportionality Determination.*
  1. *Determination.* Prior to a decision on an application for approval of a plat, plan of development or other permit for which an exaction requirement is imposed as a condition of approval, the City Engineer shall prepare a written statement affirming that each exaction requirement to be imposed as a condition of plat approval or permit approval is roughly proportionate to the demand created by the subdivision or development on the applicable public facilities system of the city, taking into consideration the nature and extent of the development proposed. In making this determination, the City Engineer may consider:
    - a. Categorical findings and recommendations of the North Central Texas Council of Governments in developing standard specifications for public infrastructure improvements and storm water management;
    - b. The proposed and potential use of the land;
    - c. The timing and sequence of development in relation to availability of adequate levels of public facilities systems;
    - d. Impact fee studies, traffic impact studies, (both geometric and capacity oriented), drainage studies, fire protection, consumption and irrigation water needs, solid or liquid waste collection and disposal, or other studies that measure the demand for services created by developments and the impact on the city's public facilities system;
    - e. The level of service and functionality of both on-site and off-site public infrastructure improvements in serving the proposed subdivision or development;
    - f. The degree to which public infrastructure improvements necessary to serve the proposed subdivision are supplied by other developments;
    - g. The anticipated participation by the city in the costs of necessary public infrastructure improvements;
    - h. The degree to which acceptable private infrastructure improvements to be constructed and

maintained by the applicant will offset the need for public infrastructure improvements;

- i. Any reimbursements for the costs of public infrastructure improvements for which the proposed subdivision is eligible; and/or
  - j. Any other information relating to the impacts created by the proposed subdivision or development on the city's public facilities systems.
2. Exaction Requirements. Based upon the proportionality determination, the City Engineer shall affirm that the exaction requirements of this section, or other ordinance imposing the exaction requirement, as applied to the proposed subdivision or development, do not impose costs on the applicant for public infrastructure improvements that exceed those roughly proportionate to the impact of the proposed subdivision or development.
  3. Additional Information. The City Engineer may require that the applicant, at its expense, submit any information or studies that may assist in making the proportionality determination.

**B. *Rough Proportionality Determination.***

1. Decision. The Planning and Zoning Commission and City Council shall consider the City Engineer's report concerning the proportionality of the exaction requirements in making a decision on an application for approval of a plat or plan for development. The commission and the City Council may consider the City Engineer's report in granting a variance to the requirements of this section or other applicable ordinance.
2. The city official responsible for issuing a permit for which an exaction requirement is imposed as a condition of approval shall consider the City Engineer's report concerning the proportionality of the exaction requirements in making its decision as to whether to impose the exaction requirement or to modify or waive the requirement.

**C. *Variances and Appeals.* See Article 28.7 A.**

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**Planned Development Procedures**

**Article  
27**

## Section 27.1 Purpose

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The purpose of this article is to outline the review procedures for Planned Developments.

## Section 27.2 Zoning Requirements

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- A. *Residential Density.* For projects that include single-family dwellings, the PD concept plan narrative shall state minimum spatial requirements for single-family lots. A PD shall be compliant with base residential district spatial standards. Deviations from the minimum standards and requirements of the base zoning district shall be included in the Table of Modifications, as outlined in this section.
- B. *Dimensional Requirements.* The area, height and placement requirements for each portion of the PD shall be based upon a stated zoning district, as provided in *Article 2*. The PD concept plan narrative shall state the area, height, and placement requirements for each portion of the PD, based upon the appropriate zoning district and the residential density determined.
1. Residential developments shall meet the area, height, and placement requirements of the residential districts, depending upon the type and character of the development.
  2. Non-residential developments shall meet the area, height, and placement requirements of the commercial and industrial districts.
  3. Each use in a mixed-use development (containing both residential and commercial development) shall meet the height, area, and placement requirements of the zoning district that corresponds to each element of the proposed development.
  4. Deviations from the minimums set forth above shall be included in a Table of Modifications.
- C. *Variations from Minimum Requirements.* District regulations applicable to a land use in a PD may be altered from those of the district(s) in effect immediately prior to the PD rezoning, which shall be limited to, modification from the lot area and width, building setbacks, height, lot coverage, minimum floor area, landscaping, lighting, signs and parking. The applicant for a PD shall identify, in writing, all intended variations from the prior zoning being proposed. Variations may be approved during the Concept Plan review by the City Council after the Planning and Zoning Commission recommendation. These adjustments may be permitted only if they will result in a higher quality of development or better integration of the proposed use(s) with surrounding uses. The variations shall also satisfy one (1) or more of the following criteria:
1. Preserves the best natural features of the site;
  2. Creates, maintains, or improves habitat for wildlife;
  3. Creates, improves, or maintains open space for the residents;
  4. Enhances the views into the site as well as the view from dwellings to be built on site; and
  5. Results in a better development, consistent with the purposes of PD expressed in *Section 9.1* and the recommendations of the City of Kennedale Comprehensive Plan.
- D. *Modifications.* To encourage flexibility and creativity consistent with the intent of the PD, the City Council, after recommendation from the Planning and Zoning Commission, may permit modifications from the density, area, height, and placement requirements for the stated district(s).
1. Any regulatory modification shall be approved through a finding by the City Council, after recommendation by the Planning and Zoning Commission, that the modification results in a higher quality of development than would be possible using conventional zoning standards.

2. All deviations from dimensional requirements shall be listed in a Table of Modifications. Unless modifications are specifically requested and approved by the City Council, the site plan shall comply with the appropriate requirements of the identified zoning districts.

### Section 27.3 Process

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The PD review and approval process includes the following steps:

- A. *Pre-Application*. Pre-application conference with the Administrator to review the PD concept and discuss the review process.
- B. *Application and Review*. Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6* and reviewed against the criteria of *Section 22.7*.
- C. *Public Notice*. Public notice must be provided in accordance with *Section 22.9* prior to the hearing.
- D. *PD Concept Plan and Rezoning*.
  1. Planning and Zoning Commission review of PD Concept Plan and PD rezoning and scheduling of public hearing;
  2. Planning and Zoning Commission public hearing; review and recommendation of the PD Concept Plan and Rezoning;
  3. City Council review and approval of PD Concept Plan and PD rezoning.
- E. *PD Final Site Plan*. Administrative approval of PD Final Site Plan in accordance with the process for Site Plan review.

### Section 27.4 Pre-Application Conference

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A pre-application conference shall be held with the Administrator for the purpose of determining the eligibility of the request for consideration as a PD.

- A. *Conference Request*. A request for a pre-application conference shall be made to the Administrator. As part of the pre-application conference, the applicant shall submit a copy of a sketch plan that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation and land use for the entire site.
- B. *Guidance*. The Administrator shall advise the applicant of the conformance of the PD concept with the objectives of the city, whether the concept qualifies under the requirements of this article, and whether the general concept is substantially consistent with the Comprehensive Plan. Formal action shall not be taken at a pre-application conference, and statements made at the pre-application conference shall not be considered binding commitments or an approval of the concept.

### Section 27.5 PD Concept Plan Review

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- A. *PD Concept Plan Submittal*. Collectively, the materials listed below constitute the PD Concept Plan.
  1. *Preliminary Site Plan*. The Preliminary Site Plan shall include all of the elements included Preliminary Concept Plan Checklist.
  2. *Narrative*. A narrative shall describe the proposed PD, the proposed timeframe of development, the zoning district(s) upon which the proposed density and the area, height and placement requirements are based, and documentation indicating how the qualifying conditions in *Section 9.2* and the standards of *Section 27.7* are met.

3. Table of Modification. The application shall include a table detailing all modifications from the use, density, area, height and placement requirements of the zoning district identified in the concept plan narrative. The table shall also detail all modifications from off-street parking regulations, general provisions, or subdivision regulations that would otherwise be applicable to the uses and development proposed in the absence of the proposed PD. This table shall clearly identify the allowed regulation in comparison to the requested modification.
  4. Additional Information. Any additional information requested by the Planning and Zoning Commission to better assist in the determination of PD qualification such as, but not limited to market studies, fiscal impact analysis, traffic impact studies, and environmental impact assessments.
- B. *Planning and Zoning Commission*.
1. *Initial Review*. The Planning and Zoning Commission shall review the draft PD concept plan at a regular or special meeting. Upon determination by the Planning and Zoning Commission that the application meets the requirements of this article, a public hearing shall be set. Notice shall conform to the requirements of *Section 22.9* of the UDC.
  2. *Public Hearing and Recommendation*. The Planning and Zoning Commission shall review the PD concept plan in consideration of public hearing comments, technical reviews from city staff, correspondence from applicable review agencies and compliance with the standards of this article and other applicable city standards and requirements. The Planning and Zoning Commission shall recommend approval, approval with conditions, or denial of the PD Concept plan and rezoning to the City Council. The recommendation shall be based on the following:
    - a. Whether all applicable provisions of this article are met;
    - b. Whether the proposed PD meets the intent of this article, as outlined in *Section 9.1*;
    - c. Whether the qualifying conditions in *Section 9.2* are met; and
    - d. Whether the standards of approval in *Section 27.7* are met.
- C. *City Council Review*.
1. Action. Following receipt of a recommendation from the Planning and Zoning Commission on the PD Concept Plan and rezoning, the City Council shall review the application and approve, deny, or approve with conditions.
  2. Conditions. Reasonable conditions may be attached to the approval of a PD for the purpose of: ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protecting the natural environment and conserving natural resources; ensuring compatibility with adjacent uses of land; promoting the use of land in a socially and economically desirable manner; and furthering implementation of the Comprehensive Plan.
  3. Rezoning. Upon approval by the City Council, the property subject to the PD Concept Plan shall be rezoned to PD.

## **Section 27.6 PD Final Site Plan Review**

- A. *Final Site Plan Submittal*. Following PD Concept Plan and PD rezoning approval, the PD Final Site Plan for the entire PD or individual phases of the PD shall be submitted in accordance with *Article 23*.
- B. *Conformance with PD Concept Plan*. All PD Final Site Plans subsequently submitted shall substantially conform with the PD Concept Plan and all conditions attached to preliminary approval.
- C. *Changes*. Major or minor changes and deviations between the PD Concept Plan and the PD Final Site

Plan shall be consider through the following processes:

1. Minor Changes. Minor changes may be approved administratively, per *Section 27.8*.
  2. Major Changes. Any changes from the approved PD Concept Plan not determined to be minor shall require that a new PD Concept Plan be submitted and approved according to *Section 27.5* before further consideration of the changed plan(s).
- D. *Approval*. If the Administrator finds that the PD Final Site Plan is in substantial conformance with the approved PD Concept Plan and the requirements of this article, it shall approve the plan.

### **Section 27.7 Standards of Approval**

A PD shall only be approved if it complies with each of the following standards as well as applicable standards established elsewhere in this article:

- A. The proposed PD complies with the Intent and all Qualifying Conditions of *Section 9.2*, respectively.
- B. The uses conducted within the proposed PD, the PD's impact on the community, and other aspects of the PD are consistent with the Comprehensive Plan.
- C. The proposed PD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
- D. The PD shall not change the essential character of the surrounding area.
- E. The PD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- F. The PD shall not place demands on public services and facilities in excess of current or anticipated future capacity.

### **Section 27.8 Amendments**

Changes to an approved PD Concept Plan or deviations shown on a PD Final Site Plan shall be permitted only under the following circumstances:

- A. *Minor Changes*. A minor change may be approved by the Administrator, according to the requirements of this section. A change that would alter any specified conditions imposed as part of the original approval shall not be considered as a minor change.
  1. Reduction of the size of any building and/or sign.
  2. Movement of buildings or signs by no more than 20 feet, provided setbacks are not reduced.
  3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
  4. Changes in floor plans of up to 10 percent of the total floor area that do not alter the character of the use or increase the amount of required parking.
  5. Internal rearrangement of a parking lot that does not affect the number of parking spaces, access locations, or design.
  6. Changes required or requested by the city, state, or federal regulatory agency to conform to laws or regulations.

- B. *Other Minor Changes.* A minor change that is not listed in Paragraph A above may be submitted to the Planning and Zoning Commission to determine if the change is minor in scope and/or effect and that the change would not alter the basic design or intent of the approved PD. If Planning and Zoning Commission determines that the proposed change is minor, the Administrator shall be authorized to approve it administratively.
- C. *Major Changes.* A change that the Administrator or Planning and Zoning Commission determines is not minor must be submitted as an amendment to the PD and shall be processed in the same manner as the original PD application.

### **Section 27.9 Expiration and Extension**

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- A. *Expiration of Concept Plan Approval.* Approval of the PD Concept Plan and rezoning by the City Council shall confer upon the owner the right to proceed through the subsequent final planning phase for a period not to exceed two (2) years from date of approval.
- B. *Expiration of PD Final Site Plan Approval.* Each development shall be under meaningful construction within one (1) year after the date of approval of the final PD site plan.
- C. *Termination of Rights.* If either plan expires, the PD Concept Plan and PD Final Site Plan, if approved, shall automatically become null and void and all rights of development based on the plan shall terminate.
- D. *Extension.* The City Council may for good cause approve one (1) extension of up to one (1) year, if requested in writing by the applicant prior to the expiration date of the original PD Concept Plan approval or PD Final Site Plan approval.
- E. *City-Initiated Rezoning.* Upon expiration of a PD Concept Plan, the City Council may direct the Planning and Zoning Commission to conduct a public hearing and make a recommendation to revoke the PD zoning and rezone the property to its original designation or other district as appropriate.

### **Section 27.10 PD Appeals and Variances**

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The Board of Adjustment shall have no jurisdiction to hear appeals of or make interpretations of any decisions regarding this article or proposed PD Concept Plan or PD Final Site Plan. Additionally, no variances may be requested for requirements within an approved PD.

**Variances and Appeals**

**Article  
28**

**Section 28.1 Purpose**

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This article outlines the procedures for variances to the UDC and processes for appealing decisions by authorized approval authorities.

**Section 28.2 Alcohol Sales**

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- A. *Authorization.* As authorized by V.T.C.A. Alcohol Beverage Code § 109.36, the City Council may allow a variance to the regulations for alcohol sales if it determines that the enforcement of the regulations in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land and resources, creates an undue hardship on the applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the City Council determines, after consideration of the health, safety and welfare of the public and the equities of the situation, that the variance is in the best interest of the community.
- B. *Application and Review.* Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6.*
- C. *Public Notice.* Public notice is required for a variance. Written notice must be provided according to *Section 22.8* prior to City Council consideration, however, public notice shall be sent to landowners within 300 feet of the subject property.
- D. *City Council Consideration.* The City Council may approve, deny, or approve with conditions, a request for a variance.

**Section 28.3 Flood Hazard Reduction**

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- A. *Application and Review.* Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6.*
- B. *Public Notice.* Public notice is required for a variance or appeal. Written notice must be provided according to *Section 22.8* prior to the Board of Adjustment hearing.
- C. *Board of Adjustment Consideration.* The Board of Adjustment may approve, deny, or approve with conditions, a request for variance or appeal.
- D. *Appeals.*
  - 1. Purpose. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.
  - 2. Further Appeal. Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision in the courts of competent jurisdiction.
- E. *Variances.*
  - 1. Purpose. The Board of Adjustment, as established by the community, shall hear and render judgment on requests for variances from the requirements of *Article 19.*
  - 2. Reporting. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
  - 3. Historic Places. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this article.

#### 4. Consideration.

- a. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors of this section have been fully considered. As the lot size increases beyond the one-half ( $\frac{1}{2}$ ) acre, the technical justification required for issuing the variance increases.
- b. Upon consideration of the factors noted above and the intent of this article, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of *Article 19*.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

#### 5. Approval Standards.

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- b. Variances shall only be issued upon:
  - i. Showing a good and sufficient cause;
  - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- d. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - i. The criteria outlined in this section are met, and
  - ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

### **Section 28.4      Natural Resources Management**

- A. *Appeals.* Any decision made by the Administrator in relation to *Article 20* may be appealed to the Tree Board. Any decision made by the Tree Board may be appealed to the City Council. The decision of the City Council shall be final.

## Section 28.5 Signs

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- A. *General.* In any zoning district, the owner of a tract of land may file a special sign project plan request in order to ask for a modification of any requirements that may apply to a sign under this article.
- B. *Variance.* Variances for individual signs shall be considered by the Board of Adjustment in accordance with *Section 28.9*.
- C. *Sign Project Plan.*
1. Application. An application for a special sign project plan shall be filed with the administrative official. The application shall include a scaled drawing of the lot, or, if unplatted, the tract which will contain:
    - a. Dimensions and property line of the lot or tract;
    - b. The location, dimensions, type, color, design style, construction material, message and height of the sign(s);
    - c. Date, scale, north point, name of property owner and name of person preparing the special sign project plan;
    - d. Location, type and size of all easements within the area covered by the special sign project plan and the volume and page number where the easements are recorded with Tarrant County Deed Records;
    - e. A list of modifications requested from this article; and
    - f. Such other information as the city may require, including but not limited to:
      - i. Location and size of points of ingress and egress to public or private streets;
      - ii. Location and size of existing and proposed streets and alleys which are abutting;
      - iii. Topographic information if the property is not platted and the proposed sign(s) is within 15 feet of a public or private street or alley; and
      - iv. Such number of copies of this plan as the city may require.
  2. Application and Review. Application and review shall be conducted in accordance with Sections 22.3, 22.4, 22.5, and 22.6.
  3. Public Notice. Public notice is required for a special sign project plan. Written notice must be provided according to *Section 22.8* prior to the Board of Adjustment hearing.
  4. Board of Adjustment Consideration. The Board of Adjustment may approve, deny, or approve with conditions, a request for special sign project plan.
  5. Limitations. The Board of Adjustment shall not have the power in a special sign project plan to approve or require:
    - a. An encroachment of a sign into a public right-of-way.
    - b. A restriction on the use of the property as allowed by the underlying zoning district.
  6. Appeals. In the event that the Applicant, City Manager, or Council member objects to the action of the Board of Adjustment in regard to a request for special sign project plan approval, such person may file with the city an appeal within 10 days. The City Council shall hear and decide any appeals after the same notification procedures as outlined in this section, and may also make any amendments, modifications, or deletions to the conditions or requirements of said special sign project plan.
  7. Permitting. Approval of a special sign project plan shall not obviate the need for a sign permit.

D. *Appeal of Denial or Revocation of Permit.* A person may appeal the revocation of the sign permit in accordance with *Section 28.9 A.*

## **Section 28.6 Stormwater Protection**

### *A. Review and Hearing.*

1. Any person subject to a compliance order, a remediation, abatement, or restoration order, an emergency cease and desist order, or a red tag order pursuant to *Article 16*, may petition the Public Works Director to reconsider the basis for the order within 15 days of the affected person's notice of issuance of such an order.
2. Failure to submit a timely written petition for reconsideration shall be deemed a waiver of any further right to administrative reconsideration and review of the order.
3. In its petition, the petitioning party must indicate the provisions of the order objected to, the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, any alternative terms of an order that the petitioner would accept, and whether the petitioning party requests a hearing on its petition.
4. The effect of any compliance order, remediation, abatement, or restoration order, and any red tag order issued pursuant to *Article 16*, shall be stayed pending the Public Works Director's reconsideration of the petition, and any hearing thereon, unless the Public Works Director expressly makes a written determination to the contrary. An emergency cease and desist order shall not be stayed pending the Public Works Director's reconsideration, or any hearing thereon, unless the Public Works Director expressly and in writing stays the emergency order.
5. Within 21 calendar days of the submittal of a petition for reconsideration, the Public Works Director shall either:
  - a. Grant the petition and withdraw or modify the order accordingly;
  - b. Deny the petition for reconsideration, without hearing if no material issue of fact is raised; or
  - c. If a hearing has been requested and a material issue of fact has been raised, set a hearing on the petition for reconsideration.
6. Written notice of any hearing set by the Public Works Director pursuant to subsection (5) of this section shall be served on the petitioning party personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the petitioning party.
7. The Public Works Director may conduct the hearing and take evidence, or the Public Works Director may designate any employee of the city or any specially-designated attorney or engineer to:
  - a. Issue in the name of the city notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
  - b. Take evidence; and
  - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Public Works Director for action thereon.
8. At any hearing held pursuant to this subsection, testimony taken shall be under oath and recorded. Any party is entitled to present his/her case or defense by oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. A transcript will be made available to any party to the hearing upon payment of the usual charges thereof.

9. After the Public Works Director has reviewed the evidence, he shall either:
    - a. Grant the petition;
    - b. Deny the petition; or
    - c. Grant the petition in part and deny it in part.
  10. Notice of the Public Works Director's decision from the hearing shall be served on the petitioning party personally or by registered or certified mail. The Public Works Director may modify the order as is appropriate based upon the evidence and arguments presented at the hearing and any action on the petition. Further orders and directives as are necessary and appropriate may be issued.
- B. *Appeal.*
1. Any person whose petition for reconsideration by the Public Works Director has not been granted in its entirety and who remains adversely affected by the Public Works Director's order, or who is subject to an order of the Public Works Director issued following a show cause hearing, may appeal the Public Works Director's action to the City Manager by filing a written appeal with the City Manager within 10 days of the date the Public Works Director's adverse action on the petition for reconsideration is sent by registered or certified mail, or within ten (10) days of the date the notice of the issuance of the order following the show cause hearing is sent by registered or certified mail, as the case may be.
  2. Failure to submit a timely written appeal to the City Manager shall be deemed to be a waiver of further administrative review.
  3. In its written appeal to the City Manager, the appealing party shall indicate the particular provisions of the order objected to, the particular determinations of the Public Works Director that are contested, the reasons that the Public Works Director's order and/or determinations are contested, and any alternative order that the appealing party would accept.
  4. The effect of the Public Works Director's order, as issued or modified, shall not be stayed pending the appeal to the City Manager, unless the City Manager expressly so states.
  5. Within 30 days of the submittal of a written appeal to the City Manager, the City Manager shall hear and consider the appeal in open meeting. The appellant shall be notified at least seven (7) days in advance of the date and time of the administrative hearing at which the appeal will be heard and considered.
  6. The appellant shall have the right to a public appearance before the City Manager to present oral and written statements in support of the appeal.
  7. Upon consideration of any written and oral statements made to the City Manager, as well as the record made before the Public Works Director, the City Manager shall act on the appeal by affirming, vacating, or modifying the Public Works Director's order and/or by remanding the matter to the Public Works Director for further action.
  8. Following final action by the City Manager on the appeal, any adversely affected party may challenge such action by the City Manager in an appropriate court of competent jurisdiction.

## **Section 28.7      Subdivisions**

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- A. *Rough Proportionality Appeal.*
1. Exaction.
    - a. An applicant seeking approval of a plat or permit which imposes an exaction requirement as a condition of approval may file an appeal to contest any exaction requirement, other than impact

fees, imposed as a condition of approval or in which the failure to comply is grounds for denying the plat application pursuant to this division. The provisions of this division apply to any city permit.

- b. The purpose of a proportionality appeal is to assure that an exaction requirement imposed on a proposed plat or development as a condition of approval does not result in a disproportionate cost burden on the applicant, taking into consideration the nature and extent of the demands created by the proposed subdivision or development on the city's public facilities systems.

## 2. Appeals Procedure.

- a. An applicant seeking approval of a plat or any other permit or zoning for which an exaction requirement is imposed and who wishes to appeal the imposition of the requirement shall file a written appeal with the city secretary within 10 days of the date the Planning and Zoning Commission or the city official responsible for issuing the permit takes action applying the exaction requirement. This may include denial of the permit or plat. The applicant shall submit 15 copies of the appeal.
- b. A separate appeal form shall be submitted for each exaction requirement for which relief is sought. The city secretary shall forward the appeal to the City Council for consideration.
- c. The applicant may request postponement of consideration of the applicant's plat application by the City Council pending preparation of the a study, in which case the applicant shall also waive the statutory period for acting upon a plat for the time necessary for the City Council to decide the appeal.
- d. No developer's agreement may be executed by the city until the time for appeal has expired or, if an appeal is filed, until the City Council has made a determination with respect to the appeal.
- e. The appeal shall state the reasons that application of the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed subdivision or development on the city's public facilities systems and does not reasonably benefit the proposed subdivision or development.
- f. The appellant shall submit to the City Engineer 15 copies of a study in support of the appeal that includes, with respect to each specific exaction requirement appealed, the following information within 30 days of the date of appeal, unless a longer time is requested:
  - i. Total capacity of the city's water, wastewater, roadway, drainage, or park system, as applicable, to be utilized by the proposed subdivision or development, 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. If the proposed subdivision is to be developed in phases, such information also shall be provided for the entire development, including any phases already developed;
  - ii. Total capacity to be supplied to the city's public facilities systems for water, wastewater, roadway, drainage or parks, as applicable, by the exaction requirement. This information shall include any capacity supplied by prior exaction requirements imposed on the development;
  - iii. Comparison of the capacity of the applicable city public facilities systems to be consumed by the proposed subdivision or development with the capacity to be supplied to such systems by the proposed exaction requirement. In making this comparison, the impacts on the city's public facilities systems from the entire subdivision or development shall be considered;
  - iv. The amount of any city participation in the costs of oversizing the public infrastructure improvements to be constructed by the applicant in accordance with the city's requirements;
  - v. Comparison of the minimum size and capacity required by city standards for the applicable

public facilities systems to be utilized by the proposed subdivision or development with the size and capacity to be supplied by the proposed exaction requirement; and

- vi. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the exaction requirement imposed by the city.
  - g. The City Engineer shall evaluate the appeal and supporting study and shall make a recommendation to the City Council based upon the City Engineer's analysis of the information contained in the study and utilizing the same factors considered by the engineer in making the original proportionality determination.
3. City Council Decision.
- a. The City Council shall decide the appeal within 30 days of the date of final submission of any evidence by the applicant. Upon receipt of the final submission of evidence from the applicant, the city secretary shall schedule a time and date for the City Council to consider the appeal and shall cause the applicant to be notified at the address specified in the appeal form of the time, date and location at which the City Council shall consider the appeal.
  - b. The applicant shall be allotted time, not to exceed 30 minutes, to present testimony at the City Council meeting. The Council shall base its decision on the criteria listed in this section and may:
    - i. deny the appeal and impose the exaction requirement in accordance with the City Engineer's recommendation or the Planning and Zoning Commission's decision or other city official on the application; or
    - ii. grant the appeal, and waive in whole or in part an exaction requirement to the extent necessary to achieve proportionality; or
    - iii. grant the appeal, and direct that the city participate in the costs of acquiring land for or constructing the public infrastructure improvement.
  - c. In deciding an appeal, the City Council shall determine whether application of the exaction requirement is roughly proportional to the nature and extent of the impact created by the proposed subdivision on the city's public facilities systems for water, wastewater, roadway, drainage, or park facilities, as applicable, and reasonably benefits the subdivision. In making such determination, the City Council shall consider:
    - i. The evidence submitted by the applicant;
    - ii. The City Engineer's report and recommendation;
    - iii. if the property is located within the city's extraterritorial jurisdiction, or adjacent to a state or county road, any recommendations from the county.
  - d. The City Council may require the applicant or the City Engineer to submit additional information that it deems relevant in making its decision.
4. Action Following Decision of City Council.
- a. If the City Council finds in favor of the applicant and waives the exaction requirement as a condition of approval, or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant shall resubmit the application to the Planning and Zoning Commission or city official responsible for issuing the permit within 30 days of the date the City Council takes action, with any modifications necessary to conform the plat or permit with the City Council's decision. Failure to do so will result in the expiration of any relief granted by the City Council.
  - b. The applicant shall not be deemed to have prevailed in the event that the City Council modifies

the exaction requirement.

- c. If the City Council denies the appeal and the applicant has executed a waiver of the statutory period for acting upon a plat, the city shall place the plat application on the agenda of the Planning and Zoning Commission within 30 days of the City Council's decision.
  - d. If the rough proportionality appeal was submitted appealing the imposition of an exaction requirement for a plat application, and City Council grants relief to an applicant but the applicant fails to conform the plat to the City Council's decision within the 30-day period provided, the relief granted by the City Council on the appeal shall expire.
  - e. If the plat application is modified to increase the number of residential dwelling units or the intensity of non-residential uses, the Administrator or City Engineer may require a new study to validate the relief granted by the City Council.
  - f. If the plat application for which relief was granted is denied on other grounds, a new appeal shall be required on any subsequent application.
5. Appeal of City Council Decision. An applicant may appeal the decision of the City Council to the county or district court of the county in which the development is located within 30 days of the date that the council issues its final decision. In the event that the applicant prevails in such action, the applicant will be entitled to attorneys' fees and costs, including expert witness fees.

B. *Variances*.

1. General. The Planning and Zoning Commission may recommend variances from subdivision regulations to the City Council upon written request from the owner stating the justification for such variance. A variance includes an adjustment, offset, or waiver of any dedication, construction, or payment requirements where the requirement places an unreasonable burden on the development and does not bear a rough proportionality to the requirements necessary to serve the development.
2. Engineer's Report. The Planning and Zoning Commission and the City Council may consider the City Engineer's report in granting a variance to the requirements of this division or other applicable ordinance.
3. Necessary Findings. A variance may only be recommended by the Planning and Zoning Commission or granted by the City Council upon findings that:
  - a. The requirement places an unreasonable burden on the development and does not bear a rough proportionality to the requirements necessary to serve the development; or
  - b. The extraordinary hardships or practical difficulties will result from strict compliance with these regulations, and/or the purpose of these regulations may be served to a greater extent by an alternative proposal; and
    - i. The conditions upon which the request for a variance is based are unique to the property and are not applicable to other properties or the tract has peculiar physical surroundings, severe topographical conditions or unique environmental qualities worthy of protection; and
    - ii. The variance will not have an adverse effect on the intent of these provisions or the comprehensive land use plan.
4. Decision. If a finding is reached that a variance should be granted, the Planning and Zoning Commission may recommend, and the City Council may impose, conditions relating to the variance as will, in its judgment, substantially secure the objectives of the standards or requirements to which the variance was granted.

## Section 28.8 Wellhead Protection

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- A. *Authority.* The Board of Adjustment, as established by the city, shall hear and render judgment on requests for variances from the requirements of Article 21 and appeals of administrative actions. Application and review shall be in accordance with *Section 28.9*.
- B. *Application and Review.* Application and review shall be conducted in accordance with *Sections 22.3, 22.4, 22.5, and 22.6*.
- C. *Public Notice.* Public notice is required for a variance or appeal. Written notice must be provided according to *Section 22.8* prior to the Board of Adjustment hearing.
- D. *Board of Adjustment Consideration.* The Board of Adjustment may approve, deny, or approve with conditions, a request for variance or appeal.
- E. *Prerequisites for Granting Variances.*
1. Determination. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the potential threat of contamination of the PWS well and aquifer, to afford relief.
  2. Conditions. Variances shall only be issued upon:
    - a. Showing a good and sufficient cause;
    - b. A determination that failure to grant a variance would result in exceptional hardship to the applicant; and
    - c. A determination that the granting of a variance will not result in additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

## Section 28.9 Zoning

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- A. *Administrative Appeals.* Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, or board of the city affected by any decision of the Administrator.
1. Filing. An appeal shall be taken within 15 days after the decision has been rendered by the Administrator, by filing with the Administrator from whom the appeal is taken and with the Board of Adjustment, a notice of appeal specifying the grounds of the appeal. The Administrator from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the records upon which the action appealed from was taken.
  2. Public Notice. Public notice is required for consideration of an appeal. Written notice must be provided according to *Section 22.8* prior to the Board of Adjustment hearing.
  3. Effect.
    - a. *Stay of Proceedings.* The appeal of any decision or administrative action stays all proceedings in furtherance of the decision or administrative action.
    - b. *Abandoned Appeal.* If an appeal is filed but not pursued (either withdrawn or continued at the applicant's request), for a period of 180 days, the appeal shall be considered abandoned and the decision or administrative action shall be considered final.
    - c. *Imminent Peril.* Where a stay of proceedings would cause imminent peril to life or property, the official from whom the appeal is taken or the Administrator may certify in writing to the decision-makers hearing the appeal that the stay would cause such harm. The stay will be lifted pending

hearing on the appeal. In such case, the action may be stayed only by a restraining order granted by a decision-making body or court of record if due cause is shown, following notice to the Administrator.

4. Rehearing of Appeals. Any person aggrieved, any officer, department, or board of the city, who has made proper application and has received action by the board regarding that application, may have that application reheard again before the Board of Adjustment. However, such rehearing shall be in accordance with the following conditions:
  - i. Time limitation. No appeal to the Board of Adjustment for the same or related variance or exception on the same piece of property shall be allowed prior to the expiration of six (6) months from the previous ruling of the board unless conditions relative to other property in the immediate vicinity, within the six (6) month period, have been changed or acted on by the Board of Adjustment or City Council so as to alter the facts and conditions on which the previous board action was based.
  - ii. Change of circumstance. Such change of circumstances shall permit the rehearing of an appeal by the board, prior to the expiration of the six (6) month period. However, such conditions shall in no way have any force in law to compel the Board of Adjustment, after a hearing to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

B. Variances.

1. Purpose. The zoning variance process is intended to provide limited relief from the requirements of the UDC in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the UDC, including Oil and Gas setback requirements. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of the UDC may impose on property owners in general. Rather, it is intended to provide relief where the requirements of the UDC render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested. State and/or federal laws or requirements may not be varied by the city.
2. Application and Review. Application and review shall be conducted in accordance with *Sections 22.3, 22.4, and 22.5*.
3. Public Notice. Public notice is required for consideration of a variance. Written notice must be provided according to *Section 22.8* prior to the Board of Adjustment hearing.
4. Board of Adjustment Consideration. The Board of Adjustment may approve, deny, or approve with conditions, a request for special exception.
5. Criteria for Approval.
  - a. Spatial and Dimensional Variances. Variances from the terms of the UDC that are not contrary to the public interest may be granted where, due to special conditions, a literal enforcement of the UDC would result in unnecessary hardship, so that the spirit of the UDC is observed and substantial justice is done. The Board of Adjustment shall consider whether:
    - i. Special conditions and circumstances exist that are peculiar to the land or improvements and that are not applicable to other lands or improvements in the same district;
    - ii. Literal interpretation of the provisions of the ordinance would result in unnecessary hardship to the owner of the property; and

- iii. The special conditions and circumstances are not self-imposed, i.e., do not result from the actions of the applicant, owner, or previous owner(s)/developers.
- b. Landscape Variances. Variances from the landscaping requirements of the UDC that are not contrary to the public interest may be granted where, due to special conditions, a literal enforcement of the UDC would result in unnecessary hardship, so that the spirit of the UDC is observed and substantial justice is done. The Board of Adjustment shall consider whether:
  - i. When existing natural or topographic features render compliance with the requirements unnecessarily difficult; or
  - ii. When adherence to the requirements result in the loss of significant natural or cultural features; or
  - iii. Where a variation clearly results in a superior landscape that could not be achieved under the requirements of this article.

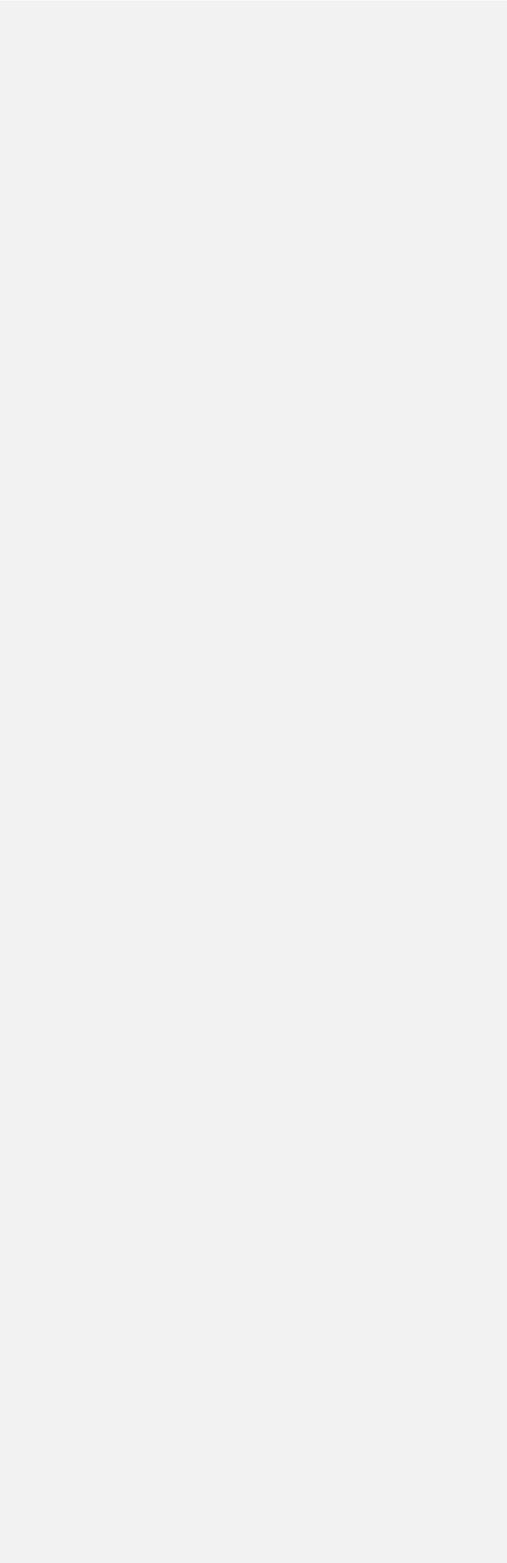
**Administration**

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**Part  
V**

**City of Kennedale Unified Development Code**

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**Authorities**

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**Article  
29**

**City of Kennedale Unified Development Code**

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### **Section 29.1 Purpose**

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The purpose of this article is to outline the roles and responsibilities of all positions, boards, commissions, and elected officials involved in the administration, enforcement, interpretation, amendment, and adoption of the UDC.

### **Section 29.2 Administrator**

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- A. *Administration.* The City Manager is hereby designated by the City Council as the administrative official to supervise the administration and enforcement of these regulations. The City Manager may appoint an assistant to help him or her with the general administration and enforcement duties required for the implementation of the UDC. If the City Manager or his or her designated administrative official finds that any of the provisions of this article are being violated, the City Manager or his or her designated administrative official shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The City Manager or his or her designated administrative official shall order the discontinuance of any illegal use of land, buildings or structures, the removal of any illegal buildings or structures or of any illegal additions, alterations or structural changes, the discontinuance of any illegal work being performed; or shall take any other action authorized by this article to insure compliance with or to prevent violation of these provisions.
- B. *Interpretation and Appeals.* It is the intent of this article that all questions of interpretation and enforcement shall be first presented to the City Manager or his or her designated representative, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the City Manager or other administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law.

### **Section 29.3 Planning and Zoning Commission**

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- A. *Purpose.* The Planning and Zoning Commission shall recommend to the City Council the boundaries of the various zoning districts and appropriate regulations to be enforced therein and any proposed amendment thereto and shall collect data and keep itself informed as to the best practices generally in effect regarding city planning and zoning. Areas in which the Planning and Zoning Commission may be qualified to act include the present and future movement of traffic, the segregation of residential and business districts, and the convenience and safety of persons and property within the City of Kennedale.
- B. *Membership.*

- Authorities**
1. Appointed by majority vote of the City Council, this Planning and Zoning Commission shall consist of seven (7) regular members designated by places 1 through 7. Appointments shall take place in October of each year, with places 1, 3, 5, and 7 appointed in odd numbered years and places 2, 4, and 6 appointed in even numbered years. The City Council may, at its discretion, appoint two (2) additional persons to serve as alternate members to the Planning and Zoning Commission, designated as places 8 and 9. The alternate members shall only be entitled to serve at any meeting of the Planning and Zoning Commission in which a regular member is absent. If only one (1) regular member is absent the chair shall determine which alternate shall be entitled to serve during the regular member's absence. When serving in the absence of a regular member, an alternate member shall have the same powers, authority and duties as a regular member of the Planning and Zoning Commission.
  2. The term for each place shall be two (2) years. Members must meet the following qualifications:
    - a. Be a registered voter of the city;



- b. Shall have resided in the corporate limits of the city for at least one (1) year; and
- c. Continue residency in the city during the term of office.
- 3. The City Council shall appoint a replacement to fill any vacancy for the unexpired term of any member whose place has become vacant.
- 4. The City Council shall have the authority to remove any member at any time, with or without cause.

C. *Organization, Rules, and Requirements.*

- 1. By November of each year, the City Council shall designate a chair and a vice chair. The terms of the chair and vice chair shall be one (1) year. It will be the duty of the chair to preside over meetings and to assist in setting meeting agendas. If the chair is absent the vice chair shall assume the duties of that office.
- 2. Members of the Planning and Zoning Commission shall meet at least 10 times per year, on a regular day and time selected by its members. The chair may call special meetings as necessary.
- 3. The Planning and Zoning Commission shall adopt rules of procedure that are not inconsistent with state law to conduct meetings and govern its proceedings. The Planning and Zoning Commission shall abide by the Texas Open Meetings Law, and shall keep a record of its proceedings, including votes and attendance, and shall submit these records to the city secretary's office.
- 4. Members of the Planning and Zoning Commission shall not take any action unless a quorum is present. A quorum shall consist of four (4) members. Each member, including the chair, is entitled to one (1) vote, and action of the Planning and Zoning Commission shall require a majority of those members present.
- 5. The City Manager shall designate a city employee to serve as staff liaison to the Planning and Zoning Commission.
- 6. Members of the Planning and Zoning Commission shall receive one dollar (\$1.00) for each regular meeting attended in the performance of their duties, but no compensation shall be paid for special meetings. In addition, members may receive reimbursement of authorized expenses attendant to the performance of their duties.

D. *Jurisdiction.* The Planning and Zoning Commission is advisory only and shall not have any decision-making authority. The Planning and Zoning Commission shall have the following powers, authority and duties:

- 1. To make studies and project plans for the improvement of the city with a view to its development and extension, and to recommend to the City Council all matters for the development and the advancement of city facilities, layouts and appearances, and to perform the duties imposed upon a City Planning and Zoning Commission by the state statutes.
- 2. To make plans and maps of the whole or any portion of the city and of land outside the city limits located within the extraterritorial jurisdiction of the city, and any other land outside the city which in the opinion of the Planning and Zoning Commission bears a relation to the planning of the city, and to make such changes and additions and extensions of plans or maps as it deems advisable.
- 3. To consult with and advise private property owners pertaining to location and erection of private structures with the view of having the same conform to the overall city plan.
- 4. To act with and assist all other municipal and governmental agencies, and especially the City Council, in formulating and executing plans for municipal development.
- 5. To plan and recommend the location, plan and extent of city alleyways, parks, playgrounds, airports, automobile parking places, and other public grounds and improvements, for the location and planning

of public buildings, schools and other properties, and of public utilities, including bus terminals, railway depots and terminals, whether public or private, water, lights, sanitation, sewage disposal, drainage, flood control, transportation, communication and shipping facilities, and for the removal, relocation, widening, extension, narrowing, vacation, abandonment or changes of use of any of the foregoing public places, works, buildings, facilities or utilities.

6. To select and recommend to the City Council routes of streets, avenues and boulevards, and particularly to investigate and recommend the opening, widening or abandonment of streets, avenues, boulevards and alleyways, or the changing thereof to conform to the city's system, present and future, of all streets, avenues, boulevards, alleyways and parks.
7. To investigate, consider and report to the City Council upon the layout and plans of any new subdivision to the city and property situated within the city's extraterritorial jurisdiction, and to approve or reject all plans, plats or replats of additions within the city limits and within the extraterritorial jurisdiction.
8. To recommend to the City Council for adoption rules and regulations governing plats and subdivisions of land within the corporate limits of the city or within the extraterritorial jurisdiction of the city, to promote health, safety, morals and general welfare of the community, and the safe, orderly and healthful development of the community, which rules and regulations may be adopted by the City Council after public hearing held thereon.
9. To recommend plans to the City Council for improving, developing, expanding and beautifying the parks, lakes and public buildings in or adjacent to the city, and to cooperate with the City Council and other agencies of the city in devising, establishing, locating, improving, selecting, expanding and maintaining public parks, works, playgrounds, lakes and other areas for public recreation.
10. To aid and assist the City Council by recommending plans for the development of civic centers, and to make investigations, consider and make recommendations to the City Council concerning traffic regulations, routing and control, and highway designations.
11. To investigate and establish zoning regulations for the entire city, and from time to time to review all zoning regulations and make recommendations on amendments, and to review and act on all exceptions permitted under zoning changes involving major land use.

## **Section 29.5 Board of Adjustment**

- A. *Purpose.* The Board of Adjustment is a quasi-judicial board for the purpose of hearing appeals and making determinations on matters involving the zoning provisions.
- B. *Membership.*
  1. Appointed by majority vote of the City Council, this board shall consist of five (5) regular members designated by places 1 through 5. Appointments shall take place in October of each year, with places 1, 3, and 5 appointed in odd numbered years and places 2 and 4 appointed in even numbered years. The term for each place shall be two (2) years. Members must meet the following qualifications:
    - a. Be a registered voter of the city;
    - b. Shall have resided in the corporate limits of the city for at least one (1) year; and
    - c. Continue residency in the city during the term of office.
  2. The City Council, may, at its discretion, appoint four (4) additional persons to serve as alternate members to the board, designated as places 6, 7, 8, and 9. The alternate members shall only be entitled to serve at a meeting of the board in which a regular member is absent. If only one (1) regular

member is absent the chair shall determine which alternate member shall be entitled to serve during the regular member's absence. When serving in the absence of a regular member, an alternate member shall have the same powers, authority and duties as a regular member of the board.

3. As the Board of Adjustment also serves as the city's Building Board of Appeals, it is the intent of the City Council that the board members shall, to the extent feasible, have experience, education or training in various fields of building construction and building standards.
4. The City Council shall appoint a replacement to fill any vacancy for the unexpired term of any member whose place has become vacant.
5. The City Council shall have the authority to remove any member at any time for cause, as found by the City Council, on a written charge after a public hearing.

C. *Organization, Rules, and Requirements.*

1. By November of each year, the City Council shall designate one (1) member as chair and one (1) member as vice chair. The terms of the chair and vice chair shall be one (1) year. It will be the duty of the chair to preside over meetings and to administer oaths and compel the attendance of witnesses. If the chair is absent the vice chair shall assume the duties of that office.
2. The board shall meet at least four (4) times per year, on a regular day and time selected by its members. The chair may call special meetings as necessary.
3. The board by majority vote shall adopt rules of procedure that are not inconsistent with state law to conduct meetings and govern its proceedings. The board shall abide by the Texas Open Meetings Law, and shall keep a record of its proceedings, including votes and attendance, and shall submit these records to the city secretary's office.
4. Members of the board shall not take any action unless a quorum is present. A quorum shall consist of four (4) members. Each member, including the chair, is entitled to one (1) vote.
5. The City Manager shall designate a city employee to serve as staff liaison to the board.
6. Members of the board shall receive one dollar (\$1.00) for each regular meeting attended as compensation for the performance of their duties, but no compensation shall be paid for special meetings. In addition, members may receive reimbursement of authorized expenses attendant to the performance of their duties.

D. *Jurisdiction.* When, in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the board may, in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, take the following action:

1. Hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination made by the City Manager, the other zoning administrator, or other city official in the enforcement of this article;
2. Hear appeals on zoning boundary disputes;
3. Require the discontinuance of a nonconforming use or building under a reasonable plan whereby the owner's investment in the nonconforming use or building can be recouped through amortization over a definite period of time;
4. Permit the expansion or extension of nonconforming uses;
5. Review nonconforming uses which have been abandoned or discontinued to determine whether such uses should be allowed to resume operation. Such action by the board shall consider any unnecessary hardship on the property owner if the use is discontinued and shall have due regard for the public

welfare, the character of the area surrounding such use, and the conservation, preservation and protection of surrounding properties and their values:

6. Permit the repair or reconstruction and occupancy of a nonconforming building or a building containing a nonconforming use where the building has been destroyed in excess 50 percent but less than the total value, provided such reconstruction does not, in the judgment of the board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming building beyond what is permitted by the UDC. Such action by the Board of Adjustment shall have due regard for the property rights of the person or persons affected, when considered in light of the public welfare, the character of the area surrounding such structure, and the conservation, preservation and protection of surrounding properties and their values;
  7. Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated or substandard;
  8. Permit variances to the development regulations in this article such as the front yard, side yard, rear yard, lot width, lot depth, lot coverage, minimum setback, off-street parking, off-street loading, lot area, maximum height, or other building regulations, where the literal enforcement of the provisions of this article would result in an unnecessary hardship, or where such variance is necessary to permit the reasonable development of a specific parcel of land which differs from other parcels of land in the same district by being of such area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district;
  9. To hear and decide any special exceptions authorized by this article;
  10. Consider construction of an accessory building in the R-1, R-2, R-3, R-4, Duplex and Old Town districts with an exterior building material other than wood, stone, brick, or vinyl siding; and
  11. Allow the continuance for a specified amount of time of a nonconforming building or use of a building or land for more than three (3) years after the date the building or use becomes nonconforming in accordance with the provisions of the UDC, upon a showing that the owner has not recouped the owner's investment in the nonconforming building or use over the three (3) year period.
- E. *Actions.*
1. In exercising its powers, the board may, in conformity with the provisions of the statutes of the State of Texas, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and shall have all the powers of the City Manager or other administrative official from whom the appeal is taken. The board shall have the power to impose reasonable conditions to be complied with by the applicant.
  2. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the City Manager or other administrative official, or to decide in favor of the application for a specific use permit on any authorized special exception use, or to effect any variance.
- F. *Appeals of Board of Adjustment Action.* Any person or persons, jointly or severally aggrieved by any decision of the board, any taxpayer or any officer, department, or board of the municipality may present to a court of record (district court) a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within 10 days after the decision of the board and not thereafter.

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## Section 29.6 Floodplain Administrator

- A. *Designation of the Floodplain Administrator.* The City Manager or his/her designee is hereby appointed the Floodplain Administrator and shall administer and implement the provisions of this article and other

appropriate sections of 44 CFR § 59.1 et seq. (Emergency Management and Assistance—National Flood Insurance Program Regulations) pertaining to floodplain management.

- B. *Duties and Responsibilities.* Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to, the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this article.
  2. Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
  3. Review, approve or deny all applications for development permits required by adoption of this article.
  4. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
  5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
  6. Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Planning and Zoning Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
  8. When base flood elevation data has not been provided, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of *Article 19*.
  9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
  10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1) foot, provided that the community first completes all of the provisions required by Section 65.12.

**Section 29.7      Tree Board**

- A. *Authority.* The Tree Board shall have the responsibility to review and grant a tree removal permit for the following land uses:
1. Any public or recreational use that is deemed acceptable to the Tree Board; and
  2. Any private use that is deemed acceptable to the Tree Board that usually requires large areas of open space.
- B. *Duties.* Additionally, the Tree Board shall have the following responsibilities and duties:
1. Provide guidance to the city on beautification projects associated with city owned property or provide

consultation advice to property owners requesting feedback; and

2. Provide public education in care, preserving, pruning, planting, replanting, removal or disposition of trees native to Texas or capable of flourishing within this climate; and
  3. Establish and update a comprehensive tree plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets and in other public areas.
  4. Study, investigate, counsel and develop and/or update periodically and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in parks, along streets and in other public areas. The plan shall be presented to the City Council and when adopted shall represent the comprehensive tree plan for the city.
- C. *Review.* In granting the tree removal permit, the Tree Board is authorized to impose whatever conditions of approval that are deemed necessary by the Tree Board.

**Nonconformities**

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**Article  
30**

**City of Kennedale Unified Development Code**

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### Section 30.1 Purpose

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It is recognized that there exist within zoning districts certain land uses, buildings, structures, and lots which were lawful before the UDC passed or amended, but are now prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of the UDC to permit legal nonconformities to continue until they are removed, but not to encourage their survival.

### Section 30.2 General Requirements

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- A. *Restriction.* Nonconforming land uses, buildings, structures, and lots are declared by the UDC to be incompatible with the provisions of the districts in which they are located. It is the intent of this article that these nonconformities shall not be enlarged upon, expanded, or extended, except as otherwise permitted in this UDC, nor be used as grounds for adding other land uses, buildings, or structures prohibited elsewhere in the district.
- B. *Rights.* Nothing in the UDC ordinance shall require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently conducted.
- C. *Unlawful Nonconformities.* Nothing in the UDC shall be interpreted as authorization for, or approval of, the continuance of the use of a building, structure, or lot, in violation of zoning regulation in effect at the time of the adoption of this ordinance. Any land use, building, structure, or lot established in violation of the provisions of the UDC, any prior zoning ordinance, amendment to the UDC, shall not be considered a legal nonconformity and shall not be entitled to the provisions, remedies, and safeguards provided by the article.
- D. *Prohibited Conversion.* The existence of such nonconformities shall not be accepted as a basis for adding new land uses, buildings, or structures otherwise prohibited elsewhere in the same zoning district.
- E. *Amendments and Annexation.* The foregoing provisions of this section shall also apply to uses made nonconforming by subsequent amendments to the zoning regulations or by annexation into the city limits.
- F. *Special Exceptions.* Any use which is permitted as a special exception use by the Board of Adjustment shall, upon its establishment, be considered a conforming use in that district, provided that this regulation shall not be so interpreted as to waive any conditions placed on the special exception by the Board of Adjustment.

### Section 30.3 Nonconforming Lots

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- A. *Use of Nonconforming Lots.* In any district, buildings may be erected on any single lot of record, provided there is access to such buildings or houses from a street. This provision shall apply even though the lot fails to meet the minimum requirements of area, width, or depth, for the district in which located; however, all other requirements shall still apply.
- B. *Spatial Requirements.* Any buildings constructed on nonconforming lots of record shall meet all development regulations in the district unless property variances are granted by the Board of Adjustment.

### Section 30.4 Nonconforming Use of Land and Buildings

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- A. *Nonconforming Use of Buildings.* A nonconforming use of a building shall not be increased or enlarged and no occupancy of additional buildings or land by a nonconforming use shall be permitted, unless in compliance with this section. A nonconforming use of a building may be changed only to a conforming use permitted in the existing zoning district. However, a nonconforming use of a building may be extended

throughout any parts of the building that were manifestly arranged or designed for such use and that were owned or leased by the owner of the nonconforming use on the effective date of this article, provided no structural alterations, except those required by law or ordinance, are made, and provided further that no additional dwelling units shall be added when the nonconforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located.

- B. *Nonconforming Use of Land.* A nonconforming use of land may not be expanded or extended beyond the area of the land actually being occupied by the use at the time it becomes nonconforming. A nonconforming use of land may be changed only to a conforming use permitted in the existing zoning district. However, a nonconforming use of land may be expanded or extended to provide off-street loading or off-street parking space facilities.
- C. *Exceptions.* The Board of Adjustment may consider and permit extensions in the following cases:
1. Extension Building Accommodating Use. Extension of a building that is nonconforming as to use as long as the extension does not exceed 25 percent of the existing floor area, subject to the development regulations applicable in the zoning district.
  2. Expansion of Use. Expansion of a nonconforming use of land on a lot of record not to exceed 25 percent of the existing area of the land actually being occupied by the nonconforming use, subject to the development regulations applicable in the zoning district.
  3. Change of Use. The Board of Adjustment may allow a nonconforming use of a building or land to be changed to another nonconforming use permitted in the same zoning district as the existing nonconforming use, or in a more restricted zoning district, upon a finding that no structural changes will be made and that the proposed use will be compatible with the surrounding area, will comport with the intent of the comprehensive plan, will not have a harmful effect on surrounding land uses, will not adversely affect the health, safety, and welfare of the citizens, and will not damage surrounding property values or the character of surrounding neighborhoods.

## Section 30.5 Nonconforming Buildings

### A. *Repairs and Alterations.*

1. Structural Alterations. Repairs and alterations may be made to a nonconforming building, provided that no structural alterations shall be made except those required by law or ordinance, unless the building is brought into conformity with the provisions of this section.
  2. Addressing Unsafe Conditions. None of the provisions of this article are meant to preclude normal repairs and maintenance on any nonconforming building or structure that would prevent strengthening or correcting any unsafe condition of the building or structure.
  3. Old Town District Exemption. Notwithstanding the above, for buildings in the Old Town Districts, all repairs, alterations, and one-time enlargement of the building up to 50 percent of the existing (at the time the building became nonconforming) floor area of the building may be made to a nonconforming building without the building being brought into conformity to the Spatial Requirements of *Section 4.3* and *Article 4*.
- B. *Non-Reversion.* Any nonconforming building that is changed, in whole or in part, to a conforming building or to a building that is closer to conformity than it was prior to the change shall not revert to its prior nonconforming status, or to a less conforming structure, at any time in the future.
- C. *Setbacks.* No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure is nonconforming by 50 percent or less of the distance required by the UDC. Only in these cases may the nonconforming setback be extended along the same plane as the existing nonconforming setback, provided that in so doing, the

setback itself is not further reduced.

- D. *Relocation.* If a nonconforming building or structure is moved for any reason and for any distance, it shall be moved to a location which complies with the requirements of this ordinance.

### Section 30.6 Discontinuance or Abandonment

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- A. *Restriction.* A nonconforming use, when discontinued or abandoned, shall not be resumed and any further use shall be in conformity with the provisions of this section. Discontinuance or abandonment shall be defined as follows:
1. When land used for a nonconforming use shall cease to be used in a bona fide manner for the nonconforming use of 60 consecutive calendar days.
  2. When a building designed or arranged for a nonconforming use shall cease to be used in a bona fide manner as a nonconforming use for a period of six (6) consecutive calendar months.
  3. When a building designed or arranged for a conforming use shall cease to be used in a bona fide manner as a nonconforming use for a period of three (3) consecutive calendar months.
  4. When land or a building used only on a seasonal basis is not used in a bona fide manner as a nonconforming use during such season.
- B. *Intent.* Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if the nonconforming use was dilapidated, substandard, or was not maintained in a suitable condition for occupancy during the above time periods.
- C. *Hardship.* Upon evidence of hardship, the Board of Adjustment shall have the power to extend the time limits in this section not to exceed one (1) year.

### Section 30.7 Destruction of a Nonconforming Use

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- A. *Value of Reconstruction Restrictions.* If a nonconforming building or a building occupied by a nonconforming use is destroyed by fire, the elements or otherwise, it may not be reconstructed or rebuilt except to conform with the provisions of this article unless the destruction amounts to less than 50 percent of its fair market value at the time of destruction.
- B. *Board of Adjustment Consideration.*
1. Authority.
    - a. If the destruction is greater than 50 percent and less than total, the Board of Adjustment may, after a public hearing, authorize repair, taking into consideration the property owner's circumstances and the effect on surrounding properties.
    - b. Upon submission by the owner of sufficient evidence to prove that the destruction amounts to less than 50 percent of the total value of the entire nonconforming use and that the destroyed building or structure constituted an integral part of the nonconforming use without which the nonconforming use cannot be profitably operated, the Board of Adjustment may permit the reconstruction of such destroyed building or buildings under conditions which reasonably allow the owner to recoup his original investment.
  2. Timeframe. If the owner of a nonconforming use fails to begin reconstruction of the destroyed building (when permitted to do so by the terms of this section) within six (6) months of the date of destruction or approval by the Board of Adjustment, the nonconforming building or use shall be deemed to be discontinued or abandoned.

### 3. Standards.

- a. The nonconforming dwelling shall be reconstructed on approximately the same building footprint as that of the original building, except that if any part of the original building footprint encroached onto an adjacent parcel(s) under separate ownership, and if that part of the building was damaged by the casualty involved, the Board of Adjustment may require that the reconstructed nonconforming dwelling be located entirely on the applicant's parcel of land; in such a case, the Board of Adjustment may permit the footprint of the reconstructed building on the applicant's parcel to be adjusted so as to include an area equal to the area of the building footprint that was formerly located on the adjacent parcel(s).
  - b. The reconstructed nonconforming building shall have approximately the same gross floor area as that of the original dwelling.
  - c. The reconstruction and subsequent use of the nonconforming building shall not result in serious adverse effects on adjacent or nearby lands or land uses.
- C. *Single-Family Residential Exception.* A single-family residence which is destroyed shall be permitted to be reconstructed without Board of Adjustment approval regardless of the extent of destruction provided that the construction complies with all current building codes and is commenced within six (6) months of the date of destruction. The failure of the owner to start such reconstruction within six (6) months shall forfeit the owner's right to restore or reconstruct the dwelling except in conformance with this article.

## **Section 30.8 Registration of Nonconforming Uses**

The owner of any nonconforming use shall register such nonconforming use with the code enforcement department within six (6) months of the effective date of this section. Registration shall be confirmed by the issuance of a certificate of occupancy - nonconforming, which shall be considered legal evidence of the existence of the nonconforming use. The Zoning Administrator shall maintain on file for the city all certificates of occupancy - nonconforming. After six (6) months from the effective date of this section, the Board of Adjustment shall have the authority to direct the city to issue a certificate of occupancy - nonconforming upon presentation of evidence adequate to satisfy the board that a building or land were lawful uses before this section was passed or amended. A pending request to the Board of Adjustment shall be sufficient defense against enforcement of *Section 30.7 B.2*. In the event that the owner of a nonconforming use does not register the use as required, there shall be a rebuttable presumption that the nonconforming use was not legally existing on the effective date of this section, and the nonconforming use shall be deemed illegal and a violation of this section.

## **Section 30.9 CCOD Limitations**

- A. *Nonconformities in the CCOD.*
1. Discontinuance. Any nonconforming building or use of land or building which is located in the CCOD shall be discontinued three (3) years after the date that the building or use becomes nonconforming, unless otherwise exempted.
  2. Residential Exception. A residence, or the use of land or building as a residence, shall not be subject to this automatic amortization period.
- B. *Appeal.* Any owner of such a nonconforming building or use may appeal to the zoning Board of Adjustment to allow an extension of the amortization period.
- C. *Lesser Timeframe.* Notwithstanding this section, the Board of Adjustment may require amortization of a nonconforming building or use of land or building in a shorter period of time.

### Section 30.10 Amortization

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- A. *Determination.* The Board of Adjustment shall, from time to time, on its own motion, or upon direction of the City Council, inquire into the existence, continuation or maintenance of any nonconforming use or structure within the city. If the Board of Adjustment or the City Council determines that amortization of a nonconforming use is appropriate, the board shall take specific action to abate, remove, limit or terminate any nonconforming use or structure under a reasonable plan whereby the owner's investment in the nonconforming use or building can be recouped through amortization over a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this article.
- B. *Public Hearing.* The Board of Adjustment shall conduct a hearing for the purpose of determining a date certain for termination of the nonconforming use or removal of the nonconforming structure, or both, with respect to the property. Prior notice of such hearing shall be given to the property owner.
- C. *Effective Date.* The date established for termination of the nonconforming use or removal of the nonconforming structure shall give the property owner a reasonable opportunity to recover its investment in the nonconforming use or structure from the time such use or structure became nonconforming.
- D. *Recoupment of Investment.* The Board of Adjustment shall measure the reasonableness of the opportunity for recoupment of the property owner's investment by conditions existing at the time such use or structure became nonconforming.
- E. *Factors.* The following factors shall be considered by the Board of Adjustment in determining a reasonable amortization period:
1. The owner's capital investment in structures, fixed equipment, and other assets that cannot reasonably be used in conformance with the zoning district regulations (excluding inventory and other assets that may be feasibly transferred to another site) made on the property before the time the use, the structure, or both, as applicable, became nonconforming. Costs of replacements, improvements or additions made after the structure or use became nonconforming shall not be included. Costs of the land or structures that reasonably can be used for a conforming use shall not be included.
  2. Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses and relocation expenses.
  3. Recovery of investment, including net income and depreciation, and any profit or loss realized on the investment.
  4. General character of the neighborhood in proximity to the nonconforming use or structure and the necessity for all property within the city to conform to the regulations of the zoning ordinance.
- F. *Compliance.* Once the Board of Adjustment establishes a compliance date for a nonconforming use, the use must cease operations on or before that date and it may not operate thereafter except in compliance with the applicable zoning district regulations.
- G. *Removal of Structures.* If the Board of Adjustment establishes a termination date for a nonconforming structure, the structure must be completely removed from the property by that date, by demolition or otherwise, and such structure may not be reconstructed or relocated in any other location in the city where it would not be in conformance with all provisions of the zoning ordinance.

### Section 30.11 Nonconforming Signs

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- A. *Generally.* It is the declared purpose of *Article 14* that in time all signs shall either conform to the provisions of *Article 14* or be removed. By the passage of *Article 14* and its amendments, no presently illegal sign

shall be deemed to have been legalized unless such sign complies with all current standards under the terms of *Article 14* and all other ordinances of the city. Any sign that does not conform to all provision of *Article 14* shall be a nonconforming sign if it legally existed as a conforming or nonconforming sign under prior ordinances, or an illegal sign if it did not legally exist as a conforming or nonconforming sign under prior ordinances.

- B. *Destroyed Sign.* Any nonconforming sign that has been substantially destroyed or dismantled for any purpose other than maintenance shall be deemed completely destroyed if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location. Under this provision, the sign shall be removed and a permit shall be required to erect a new sign.
- C. *Removal of Sign by Owner.* The owner of an on-premises sign or sign structure and/or the owner or operator of any premises upon which an on-premises sign or sign structure is located shall remove the sign or sign structure after the first anniversary of the date the business, person, or activity that the sign or sign structure identifies or advertises ceases to operate on the premises on which the sign or sign structure is located. If the premises containing the sign or sign structure is leased, the sign or sign structure shall be removed after the second anniversary after the date the most recent tenant ceases to operate on the premises.
- D. *Repair or Renovation of Nonconforming Signs.*
  - 1. A nonconforming sign shall not be repaired, renovated or structurally altered except to bring the sign into compliance within the provisions of *Article 14*, unless the administrative official determines, based on evidence provided by the owner of the sign, that the cost of such repair, renovation or structural alteration will not exceed 50 percent of the cost to bring the sign into compliance with the provisions of *Article 14*.
  - 2. The copy or message on a nonconforming sign may not be replaced or changed due to a change in ownership or business name, or for other reasons, unless the sign is first brought into compliance with the provisions of *Article 14*.

### **Section 30.12 Nonconforming Sexually Oriented Businesses**

- A. *General Requirement.* Any sexually oriented business that is in violation of the UDC of any other city ordinances, that was legally operating on the effective date of adoption or amendment of such ordinance or regulation, shall be deemed a nonconforming use and the provisions of this section shall apply, except if two (2) or more sexually oriented businesses are within 1,000 feet of each other, or are located in the same building or structure, and otherwise in a permissible location, the sexually oriented business that was first established and continually operating as a sexually oriented business at a particular location (regardless of which business was first located in the city), even if operating under a different name, ownership, or selling different sexually oriented merchandise or services, is the conforming use and the later-established business is nonconforming.
- B. *Annexation.* The provisions of this section shall also apply to legally operating sexually oriented businesses made nonconforming by annexation into the city limits.
- C. *Lawful Operation.* Any sexually oriented business that is lawfully operating within the city as a conforming use on or after November 8, 2001, shall not be rendered a nonconforming use by the subsequent location of a protected use within 1,000 feet of the sexually oriented business.
- D. *Amortization.* Nonconforming sexually oriented businesses shall be subject to amortization under the procedures set forth in the Kennedale Zoning Ordinance.
- E. *Timeframe.* Notwithstanding anything contained in the UDC, a nonconforming sexually oriented business shall be required to meet all applicable requirements of the UDC article except locational requirements

and the prohibition on nudity within 60 days of the date that it becomes nonconforming. The Board of Adjustment may grant a nonconforming sexually oriented business an extension if the business shows, upon written application, that meeting these requirements within 60 days imposes an unnecessary hardship on the business.

### **Section 30.13 Nonconforming Mobile Home, Manufactured Home, RV**

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- A. *Applicability.* Any nonconforming mobile home, manufactured home, or recreational vehicle which is grandfathered by the UDC or court ruling from the locational requirements of the UDC must comply with all applicable health and safety code requirements, including but not limited to those requirements set forth in the Uniform Plumbing Code, Uniform Mechanical Code, Uniform Building Code, Uniform Fire Code and National Electrical Code, in addition to applicable requirements in the city's Flood Damage Prevention Ordinance.
- B. *Removal.* Any grandfathered mobile home, manufactured home, or recreational vehicle which is located on residentially zoned property that is sold shall be removed from the property at the time of sale, and thereafter the property shall be used only in conformance with the regulations applicable in such zoning district.

**Enforcement**

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**Article  
31**

**City of Kennedale Unified Development Code**

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### Section 31.1 Purpose

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In the interpretation and application of the UDC, all provisions shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. The purpose of this article is to establish procedures and protocol for clear and effective enforcement of the rules, regulations, and requirements of the UDC.

### Section 31.2 Erosion and Sediment Control

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- A. *Violations.* It shall be an offense for a responsible party or a third party performing work on a project to violate any of the requirements of this article, including, but not limited to, the following:
1. Conducting any construction or land-disturbing activities without an approved Plan for the location where the violation occurred.
  2. Failing to install or maintain erosion and sediment control measures throughout the duration of construction or land-disturbing activities pursuant to the approved Plan for the location where the violation occurs.
  3. Failing to remove off-site sedimentation that is a direct result of construction or land-disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion and sediment control measures as specified in an approved Plan for the location where the violation occurs.
  4. Allowing sediment laden water resulting from below ground installations to flow from a site without being treated through an erosion and sediment control measure.
  5. Failing to repair damage to existing erosion and sediment control measures, including the replacement of existing grass or sod.
- B. *Notice of Violation.* The Administrator shall provide written notice of violation ("notice") to the responsible party or their job site representative identified in the plan. The notice shall identify the nature of the violation and the action required to obtain compliance with the approved plan, including any sediment clean-up, erosion and sediment control device repair, erosion and sediment control device maintenance and/or installation of additional erosion and sediment control devices to prevent re-occurrence of the violation.
- C. *Stop Work Order.* The responsible party who has received Notice shall have 24 hours to bring their erosion and sediment control measures into compliance with the approved plan for the site. The 24-hour period may be extended for inclement weather or other factors at the discretion of the Director of Public Works. At the end of the 24-hour period, the Director of Public Works shall re-inspect the site. If the erosion and sediment control measures at the site have not been brought into compliance with the approved plan, the Director of Public Works may issue a stop work order and issue a citation for each violation of this article. To obtain a re-inspection for removal of the stop work order, a request for re-inspection must be submitted and a re-inspection fee, as set by the city, shall be paid.
- D. *Penalty.* Any person, firm, or corporation violating any of the provisions or terms of this article shall be deemed guilty of a Class C misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.
- E. *Remedies Nonexclusive.* The remedies provided for in this article are not exclusive of any other remedies available to the city under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city is empowered to take more than one (1) enforcement action against any violator, which may be taken concurrently.

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### Section 31.3 Natural Resources

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- A. *Violations.* Natural resources violations include the following: any person, firm, corporation, agent or employee who:
1. Cuts down, destroys, removes, moves or effectively destroys through damaging any protected tree without first obtaining a tree permit from the city, where required,
  2. Does so in violation of the tree permit, or
  3. Fails to follow the tree replacement procedure.
- B. *Penalty.* A violation is a misdemeanor offense and upon conviction a violator shall be fined \$100.00 per diameter inch of the tree(s) removed or damaged, not to exceed \$500.00 per incident.
- C. *Cumulative Penalties.* The unlawful replacing, cutting down, destroying, removing, moving or effectively destroying through damaging of each protected tree shall constitute a separate offense and each offense shall subject the violator to the maximum penalty set forth herein for each tree.

### Section 31.4 Oil and Gas

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- A. *Penalty.* It shall be unlawful and an offense for any person to do the following:
1. Engage in any activity not permitted by the terms of an oil and gas well permit issued under this section;
  2. Fail to comply with any conditions set forth in an oil and gas well permit issued under this section; or
  3. Violate any provision or requirement set forth under this section.
- B. *Fine.* Any violation of this section shall be punished by a fine of not more than \$2,000.00 per day, subject to applicable state law. Each day a violation occurs constitutes a separate violation.
- C. *Remedies of the City.*
1. If an operator (or its officers, employees, agents, contractors, subcontractors or representatives) fails to comply with any requirement of an oil and gas well permit (including any requirement incorporated by reference as part of the permit), the city shall give written notice to the operator specifying the nature of the alleged failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the alleged failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than 30 days unless the alleged failure presents a risk of imminent destruction of property or injury to persons or unless the alleged failure involves the operator's failure to provide periodic reports.
  2. If the operator does not cure the alleged failure within the time specified by the city, the city may notify the Railroad Commission and request that the Railroad Commission take appropriate action (with a copy of such notice provided to the operator), and the city may pursue any other remedy available under this section.
  3. If the operator does not cure the alleged failure within the time specified by the city, the City Manager may:
    - a. Suspend the oil and gas well permit until the alleged failure is cured; or
    - b. Revoke the oil and gas well permit if the operator fails to initiate and diligently pursue a cure.
  4. The operator may appeal a decision to suspend or revoke the oil and gas well permit, to the City Council.
  5. In lieu of or in addition to availing itself of the remedies set forth in this subsection, the city may pursue

the filing of a criminal complaint in the municipal court for violations.

- D. *Enforcement, Right of Entry.* City staff is authorized and directed to enforce this section and the provisions of any oil and gas well permit. Whenever necessary to enforce any provision of this section or a gas well permit, or whenever there is reasonable cause to believe there has been a violation of this section or an oil and gas well permit, city staff may enter upon any property covered by this section or an oil and gas well permit at any reasonable time to inspect or perform any duty imposed by this section. If entry is refused, the city shall have recourse to every remedy provided by law and equity to gain entry.

### Section 31.5 Post-Construction Runoff Control

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- A. In the event that a stormwater management facility, stormwater drainage system and/or water quality device is deemed by the city to be in need of maintenance or repair or is determined a danger to public safety or public health, the city shall notify the responsible party in writing for maintenance of the stormwater management facility. The responsible person shall have 30 days after receipt of notice to effect maintenance and repair of the facility in an approved manner.
- B. If a responsible party fails or refuses to meet the stormwater facility maintenance requirements of this article, the City Manager or his designee, after reasonable notice, may cause the necessary work to be done to correct a violation of the design standards or maintenance and assess the responsible party for all incurred costs and expenses.

### Section 31.6 Signs

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- A. *Revocation of Permit.* The Administrator may suspend or revoke any permit issued under the provisions of this article whenever it is determined that the permit is issued in error or on the basis of incorrect or false information supplied, or whenever such permit is issued in violation of any of the provisions of this article or any other article of this city or laws of this state or the federal government. Such suspension or revocation shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the sign, or the owner of the site upon which the sign is located. Upon such revocation, all construction related to the revoked permit shall cease.
- B. *Removal and Impoundment.*
1. Removal and Fee. Signs that the city removes shall be kept by the city for 15 days after the date of removal. The owner or responsible party for the sign may recover the sign by paying a fee as follows:
    - a. \$500.00 for signs that are 12 square feet or less in effective area.
    - b. \$1,000.00 for signs that are larger than 12 square feet in effective area.
  2. Disposal. The city may dispose of signs not recovered within 15 days after impoundment in any manner the city shall elect.

### Section 31.7 Stormwater Protection

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- A. *Warning Notice.* When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Director of Public Works may serve upon that person a written warning notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to a warning notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of a warning notice. Nothing in this subsection shall limit the authority of the city to take any action, including

emergency action or any other enforcement action, without first issuing a warning notice.

- B. *Notification of Violation.* When the Administrator finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Director of Public Works may serve upon that person a written notice of violation. Within 10 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention of reoccurrence thereof, to include specific required actions, shall be submitted by the alleged violator to the Director of Public Works. If the alleged violator denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Director of Public Works within 10 days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation.
- C. *Consent Orders.* The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any person responsible for noncompliance with any provision in this article or any order issued hereunder. Such documents may include specific action to be taken by the person to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued and shall be judicially enforceable.
- D. *Show Cause Hearing.* The Director of Public Works may order any person who has violated, or continues to violate, any provision of this article, or any order issued hereunder, to appear before the Director of Public Works and show cause why a proposed enforcement action should not be taken. Notice shall be served on the alleged violator specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the alleged violator show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the alleged violator. The hearing shall be conducted pursuant to the rights and procedures. Notice of the decision of the Director of Public Works from the hearing shall be served on the petitioning party personally or by registered or certified mail. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the alleged violator.
- E. *Compliance Orders.* When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, the Director of Public Works may issue an order to the violator directing that the violator come into compliance within a specified time limit. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the MS4 and waters of the United States. A compliance order may not extend the deadline for compliance established by a state or federal standard or requirement, nor does a compliance order relieve the person of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the violator.
- F. *Remediation, Abatement, and Restoration Orders.* When the Director of Public Works finds that a person has violated, or continues to violate, any provision of this article, or any order issued hereunder, and that such violation has adversely affected the MS4 or the waters of the United States, the Director of Public Works may issue an order to the violator directing him/her to undertake and implement any appropriate action to remediate and/or abate any adverse effects of the violation upon the MS4 or the waters of the United States, and/or to restore any part of the MS4 or the waters of the United States. Such remedial, abatement, and restoration action may include, but not be limited to: monitoring, assessment, evaluation of the adverse effects, determination of the appropriate remedial, abatement, and restoration action; confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination; prevention, minimization, and/or mitigation of any damage to the public health, welfare, or

the environment that may result from the violation; restoration or replacement of city property or natural resources damaged by the violation. The order may direct that the remediation, abatement, and/or restoration be accomplished on a specified compliance schedule and/or be completed within a specified period of time. An order issued under this subsection does not relieve the violator of liability for any violation, including any continuing violation. Issuance of an order under this subsection shall not be a bar against, or a prerequisite for, taking any other action against any responsible party.

- G. *Emergency Cease and Desist Orders.* When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) have caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director of Public Works may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
1. Immediately comply with all requirements of this article; and
  2. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.
- H. *Order to Comply.* Any person notified of an emergency order directed to it under this subsection shall immediately comply and stop or eliminate its endangering discharge.
- I. *Failure to Comply.* In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director of Public Works may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director of Public Works may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director of Public Works that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this article. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director of Public Works within 10 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.
- J. *Services.* The city shall not reinstate suspended services, which have been terminated in accordance with this section, to the violator until:
1. The violator presents proof, satisfactory to the Director of Public Works, that the noncompliant discharge has been eliminated and its cause determined and corrected;
  2. The violator pays the city for all costs the city incurred in responding to abating, and remediating the discharge or threatened discharge; and
  3. The violator pays the city for all costs the city will incur in reinstating service or access.
- K. *Red Tags.* Whenever the Director of Public Works finds that any operator of a construction site has violated, or continues to violate, any provision of this article, or any order issued thereunder, the Director of Public Works may order that a "red tag" be issued to the operator, posted at the construction site, and distributed to all city departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the Director of Public Works, the "red tag" shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with a building permit, grading permit, subdivision plat approval, site development plan approval, or any other city approval necessary to commence or continue construction or to assume occupancy at the site. Issuance of a "red tag" order shall not be a bar against, or a prerequisite for, taking any other action against

the violator.

L. *Civil Remedies.*

1. The city may invoke Sections 54.012—54.017 of the Texas Local Government Code and petition the state district court or the county court at law of Tarrant County, through the city attorney, for either the injunctive relief or the civil penalties specified in this article, or both the specified injunctive relief and civil penalties whenever it appears that a person has violated, or continues to violate, any provision of this article.
2. Pursuant to Section 54.016 of the Texas Local Government Code, the city may obtain against the owner or the operator of a facility a temporary or permanent injunction, as appropriate, that:
  - a. Prohibits any conduct that violates any provision of this article; or
  - b. Compels the specific performance of any action that is necessary for compliance with any provision of this article.

M. *Criminal Penalties.*

1. Any person who has violated any provision of this article, or any order issued hereunder, shall be strictly liable for such violation regardless of the presence or absence of a culpable mental state and shall, upon conviction, be subject to a fine of not more than \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
2. Any person who has knowingly made any false statement, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, or any order issued hereunder, or who has falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this article shall, upon conviction, be subject to a fine of not more than \$2,000.00 per violation, per day, or any greater fine authorized by state statute.
3. In determining the amount of any fine imposed hereunder, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the violator, the compliance history of the violator, the knowledge, intent, negligence, or other state of mind of the violator, and any other factor as justice requires.

N. *Remedies Nonexclusive.* The remedies provided for in this article are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city is empowered to take more than one (1) enforcement action against any violator. These actions may be taken concurrently.

### **Section 31.8      Subdivision Regulations**

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Any person, firm, or corporation who fails to comply with, or violates the city's subdivision regulations shall be subject to a fine of not more than \$500.00. Each day that such violation continues to exist shall constitute a separate violation.

### **Section 31.9      Zoning Violations**

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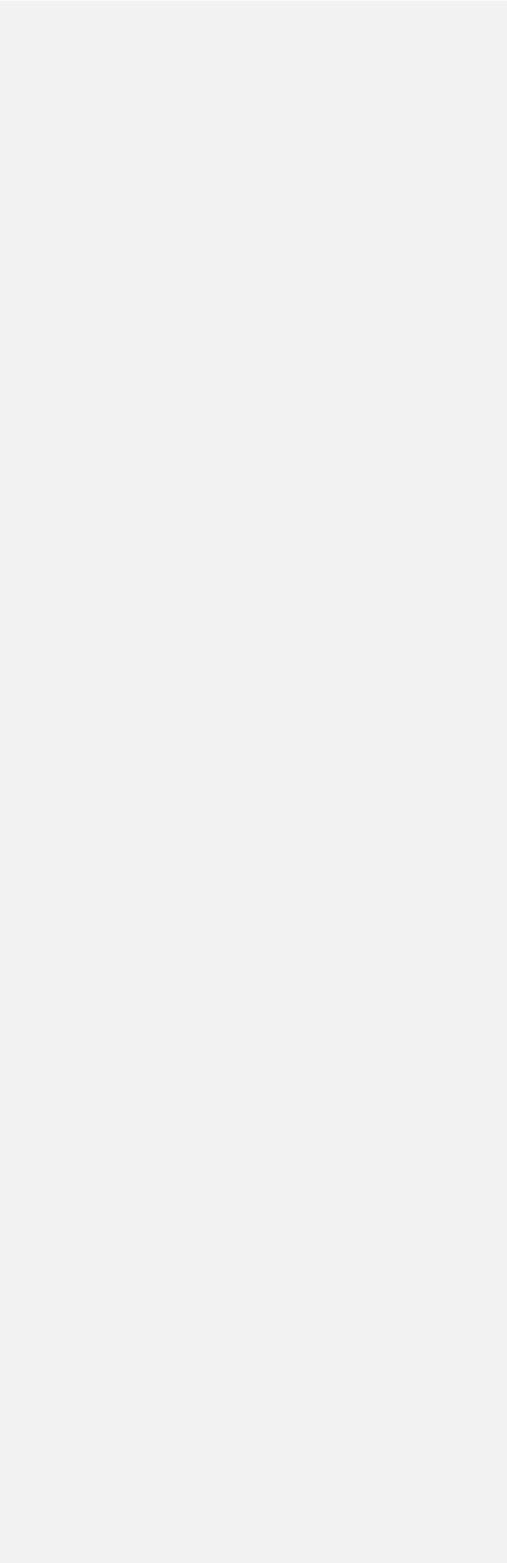
Any person violating any of the provisions of zoning regulations (*Articles 2-14*) shall be fined, upon conviction, not more than \$2,000.00 and each day any violation or noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by state law and the power of injunction as provided in V.T.C.A., Local Government Code, § 211.012 and as may be

amended, may be exercised in enforcing this article whether or not there has been a criminal complaint filed.

**Appendices**

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**Part  
VI**



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**General Definitions**

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**Article  
32**

### Section 32.1 Construction of Language

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- A. *Words, Terms and Phrases.* The following words, terms and phrases, when used in the UDC, shall have the meanings assigned to them in *Articles 32 and 33*, except where the context clearly indicates a different meaning.
- B. *Rules of Construction.* The following rules of construction apply to *Articles 32 and 33*:
1. The particular shall control the general and the use of a general term shall not be taken to have the same meaning as another specific term. For example, a "recreational facility, commercial indoor" shall not be interpreted to be the same as a "recreational facility, commercial indoor- pool or billiards hall," if each term is listed as a separate and distinct use.
  2. In case of any difference of meaning or implication between the text of this article and any caption or illustration, the text shall control.
  3. A building or structure includes any and all of its parts.
  4. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
  5. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
  6. The word "person" includes any individual, corporation, partnership, incorporated association, limited liability company, or any other similar entity.
  7. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunctions "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:
    - A. "And" indicates that the connected items, conditions, provisions or events apply.
    - B. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
    - C. "Either . . . or" indicates that the connected items, conditions, provisions or events apply singly but not in combination.
  8. Terms not defined in *Articles 32 and 33* shall have the meaning customarily assigned to them.

### Section 32.2 General Definitions

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*Abandonment (well).* As defined by the Railroad Commission, includes the plugging of the well and restoration of the well to the condition required by this section.

## **General Definitions**

*Abnormal sewage.* Any industrial waste discharged into the authority's sanitary sewer which, when analyzed, shows by weight a total suspended solids (TSS) concentration greater than 250 mg/L or a biochemical oxygen demand (BOD) concentration greater than 250 mg/L. In addition, the authority may judge independently a waste's suitability for discharge to the POTW that requires additional treatment, based upon BOD, TSS or other characteristics, as abnormal. Any waste in this classification must be made acceptable for discharge into the POTW as defined in this division.

*Addition.* Any construction which increases the size of a building or facility in terms of site coverage, height, length, width or gross floor area, such as a porch, attached garage or carport, or a new room or wing.

*Alcoholic beverage.* Alcohol or any beverage containing more than one-half (½) of one (1) percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.

*Act.* The Clean Water Act (33 U.S.C. 1251 et seq.), as amended.



*Administrator.* An official appointed by the city manager to administer specified sections of the UDC, or the designee.

*Agricultural stormwater runoff.* Any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other nonpoint source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

*Alley/common drive.* The public right-of-way or easement for vehicles and pedestrians within a block that provides access to the rear or side of properties, vehicle parking (e.g., garages), utility meters, recycling containers, and garbage bins.

*Alter (lighting).* Change to the size, shape or outline, or type of sign or change to the electrical lighting, except for the replacement of lamps not brighter than the original or the replacement of a surface panel.

*Applicant.* A person to whom a permit or certificate for the drilling, operation and production of a well, or the installation or operation of a pipeline, is issued under this section, including, but not limited to, his or her heirs, legal representatives, successors or assigns.

*Architectural detail.* Any projection, articulation, relief, cornice, column, change of building material, window, or door opening on any building.

*Authorized representative of the industrial user.* Authorized representatives (authorized signatories) for wastewater discharge permit applications and for reports are:

1. A responsible corporate officer, if the discharger submitting the application or report is a corporation. This includes the president, vice-president, secretary or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
2. The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or any control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
3. For a partnership or sole proprietorship, a general partner of the proprietor, respectively.
4. The principal executive officer or director having responsibility for the overall operation of the facility if the discharger is a federal, state or local governmental entity, or their agents.
5. A duly authorized representative of the individual designated in [subsection] (1), (2), (3) or (4) above if:
  - a. The authorization is made in writing by the individual described above in [subsection] (1), (2), (3) or (4);
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates (such as a plant manager), or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
  - c. The written authorization is submitted to the city.
- d. If an authorization is no longer accurate because a different individual or position has responsibility, a new authorization must be submitted to the city prior to or together with any reports signed by an authorized representative.

**Awning.** A roof-like covering, projecting from a building facade, usually of canvas, metal, or similar material and often adjustable, placed over the sidewalk, windows, or doors to provide protection from sun and rain.

**Balcony.** An exterior platform attached to the upper floors of the building façade (often forward of the RBL).

**Basement.** The part of a building between a floor and ceiling, which is partially below and partially above ground level, but with a vertical distance from grade to the floor below that is greater than the vertical distance from grade to the ceiling. A basement is not counted as a story.

**Bay window.** A window that sticks out from the outer wall of a house and usually has three sides.

**Below ground installations.** Activity that causes excess sediment laden water, concrete sawing wash water, wash water or drilling mud pumped from an excavation or structure and shall be treated as sediment laden runoff for erosion and sediment control purposes.

**Best management practices (BMP).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subsection 23-

123(e) [40 CFR 403.5(a)(1) and (b)] and to prevent or reduce the pollution of the MS4 and waters of the United States. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Berm.** Mounded earth forms useful in screening views and providing a sense of enclosure or in the control of the flow of surface water.

**Biochemical oxygen demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade, expressed as parts per million by weight or in terms of milligrams per liter.

**Blank wall.** Any building wall that is a portion of a building wall or façade without a

window or door or similar architectural modulation, or other similar architectural feature meant to lessen the apparent bulk or massing of a structure.

**Block.** An increment of land comprised of lots, alleys and tracts circumscribed and not traversed by streets (pedestrian pathways excepted). Block dimensions are measured at the required building line (RBL).

**Block corner.** The outside corner of a block at the intersection of any two street-spaces (the RBLs). Inside corners, where the resulting angle formed by the block face is less than 180 degrees (concave) are not considered block corners for the purposes of this Code.

**Block face.** The required building line frontage between block corners.

**Brackets.** A projection from a vertical surface providing structure or visual support under cornices, balconies, or any other overhanging member.

**Breakaway wall.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

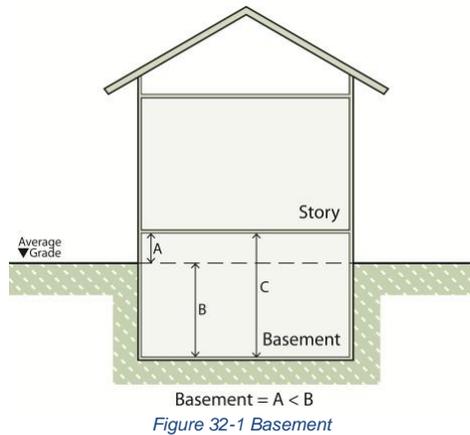


Figure 32-2 Bay Window

**Bond.** A form of security other than a cash deposit to be used as surety or as a guarantee.

**Buffer area.** An area of land together with specified planting and/or structures thereon, which may be required between land uses of different intensities to eliminate or minimize conflicts between such uses.

**Build-to zone.** Range of allowable distances from a street right-of-way that a building may be built.

**Buildable Area.** The area of the lot that building(s) may occupy, which includes the area of the lot behind the required building line as designated by the building form standard. The buildable area sets the limits of the building footprint now and in the future—any additions shall be within the specified buildable area.

**Building.** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

**Building envelope.** The maximum three-dimensional volume on a lot within which a structure can be built, as permitted by applicable height and setback requirements.

**Building form standards (BFS).** The basic parameters regulating building form, including the envelope (in three dimensions), placement and certain permitted/required building elements, such as shopfronts, balconies, and street walls. The building form standards establish both the boundaries within which things may be done and specific things that must be done. The applicable building form standard(s) for a site is designated on the Zoning Map.

**Building official.** The senior building officer of the city charged with responsibility for issuing building permits and enforcing the building code.

**Building pad.** The actual foundation area of a building and the area within six (6) feet of the foundation that is used for construction and grade transition.

**Building, principal.** A building in which the main or principal use of the lot is conducted.

**Bypass.** The intentional diversion of waste streams or wastewater from any portion of a discharger's wastewater treatment equipment or pretreatment facility.

**Caliper.** The diameter of the trunk of a tree measured 12 inches above the ground level.

**Casement window.** A window that is attached to its frame by one (1) or more hinges. Casement windows are hinged at the side. They are used singly or in pairs within a common frame, in which case they are hinged on the outside.



Figure 32-3 Casement Window

**Categorical industrial user.** An industrial user subject to a categorical pretreatment standard or categorical standard.

**Categorical pretreatment standards.** Limitations on pollutant discharges to POTW's promulgated by EPA in accordance with section 307 of the Clean Water Act, that apply to specified process wastewaters of particular Industrial categories [40 CFR 403.6 and Parts 405—471].

**Catering truck.** A mobile food establishment used to deliver food prepared offsite (not in the vehicle) to a catered operation.

Commented [KB69]: Ordinance 623

**Certificate of occupancy.** An official certificate issued by the City which indicates conformance with the building zoning regulations and authorized legal use of the premises for which it is issued.

**CFR.** Code of Federal Regulations.

**Clad lap siding.** Wall and roof covering of thin horizontal boards.

**Clear cutting.** The removal of all of the trees or a significant majority of the trees within an area.

**Clear height.** Within a structure, the distance between the floor and ceiling. For entrances and other external building features, the unobstructed distance from the ground to the bottom of the lowest element above.

**Clear sidewalk.** The portion of the sidewalk within a street-space that shall remain clear of obstructions and allow public passage. The clear sidewalk width is specified in the Recommended Street Types.

**Clerestory windows.** An upperstory row of windows; windows in the part of a wall rising above the adjacent roof with windows admitting light.

**City.** The City of Kennedale, Texas.

**City attorney.** The licensed attorney designated by the city to furnish legal assistance for the administration of these regulations.

**City council.** The legislative governing body of the city having the power to adopt and amend these regulations.



Figure 32- 4 Clerestory Windows

**City engineer.** A registered professional engineer on the city staff or a consulting firm of registered professional engineers designated to represent the city.

**City staff.** Employees and independent contractors performing services for the City of Kennedale.

**COD (chemical oxygen demand).** The measure of the oxygen-consuming capacity of inorganic matter present in the water or wastewater expressed in mg/L as determined by the amount of oxidant consumed from a chemical reflux. Such term does not, however, differentiate between stable and unstable organic matter, and therefore does not necessarily correlate with BOD.

**Collector street.** A major road intended to move traffic from local roads to minor arterials. A collector road generally surrounds a neighborhood or a group of neighborhoods.

**Combined wastestream formula (CWF).** A procedure found in 40 CFR 403.6(e) for calculating fixed alternative discharge limits at industrial facilities applicable when regulated process wastewater, subject to a categorical pretreatment standard, is mixed with nonregulated wastewaters prior to sampling.

**Commencement of construction.** The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

**Commercial.** Pertaining to any business, trade, industry, or other activity engaged in for profit.

**Composite sample.** A mixture of grab samples collected at the same sample point at different times and composed of not less than four (4) samples. The series of samples may be collected on a time or flow proportional basis.

1. Time proportional composite sample. A sampling method which combines discrete samples of constant volume collected at constant time intervals (e.g., 200 milliliter samples collected every half hour for a 24-hour period).
2. Flow proportional composite sample. A sampling method which combines discrete samples collected over time, based on the flow of the waste stream being sampled. There are two (2) methods used to collect this type of sample. One (1) method collects a constant sample volume at time intervals which vary based on the stream flow [e.g., 200 milliliters of sample collected for every 5,000 gallons discharged]. The other method collects samples of varying volume, based on stream flow, at constant time intervals.
3. Flow proportional composite will be used only in locations that have the capability to measure flow during the sampling period.

**Comprehensive land use plan.** A written document containing the development policies of the city including a map of the city showing a graphic representation of the proposed uses of the various land areas of the city and which has been adopted by the City Council as the official guide for future development.

**Compressor.** A device designed to increase the pressure of a compressible fluid in order to lift gas from the well.

**Control authority.** The City of Fort Worth, Texas or the Trinity River Authority, as holders of the respective Texas Pollutant Discharge Elimination System (TPDES) permits and the City of Arlington as holder of the interlocal wastewater contract with the City of Kennedale.

**Construction activity.** Activity that requires a right-of-way or building permit.

**Construction general permit.** The NPDES general permit for stormwater discharges from construction sites (construction general permit) issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.

**Construction plans.** The maps or engineering drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the design manual.

**Cooling water.** The water discharged from any system of condensation such as air conditioning, cooling, refrigeration or water used as a coolant in cooling towers where the only pollutant is thermal.

**Cornice.** The projection that forms the top band of an entablature (horizontal band of elements above the column capitals in classical architecture) or wall.

**Courtyard.** An open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building; or the open space provided for access to a dwelling group.

**Critical root zone (CRZ).** The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the dripline. (See Appendix A to Ordinance No. 268.)

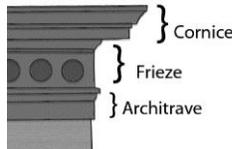


Figure 32-5

**Cul-de-sac.** A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**Cut/fill.** Areas where the natural ground level has been excavated (cut) or fill brought in.

**Dead-end street.** A street, other than a cul-de-sac, with only one (1) outlet.

**Dentils.** A small rectangular block – a tooth-like cube – used in a series forming a molding under a cornice. Dentil molding is the exact shape of a toothy dental smile on a jack-o'-lantern.



Figure 32-6 Dentils

**Design manual.** Refers to the city public works design manual which establishes minimum criteria for the design of public works and utilities.

**Developer.** The owner, or agent representing the owner, of any land being proposed for subdivision or development.

**Development.** The changing of the existing topography in order to promote the construction or structures or infrastructure to accommodate any improvements necessary to erect facilities for dwelling or commercial or industrial, (including governmental, nonprofit construction, and educational facilities), uses resulting in developed property.

**Discharge.** In its verb form: to deposit, conduct, drain edit, throw, run, allow to seep or otherwise release or dispose; to allow, permit or suffer any of these acts or omissions. In its noun form: the product of any of these acts.

**Discharger.** Any user discharging an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto. The term includes owners and occupants of such

premises.

*Display.* The exhibition of vehicles, trailers, boats, goods, wares, or merchandise for sale, rental or lease.

*Disposal.* The discharge, deposit, injection, dumping, spilling, leaking or placing of industrial, liquid or hazardous waste into or on land, water or the POTW.

*Domestic sewage.* Human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.

*Dooryard.* The area within the street-space between the façade of the building (generally the required building line) and the clear walkway area of the sidewalk. The dooryard area is designated in the Street Type Specifications.

*Dormer.* A dormer is a structural element of a building that protrudes from the plane of a sloping roof surface. Dormers are used, either in original construction or as later additions, to create usable space in the roof of a building by adding headroom and usually also by enabling addition of windows.

*Dormer window.* A window in a gabled extension built out from a sloping roof.

*Double hung window.* Windows divided into two (2) main sections. One section can slide up and down past the other one.

*Drainage flume.* A concrete drainage way usually centered on lot lines and designed to carry storm water runoff from adjoining lots.

*Drill site.* The area used for drilling, development, production, or reworking a well or wells located there and subsequent life of a well or wells or the area used for any and all operational activities associated with drilling, development, production or reworking of an oil or gas well.



Figure 32-7 Dormer and Dormer Windows

*Drilling.* Any digging or boring of a new well to develop or produce oil or gas or to inject gas, water, or any other fluid or substance into the earth. Drilling means and includes the re-entry of an abandoned well. Drilling does not mean or include the re-entry of a well that has not been abandoned.

*Drip line.* A vertical line run through the outermost portion of the canopy of a tree and extending to the ground.

*Easement.* Authorization by a property owner of a designated part of his property for the use by another, and for a specified purpose, such as a drainage easement, utility easement or a public access easement.

*Eaves.* The projecting overhang at the lower edge of a roof.

*Elevated building.* For insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Engineer.* A person duly authorized under the provisions of the Texas Engineering Practices Act, as heretofore or hereafter amended, to practice the profession of civil engineering.

*Environmentally sensitive area.* Steep slope areas, areas with highly erodible soils, floodplains and flood-prone areas, wetlands, fish and wildlife habitat conservation areas, or other areas the city considers to be of special environmental concern.

*EPA.* Environmental Protection Agency of the federal government.

*Erosion and Sediment Control Manual.* The North Central Texas Council of Governments (NCTCOG) integrated Stormwater Management (iSWM) Technical Manual of Construction Controls, as amended from

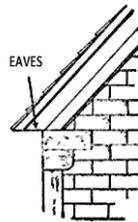


Figure 32-8 Eaves

time to time and as may be modified by the city. A current copy of the manual shall be kept on file in the office

of the department of development services and may also be obtained from NCTCOG.

**Erosion and sediment control plan.** A site plan with necessary details, showing the property where construction or land-disturbing activities will take place that indicates the locations and types of structures, devices, procedures and practices to be used to control erosion and sedimentation.

**Escrow.** A deposit of cash to guarantee a performance or maintenance bond.

**Exaction requirement.** A requirement imposed as a condition for approval of a plat, preliminary plat, building permit, planned development district, or other development permit application to:

1. Dedicate an interest in land for a public infrastructure improvement;
2. Construct a public infrastructure improvement; or
3. Pay a fee in lieu of constructing a public infrastructure improvement.

**Existing construction.** For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**Existing source.** Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**Exploration.** Geologic or geophysical activities, including, but not limited to surveying and seismic exploration, related to the search for oil, gas, or other subsurface hydrocarbons.

**Extremely hazardous substance.** Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

**Façade.** Any separate face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction, or in the directions within 45 degrees of one (1) another, they are to be considered as part of a single facade.

**Facility.** Any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

**Family.** One (1) or more persons living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption, but not including a group occupying a hotel, motel, boarding house, club, dormitory, fraternity or sorority house.

**Fanlight.** A semi-circular (fan shaped) window placed atop a door, commonly seen in Federal and Colonial Revival style buildings.

**Fence.** A masonry wall or a barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space or separating parcels of land. The term "fence" does not include retaining walls.

**Ferrous metal.** A metal that contains significant quantities of iron or steel.

**Final approval.** Completion of a project, site or building in accordance with City of Kennedale requirements and ordinances. In the case of a building, a certificate of occupancy is issued.



Figure 32-9 Fanlight

**Final plat.** The authentic map or official plan of record of a subdivision of land prepared from actual field measurement and staking of all identifiable points by a registered professional land surveyor with the subdivision location properly referenced to a survey corner or specific landmark reference.

**Fire code.** The fire code adopted by the City of Kennedale, as amended.

**Fire protection water.** Any water, and any substances or materials contained therein, used by any person other

than the Fire Department to control or extinguish a fire.

*Flood hazard terms*

- A. *Alluvial fan flooding.* Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- B. *Apex.* A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- C. *Area of future conditions flood hazard.* The land area that would be inundated by the one (1) percent annual chance (100-year) flood based on future conditions hydrology.
- D. *Area of shallow flooding.* A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- E. *Area of special flood hazard.* The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.
- F. *Base flood.* The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- G. *Base flood elevation (BFE).* The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one (1) percent chance of equaling or exceeding that level in any given year (also called the base flood).
- H. *Critical feature.* An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- I. *Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- J. *Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.
- K. *Flood elevation study.* An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- L. *Flood insurance rate map (FIRM).* An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- M. *Flood insurance study (FIS).* See flood elevation study.
- N. *Floodplain or flood-prone area.* Any land area susceptible to being inundated by water from any source (see definition of flooding).
- O. *Floodplain management.* The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

- P. *Floodplain management regulations.* Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- Q. *Flood protection system.* Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- R. *Floodproofing.* Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- S. *Floodway.* See regulatory floodway.
- T. *New construction.* For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- U. *Regulatory floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Floor area.*

- A. *Floor Area, Gross.* The sum of the horizontal area of all building floors, excluding basements, measured from the interior faces of exterior walls.
- B. *Floor Area, Livable.* The total area of all floors whose height is more than half above finished grade, having a minimum floor to ceiling height of seven and a half feet (7 ½), located on a permanent foundation, wired for electrical service and heated for year-round use. This term is applied to residential structures.
- C. *Floor Area, Usable.* The sum of the total horizontal area of all building floors that are used or intended to be used for the sale of merchandise, or to serve clients or customers, and all areas devoted to employee work space. Floor area is measured from the interior faces of exterior walls. Excluded from usable floor area are those parts of a building principally used, or intended to be used to store or process merchandise, and hallways, elevators, stairs, bulkheads, or utility or sanitary facilities. This term is applied to commercial structures.

*Footcandle.* The unit of measure expressing the quantity of light received on a surface. One (1) footcandle is the illuminance produced by a candle on a surface one (1) foot square from a distance of one (1) foot.

*Freestanding wall.* A masonry wall or a barrier which is unconnected to a building erected for the purpose of enclosing space or separating parcels of land.

*Frontage.* The side or sides of a lot abutting a street right-of-way.

*Frontage street.* Any street to be constructed by the developer or any existing street in which development takes place on both sides.

*Frontage zone.* The area between the pedestrian walkway or sidewalk and primary structure (or property line, for structures where no front setback is required). Pedestrians tend to avoid walking close to barriers such as buildings, storefronts, walls, or fences, in the same way that they tend to avoid walking close to the roadway. For this reason, some sub-districts in the Employment Center have a minimum frontage zone width in order to

provide more comfort for pedestrians. Typically, the frontage zone is also the area in which sidewalk entertainment, such as street cafes and vendors, are located. Sometimes also referred to as a clear zone, the frontage zone buffers pedestrians from appurtenances, doorways, and similar obstacles.

*Functionally dependent use.* A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Gable.* That part of the wall immediately under the end of a pitched roof, cut into a triangular shape by the sloping sides of the roof.

*Gabled roof.* A pitched roof having a gable at each end.

*Garage, private.* An accessory building or portion of a main building on the same lot and intended to be used for the parking and storage of private passenger motor vehicles, boats, or other vehicles.

*Garbage.* Animal and vegetable waste or residue from preparation, cooking or dispensing of food or from the handling, storage, and sale of food products and produce.



Figure 32-10 Gable Roof

*Gas.* Gas or natural gas, as such terms are used in the rules, regulations, or forms of the railroad commission.

*Gas well.* Any well drilled for the production of gas or classified as a gas well under the Texas Natural Resources Code or the railroad commission.

*Generator.* A person who causes, creates, generates, or otherwise produces waste.

*GPD.* Gallons per day.

*Grab sample.* A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow of the waste stream and without consideration of time. The sample is collected over a period of time not exceeding fifteen (15) minutes.

*Grade.*

- A. *Grade, Artificial.* A manmade grade created by means of earthen terraces, berms, fills or the like, specifically for the purpose of gaining a height advantage or disguising the true height of a structure. Artificial grade shall not be used to determine the permissible height of any building or structure.
- B. *Grade, Average.* The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.
- C. *Grade, Finished.* The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.
- D. *Grade, Natural.* The elevation of the ground surface in its natural state, before man-made alterations.

*Grasses.* Thin and broad bladed surface material typically planted from seed, sprigs, or plugs with the intention of providing a uniform and aesthetic ground cover very close to the surface of the ground.

*Groundcover.* Consists of low-growing, dense-spreading plants typically planted from containers.

*Habitable structure.* A structure for which a certificate of occupancy is required. A habitable structure shall not include detached accessory buildings, garages, and sheds, except that accessory buildings used for home occupations shall be considered habitable structures.

*Harmful quantity.* The amount of any substance that will cause pollution of water in the State.

*Harvested rainwater.* Storm water that is conveyed from a building roof, stored in a cistern or rain barrel, and disinfected and filtered before being used.

**Hazardous household waste.** Any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

**Hazardous substance.** Any substance listed in Table 302.4 of 40 CFR Part 302.

**Hazardous materials management plan.** The hazardous materials management plan and hazardous materials inventory statements required by the fire code.

**Hazardous waste.** Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics is:

1. Identified as hazardous waste in 40 CFR Part 261; or
2. Identified or listed as a hazardous waste under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Highway, limited access.** A freeway, or expressway, providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no authorized right to access to or from the same, except at such points and in such points and in such manner as may be determined by the public agency having jurisdiction over such traffic way.

**Hipped roof.** A type of roof where all sides slope downwards to the walls, usually with a fairly gentle slope. Thus it is a house with no gables or other vertical sides to the roof.

**Historic structure.** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or;
  - b. Directly by the Secretary of the Interior in states without approved programs.

**Ice cream truck.** A mobile food establishment that sells some or all of the following: pre-wrapped and sealed ice cream, frozen dairy products, ice confection products, canned soft drinks, packaged candy, chips, and pickles.

Commented [KB70]: Ordinance 623

**Indirect discharge or discharge.** The introduction of pollutants into a POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

**Industrial general permit.** The NPDES general permit for stormwater discharges associated with industrial activity (industrial general permit) issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.

**Industrial waste.** Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade, or business

process or from the development, recovery or processing of natural resources.

*Industrial user or user.* A source of indirect discharge.

**Instantaneous maximum allowable discharge limit.** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete grab or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

**Interference.** A discharge which, alone or in conjunction with a discharge or discharges from other sources:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
2. Therefore is a cause of a violation of any requirement of the POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act; or
3. Therefore is a cause of a violation of a wastewater contract for sewage disposal or of receiving water quality standards.

**Junk.** Copper, brass, iron, steel, rope, rags, batteries, paper, rubber, tires, pipe, plastic, debris, trash, rubbish, waste, metal, and ferrous or non-ferrous materials which are old, scrapped, discarded, second-hand, or otherwise used.

**Knox box rapid entry system.** A safe system located at primary points of entry containing entry keys for use by fire and other emergency personnel.

**Land-disturbing activity.** Any activity, including but not limited to excavation, planting, tilling, and grading, which disturbs the natural or improved vegetative ground cover and exposes soil to the erosive forces of rain, stormwater runoff or wind. Installation or maintenance of franchise utilities, such as telephone, gas, electric, etc., is considered a land-disturbing activity. Farming or ranching activities are considered land-disturbing activities.

**Landscape area.** Consists of an area included in and around a development site that has been planned to complement the development site with natural grass, ground cover, trees, or other natural plant materials.

**Landscaping.** The planting, arranging, cultivating, and maintenance of live plant material in such a manner that said material is aesthetically pleasing and contributes to the overall design of a development site.

**Limits of construction.** A delineation on the graphic exhibit which shows the boundary of the area within which all construction activity will occur.

**Living area.** Includes that portion of the dwelling unit which is used or designed for occupancy but does not include carports, garages, and open porches, breezeways, balconies, and terraces.

**Levee.** A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee system.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Loading space.** A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks.

**Local street.** A road intended to provide direct access to individual properties and to provide right-of-way for sewer, water, storm drainage systems, and electric, telephone, gas, and cable TV utilities.

**Logo.** Any registered or recognized symbol, letter, or combination of symbols and letters used by an organization, individual, company, or product for advertising to identify that organization, individual, company,

or product.

**Lot.** A parcel of land occupied or intended to be occupied by a principal building and its accessory buildings, or by a group of buildings and their accessory buildings, and having frontage on a dedicated street.

- A. **Lot area.** The area of land included within a lot as defined by lot lines, but excluding any public rights-of-way.
- B. **Lot, corner.** A lot with at least two (2) contiguous sides abutting two (2) intersecting streets, and where the interior angle of the intersecting streets is less than 135 degrees. Also, a lot located on a curved street or streets if tangents of the curve, at the points of beginning with the lot or the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.
- C. **Lot coverage.** The lot area, stated as a percentage of the total, covered by all buildings and areas under roof, drives and driveways, parking lots, patios, decks, and other impervious surfaces.
- D. **Lot, flag.** A lot that does not meet minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway; the flag portion of the lot.
- E. **Lot, interior.** A lot other than a corner, multi-frontage, through or corner lot, bordered on three (3) sides by other lots.
- F. **Lot, multi-frontage.** A lot bordered by streets on three (3) sides.
- G. **Lot, through.** An interior lot bordered by two (2), more or less parallel streets. For the purposes of this definition, if one (1) side of the lot is bordered by an alley opposite of a street the lot is not considered a through lot.
- H. **Lot depth.** The average distance between the front lot line and the rear lot line.
- I. **Lot frontage.** The length of the front lot line measured at the street right-of-way.
- J. **Lot width.** The horizontal distance between side lot lines measured at the two (2) points where the required setback intersects the side lot lines.



Figure 32-11 Lot Types

**Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Lunch truck. A lunch truck is a mobile food establishment which serves a construction work-site and from which only the following foods and beverages are served, sold, or distributed, in such a manner that the vendor does not have direct contact with the food or beverages being sold:

1. Food that is prewrapped, bottled, or otherwise packaged in individual servings and typically intended for immediate consumption.
2. Beverages that are not time/ temperature controlled for safety and are dispensed from covered urns or other protected equipment or are sold in bottles or cans.

Commented [KB71]: Ordinance 623

**Manufactured home.** A "HUD-code manufactured home," which is 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 (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (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 permanent dwelling with or without a permanent foundation when permanently connected to the required utilities, which includes the plumbing, heating, air conditioning and electrical systems. This definition does not include a recreational vehicle.

**Manufactured home lot.** That part of a parcel of land in a manufactured home park which has been reserved for the placement of one (1) manufactured home unit.

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**Masonry materials.** Masonry materials include brick, stucco, concrete, concrete tilt wall, stone, or other masonry or materials of equal characteristics, excluding cement fibrous siding.

**Masonry or masonry units.** Means that form of solid construction composed of stone, brick, concrete, gypsum, hollow clay tile or other similar building units or materials or combination of these materials which must be laid up unit by unit and set in mortar.

**Massing.** The exterior shape and volumetric view of a building is called massing. It refers to the general shape and size of a building

**Maximum daily average.** The maximum concentration of a substance allowed in a discharge as determined from a laboratory test of a daily composite sample. The daily composite sample is the concentration of discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

**Mean sea level.** For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

**mg/L.** Milligram per liter.

**Minor arterial.** A road intended to collect and distribute traffic in a manner similar to principal arterials, except that these roads service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterials.

Mobile food establishment. A vehicle-mounted food establishment that is designed to be readily moveable at all times and from which food is distributed, sold, or served to an ultimate consumer. The term does not include

pushcarts, booths, or stands. Categories of mobile food establishments are catering truck, ice cream truck, lunch truck, mobile food preparation vehicle, and produce truck.

Mobile food preparation vehicle. A mobile food establishment in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

Commented [KB72]: Ordinance 623

*Model home.* A dwelling unit used initially for display purposes which typifies the type of units to be constructed in the subdivision.

*Modulation.* The stepping back or projecting forward of parts of a building.

*Monitored user.* Commercial and industrial users which are not classified as significant industrial users and do not discharge a significant amount of regulated pollutants on a regular basis.

*Monthly average limit.* The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

*Motor vehicle.* Every kind of motor driven or propelled vehicle whether required or not required to be registered or licensed under the laws of the State of Texas, including trailers, house trailers, and semi-trailers, and shall also include motorcycles, dirt bikes, or other off-road/all-terrain vehicles.

*Motor vehicle fluids.* Any vehicle crankcase oil, antifreeze, transmission fluid, brake fluid, differential lubricant, gasoline, diesel fuel, gasoline/alcohol blend, and any other fluid used in a motor vehicle.

*Multi-unit rental complex.* Two (2) or more dwelling units in one (1) or more buildings that are under common ownership managed by the same owner, managing agent, or management company, and located on the same lot or tract of land or adjacent lots or tracts of land. The term includes a condominium project but does not include:

1. A facility primarily renting rooms to overnight guests; or
2. A single-family home or adjacent homes that are not part of a condominium project.

*Municipal/public domain property.* For example, City Hall, public parks, county property, Corps of Engineers property, State of Texas R.O.W., library, fire stations, water tower sites or similar properties.

*Municipal separate storm sewer system (MS4).* The system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

*Municipal solid waste.* Solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.

*New manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*New source.* Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of [subsection] (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source under this definition has commenced if the owner or operator has;

- a. Begun, or caused to begin as part of a continuous onsite construction program;
  - i. Any placement, assembly, or installation of facilities or equipment; or

- ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

*New well.* A new well bore or new hole established at the ground surface (not including the reworking of an existing well that has not been abandoned unless the rework intends to drill to a deeper total depth), which shall require a new well permit.

*Nonconforming building, structure.* A structure or building lawfully constructed that does not conform to the requirements of the area in which it is situated and existed prior to the effective date of the UDC.

*Nonconforming lot.* A lot lawfully existing on the effective date of the UDC, or its subsequent amendment, that does not meet the current area and/or dimensional requirements of the zoning district in which it is located.

*Nonconforming use.* A structure, building, parcel, premise or land lawfully occupied by a use that does not conform to the regulations of the area in which it is situated and lawfully existing on the effective date of the UDC.

*Nonresidential subdivision.* A subdivision in which the intended use is either commercial or industrial.

*Nonsignificant categorical industrial user.* For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility, an industrial user that is subject to categorical pretreatment standards may, at the sole discretion of the director, be permitted as a nonsignificant categorical industrial user (NSCIU) if the following conditions are met:

1. The industrial user, prior to city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
2. The industrial user annually submits the certification statement required in subsection 23-125(a)(4)i.2. [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
3. The industrial user never discharges any categorical process wastewater into the sanitary sewer.

*NPDES (national pollutant discharge elimination system).* National pollutant discharge elimination system permit program of the Environmental Protection Agency, and/or the permit program of the state agency delegated to act on the Environmental Protection Agency's behalf with an approved pretreatment program (e.g. TPDES or Texas Pollutant Discharge Elimination System).

*NPDES permit.* A permit issued by EPA (or by the State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Nonpoint source.* Any source of any discharge of a pollutant that is not a point source.

*Noncontact cooling water.* Water used for cooling which does not come into direct contact with raw materials, intermediate product, waste product or finished product.

*Notice of intent.* The notice of intent that is required by either the industrial general permit or the construction general permit.

*Nudity or state of nudity.* Less than completely and opaquely covered:

1. Human genitals, pubic region, or pubic hair;
2. All portions of a female breast below a point immediately above the top of the areola continuing downward to the lowest portion of the breast;

3. Human buttock; or
4. Any combination of the above.

*O and M (or O & M).* Operation and maintenance.

*Off-site.* Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

*Off-site borrow area.* A source of earth fill material used in the construction of embankments or other earth fill structures, that is located on another parcel of property other than the principal construction site.

*Off-site sedimentation.* Deposit of soil material beyond the limits of the property undergoing construction or land-disturbing activities or in public streets, alleys or drainage facilities in an amount sufficient to constitute a threat to public safety and comfort.

*Off-site spoil area.* An area on another parcel of property, other than where the principal construction is occurring, where excess earth, rock or construction material is disposed of.

*Oil.* Oil, as such terms are used in the rules, regulations, or forms of the railroad commission. Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

*Oil well.* Any well drilled for the production of oil or classified as an oil well under the Texas Natural Resources Code or the railroad commission.

*Oil and gas well permit.* A permit applied for and issued or denied pursuant to this section authorizing the drilling, production, and operation of one (1) oil or gas well.

*Operation site.* The area used for development and production and all related operational activities of oil and gas after drilling activities are complete.

*Operator.* For each well, the person listed on the railroad commission form W-1 or form P-4 for an oil or gas well. The person or persons who, either individually or taken together, meet the following two (2) criteria: (1) they have operational control over the facility specifications (including the ability to make modifications in specifications); and (2) they have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

*Other wastes.* Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, and all other substances except sewage and industrial wastes.

*Owner.* A person who owns, leases or manages or has a legal or equitable interest in a parcel or tract of land.

*Owner or occupant.* The person, firm, or public or private corporation, using the lot, parcel of land, building or premises connected to and discharging sewage, industrial wastewater or liquid, into the sanitary sewage system of the city, and who pays, or is legally responsible for the payment of, water rates or charges made against the said lot, parcel of land, building or premises, if connected to the water distribution system of the city, or who would pay or be legally responsible for such payment if so connected.

*Over load.* The discharge of BOD/COD, solids or wastewater volume in excess of the POTW's capacity.

*Palladian window.* A three-part, round-arched window, named for the 15<sup>th</sup> century Italian architect Andreas Palladino, also known as a Venetian Window and common in the Georgian and Colonial Revival styles.

*Pass through.* The discharge of pollutants through the POTW into waters of the United States in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the POTW's TPDES permit.



Figure 32-12 Palladian Window

*Permanent erosion and sediment control measures.* Devices or practices installed prior to final approval and maintained after final approval to prevent or minimize the erosion and deposit of soil materials. Such measures may include, but shall not be limited to, permanent seeding, sod, storm drain channels, channel linings, storm drain pipes, outlet velocity control structures and stormwater detention structures.

*Permanent ground cover.* Permanent vegetative cover on all bare soil areas of a property not covered by a permanent structure or landscaping improvements, including but not limited to, live sod, perennial grasses or other materials which lessen runoff and soil erosion on the property.

*Perimeter street.* Any street to which the parcel of land to be subdivided abuts on only one (1) side.

*Permit.* Wastewater discharge permit, issued to non-domestic dischargers into the sanitary sewerage system of the POTW.

*Person.* Includes both the singular and plural and means an individual person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, and a fiduciary or representative of any kind.

*Personal identification certificate.* A personal identification card issued by the Texas Department of Public Safety under V.T.C.A Texas Transportation Code, § 521.101, as amended, or a similar card or certificate issued by another state.

*Petroleum product.* A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol; other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

*Petroleum storage tank ("PST").* Any one (1) or combination of above-ground or underground storage tanks that contain petroleum products and any connecting underground pipes.

*Petroleum specialist.* A qualified oil and gas consultant familiar with and educated in the oil and gas industry who has been retained by the city.

*pH.* The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions, in grams per liter of solution; a measure of the acidity or alkalinity of a solution, expressed in standard units.

*Phased occupancy.* Use or inhabitation of a single structure or other portion of a project as such structure or portion thereof is completed, but before the project as a whole is fully completed and finally approved by city.

*Pilasters.* A pilaster is a narrowly protruding column attached to a wall, giving the illusion of a real free standing support column.

*Pipeline easement map.* A map indicating all gathering line easements. The easements must be located separately from the utility easements.

*Plan for development.* A plan outlining the proposed use(s) of a tract or tracts of land, which provides fair notice of the project and the nature of the permit sought. It includes, but is not limited to the following: an application for approval of a plat, an application for approval of zoning or a graphic depiction, or sketch, of the tract which reflects the proposed uses of land and their location within the tract(s) and the general layout of streets and parks or other open spaces.

*Planned flaring.* A flaring operation that constitutes a designed and planned process at a source, and which would have been reasonably foreseen ahead of its actual occurrence, or is scheduled to occur.

*Planning and zoning commission.* The appointed body having authority to recommend approval or disapproval of subdivision plats in accordance with these regulations and state statutes.

*Plat.* A preliminary plat, final plat, replat, short form (amending) plat, filing plat, record plat, or other plat established and provided for in this article.

*Polluted water.* Water and/or liquid waste containing any of the following:

- A. Free or emulsified grease, and/or oil.
1. Acids or alkalis.
2. Phenols or other substances producing taste or odor in receiving water.
3. Toxic or poisonous substances in suspension, colloidal state or solution.
4. Noxious or otherwise obnoxious or odorous gases, liquids or solids.
5. More than 10 mg/L of total suspended solids or BOD, or both.
6. Color; either true or apparent, exceeding 50 units.
7. More than 500 mg/L of dissolved solids, more than 250 mg/L of chlorides or more than 250 mg/L sulfates.
8. A pH value of less than 5.5 or greater than 11.0 for discharges to TRA; and lower than 5.0 or higher than 12.0 for discharges to Fort Worth.
9. Any water or wastewater not approved for discharge into water of the state by the TCEQ.

*Point source.* Any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

*Pollutant.* Dredged spoil, solid, waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

*Pollution.* The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

*Pool.* A permanent swimming pool, permanent wading or reflection pool, hot tub or spa over eighteen (18) inches deep, located at ground level, above ground, below ground or indoors.

*POTW (publicly owned treatment works).* A treatment works as defined by section 212 of the Act, which is owned by the control authority. This definition includes any devices and systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any other conveyances which convey wastewater to a treatment plant.

*Public property.* Any property which is owned by a governmental entity. It shall also include property for which the primary use is for the operations of a governmental entity.

*Public water supply(public water supply).* A system for the provision to the public of piped water for human consumption.

*Purchase transaction.* A transaction in which a secondary metal recycler gives consideration in exchange for regulated or nonregulated metal property.

*Preliminary plat.* The preliminary drawing indicating the proposed manner or layout of the subdivision to be submitted to the planning and zoning commission for approval.

*Pretreatment.* The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sanitary sewer.

*Pretreatment requirements.* Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

*Pretreatment standard.* The term "pretreatment standard," or "standard" means prohibited discharge limits established pursuant to 40 CFR Part 403.5, categorical pretreatment standards, and local limits, including BMPs.

*Principal arterial.* A road intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, major industrial areas, and similar traffic generators within the city; and/or as a route for traffic between communities or large areas.

*Private school.* A private school, including a parochial school that offers a course of instruction for students in one (1) or more grades from kindergarten through grade twelve (12) and has more than one hundred (100) students enrolled and attending courses at a single location.

*Private street development/gated community.* A private street development is any residential development, including but not limited to single family and multi-family development that contains a group of lots that have no frontage on a publicly dedicated street and are accessible by way of a private street or access easement. Such subdivisions may also limit access to lots or dwelling units by the use of a gate, security guard or other active means of limiting access.

*Process wastewater.* The water that comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, waste product, or wastewater.

*Produce truck.* A mobile food establishment from which only raw vegetables and fruits are served, sold, or distributed. The produce sold is in its original form and has not been altered or cooked in any other way inconsistent with it coming fresh from the fields and/or gardens in which it was grown. Slicing, dicing, and chopping of vegetables, fruits, or other food items for sale is prohibited.

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*Protective fencing.* Chain link fence, wire fence, orange vinyl construction fencing, snow fencing or other similar fencing with a four-foot approximate height.

*Public sewer.* Pipe or conduit carrying sanitary or storm wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city.

*Public facilities system.* With respect to water, wastewater, roadway, drainage or parks, the facilities owned or operated by or on behalf of the city to provide services to the public, including existing and new developments and subdivisions. The public facilities system includes improvements to roads owned by the county or the state to the extent such improvements are necessitated by and attributable to a proposed development or subdivision.

*Public improvement.* Any public water and sewer utility, drainage ditch, roadway, parkway, sidewalk, pedestrian way, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

*Public infrastructure improvement.* A water, wastewater, roadway, drainage or park facility that is a part of one (1) or more of the city's public facilities systems.

*Public works utility superintendent (or superintendent).* Public works utility superintendent of the city, or his authorized representative.

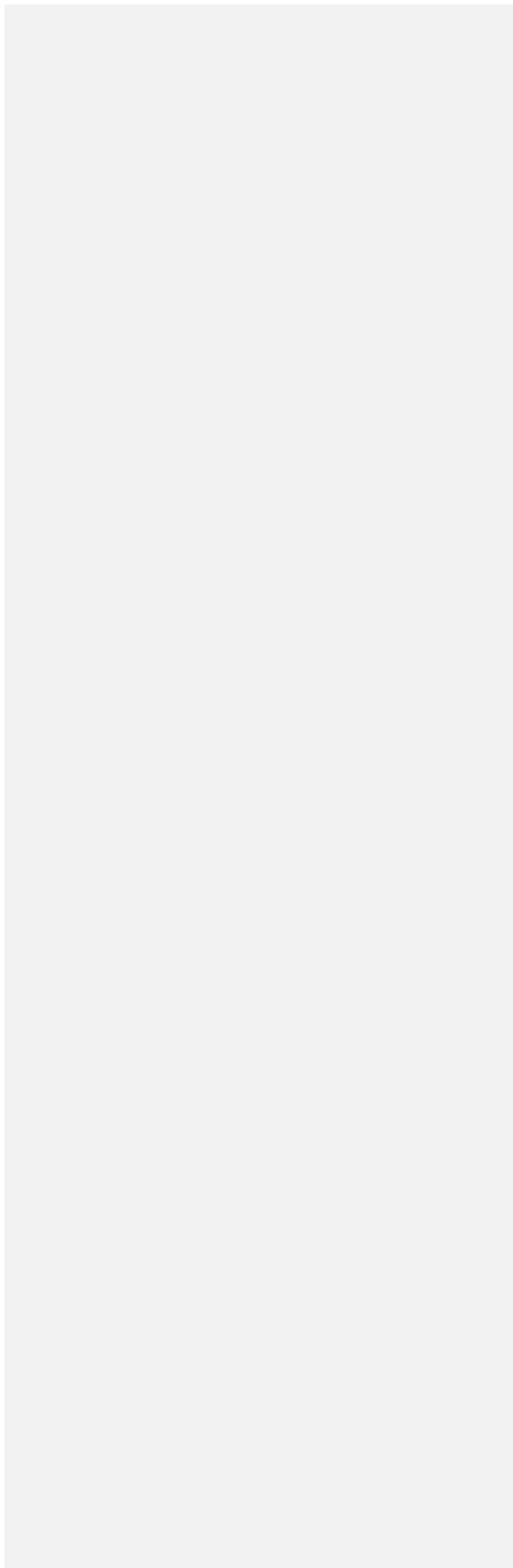
*Quoin.* A large rectangular block of stone or brick (sometimes wood) used to accentuate an outside corner of a building; typically in a toothed form with alternate quoins projecting and receding from the corner.



Kennedale UDC

*Railroad commission.* The Railroad Commission of Texas.

*Figure 32-13 Quoin*



**Recreational vehicle.** A vehicular type unit which either has its own mode of power or is mounted on or drawn by another vehicle and is of such a size and weight so as not to require a special highway movement permit when towed by a motorized vehicle and which is primarily designed and built to provide temporary living quarters for recreational, camping, travel or seasonal use. Recreational vehicles shall include, but not be limited to, travel trailers, camping trailers, truck campers, motor homes, folding camper trailers, fifth wheel trailers, park trailers, and truck campers.

**Related land area.** The property where the principal construction or land-disturbing activities is taking place, all adjacent property, off-site borrow areas, off-site spoil areas, off-site properties necessary for required utility extensions, and off-site areas for required street improvements.

**Release.** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters of the United States.

**Replat.** A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**Residential use.** A one (1) family, townhouse, duplex, triplex, fourplex, mobile home, manufactured home, or multiple-family dwelling as defined in the Zoning Ordinance of the City of Kennedale.

**Responsible party.** A business entity, franchised utility company, developer, property owner, contractor or holder of a building permit who is required to comply with the terms of this article.

**Right-of-way.** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. 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 not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

**Right-of-way width.** The distance between property lines measured at right angles to the center line of the street.

**Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Rubbish.** Nonputrescible solid waste, excluding ashes, that consist of: (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and/or (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (one thousand six hundred (1,600) to one thousand eight hundred (1,800) degrees Fahrenheit).

**Salvage.** Includes:

1. Any discarded, abandoned, junked, wrecked, dismantled, worn out, or ruined motor vehicles (including automobiles, trucks, tractor, trailers, and buses) motor vehicle parts, boats, travel trailers, trailers, cranes, machinery or equipment, machinery or equipment parts, and or recreational vehicles; and/or
2. Any junk.

**Sanitary sewer.** The system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the city sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

**Sanitary sewer service.** A sewer conveying wastewater from the premises of a user to the POTW.

**Satellite antenna/dish antenna.** A dish-shaped device designed for television or video communications through the sending or receiving of electromagnetic waves, or used to link communications sites together by wireless transmission of voice or data, utilizing electromagnetic radiation frequencies from three (3) GHz to three hundred (300) GHz, and using relatively low transmitter power levels when compared to other forms of transmission.

**Satellite antenna facility.** A building or independent support structure (including, but not limited to, monopoles and lattice towers) used for mounting satellite antennas, along with an associated and necessary equipment building.

**Satellite receive-only antenna.** A satellite antenna that enables the receipt of television or video signals transmitted directly from satellites to be viewed on a television monitor. Such antennas are commonly known as a satellite dish, television receive-only antennas, dish antennas, parabolic antennas, satellite earth station antennas, or wireless cable dishes.

**Screening (device).** Any of the following:

1. Any solid fence or wall constructed of metal, brick, masonry or concrete; the vertical surface of which shall be without gaps, except openings for access.
2. Any dense, screening shrubs providing a visual barrier, for which such material shall be maintained in a healthy growing condition; or
3. Landscaped earth berms may, when appropriate in scale, be considered and used as a screening element in lieu of a fence, wall, hedge, or other dense planting material.

**Screening shrubs, large.** Shrubs with an installed minimum height of three (3) feet as identified below, or any other shrubs which, when mature, shall reach a minimum height of six (6) feet, provide a dense visual barrier, be drought resistant, and possess compact root systems posing minimum danger to integrity of public utilities. The large screening shrubs included on the following list are recommended to be planted to screen incompatible land uses, parking facilities, and dumpsters by forming a visual barrier:

**Screening shrubs, small.** Shrubs with an installed minimum height of two (2) feet as hereinafter identified, or any other shrubs which, when mature, shall reach a minimum height of two (2) feet and provides a dense visual barrier. The small screening shrubs included on the following list are recommended to be planted to screen parking lots, playgrounds, ballfields, swimming pools, and tennis courts by forming a visual barrier:

**Seat (as used in determining parking requirements for this article).** Such sitting space as needed or which is designed to be used for one (1) person to sit down and occupy.

**Secondary metal recycler.** Any person who:

1. Is engaged in the business of purchasing, collecting, or soliciting regulated or nonregulated metal property; or
2. Operates or maintains a facility where regulated or nonregulated metal property is purchased or kept for shipment, sale, transfer or salvage.

**Selective thinning.** The removal of selected trees from within a densely forested area.

**Septage.** Wastes removed from a septic tank.

**Septic tank waste.** Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**Service bay.** A specific location on a site used for servicing one (1) motor vehicle.

**Setback.** The minimum horizontal distance that any principal or accessory building shall be separated from a street right-of-way or front, side, or rear lot line to meet the minimum requirements of the UDC.

**Severe property damage.** Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can be reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

**Sewage.** Water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

**Sidelights.** Narrow windows flanking an entry door.

**Sign.** An outdoor device or structure which directs attention to a business, commodity, service, announcement, direction or entertainment conducted, sold, or offered to the public. Every sign, name, number, identification, description, announcement, declaration, demonstration, device, display, flag, banner, pennant, illustration, logo, balloon, streamer, valance, advertising display, poster, beacon, light or insignia, and structure supporting any of the same, affixed directly or indirectly to or upon any building or outdoor structure, or erected or maintained upon a piece of land, which directs attention to any object, project, service, place, activity, person, institution, organization, or business.



Figure 32-14 Sidelights

- A. **Searchlight.** A powerful outdoor electric light with a concentrated beam that can be turned in the required direction.
- B. **Sign, awning.** A sign that is part of or located on a canopy or awning that is attached to and projects from a building wall.
- C. **Sign, balloon/inflatable.** Any inflatable sign or inflatable advertising figure.
- D. **Sign, banner.** An sign hung with or without a frame, made of cloth, flexible plastic or canvas material.
- E. **Sign, bench.** A sign located on any part of the surface of a bench or seat placed anywhere outside a building.
- F. **Sign, changeable electronic variable message (CEVMS).** A sign which permits light to be turned on or off intermittently, or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.
- G. **Sign, commercial construction.** A temporary sign which identifies the architects, engineers, contractors or other individuals and firms involved with the commercial construction project on the premises and/or identifying the project under construction.
- H. **Sign, directory.** A permanent on-site attached or monument sign providing direction to or identifying the buildings in the development.
- I. **Sign, electronic reader board/message board.** A sign composed of a matrix of individual bulbs or lights which are capable of displaying lights in a running or continuous fashion so as to provide transient pictures or information.
- J. **Sign face.** The surface of one side of a sign.
- K. **Sign, feather.** A freestanding sign typically constructed of a shaft, driven in the ground or standing with supports, with an attached pennant that is vertically elongated and attached to the shaft. Also known as a feather flag.
- L. **Sign, government.** A sign erected by or on behalf of a federal, state or local government or an agency.

- M. *Sign, historic marker or commemorative plaque.* A sign, tablet or plaque commemorating or memorializing a person, event, structure or site.
- N. *Sign, incidental.* A small sign no greater than two (2) square feet in area, such as a prohibition on hunting or trespassing.
- O. *Sign, integral.* A sign that generally includes the name of a building, date of erection, a monumental citation, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.
- P. *Sign, monument.* Any sign which is connected to the ground and which has no clear space for the full width of the sign between the bottom of the sign and the surface of the ground.
- Q. *Sign, parking.* A sign that identifies public access to parking areas.
- R. *Sign permit.* The official authorization by the city to alter, erect, or display any sign not exempted by this Article 14.
- S. *Sign, private traffic directional.* A permanent on premises attached sign intended to aid in vehicular movement on the site.
- T. *Sign, pole.* A sign having a sign face that is elevated above the ground by one (1) or more uprights, pylons, or poles and having no guys or braces to the ground or to any other structure.
- U. *Sign, portable.* Any sign which is not attached or affixed to the ground, a building, vehicle, or other fixed structure or object. Portable signs include those signs installed on wheels, trailers, skids, and similar mobile structures.
- V. *Sign, projecting.* Projecting signs mount perpendicular to a building's facade. These signs are easily read from both sides. Also known as blade signs.
- W. *Sign, roof.* A sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall and that is wholly or partially supported by such building.
- X. *Sign, sandwich board.* A portable sign consisting of two panels of equal size, which are hinged at the top and placed on the ground or pavement so as to be self-supporting.
- Y. *Sign, special purpose.* A temporary sign that is either on premises or off premises that provides identification or information pertaining to a special event or occurrence sponsored by a non-profit or civic organization.
- Z. *Sign, subdivision or multi-family development.* Any temporary on premise sign identifying for a residential development.
- AA. *Sign, suspended.* A sign that mounts to the underside of beams or ceilings of a porch, gallery, arcade, breezeway or similar covered area, perpendicular to the building façade, and easily read from both sides
- BB. *Sign, temporary.* Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, or other like materials, with or without frames, and any type sign not permanently attached to the ground, wall, or building, intended to be displayed for a short period of time only.
- CC. *Sign, wall.* A sign that is attached directly to a wall, mansard roof, roof overhang, parapet wall, or above a marquee of a building with the exposed face of the sign in a plane parallel to the building wall or to the surface on which it is mounted, not projecting more than 12 inches from the wall, and which does not have any part of such sign or sign supports extending above the uppermost building line not including chimneys, flagpoles, electrical or mechanical equipment, TV antennas, or any other similar equipment or extensions. This definition shall include writing, letters or numbers placed or painted

directly on a building wall surface.

DD. *Sign, wind.* A temporary accessory sign which achieves movement and thus attracts attention by action of wind or moving air.

EE. *Sign, window.* Any sign affixed to any internal and/or external surface of a window.

FF. *Sign, yard.* A temporary sign placed in a yard of a parcel or lot.

*Significant change.* An increase or decrease in the volume of wastewater discharged by more than twenty (20) percent from the data submitted in the permit application, or the deletion or addition of any pollutant regulated by the authority or by a categorical standard. Volumes are those measured by the water service meter, a verifiable estimate, or a permanently installed effluent flow meter approved by the authority.

*Significant industrial user (SIU).*

1. For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility:
  - a. An industrial user subject to categorical pretreatment standards and any other industrial user that:
    - i. Discharges an average of 25,000 gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling or boiler blowdown wastewater);
    - ii. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or
    - iii. Is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.
  - b. An industrial user that is subject to categorical pretreatment standards may, at the discretion of the director, be permitted as a nonsignificant categorical industrial user (NSCIU) based on a finding that the industrial user never discharges categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
    - i. The industrial user, prior to city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
    - ii. The industrial user annually submits the certification statement required in subsection 23-125(a)(4)i.2. [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
    - iii. The industrial user never discharges any categorical process wastewater into the sanitary sewer.
  - c. Upon a finding that a noncategorical industrial user meeting the criteria for a significant industrial user has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the authority may at any time on its own initiative or in response to a petition received from a noncategorical industrial user, determine such user is not a significant industrial user.
2. For facilities discharging through the City of Arlington to Trinity River Authority Central Regional Wastewater System:
  - a. An industrial user subject to categorical pretreatment standards and any other industrial user that:
    - i. Discharges an average of 25,000 gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling or boiler blowdown wastewater);
    - ii. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or

- iii. Is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.
- b. Upon a finding that a noncategorical industrial user meeting the criteria for a significant industrial user has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the authority may at any time on its own initiative or in response to a petition received from a noncategorical industrial user, determine such user is not a significant industrial user.

*Site.* A lot, tract or building pad. The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

*Solid geometric forms.* Refers to three-dimensional geometric forms.

*Solid waste.* Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

*Special exception use.* A use that may be allowed if it meets certain specified requirements or conditions and meets the approval of the board of adjustments. Specific uses are sometimes referred to as "conditional" uses or "special exceptions."

*Specified anatomical areas.* Human genitals, pubic regions, buttocks and female breast below a point immediately above the top of the areola.

*Specified sexual activities.* Includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, pubic hair, perineum, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, sodomy, or bestiality;
3. Masturbation, actual or simulated; or
4. Excretory functions.

*Staging area.* An on-site or off-site location used by a contractor to store materials for a project, to assemble portions of equipment or structures, to store equipment or machinery, to park vehicles, or for other construction related uses.

*Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)).* Includes substantial improvement and the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Standard methods.* "Standard Methods for the Examination of Water and Wastewater", a publication prepared and published jointly by the American Public Health Association, American Waterworks Association and the Water Pollution Control Federation, as it may be amended from time to time.

*State.* The State of Texas.

*Stop work order.* The suspension of all city permits with no approvals or inspections of work for the site or project being performed.

*Storm sewer.* All roads with drainage systems, streets, catch basins, curbs, gutters, ditches, watercourses and storm drains, which are designed or used for collecting or conveying stormwater.

*Stormwater.* Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation including snowmelt.

*Stormwater discharge associated with industrial activity.* The discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is within one (1) of the categories of facilities listed in 40 CFR § 122.26(b)(14), and which is not excluded from EPA's definition of the same term.

*Stormwater pollution prevention plan (SWPPP).* A plan required by either the construction general permit or the industrial general permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity at the facility.

*Story.* That portion of a building, other than a basement, 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.

*Story, half.* The topmost story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story, except that any partial story used for residence purposes shall be deemed a full story.

*Street.* A public or private thoroughfare or road which affords the principal means of access to abutting property.

*Structural alteration.* Any change, addition or modification in construction in the supporting members of a building, such as exterior walls, bearing walls, beams, columns, foundations, girders, floor joists, roof joists, rafters or trusses.

*Structure.* Anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

*Subdivider.* Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.

*Subdivision.* A division of any tract of land into one (1) or more parts for the purpose of creating lots for sale, for the purpose of identification, and/or to provide for the dedication of streets, alleys and easements. Subdivision includes re-subdivision (replat).

*Subdivision regulations.* The official ordinance adopted by the city council to regulate the division of property within the corporate limits of the city in accordance with V.T.C.A., Local Government Code, ch. 212.

*Substantial damage.* Damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement.* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure

safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Television satellite dish.* An earth-based station shaped like a dish which is used for the reception of satellite signals for television programs.

*Texas Pollutant Discharge Elimination System (TPDES) Permit.* Permit issued by the Texas Commission on Environmental Quality under authority delegated pursuant to 33 USC 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

*Temporary erosion and sediment control measures.* Devices installed or practices implemented and maintained during construction or land-disturbing activities to prevent, minimize or control the erosion and deposit of soil materials.

*Total suspended solids (TSS).* Solids that either float on the surface of, or in suspension in, water, sewage or other liquid and which are removable by laboratory filtering.

*Total toxic organics (TTO).* The sum of masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharges at a concentration greater than 0.01 mg/L. Only those parameters reasonably suspected to be present, to be determined by the city, if any, shall be analyzed for with noncategorical industries. With categorical industries, the list of TTOs is specific for every applicable federal category. TTO's will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, to be determined by the city, where not stipulated.

*Toxic pollutant.* Any substance that is identified as hazardous waste in 40 CFR Part 261 or established pursuant to 40 CFR Part 403.

*TRA.* Trinity River Authority.

*Transom.* A small window placed above a door or window.

*Tree board.* The city tree board, which is hereby created and established. This board shall be the planning and zoning commission unless otherwise appointed by city council.

*Tree, marginal.* A tree which the city has determined may or may not be worthy of preservation depending on the individual characteristics of the tree. (See Appendix C to Ordinance No. 268.)

*Tree, park.* Trees in public parks and all areas owned by the city to which the public has free access to as a park.

*Tree, protected.*

1. A quality tree that has a diameter of six (6) inches or greater;
2. An understory tree that has a diameter of two (2) inches or greater; and
3. A marginal tree that has a diameter of six (6) inches or greater that the landscape administrator has determined should be saved due to individual characteristics and/or location of the tree.

*Tree, quality.* A tree which the city has determined typically has significant positive characteristics worthy of preservation. (See Appendix C to Ordinance No. 268.)

*Tree, street.* A tree, or any part of the tree trunk located on land lying within the public right-of-way.

*Tree topping.* The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

*Tree, understory.* A tree which the city has determined has significant positive characteristics worthy of preservation and that does not typically attain great size. (See Appendix C to Ordinance No. 268.)

*Tripartite window.* A window composed of three parts.

*Uncontaminated.* Not containing a harmful quantity of any substance.

*Underground shelter.* A concrete structure designed for the protection of humans from tornadoes or from nuclear blast, heat, or fall-out, the main portion of which is underground.

*Unplanned flaring.* A flaring event that is not planned or scheduled to occur. An emergency event is an example of an unplanned event.

*Upset.* An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards established in this division, due to factors beyond the reasonable control of the discharger and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof. Any affirmative defenses to upset only apply to federal court actions.

*U.S.C.* United States Code.

*Use.* The purpose for which land or a building or structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.

*Use, accessory.* A subordinate use on the same lot with the principal use and incidental and accessory thereto.

*User.* A person who is a source of an indirect discharge.

*Utility easement.* An interest in land granted to the city, to the public generally, and/or to a private utility corporation, for installing and maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

*Variance.* An adjustment in the application of the specific regulations of the zoning ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

*Violation.* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

*Visible Transmittance.* The amount of light transmitted through a window. VT is expressed as a number between 0 and 1; the closer the number is to 1, the higher the potential for daylighting.

*Visual barrier.* Any fence, wall, hedge or shrubbery higher than 30 inches above ground level at the property line, except single trees with single trunks which are pruned to a height of seven (7) feet above ground level.

*Waste.* Rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial or industrial activities.

*Wastewater.* Liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Water surface elevation.* The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

*Watercourse.* A natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

*Waters of the state.* All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which contained within, flow through or border upon the state or any portion thereof.

**Waters of the United States.** All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

**Water quality standard.** The designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses, as specified in Chapter 307 of Title 30 of the Texas Administrative Code.

**Well.** A hole or bore to any horizon, formation, or strata for the purpose of producing oil, gas, or other liquid hydrocarbons. Surface boring or excavation to a depth of at least 10 feet in which the depth is greater than the diameter.

**Wetland.** An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**WHPA (wellhead protection area).** The surface and subsurface area surrounding a water well, or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield within a period of five (5) years.

**Window area, aggregate.** The sum total of all the window area on a facade per tenant.

**Window head.** A brick oriented with the smaller end exposed on the face of the wall and smaller dimension vertical placed over window openings.

**Yard.** An open space at grade between a building and the adjoining lot lines.

- A. **Front Yard.** An open space between the front of a principal building and the front lot line, generally adjacent to a street, and extending the full width of the lot.
- B. **Rear Yard.** An open space between the rear of a principal building and the rear lot line and extending the full width of the lot.
- C. **Side Yard.** An open space between the side of a principal building and the side lot line extending from the front yard to the rear yard.

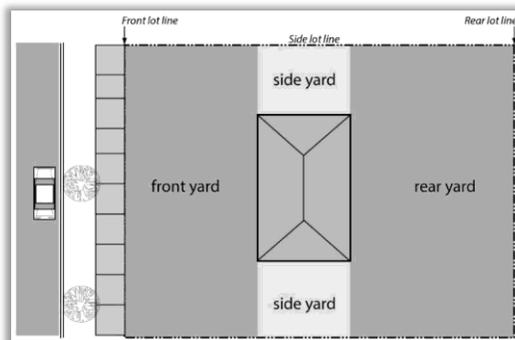


Figure 32-15 Yards

**Yard waste.** Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

**Land Use Definitions**

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**Article  
33**

**City of Kennedale Unified Development Code**

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### Section 33.1 Accessory Uses

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Accessory uses are naturally and normally incidental to, subordinate to, and devoted exclusively to the principal use of the land or buildings located on the same lot.

- A. *Accessory building.* A subordinate building which is incidental to that of the main building on the same lot.
- B. *Garage sales.* The sale, offer for sale, or display for purposes of sale, of surplus personal possessions that is conducted on the premises of a residentially occupied property. The term shall include, but not be limited to, the following items: yard sale, estate sale, craft sale, moving sale, and patio sale.
- C. *Holiday tree and firewood sales.* The temporary retail sales of trees and wood, or similar products.
- D. *Home occupation.* A use that includes any activity that is clearly secondary to a residential use and carried out for economic gain. It is conducted within a dwelling, carried out by its occupants utilizing equipment typically found in a home, and is not evident from the outside.
- E. *Outdoor display, accessory retail sales.* The outdoor placement, storage, or keeping, for display purposes, of equipment, vehicles, trailers and other similar goods for sale on premises.
- F. *Outdoor display, temporary accessory retail sales.* The limited and temporary exhibition, in an area not enclosed by the principal building, of goods, wares, merchandise, or equipment for retail sale, lease, or rental, for the purpose of attracting customers and/or allowing customers to view the goods.
- G. *Outdoor storage, commercial and industrial.* The accessory outdoor placement of goods, such as building or construction materials, equipment, vehicles, trailers and other supplies, for future use, production, storage assembly, preservation, or disposal.
- H. *Residential sales.* The display for sale or lease on any lot, any motor vehicle, boat, or vessel.
- I. *Solar energy equipment.* Collectors and associated equipment built and established for solar energy production and generation. Structurally attached solar energy equipment is attached a roof or wall of a structure, or serving as a structure's roof, wall, window or other structural member. Ground-mounted equipment is not installed and attached on structures or buildings.

### Section 33.2 Accommodations, Hospitality, Entertainment

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- A. *Banquet hall.* A use that provides rental space for such functions as, but not limited to, wedding parties, conferences, service club meetings, and other similar gatherings, along with the catering of food services off the premises.
- B. *Bed and breakfast.* A house, or portion of a house, where short-term lodging rooms and breakfast and light snacks are provided to overnight guests, and where the operator lives on the premises or in adjacent premises.
- C. *Hotel/motel.* A building under single management that provides rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. Other supportive facilities may also be included such as, but not limited to, meeting rooms, incidental retail sales, restaurants, lounges, swimming pools, recreational and fitness facilities, and similar facilities/services intended principally to serve registered guests.
- D. *Micro-brewery.* A facility for manufacturing, bottling, labeling and packaging of beer, ale, or malt liquor, with annual production not exceeding 20,000 gallons.
- E. *Micro-winery, with vineyard.* A winery, with vineyard as defined in this article, with annual production not exceeding 20,000 gallons, in bulk and bottles combined.

- F. *Micro-winery, without vineyard.* A winery, without vineyard as defined in this article, with annual production not exceeding 20,000 gallons, in bulk and bottles combined.
- G. *Nightclub or dance hall.* An establishment operated as a place of entertainment, characterized by any of the following as a principal use of the establishment:
1. Live, recorded or televised entertainment, including but not limited to performances by magicians, musicians, or comedians;
  2. Dancing;
  3. Any combination of (1) and (2) above.
- H. *Private club.* Facilities where food, beverages (including alcoholic beverages), entertainment, or meeting space are provided to members only.
- I. *Recreation facility*
1. *Recreation facility, campground.* A form of lodging where guests bring tents, travel trailers, campers, or other similar forms of shelter to experience natural environments. Campgrounds rent pads or spaces to guests. May also include accessory uses such as a camp store, shower/bathroom facilities, and recreational facilities.
  2. *Recreation facility, commercial indoor.* An establishment providing indoor amusement and entertainment services, often for a fee or admission charge, including, but not limited to: bowling alleys, commercial health and fitness facilities, movie theaters, indoor ice skating and roller skating rinks, pool, billiard rooms, and paintball or survival games as primary uses. Does not include adult-oriented businesses. May include bars and restaurants as accessory uses.
  3. *Recreation facility, commercial indoor- amusement machine establishment.* A business that exhibits one (1) or more amusement machines that are used, or capable of being used or operated, for amusement, pleasure, or skill.
  4. *Recreation facility, commercial indoor- pool or billiards hall.* A business with pool and/or billiards equipment intended for public gaming and entertainment.
  5. *Recreation facility, commercial indoor- gun shooting range.* A facility designed, built, and used for the indoor discharge of firearms and target practice, including accessory retail and service use.
  6. *Recreation facility, commercial indoor- paintball or other survival games.* A business with indoor facilities for public gaming and entertainment that includes, but is not limited to, paintball guns and equipment, obstacle courses, and indoor game fields.
  7. *Recreation facility, commercial outdoor.* A facility for outdoor recreational activities where a fee is often charged for use. Examples include, but are not limited to, amusement and theme parks; go-cart tracks; golf driving ranges; miniature golf courses; marinas; watercraft rentals; and water parks. May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc. Marinas may include marine-related retail (bait and tackle, boat supplies), fuel sales, minor boat repair, and boat storage. This use does not include golf courses or campgrounds.
  8. *Recreation facility, commercial outdoor- paintball or other survival games.* A business with outdoor facilities for public gaming and entertainment that includes, but is not limited to, paintball guns and equipment, obstacle courses, and game fields.
  9. *Recreation facility, community based.* A community recreation center that may include one (1) or more of the following: gymnasium; indoor swimming pool; indoor tennis, racquetball, and/or handball courts, and other indoor sports activities. This use includes all not-for-profit organizations chartered to provide

community-based recreation services. Does not include commercial health/fitness facilities, which are included under "recreation facility, commercial indoor."

10. *Recreation facility, driving range.* An outdoor facility equipped with distance markers, clubs, balls, and tees for practicing golf shots.
  11. *Recreation facility, golf course.* A use consisting of regulation and par 3 golf courses having nine (9) or more holes, and accessory facilities and uses, including driving ranges, clubhouses with bar and restaurant; locker and shower facilities; "pro shops" for on-site sales of golfing equipment and clothing; and golf cart storage facilities.
  12. *Recreation facility, recreational vehicle park.* A site designed, arranged, or used for the purpose of locating two (2) or more recreational vehicles for temporary living quarters for recreational, travel, or vacation purposes. A recreational vehicle park may include a section of a manufactured home park that is specifically designed, constructed, equipped, and restricted for use by recreational vehicles.
  13. *Recreation Facility, rodeo ground and arena.* A facility for competition, exhibition, or demonstration involving persons, equines and/or bovines in which participants display various skills in one (1) or more events such as, but not limited to, bareback riding, saddle bronco riding, steer wrestling, roping, team roping, tie-down roping, barrel racing, bull riding, or similar events.
  14. *Recreation facility, vehicular racing.* A track or course laid out or designed for competitive racing of self-propelled vehicles whether or not required to be registered or licensed under the laws of the State of Texas. Vehicles may not be salvaged, dismantled, or repaired except for adjustments as may be required to effectively compete.
- J. *Restaurant.* A business establishment whose method of operation involves either the delivery of prepared food by servers to customers seated at indoor or outdoor areas, or prepared food is acquired by customers at a counter or cafeteria line and consumed at tables within a completely enclosed building, but does not include drive-through services, which are separately defined and regulated. Service of alcoholic beverages by the drink is incidental to the service of food and food receipts exceed 50 percent of sales.
1. *Restaurant with drive-through.* A business establishment whose method of operation involves the delivery of prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises. A drive-through restaurant may also have indoor or outdoor seating.
  2. *Restaurant with micro-brewery.* A restaurant that serves and brews handcrafted, natural beer intended for retail consumption on the premises and on any premises that has a license as a standard full-service restaurant owned and operated in its entirety by the same corporate ownership and management.
  3. *Restaurant with outdoor dining or service.* A restaurant with seating on a sidewalk, patio, deck or other on-site outdoor location.
- K. *Tavern.* A commercial establishment licensed to sell at retail and serve beer, wine, liquor or other alcoholic beverages for consumption on the premises and where the service of food is incidental to the sales and consumption of such beverages. Taverns include nightclubs, lounges and bars.
- L. *Theater.* A building or part of a building use to show motion pictures or a facility used for drama, dance, musicals or other live performances.

### Section 33.3 Agriculture

- A. *Agricultural operation or farm.* The use of land to produce plant or animal products, such as the growing of crops, raising and pasturing of livestock, or farming. It does not include the processing of plant or animal products after harvesting or the production of timber or forest products. Also includes farms, or areas of

two (2) acres or more that is used for the growing of farm products such as vegetables, hay, and grain as well as raising thereon of the usual farm poultry and farm animals such as horses, mules, cattle, sheep, and swine. The area considered for a farm shall exclude any area occupied by a primary residential structure and any area within 50 feet of the primary residential structure. Commercial composting is not included in this category.

- B. *Agribusiness and feed store.* A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals (but not including slaughtering, rendering or tanning); veterinarian and/or technical support facilities, and may sell animal feed; feeding troughs; animal cages, pens, and gates; fencing materials; pesticides; seeds; and other gardening farming, and ranching supplies.
- C. *Agritourism.* Public visitation of an agricultural use, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation. Agritourism is an accessory use to a principal agricultural use.
- D. *Farmers market.* A building or structure designed or used for the seasonal sale of farm or home grown agricultural products, or agriculturally related products, directly to the consumer from a designated area, that includes two (2) or more stands or stalls that are owned, leased, or rented for the display or vending of fruit, vegetables, and other garden or farm crop.
- E. *Greenhouse and nursery, commercial.* A retail or wholesale business whose principal activity is the display and sales of plants grown on the site within an enclosed building (greenhouse) or outdoors (nursery).
- F. *Hobby farm.* The non-commercial keeping of livestock and animals on residential property.
- G. *Roadside (produce) stand.* An accessory structure for the seasonal retail sale of products grown on the site only, with no space for customers within the structure itself.
- H. *Stables, private.* An accessory building used by the residents of the premises for sheltering and quartering of horses owned by the occupant and for which no fee is charged for stabling the horses.
- I. *Stables, public/commercial.* A structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training equines may also be conducted.
- J. *Winery, with vineyard.* A facility as defined by winery, without vineyard, except that the facility shall also be located on the site of a working vineyard and under the same ownership and operation as the onsite vineyard.

### Section 33.4 Industrial

- A. *Impounded vehicle storage facility.* A garage, parking lot or other type of facility used exclusively for the temporary parking and storage of impounded operable or inoperable motor vehicles. An impounded vehicle storage facility does not include a junkyard or an automotive wrecking and salvage yard pursuant to V.T.C.A., Transportation Code § 396.001.
- B. *Landfill.* An area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the Texas Natural Resource Conservation Commission).
- C. *Manufacturing, processing, and packaging*
  - 1. *Manufacturing, processing, and packaging – light.* A facility accommodating manufacturing processes involving less intense levels of fabrication and/or production such as the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on

surrounding land uses or the community. The premises may include secondary retail or wholesale sales. Examples of light manufacturing uses include: artisan / craft product manufacturing; clothing and fabric product manufacturing; furniture and fixtures manufacturing, cabinet shop, media production, photo/film processing lab not accessory to a retail business, printing & publishing, food preparation and packaging, brewery. This definition excludes all uses classified as “heavy” and all uses specifically excluded within that classification.

2. *Manufacturing, processing, and packaging – heavy.* A facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. This definition does not include:
  - a. Ammonia manufacturing.
  - b. Bleach manufacturing.
  - c. Chemical storage or manufacturing.
  - d. Chlorine manufacturing.
  - e. Creosote manufacturing.
  - f. Envelope manufacturing.
  - g. Fertilizer manufacturing.
  - h. Fiberglass manufacturing.
  - i. Fireworks manufacturing.
  - j. Garment manufacturing.
  - k. Gypsum manufacturing.
  - l. Incinerator.
  - m. Insecticide processing.
  - n. Laundry plant.
  - o. Marble manufacturing.
  - p. Mattress manufacturing.
  - q. Meat, poultry & fish processing.
  - r. Paint manufacturing.
  - s. Paper mill.
  - t. Paper products manufacturing.
  - u. Pesticide processing.
  - v. Petroleum refinery or storage.
  - w. Recycling processing plant.
  - x. Rendering plant.
  - y. Rock crushing plant.
  - z. Smelter plant.

- aa. Tire manufacturing.
  - bb. Tire recapping plant.
- D. *Mining and mineral extraction operation.* An establishment that extracts, removes, or stockpiles naturally occurring earth materials, including soil, sand, gravel, coal, or other materials found in the earth, and including the excavation of materials for ponds or lakes. Such activities incidental to an approved plat or excavation permit, incidental to construction with a building permit, or for governmental or utility construction projects such as streets, alleys, drainage, gas, electrical, water, and telephone facilities and similar projects, or the extraction, removal, or stockpiling of earth materials incidental to construction of landscaping, retaining walls, fences, and similar activities consistent with the land use allowed at the site of removal, or gas drilling and production are not considered mining or extraction operations under this definition.
- E. *Outdoor storage, commercial and industrial.* The outdoor placement of goods, such as building or construction materials, equipment, vehicles, trailers and other supplies, for future use, production, storage assembly, preservation, or disposal.
- F. *Salvage operations.* Any land or structure used for storing, dismantling, reconditioning, collecting, purchasing or selling of scrap metal or other discarded goods and materials, including the collection, dismantlement and salvage of three (3) or more inoperative vehicles, boats, travel trailers, recreational vehicles, trucks, or other types of machinery or equipment.
- G. *Warehousing.* Facilities for the storage of furniture, household goods, or other commercial goods of any nature. May include an outdoor storage component, provided, the outdoor storage is not the primary use. Does not include mini-storage facilities offered for rent or lease to the general public (see "mini-warehouse/self-storage") or warehouse facilities primarily used for wholesaling and distribution (see "wholesaling and distribution").
- H. *Wholesaling and distribution.* An establishment engaged in selling merchandise in bulk quantities to retailers; to contractors, industrial, commercial, agricultural, institutional, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Does not include petroleum products (wholesale).
- I. *Mini-warehouse/self-storage.* A building or group of buildings in a controlled access and/or fenced compound that contains varying sizes of individualized, compartmentalized and controlled access rooms, stalls or lockers for the storage of customer's goods or wares. Units exceeding 5,000 square feet are not considered mini-warehouse/self-storage facilities.
- J. *Winery, without vineyard.* A facility, without an onsite vineyard, used for manufacturing, bottling, labeling and packaging of wine containing not more than 24 percent alcohol by volume from grapes, fruits and berries, and to include the manufacturing and importation of grape brandy for fortifying purposes only, and Winery, without vineyard further means a business that holds a winery permit from the State of Texas and that may engage in any activity authorized under Texas Alcoholic Beverage Code § 16.01. A winery may include the following accessory uses: A tasting room to dispense wine for on premise consumption, meeting/banquet facilities, restaurants and retail sales area of wine for off-premise consumption, subject to all other sections of the City Code regulating such uses.

### **Section 33.5      Infrastructure, Transportation, Communications**

This category encompasses land uses that provide the underlying infrastructure, utilities, and systems that allow a community to function.

- A. *Airport.* Any areas of land arranged and developed for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft and accommodation of passengers,

receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way. An airport may also include a heliport, an area used by helicopters or by other steep-gradient aircraft.

- B. *Airstrip*. A runway without normal airport facilities.
- C. *Bus terminal*. A facility for the transient housing or parking of buses and the loading and unloading of passengers.
- D. *Essential services*. The erection, construction, alteration, or maintenance by a public utility, or municipal department, of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water, transmission, distribution collection, supply, or disposal systems. This includes related poles, wires, pipes, conduit, cables, public safety alarm and communication equipment, traffic signals, hydrants and similar accessories that are necessary to furnish adequate service, addressing general public health, safety, convenience, or welfare. These do not include wireless telecommunication towers (unless located on public property and used as part of a municipal emergency communications network); wind energy conversion systems (WECS); offices, utility buildings, substations, or structures that are enclosures or shelters for service equipment; or maintenance depots.
- E. *Drilling and production of oil and gas*. The exploring, drilling, developing, producing, transporting, and storing of oil or gas and other substances produced in association with oil or gas.
- F. *Freight terminal, railroad*. A property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by rail, including the necessary warehouse space for storage of transitory freight,
- G. *Freight terminal, trucking*. A property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by motor truck, including the necessary warehouse space for storage of transitory freight.
- H. *Gathering and compression station*. The site where the gathering and production lines for wells converge, and that may contain equipment used for the production of gas, including, but not limited to, separator tanks, metering stations, pipelines, and compressors.
- I. *Helicopter landing pad*. A designated area on a roof or on the ground used by helicopters or steep-gradient aircraft for the purpose of picking up and discharging of passengers or cargo.
- J. *Infrastructure and utilities: regional*. Utility facilities that provide citywide or regional service. Examples include public utility substations, water wells, water towers, waste treatment plants, and electrical substations.
- K. *Parking facility, public or commercial*. A public or commercial parking lot or structure providing parking either for free or for a fee. Does not include towing impound and storage facilities.
- L. *Satellite transmission antenna*. A satellite antenna that enables the transmission of signals, and includes both satellite transmission-only antennas and satellite antennas that both transmit and receive.
- M. *Waste management facility*. A site used for collecting waste and recyclables, sorting and transferring materials, but not including recycling processing plants.
- N. *Wind energy turbine (WET)*. A structure-mounted or tower-mounted system that converts wind energy into electricity through the use of specialized equipment and structures.
- O. *Wireless communications*. All facilities, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including towers, alternative tower structures, antennas and accessory structures. (Not included are facilities for citizen band radio; short wave radio; ham and amateur radio; television reception antennae; satellite dishes; and government facilities, which are subject to state and federal law). Wireless communication facilities shall be specifically excluded from the definitions of

"essential services."

1. *Wireless communications facility.* The plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennas, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireless communications services.
2. *Wireless communication tower.* Any structure, such as a mast, pole, monopole, guyed tower, or lattice tower that is designed and constructed primarily for supporting one (1) or more antennas.

### Section 33.6 Institutional/Civic

This category includes not-for-profit and for-profit recreation, education, safety, and public assembly functions that benefit the citizens of the community used or operated by government, quasi-governmental and service organizations.

- A. *Cemetery.* Land used or intended to be used for the burial of the dead humans, including mausoleums and mortuaries.
- B. *Community oriented cultural facility.* A public or non-profit facility that provides educational and cultural experiences for the general public, examples of which include: aquariums, arboretums, art galleries, botanical gardens, libraries, museums, planetariums, civic centers, and theaters predominantly used for live performances, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.
- C. *Community public safety.* A public safety facility operated by a public agency including fire stations, other fire preventive and firefighting facilities, police and sheriff substations and headquarters, including interim holding facilities. May include ambulance dispatch on the same site.
- D. *Community public safety- prison or penitentiary.* A public safety facility for imprisonment, reformatory discipline, or punishment, maintained by federal, state, or local authorities, for law offenders.
- E. *Governmental facility.* Buildings, structures, and facilities that may include administrative offices, public works services, libraries, museums, cemeteries, recreational centers, and storage areas for public equipment and materials for local, county, state, and federal public agencies.
- F. *Meeting facility.* A facility for public or private meetings, including community centers, meeting halls for clubs and other membership organizations, etc.
- G. *Parks, playgrounds, outdoor recreation areas.* An outdoor recreation facility that may provide a variety of recreational opportunities including playground equipment, playing fields, outdoor tennis and basketball courts, outdoor swimming pools, boat ramps, and fishing piers, and areas for passive recreation such as hiking trails, picnic areas and bird blinds.
- H. *Place of worship.* A building, structure, or group of buildings or structures that, by design and construction, are primarily intended for conducting organized religious worship services. Associated accessory uses include, but are not limited to, classrooms, meeting halls, indoor and outdoor recreational facilities, day care, counseling, and kitchens.
- I. *School, college or university.* A facility for post-secondary education that grants associates, bachelors, masters, or doctoral degrees, and may include research functions. Includes professional schools (law, medicine, etc.) and technical colleges.
- J. *School, elementary, middle and high school.* A public or private academic educational institution, including elementary, middle and junior high schools, secondary, and high schools, and facilities that provide any combination of those levels. Schools may also provide room and board.
- K. *School, nursery or kindergarten.* Any facility, whether known or incorporated under such descriptive title

or name as "child play school," "child development center," "early childhood center," "pre-school" and the like, where six (6) or more children are left for care, training, or education during the day or portion of the day and a fee is charged for this service.

- L. *School, specialized training.* Small-scale facilities that provide individual and group instruction, education and/or training, including tutoring and vocational training in limited subjects, including, but not limited to: the arts, dance, photography, martial arts training, gymnastics instruction, production studios for individual musicians, painters, sculptors, photographers, and other artists, business and vocational schools, and driver education schools.

### Section 33.7 Offices and Services

Activities, without outdoor storage needs, that are primarily oriented towards office and service functions.

- A. *Animal services, animal clinic / hospital.* An establishment used by a veterinarian where animals are treated. This use may include boarding and grooming as accessory uses.
- B. *Animal services, commercial kennel.* A commercial facility for the boarding, breeding, and/or maintaining of animals for a fee that are not owned by the operator. This use includes pet day care facilities, animal training facilities, and may include grooming as an accessory use. This use includes the breeding of animals in outdoor structures, cages or pens for sale, but does not include animals for sale in pet shops (see "general retail").
- C. *Animal services, shelter or rescue.* A facility that keeps four (4) or more impounded stray, homeless, abandoned, or unwanted animals.
- D. *Body branding, piercing and tattoo facilities.* An establishment whose principal business is the one (1) or more of the following: any invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means; creation of an opening in the body for the purpose of inserting jewelry or other decorations (not including ear piercing); and/or placing designs, letters, figures, symbols or other marks upon or under the skin of any person using ink or other permanent coloration.
- E. *Child care center.* A facility other than a private residence that provides care or supervision for children who are not related by blood, marriage, or adoption to the owner or operator of the facility for less than 24 hours a day for more than 12 children under the age of 14, whether or not the facility is operated for profit or charges for the services it offers. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program or drop-in center.
- F. *Crematorium.* A facility consisting of one (1) or more cremator furnaces or cremation retorts for the ashes.
- G. *General offices and services*
  - 1. *General offices and services, alternative financial establishments.* A check cashing business, payday advance or loan business, money transfer business or car title loan business.
  - 2. *General offices and services, bail bond establishment.* The use of a site by a licensed bail bond surety to provide bail bond services regulated by Texas Occupations Code Chapter 1704. The use does not include bail bond services that are provided by an attorney and that are exempt from the state licensure requirement under Texas Occupations Code Section 1704.163.
  - 3. *General offices and services, bank/financial services.* Financial institutions, including, but not limited to: banks, credit agencies, investment companies, security and commodity exchanges, ATM facilities.
  - 4. *General offices and services, business services.* Establishments providing direct services to

consumers, including, but not limited to: employment agencies, insurance agent offices, real estate offices, travel agencies, landscaping and tree removal companies, exterminators, carpet cleaners, and contractors' offices without exterior storage.

5. *General offices and services, business support services.* Establishments providing services to other businesses, including, but not limited to: computer rental and repair, copying, quick printing, mailing and mailbox services.
6. *General offices and services, construction and building services.* A business related to heating and air conditioning service, building construction, electrical service, landscaping service, plumbing service, utility service, and other similar services, that includes indoor or outdoor storage of materials, tools, products and vehicles used in operations.
7. *General offices and services, gunsmith and sales.* A retail establishment that sells, exchanges, transfers and services firearms.
8. *General offices and services, personal services.* Establishments providing non-medical services to individuals, including, but not limited to: barber and beauty shops, dry cleaners, small appliance repair, laundromats, massage therapists, pet grooming with no boarding, shoe repair shops, tanning salons and funeral homes (not including crematory services). These uses may include incidental retail sales related to the services they provide.
9. *General offices and services, professional and administrative services.* Office-type facilities occupied by businesses or agencies that provide professional or government services, or are engaged in the production of intellectual property.
10. *General offices and services: with a drive through facility.* Facilities where services may be obtained by motorists without leaving their vehicles. Examples of drive-through services include bank teller windows and drive-up ATMs, dry cleaners, etc.

H. *Medical services, clinics and medical offices*

1. *Clinic.* Facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include medical offices with five (5) or more licensed practitioners and/or medical specialties, outpatient care facilities, urgent care facilities, other allied health services. These facilities may also include incidental medical laboratories and/or pharmacies. Counseling services by other than medical doctors or psychiatrists are included under "professional and administrative services."
  2. *Medical office.* A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates no more than four (4) licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists, etc., other than nursing staff) within an individual office suite. A facility with five (5) or more licensed practitioners is classified under "clinic." Counseling services by other than medical doctors or psychiatrists are included under "professional and administrative services."
  3. *Hospital.* An institution licensed by the State, where people, including inpatients, receive medical, surgical or psychiatric treatment and nursing care.
- I. *Vehicle repair, major.* The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning. Major vehicle repair also includes vehicle inspection stations, which are facilities licensed by the Texas Department of Public Safety to inspect vehicles registered in Texas to ensure compliance and safety standards.
- J. *Vehicle repair, minor.* A building or premises used primarily to provide general maintenance on automobiles such as oil changes and lubrication; servicing and repair of spark plugs, batteries, pumps, belts, hoses, air filters, windshield wipers and distributors; replacement of mufflers and exhaust systems,

brakes and shock absorbers; radiator cleaning and flushing; sale and installation of automobile accessories such as tires, radios and air conditioners; wheel alignment and balancing; but, excluding tire recapping or grooving or any major mechanical repairs, collision work or painting.

- K. *Vehicle wash*. A building or portion of a building with machine or hand- operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.
- L. *Vehicle wash, trucks*. A building or portion of a building with machine or hand- operated facilities used principally for the cleaning, washing, polishing, or waxing of trucks and heavy equipment.

### Section 33.8 Residential

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#### A. *Day care*.

1. *Day care, child day care home*. A facility, sometimes referred to as a "registered family home," that regularly provides care in the caretaker's own residence for not more than six (6) children under the age of fourteen (14) years of age, excluding the caretaker's own children. When more than six (6) children are kept in the home, it shall be considered as either a "group day care home" or "child care center."
2. *Day care, group day care home*. A facility that regularly provides care in the caretaker's own residence for seven (7) to 12 children under the age of 14 years of age, excluding the caretaker's own children.

#### B. *Dwelling*.

1. *Dwelling, attached accessory*. An attached dwelling subordinate to the principal single-family dwelling that contains an independent living area, including sleeping quarters, a bathroom, living area and kitchen facilities, but can be internally accessed through the principal dwelling. The inclusion of a secondary kitchen or kitchenette within the principal dwelling does not alone result in classification as an attached accessory dwelling unit.
2. *Dwelling, detached accessory*. An attached dwelling subordinate to the principal single-family dwelling that contains an independent living area, including sleeping quarters, a bathroom, living area and kitchen facilities, but can be internally accessed through the principal dwelling. The inclusion of a secondary kitchen or kitchenette within the principal dwelling does not alone result in classification as an attached accessory dwelling unit.
3. *Dwelling, multi-family*. A structure containing three (3) or more dwelling units on a single lot designed for occupancy by three (3) or more families living independently of one another.
4. *Dwelling, single-family*. A freestanding dwelling unit that is physically separate from any other dwelling that is designed for or occupied as a home or residence by not more than one (1) family.
5. *Dwelling, single-family attached*. A structure containing three (3) or more dwelling units, but each unit is located on a single lot and connected along a property line to the another dwelling units on an adjoining lot by a common wall or other integral part of the principal building. Examples include townhouses, row houses, and multi-plexes.
6. *Dwelling, temporary*. A manufactured home or recreational vehicle that may be permitted for a limited time and that may be subject to specific requirements or restrictions.
7. *Dwelling, two-family*. A structure containing two dwelling units on a single lot designed for or used by two (2) families living independently of one another, and may also be referred to as a duplex.

#### C. *Group Housing*.

1. *Group housing, adult group home*. A residential facility licensed by the Texas Department of Human

Resources to house up to six (6) handicapped and/or mentally retarded persons and two (2) supervisors.

2. *Group housing, boarding (rooming) house.* A dwelling wherein lodging or meals for three (3) or more persons, not members of the principal family therein, is provided for compensation, but not including a building in which 10 or more guest rooms are provided.
  3. *Group housing, convalescent or nursing home.* A facility licensed as a "nursing home." A "nursing home" shall include an extended care facility and hospice, or a facility used for or customarily occupied by persons recovering from illness or suffering from infirmities of age.
  4. *Group Housing, fraternity or sorority home.* A building used as group housing quarters for students of a college, university or seminary who are members of a fraternity or sorority that has been officially recognized by the college, university or seminary.
  5. *Group housing, halfway house.* A residential facility providing shelter, supervision and residential rehabilitative services for persons who have been inmates of any county, state or federal correctional institution and released and require a group setting to facilitate the transition to a functional member of society.
  6. *Group housing, independent and assisted living.* A building or buildings containing individual dwelling units designed for and restricted to occupancy by persons of a specified age who are retired or are nearing retirement and wish to live in a community environment, but do not require nursing or medical supervision. Group dining facilities and non-medical personal care services may also be provided. Such housing does not include a nursing or convalescent home.
- D. *Manufactured home community.* A single parcel of land that contains two (2) or more manufactured homes for use as dwelling units where home sites are leased to individuals who retain customary leasehold rights. A manufactured home park may include a section that is specifically designed, constructed, equipped, and restricted for use by recreational vehicles.

### Section 33.9      Retail

A business having as its primary function the selling of goods, wares or merchandise directly to the ultimate consumer. Rental and service of the products is of an ancillary or incidental nature.

- A. *Bakery, retail.* An establishment that produces bakery goods and various confectionery items, such as rolls, bread, etc. for direct sale to the consumer.
- B. *General retail (indoor).* Stores and shops that sell and/or rent goods and merchandise to the general public.
- C. *General retail (outdoor).* A retail sales establishment operated substantially in the open air including, but not limited to flea markets, monument sales, beach recreation rentals, and the like. Does not include vehicle sales and rental, agricultural equipment sales and rental, plant nurseries, or roadside stands and farmers markets.
- D. *General retail, alcohol sales.* Establishments, except nightclubs and restaurants as defined, engaged in selling beer, wine, or other alcoholic beverages for where more than 75 percent of sales is derived from the sale of such beverages for off-premise consumption. Temporary retail sales of alcohol associated with special events and events held on city-owned property are exempt from this definition.
- E. *General retail, auto parts.* A retail establishment in which auto parts are the primary goods, wares and merchandise sold to the consumer.
- F. *General retail, pawnshop.* A retail establishment that is also engaged in the business of lending money on the security of pledged goods or purchasing goods on condition that the goods may be redeemed or

repurchased by the seller for a fixed price within a fixed period.

- G. *General retail with a drive through facility.* Stores and shops where products may be purchased by motorists without leaving their vehicles.
- H. *Liquefied petroleum gas (LPG) sales.* An establishment providing LPG dispensing and bulk containers for sale.
- I. *Service station.* An establishment where motor vehicle fuel is dispensed for retail sale. This use may also collectively include minor vehicle repair services (see vehicle repair, minor); retail sales of convenience items (see general retail- indoor), restaurant (see restaurant and restaurant with drive-through) and a single bay vehicle wash (see vehicle wash), but not overnight vehicle storage.
- J. *Vehicle sales and rental: automobiles, light trucks, boats.* A retail or wholesale establishment selling and/or renting automobiles, light trucks (less than 2-ton load capacity), vans, trailers, boats, and/or any other motorized or non-motorized vehicles (e.g. scooters, jet skis, golf carts, motorcycles) that includes outdoor display. May also include repair shops and the sales of parts and accessories incidental to vehicle dealerships. Does not include businesses dealing exclusively in selling used parts, auto wrecking and/or salvage (see "salvage operations"); the sale of auto parts/accessories separate from a vehicle dealership (see "general retail"); or service stations (see "service stations").
- K. *Vehicle sales and rental: heavy equipment/tools, heavy trucks, RVs, mobile homes.* A retail or wholesale establishment selling and/or renting heavy equipment and/or trucks, RVs, or mobile homes. May also include accessory repair shops.

### Section 33.10 Other

- A. *Similar uses.* See Section 2.7.
- B. *Sexually oriented business.* Any of the following uses, provided, "massage parlor" shall not include a spa, medical facility, athletic club or similar business where physical therapy and/or massages are offered by a massage therapist licensed to practice in the State of Texas:
  - 1. *Adult arcade.* Any place to which the public is permitted or invited wherein coin-operated, token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.
  - 2. *Adult bookstore, adult novelty store, or adult video store.* A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration, any one (1) or more of the following:
    - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, discs, or other video reproduction, slides, or other visual representations which are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or
    - b. Instruments, devices or paraphernalia that are designed for use in connection with "specified sexual activities."
  - 3. *Adult cabaret.* A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
    - a. Persons who appear live in a state of nudity or semi-nudity; or

- b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
  - c. Films, motion pictures, video cassettes or discs, slides or other video or photographic reproductions which are distinguished or characterized by the depiction of "specified sexual activities" or "specified anatomical areas."
4. *Adult motel.* A hotel, motel or similar commercial establishment which:
- a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproduction; or
  - b. Regularly offers a sleeping room for rent for a period of time that is less than 10 hours;
  - c. Regularly allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
5. *Adult motion picture theater.* A commercial establishment where, for any form of consideration, films, motion pictures, videos, slides, or other similar photographic reproduction are regularly shown which are consistently distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
6. *Adult novelty store.* A commercial establishment which as one (1) of its business purposes offers for sale or rental for any form of consideration any one (1) or more of the following:
- a. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, objects, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
  - b. Instruments, devices, or paraphernalia that are designed or manufactured for use in connection with specified sexual activities. This does not include items used for birth control or for prevention of sexually transmitted diseases.
7. *Adult service establishment.* A commercial establishment that offers services or sells products to customers and in which one (1) or more of the employees or the customer appears in a state of nudity or simulated nudity.
8. *Massage parlor.* An establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating, or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means or preparations to provide relaxation or enjoyment to the recipient.
- C. *Temporary construction office.* An office, typically mobile, established at a permitted construction site to accommodate personnel. A location for outdoor storage of materials and equipment is commonly associated with the use.
- D. *Temporary sales office.* An office, either mobile or located in a model home, used to accommodate real estate agents and associated administrative staff for the purposes of selling or renting real property in subdivisions or other housing developments.
- E. *Temporary use or special event.* A use or special event that is not of a permanent nature.

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