

ORDINANCE NO. 2021-05

AN ORDINANCE OF THE PORT ARANSAS CITY COUNCIL AMENDING THE CODE OF ORDINANCES CHAPTER 25 “ZONING”, BY CORRECTING GRAMMATICAL ERRORS; AMENDING ARTICLE IV. “SUPPLEMENTAL DISTRICT DEVELOPMENT AND USE REGULATIONS” BY AMENDING SECTION 25-147 “LOT AREA AND DENSITY REQUIREMENTS”, SECTION 25-153 – “HEIGHT AND ADDITIONAL SIDE YARD REQUIREMENTS FOR MULTISTORY BUILDINGS AND STRUCTURES”, SECTION 25-155 – “MOBILE HOMES”, SECTION 25-161 – “NUMBER OF OFF-STREET PARKING SPACES REQUIRED”, DIVISION 5. “ACCESSORY DWELLING UNITS (ADU)”, SECTION 25-176 “GENERAL REQUIREMENTS”; AMENDING ARTICLE VI. “PLANNED UNIT DEVELOPMENTS”, SECTION 25-257 – “LOCATION”; AMENDING ARTICLE XIII “MULTI-FAMILY DEVELOPMENT SUMMARY CHART”; AND PROVIDING FOR SEVERANCE, READING, PENALTY, AND EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ARANSAS, TEXAS:

SECTION 1. AMENDMENT

That Chapter 25 “Zoning” is hereby amended to wit:

ARTICLE I. - IN GENERAL

Sec. 25-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory dwelling unit, a secondary dwelling unit, either in, added to, or detached from an existing single-family residence, for use as a complete, independent living, dwelling unit.

Accessory use or building means a use or building which is customarily and clearly incidental and secondary in aspects such as size, scale, and use, but is consistent with the main use to which the property is put.

Administrator shall be the city manager or his designated appointee.

Bar means a facility for the purchase and consumption of alcoholic beverages on premises and includes taverns, saloons, lounges, pubs.

Bed and breakfast means a house located in a short-term rental district, where no more than five (5) rooms or ten (10) guests are provided for short-term lodging, and where breakfast-only meals are provided but limited to the bed and breakfast's overnight guests.

Bedroom. See "sleeping room."

Bedroom unit is any room in a dwelling unit in which fixtures or furnishings are provided for sleeping. This shall not be interpreted to include a room in which furniture such as fold-down beds or convertible couches are provided on a permanent basis for regular accommodation of residents, temporary or otherwise.

Commercial use or establishment is an establishment or use offering for sale, rent or lease any type of consumer goods or services on a retail/wholesale basis.

Condominium means a real estate project, a plan or development created and governed under V.T.C.A., Property Code, ch. 81 and/or ch. 82, as a condominium regime or project.

Density is the quantity or number of units per ground area.

District is a section of the city for which regulations governing use of land and buildings are uniform.

Duplex (two-family dwelling) means a residential building containing two (2) dwelling units under a single roof and situated on a single lot.

Dwelling unit means one (1) room, or rooms within the same structure connected together, constituting a separate, independent housekeeping establishment containing living, kitchen, sleeping, and sanitation facilities, and physically separated from any other rooms or dwelling units which may be in the same structure.

Full shielded light fixtures means light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test as defined by the Illuminating Engineering Society of North America (IESNA), the bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a "full cut-off fixture."

Green space means open land area upon which there is no impermeable surface. Green space includes, by way of illustration and not limitation, land area which is bare, or planted in grass, bushes, trees, shrubs, flowers, ivies, cactus, or other living plant life, landscaped with rocks or gravel, xeriscaped, or sodded, and it may include ponds, provided the pond or ponds do not exceed twenty-five (25) percent of the required green space. No area which is impermeably surfaced may be included as part of green space, including, by way of illustration and not limitation, walk-ways, parking areas or drives, streets, roads, driveways, buildings, a gazebo with a bare ground floor but roof designed to shed water, etc.

Height is the vertical distance of a building, excluding chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio towers, ornamental cupolas, domes or spires and parapet walls not exceeding four (4) feet in height, measured from the average building site elevation to: the highest point of the roof's surface is a flat surface; or to the deck line of mansard roofs; or to the mean height level between eaves and ridge for hip and gable roofs.

High rise building means a multi family dwelling which consists of four (4) or more liveable stories.

Home occupation is an occupation or profession which meets the following requirements: it is carried on inside and is limited to a building used as a residence; the activity is clearly

incidental and secondary to the dwelling use; it is carried on by a person who lives on the premises; not more than one (1) person not residing on the premises may be engaged in the activity; no commodity may be sold at retail on the premises; no advertising signs or displays visible from outside the premises shall be allowed, except one (1) painted or printed, non-electrified, sign, not exceeding four (4) square feet in surface area and which must be affixed to a wall of the building; off-street parking must be provided; the business shall not generate any substantial volume of vehicular or pedestrian traffic; except for the single permitted sign, there shall be no indication visible from outside the premises that the premises is other than a residential dwelling; no equipment shall be used which creates noise, vibrations, smoke, heat, dust, glare, odors, electrical interference which is offensive to persons with ordinary sensibility in the neighborhood; it is limited to occupations such as art studios, professional offices such as those of a doctor, physician, dentist, lawyer, engineer, architect, accountant, real estate agent, barber shops, beauty parlors, massage therapy, physical therapy, or insurance agent, and teaching the playing of musical instruments, provided there are no more than two (2) pupils taught at the same time. The following are examples of occupations which may not be home occupations: commercial auto or boat repair, restaurants, businesses involving retail sales on premises, engine repair, and tattoo shops.

HUD-Code manufactured home means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. Section 3283.8(g) or as otherwise defined by V.A.T.S., Article 5221f, as now written and as hereafter amended.

Impermeable surface means a material laid over the ground through which water does not readily permeate, and includes, by way of illustration and not limitation, concrete, asphalt, caliche, wood and similar materials.

Long term rental means rentals in which the duration of occupancy is equal to or greater than thirty (30) days.

Lot means land occupied or to be occupied by a building and its accessory building and including such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved place. In addition, as to lots and lots lines:

- (1) Lot, corner means a lot situated at the intersection of two (2) streets.
- (2) Lot line, front shall be the line which runs along the width of the lot. On irregularly shaped lots, the front lot line shall be the line which runs parallel to the street right-of-way line.
- (3) Lot line, rear means any lot line not a front or a side lot line.
- (4) Lot line, side shall be the line which runs along the depth of the lot. The side lot on corner lots shall be on the street which runs along the depth of the lot.

Low rise building means a multifamily dwelling which consists of no more than three (3) liveable stories.

Low voltage lighting means lighting of forty-eight (48) volts or less.

Luminaire means a complete lighting system including a lamp or lamps and a fixture.

Manufactured housing or manufactured home means a HUD-Code manufactured home or a mobile home and collectively means and refers to both or as otherwise defined by V.A.T.S., Article 5221f as now written and as hereafter amended.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems or as otherwise defined by V.A.T.S., Article 5221f as now written and as hereafter amended.

Motel-hotel means any establishment whose primary function is to provide a bedroom unit for patrons on a transient, temporary rental basis. Motel-hotel as used herein shall include any structure which meets this definition, regardless of the number of living or dwelling units or rooms contained within the structure.

Multifamily means a single lot containing two (2) or more dwelling units in either attached or detached structures. It may consist of detached single-family dwellings, duplexes, multifamily structures, apartments, townhomes, and condominiums.

Multi-story building means a building higher than a ground floor and two (2) other stories.

Multifamily structure or dwelling means a building containing two (2) or more dwelling units under a single roof.

Off-site parking means an area for the parking of a motor vehicle in which the parking space is located outside of a lots boundary for which the parking space is required.

Off-street (on site) parking means an area for the parking of a motor vehicle in which the parking space is located entirely within a lots boundary for which the parking space is required.

On-street parking means an area for the parking of a motor vehicle in which the parking space is located within the boundaries of a public or private right-of-way.

Open spaces means open land areas reserved in perpetuity of bare or planted ground without any building, vehicle roadways or parking areas thereon, provided that swimming pools, tennis courts, and similar recreational areas can be considered open space. The term open space shall include, up to defined limits, bodies of water owned or under riparian rights of the appropriate property owner.

Parking space means an area nine (9) feet wide by eighteen (18) feet in length for the parking of a motor vehicle.

Riparian right means a right, as access to or use of, the shore, bed and water of one (1) owning land located on the bank of a watercourse. When areas covered by riparian right are to be

used to accommodate open space requirements, the owner shall demonstrate his ownership or right of access thereto.

Setback means the distance between a building and the lot line nearest thereto.

Sidyard means an open, unoccupied space or spaces on one (1) or two (2) sides of a main building and on the same lot with the building, situated between the building and a sideline of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or a front line shall be deemed a sideline.

Single-family dwelling or residence is a residential building containing one (1) dwelling unit, under a single roof.

Sleeping room means any enclosed habitable space within a dwelling unit which complies with the minimum room dimension requirements of the adopted International Residential Code and has:

- (1) A closet; or
- (2) An area that is usable as a closet; or
- (3) An area that is readily convertible for use as a closet.

This shall not be interpreted to include living rooms, family rooms and other similar rooms in which furniture such as fold-down beds or convertible couches are provided on a permanent basis for regular accommodation or residents, temporary or otherwise. Occupancy loads to be determined by administrator.

Stacked parking means the arrangement of parked vehicles, where one (1) vehicle is parked behind another vehicle, in effect, blocking the first vehicles means of egress.

Story, in reference to a building, means a single level or floor of a building. Livable story, in reference to a building, means a single level or floor of a building in which human habitation can occur as part of a dwelling unit. The term livable story does not include a space enclosure just for the purpose of the parking of vehicles.

Street means any public or private thoroughfare not designated as an alley. (For street standards see, "The City of Port Aransas Design Specifications" guidelines, adopted by Resolution 89-24, April 13, 1989 and subsequent updates).

Structural alterations means any change in the supporting member of a building such as bearing walls, columns, beams or girders.

Townhouse is two (2) or more single-family dwelling units constructed in a series or group and connected by common fire-resistant walls of exterior type construction extending from foundation to roof eve. The area of connectivity between units measured in square footage is at a minimum fifty (50) percent of the total area of the larger of the two (2) connected wall planes. Each group of units is a freestanding, separate building with the individual units owned, together with the land on which it is located, without side yards between the units, and where each is structurally independent of the other.

Townhouse development means a development which is a series of townhouse buildings and may include such things as common areas, maintenance buildings, office, recreational areas, and

pool house, and may include single-family residences provided the single-family building structure is not less than thirty-five (35) feet wide and the lots on which said single-family residence is constructed meets the yard requirements of section 25-148.

Transient, temporary rental means rentals in which the duration of occupancy is less than thirty (30) days, but excluding rentals pending closing of sales contracts.

Vehicle means any conveyance in or by which people or objects are transported, especially one fitted with wheels, and propelled or drawn by mechanical power. This term includes but is not limited to motorcycles, recreational vehicles, motor homes, commercial vehicles, boats.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 99-2, § 1, 2-18-99; Ord. No. 2002-09, § 1, 7-18-02; Ord. No. 2010-05, § 1, 3-18-10; [Ord. No. 2015-04, § 1, 5-21-15](#) ; [Ord. No. 2015-11, § 1, 9-10-15](#))

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 25-2. - Purpose.

This chapter shall be known and may be cited as the City of Port Aransas' "Comprehensive Zoning Ordinance" or "zoning ordinance".

The zoning regulations and districts as herein established have been made pursuant to V.T.C.A., Local Government Code, Ch. 211, and in accordance with a comprehensive master plan for the purpose of promoting the health, safety and welfare of the city and its inhabitants. They have been designed to lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provisions for transportation, utilities and other public requirements and to promote the recreational use of beaches in the city. They have been made with consideration for the character of each district and its peculiar suitability for the particular uses of that district and with consideration for conserving the value of buildings and encouraging the most appropriate use of land within the city.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Secs. 25-3—25-20. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 25-21. - Certificate of occupancy and compliance.

- (a) No building or structure may be erected, no construction work shall be done on any building, structure or premises, and no use shall be made of any building, structure or premises, except in compliance with this chapter.
- (b) No building, structure or premises, or part thereof, may be used for any purpose after the completion of work requiring a building permit, and no building, structure or premises, or

part thereof, may be changed in use, until after a certificate of occupancy and compliance has been issued by the building official, pursuant to this chapter and section R110 of the International Residential Building Code and section 110 of the International Building Code in effect in the city, certifying that at the time of issuance of the certificate, the building, structure and premises in question and the use made or to be made of same are in compliance with the various ordinances and codes of the city regulating the construction and use of buildings, structures and premises.

- (c) Each application for a building permit and each application for a certificate of occupancy and compliance shall state the use to be made of the premises, building or structure, in addition to such other relevant information as may be required by other laws and regulations of the city and such other information as may reasonably be required by the building official in order to determine applicant's compliance with this chapter.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Cross reference— Buildings and building regulations, Ch. 5.

Sec. 25-22. - Cancellation of building permit.

Failure of an applicant or any of his/her agents, representatives or contractors to erect, construct, reconstruct, alter, use or maintain any building, structure or premises in conformance with the approved plans upon which a building permit was issued, shall render such building permit void, and the building official is hereby authorized and directed to revoke any such permit by giving written notice to the applicant or his/her agent or representative, and all work upon such building, structure or premises shall be immediately discontinued until such building, structure or premises shall be brought into conformance with the approved plans and with all applicable provisions of this chapter.

(Ord. No. 2010-05, § 1, 3-18-10)

Secs. 25-23—25-35. - Reserved.

DIVISION 2. - BOARD OF ADJUSTMENT AND APPEALS^[2]

Sec. 25-36. - Created.

- (a) There is hereby created a board of adjustment and appeals consisting of five (5) members and two (2) alternates each to be appointed by the city council for a term of two (2) years. The members may be removed for cause by the city council on written charges and after public hearing.
- (b) Vacancies shall be filled by the city council by the appointment of a suitable person to serve out the unexpired term of any member or alternate whose place on the board has become vacant for any cause.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-37. - Qualifications.

Qualifications for members of the board of adjustment and appeals throughout their tenure are as follows:

- (1) They must be residents of the city throughout tenure and at least two (2) years continuously preceding appointment;
- (2) They must own real property in the city;
- (3) They must be qualified voters of the city;
- (4) They must be knowledgeable in affairs of the city and in functions and activities of the board of adjustment and appeals;
- (5) They must not be an employee of the city and must not serve on the planning and zoning commission or city council.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-38. - Rules and meetings.

- (a) The board of adjustment and appeals may adopt rules to govern its proceedings. Such rules shall not be inconsistent with this chapter.
- (b) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine.
- (c) The chairman, or in his absence, the acting chairman, may administer oath.
- (d) All meetings of the board shall be open to the public.
- (e) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if a member is absent, or fails to vote, indicating such fact, and the board shall keep records of its examinations and other official actions.
- (f) The board shall hold a public hearing on all applications and appeals made thereto. The hearing shall be held within a reasonable time not to exceed ninety (90) days after the application is filed with the board or the building official. At the hearing any party may appear in person or by attorney or by agent.
- (g) Written notice of such public hearing shall be given to the applicant and all of the persons who are the owners of real property lying within two hundred (200) feet of the property on which the application or appeal is made. Such notice shall be given not less than ten (10) days before the date set for the hearing to such owners as the ownership appears on the last approved city tax roll. Such notice shall be given by personal delivery or by depositing the same, properly addressed and postage paid, in an official depository of the United States Post Office. Notices which are personally delivered are deemed given on the date actually received. Notices which are mailed are deemed given upon deposit as aforesaid. Notice shall also be given by publishing the same at least one (1) time in the official city newspaper or in

a newspaper of general circulation in the city at least ten (10) days prior to the date of such hearing.

- (h) The board shall decide all matters coming before it within a reasonable time not to exceed forty-five (45) days after conclusion of the hearing.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-39. - Jurisdiction.

The board of adjustment and appeals shall have the following jurisdiction:

- (1) In accordance with article X of this chapter, to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the building or other administration official in the enforcement of this chapter;
- (2) In accordance with article VIII of this chapter, to hear and decide special exceptions to the terms of this chapter upon which the board is required to pass under this chapter, including the alteration of nonconforming uses and structures under article V of this chapter;
- (3) In accordance with article IX of this chapter, to authorize upon appeal in special cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, the literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done; and
- (4) To determine the existence of a lawful, nonconforming use and structure on motion of any affected person.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2000-3, § 5, 5-18-00)

Sec. 25-40. - Action of the board.

- (a) In exercising its powers the board may, in conformity with the provisions of V.T.C.A., Local Government Code, Ch. 211, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
- (b) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this chapter or to grant any variance in this chapter.
- (c) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustments and appeals or any taxpayer or any officer, department or board of the city may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented

to the court within ten (10) days after the filing of the decision in the office of the board and not thereafter.

(Ord. No. 97-8, § 1, 7-17-97)

Secs. 25-41—25-50. - Reserved.

DIVISION 3. - PLANNING AND ZONING COMMISSION AND COUNCIL^[3]

Sec. 25-51. - Planning and zoning commission established.

The planning and zoning commission established by the city council in accordance with the City Charter may in this chapter be referred to as the "Commission."

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-52. - Authority to amend ordinance.

The city council may from time to time, after receiving a recommendation thereon by the planning and zoning commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the zoning map. Any amendment to the zoning ordinance text or to zoning district boundaries may be ordered for consideration by the city council, may be initiated by the planning and zoning commission, or may be requested by the owner of real property (or his/her authorized representative).

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-53. - Procedure.

- (a) The commission shall make a recommendation (a "final report") to the city council regarding any amendments to the regulations applicable within any zoning district, any proposed change of the zoning district designation applicable to any property, any comprehensive revision of this chapter, the original zoning of property newly annexed to the city, any request for a special permit under article VII, and issues regarding new unlisted uses under section 25-123.
- (b) The commission shall hold a public hearing on all zoning matters with respect to which it is charged with the duty to make recommendations to the city council. The hearing shall be held within sixty (60) days, or such greater amount of time as may be agreed by the commission and the applicant, after the date the application concerning such matter is filed with the building official.
- (c) Notice of the public hearing before the commission shall be published one (1) time, no less than fifteen (15) days before the hearing, in the official city newspaper or in another

newspaper of general circulation in the city. In addition, in cases involving a request for a change of zoning district designation of a particular property, or a request for a special permit, written notice of the public hearing before the commission shall be given, no less than ten (10) days before the hearing, to all owners of real property, as they appear on the current city tax roll, within two hundred (200) feet of the property on which the change or special permit is proposed. Such notice may be personally delivered or mailed. If personally delivered, it shall be deemed to have been given on the date actually received, and if mailed, it shall be deemed to have been given on the date of deposit in an envelope properly addressed, postage prepaid, in an official depository of a United States Postal Service.

- (d) After holding its public hearing, the commission shall make its final report to the city council. If an application is filed with the building official concerning a zoning matter with respect to which the commission is charged with a duty to report to the city council or with respect to which the city council cannot act without first receiving the commission's final report and the commission fails to make its final report to the city council within thirty (30) days, or such greater amount of time as may be agreed upon by the commission and the applicant, after the date of the public hearing held by the commission, then it shall be automatically deemed that the commission's final report was given to the city council and received by the city council on the day immediately following said deadline date and it shall be further deemed that the final report constitutes a recommendation by the commission to the city council to deny the application.
- (e) After receipt, whether actual or deemed, of the final report of the commission, the city council shall hold a public hearing on the matter.
- (f) Notice of the public hearing before the city council shall be published, at least fifteen (15) days prior to the hearing, one (1) time in the official city newspaper or in another newspaper of general circulation in the city. The notice shall state the time and place of the hearing.
- (g) The city council shall not make its decision until after its public hearing has been held.
- (h) With respect to matters concerning a change of a zoning classification of a property or a request for a special permit, if written protest is filed by owners of twenty (20) percent or more of the area of land covered by the proposed change or by owners of twenty (20) percent or more of the area of land within two hundred (200) feet of the subject property, an amendment or change shall not become effective except by favorable vote of at least three-fourths ($\frac{3}{4}$) of all members of the city council.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2000-3, § 3, 5-18-00; Ord. No. 2010-05, § 1, 3-18-10)

Secs. 25-54—25-95. - Reserved.

DIVISION 4. - FEES

Sec. 25-96. - Established.

- (a) The city council, by resolution, shall establish fees to be charged for the various applications, appeals, requests and permits required or permitted under this chapter.

- (1) All required fees shall be made payable to "The City of Port Aransas."
 - (2) An applicant who has paid the appropriate fee pursuant to submission of an application but who chooses to withdraw such application prior to any notification, review, or action taken, shall be entitled to a refund of fifty (50) percent of the total amount paid upon written request to the city.
 - (3) The administrator may waive or reduce development-related fees on a case-by-case basis. The following criteria shall be used by the administrator to evaluate such requests:
 - a. The city is requesting a change to the approved plat.
 - b. The applicant is resubmitting a previously approved plat for minor changes that will not generate full engineering and/or staff reviews.
 - (4) Payment of all indebtedness attributable to the subject property: No person who owes delinquent taxes, fines, impact fees, or any other delinquent debts or obligations to the City of Port Aransas, and which are directly attributable to a piece of property shall be allowed to submit any application for any type of development review until the taxes, fines, impact fees, debts, or obligations directly attributable to said property and owed by the owner or previous owner thereof to the City of Port Aransas shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, fees, etc. have been paid, or that other arrangements satisfactory to the city have been made for payment of said taxes, fees, etc.
- (b) *Required public notice.*
- (1) Summary of notice required. Notice shall be required for development review as shown in the following table.

Development Review	Published	Mailed	Agenda Posted
Future Land Use Plan Amendment	X	X	X
Zoning Map Amendment (Rezoning)	X	X	X
Port Aransas Code Text Amendment	X		X
Special Use Permit	X	X	X
Variances Board of Adjustments	X	X	X

Administration Appeals			X
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(c) *Required hearings and reviewing body.* The following table illustrates the types of review requiring a public hearing and the review body responsible for conducting the hearing.

Development Review	Board of Adjustment	Planning and Zoning Commission	City Council
Future Land Use Plan		X	X
Zoning Map Amendment		X	X
Port Aransas Code Text Amendment		X	X
Special Use Permit		X	X
Variances Board of Adjustments	X		
Administration Appeals	X		

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 5. - PENALTIES FOR VIOLATION

Sec. 25-97. - Criminal violation.

Any conduct violative of any provision of this chapter is unlawful. Each day a violation continues or occurs constitutes a separate violation punishable as such. Each violation is punishable by a fine not to exceed two thousand dollars (\$2,000.00).

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-98. - Civil penalties.

Any person who violates any provision of this chapter or any permit, license, or order of a city official implementing or enforcing this chapter is subject to a civil penalty of up to two thousand dollars (\$2,000.00) for each violation and for each day of violation, as the court may deem proper.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-99. - Vested rights petition.

(a) *Purpose, applicability and effect.*

- (1) Purpose: The purpose of a vested rights petition is to determine whether one (1) or more standards of this zoning ordinance should not be applied to a development application by operation of state law, or whether certain permits are subject to expiration.
- (2) Applicability: A vested rights petition may be filed for an application for a site plan in a zoning change request, a planned development zoning district, a specific use permit, or any other type of development application authorized in this chapter. A vested rights petition may not be filed with a petition for a text amendment, a zoning map amendment or any other request for a legislative decision by the city council.
- (3) Effect: Upon granting of a vested rights petition in whole or in part, the city manager (or his/her designee) shall process the development application and the city council shall decide the application in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards.

(b) *Petition requirements.*

- (1) Who may petition: A vested rights petition may be filed by a property owner or the owner's authorized agent with any application authorized in this chapter.
- (2) Form of petition: The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the development application under Texas Local Government Code, Chapter 245 or successor statute, or pursuant to Texas Local Government Code, Section 43.002 or successor statute, that requires the city to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - a. A narrative description of the grounds for the petition;
 - b. A copy of each approved or pending development application which is the basis for the contention that the city may not apply current standards to the development application which is the subject of the petition;
 - c. Identification of all standards otherwise applicable to the development application from which relief is sought;
 - d. Identification of any current standards which petitioner agrees can be applied to the development application at issue;

- e. A narrative description of how the application of current standards affect proposed lot size, lot dimensions, lot coverage or building size shown on the petition for which the petition is filed; and
 - f. A copy of any prior vested rights determination involving the same land.
- (3) Time for filing petition: A vested rights petition shall be filed with a development application for which a vested right is claimed. Where more than one (1) application is authorized to be filed by this chapter, the petition may be filed simultaneously for each application.
- (c) *Processing of petitions and decision.*
- (1) Responsible official: The city manager (or his/her designee) is responsible for processing the development application with which the petition is associated. The city manager (or his/her designee) shall promptly forward a copy of the vested rights petition to the city attorney following acceptance.
 - (2) Decision by city council: The city council is the final decision-maker on all vested rights petitions. The petitioner may submit a written request that the vested rights petition be immediately forwarded to the council for a determination. The request must be accompanied by a waiver of the time for decision on the application imposed under this chapter pending decision by the council on the petition, which shall stay further proceedings on the application. Upon receipt of the request, the city manager (or his/her designee) shall prepare a recommendation and forward the matter to the council for decision, which shall decide the petition within sixty (60) calendar days of the petitioner's request. If no written request for council referral is filed, the council shall decide the vested rights petition with its decision on the development application.
- (d) *Action on petition and order.*
- (1) Action on the petition: The city council may take any of the following actions on a vested rights petition:
 - a. Deny the relief requested in the petition, and direct that the development application shall be reviewed and decided under currently applicable standards;
 - b. Grant the relief requested in the petition, and direct that the petition shall be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - c. Grant the relief requested in part, and direct that certain identified current standards shall be applied to the development application, while standards contained in identified prior regulations also shall be applied.
 - (2) Order on petition: The city manager's (or his/her designee's) report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
 - a. The nature of the relief granted, if any;
 - b. The approved or filed development application(s) upon which relief is premised under the petition;

- c. Current standards which shall apply to the development application for which relief is sought;
- d. Prior standards which shall apply to the development application for which relief is sought, including any procedural standards;
- e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and
- f. To the extent feasible, subordinate development applications that are subject to the same relief granted on the petition.

(e) *Criteria for approval.*

- (1) Factors: The city council shall decide the vested rights petition based upon the following factors:
 - a. The nature and extent of prior development applications filed for the land subject to the petition;
 - b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - c. Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - d. Whether current standards otherwise applicable affect lot size, lot dimensions, lot coverage or building size based upon the proposed development application;
 - e. Whether any statutory exception applies to the standards in the current zoning ordinance from which the applicant seeks relief;
 - f. Whether any prior approved applications relief upon by the petitioner have expired.
- (2) Conditions: If the claim of vested rights under a petition is based upon a pending application subject to standards that have been superseded by current standards under this chapter, the city council may condition any relief granted on the petition on the approval of the application under such prior standards.

(f) *Application following final decision on petition.*

- (1) Following the city's final decision on the vested rights petition, the property owner shall conform the development application for which relief is sought to such decision. The city council shall consider any application revised under this subsection in accordance with the procedures for deciding the initial application under this chapter and in conformity with the relief granted on the petition. If the relief granted on the vested rights petition is consistent with the development application on file, no revisions are necessary. If proceedings have been stayed on the development application pending referral of the vested rights petition to the city council, proceedings on the application shall resume after the council's decision on the vested rights petition.

(g) *Expiration and extension.*

- (1) Expiration: Relief granted on a vested rights petition shall expire on occurrence of one (1) of the following events:
 - a. The petitioner or property owner fails to submit a required revised development application consistent with the relief granted within thirty (30) days of the final decision on the petition;
 - b. The development application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition;
 - c. The development application for which relief was granted on the vested rights petition expires; or
 - d. Sale or transfer of property.
 - (2) Extension: Extension of the date of expiration for the development application for which relief was granted on a vested rights petition shall result in extension of the relief granted on petition for a like period.
- (h) *Dormant projects.*
- (1) Definitions: For purposes of this section only:
 - a. *Initial permit* means any of the following types of approvals granted under this zoning ordinance, as amended, or any predecessor zoning, subdivision or development ordinance: site plan, landscape plan, concept plan, zoning change request, specific use permit, variances or any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of land uses, lots or improvements on a site intended for development.
 - b. *Final permit* means a building permit, certificate of occupancy, or final plat approved under the subdivision ordinance, as amended, or any predecessor zoning, subdivision or development ordinance.
 - (2) Expiration of permits: Any application for an initial permit that was approved or filed before, but that was not subject to an expiration date, one (1) year prior to the adoption date of this chapter, and that was under the zoning or subdivision ordinances, as amended, or any predecessor zoning, subdivision or development ordinance, shall expire on the effective date of this chapter.
 - (3) Reinstatement: The owner of the land subject to an initial permit that expires under subsection (h)(2) above may petition the city council to reinstate such zoning permit by filing a written petition within sixty (60) calendar days of the effective date of this chapter. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one (1) of the following:
 - a. As of one (1) year prior to the adoption date of this chapter, one (1) of the following events had occurred:
 1. A final permit for all or part of the land subject to the approved initial permit was approved, or was filed and was subsequently approved;

2. An application for a final permit was submitted for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness;
 3. Costs for development of the land subject to the initial permit, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five (5) percent of the most recent appraised market value of the land;
 4. Fiscal security was posted to ensure performance of an obligation required for all or a part of the land subject to the approved initial permit; or
 5. Utility connection fees or impact fees for all or part of the land subject to the approved initial permit were paid.
- b. After two (2) years prior to the adoption date of this chapter but before the expiration date specified in subsection (h)(2) above, one (1) of the following events had occurred:
1. A final permit was approved for all or part of the land subject to the approved zoning change, and remained in effect for such land on such expiration date; or
 2. A complete application for approval of a final permit for all or part of the land subject to the approved initial permit was pending for decision on such expiration date.
- (4) Council action on reinstatement: The city council may take one (1) of the following actions:
- a. Reinstatement the expired initial permit without an expiration date, if it finds that the petitioner has met any one (1) of the criteria listed in subsection (h)(3)a. above;
 - b. Reinstatement the initial permit for all or part of the land subject thereto, if it finds that the petitioner has met any one (1) of the criteria listed in subsection (h)(3)b. above, subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion. In granting relief under this provision, the council may require that development of such remaining land is subject to standards enacted after approval of the initial permit;
 - c. Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in subsection (h)(3); or
 - d. Reinstatement the permit for only that part of the land subject to a pending final permit application, if it finds that the petitioner has met the criteria in subsection (h)(3)b.2. above and the pending application subsequently was approved, and deny the petition for the remaining land subject to the expired initial permit.

(Ord. No. 2010-05, § 1, 3-18-10)

Secs. 25-100—25-110. - Reserved.

ARTICLE III. - DISTRICTS

Sec. 25-111. - Districts listed, zoning map and rules for interpreting district boundaries.

- (a) The city is hereby divided into the following zoning districts:
 - (1) T transitional;
 - (2) R-1 residential—Single-family/residential;
 - (3) R-2 residential—Medium density residential;
 - (4) TR-1 tourist/recreational;
 - (5) TR-2 tourist/recreational;
 - (6) TR-3 tourist/recreational;
 - (7) C-1 commercial;
 - (8) C-2 commercial;
 - (9) I-1 industrial—Light;
 - (10) HI—Harbor Island;
 - (11) CZ-1 corridor zone;
 - (12) CZ-2 zone;
 - (13) CPOZ—Coastal protection overlay zone.
- (b) The boundaries of the various districts created hereby are shown on the official zoning map. The map and all markings, notations, references and other information shown on said map shall be and are hereby made a part of this chapter as if all were fully set forth or described herein. The original drawing of this map, properly signed and attested, is on file with the city secretary. The city secretary shall maintain said map in the office of the city secretary. The map shall be updated as changes are made in zoning district classification of any property.
- (c) Yards, parking space or lot area required for one (1) building or use cannot be used for another building or use.
- (d) Every building shall be on a platted lot.
- (e) Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules apply:
 - (1) The district boundaries are either streets or alleys unless otherwise shown, and where the district designated on the zoning map are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.
 - (2) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the zoning map are

bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

- (3) In any unsubdivided property the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (4) In the case of a district boundary line dividing a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown.
- (5) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2000-3, § 1, 5-18-00; Ord. No. 2002-08, § 3, 7-18-02; Ord. No. 2002-17, § 1, 9-12-02; Ord. No. 2010-05, § 1, 3-18-10; Ord. No. [2016-13](#), § 1, 8-2-16)

Sec. 25-112. - T transitional district regulations.

The purpose of the transitional district is to grant a provisional, temporary designation to newly annexed areas of the city. This district functions as a holding district where no land and no building shall be used for any purpose except those purposes and uses allowed in an R-1 single-family residential district. The city shall expeditiously establish the appropriate zoning district designation for all such property.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-113. - R-1 single-family residential district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Single-family residence. Long term rental is allowed. Temporary, transient rental of single-family residence structures is not allowed, except as a blanket special permit under section 25-271);
- (2) Churches, schools, and parks;
- (3) Accessory uses and buildings which are accessory to the uses expressly allowed in this district.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 99-2, § 1, 2-18-99; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-114. - R-2 medium density residential district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any use allowed in an R-1 district. Within this district long term rental and temporary, transient rental of single-family residence structures is allowed;

- (2) Bed and breakfast;
- (3) Multifamily uses, attached or detached, not exceeding four (4) dwelling units per lot and commercial operations included in the complex for the benefit of occupants, such as coin-operated laundries and vending machines. Temporary, transient rental of multifamily uses is allowed);
- (4) Home occupations;
- (5) HUD-Code manufactured homes (temporary, transient rental of HUD-Code manufactured homes is not allowed);
- (6) Accessory uses and building which are accessory to the uses expressly allowed in this district.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 99-2, § 1, 2-18-99; Ord. No. 2010-05, § 1, 3-18-1)

Sec. 25-115. - TR-1 tourist/recreational district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any use allowed in an R-1 district;
- (2) Any use allowed in an R-2 district;
- (3) Hotels, motels and multifamily dwellings and commercial operations included in the complex for the benefit of the occupants, such as, coin-operated laundries and vending machines;
- (4) Outdoor recreational facilities, such as swimming pools, athletic tracks, tennis courts, and sport fields;
- (5) RV parks, RV subdivisions, HUD-Code manufactured home parks, and HUD-Code manufactured home subdivisions, except in the area extending from Access Road 1A/Piper Boulevard south to the city limit line;
- (6) Buildings for public benefit, such as museums, libraries, police and fire stations;
- (7) Accessory uses and buildings which are accessory to the uses expressly allowed in this district.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2000-11, § 1, 11-13-00; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-116. - TR-2 tourist/recreational district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any use allowed in a R-1 district;
- (2) Any use allowed in a R-2 district;

- (3) Any use allowed in a TR-1 district;
- (4) Accessory uses and buildings which are accessory to the uses expressly allowed in this district, including cafes and restaurants, provided they are an attendant business of a hotel, motel, or multifamily dwelling and are located in the complex primarily for the benefit of occupants and without alcohol sales, except in-room sales (as approved by the administrator).

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-117. - TR-3 tourist/recreational district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any use allowed in a R-1 district;
- (2) Any use allowed in a R-2 district;
- (3) Any use allowed in a TR-1 district;
- (4) Any use allowed in a TR-2 district;
- (5) Golf courses;
- (6) Assisted living complexes;
- (7) Accessory uses and buildings which are accessory to the uses expressly allowed in this district including bars, retail sales, rental facilities, cosmetology, hair salons, spas, massage, and game rooms, provided they are located in a hotel, motel or attached multifamily dwelling structure (as approved by the administrator).

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-118. - C-1 commercial district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any use allowed in an R-1 district;
- (2) Any use allowed in an R-2 district;
- (3) Any use allowed in a TR-1 district;
- (4) Any use allowed in a TR-2 district;
- (5) Any use allowed in a TR-3 district;
- (6) Professional offices such as the offices of dentists, physicians, psychiatrists, psychologists, mental health counselors, chiropractors, doctors, attorneys, real estate brokers and appraisers, financial advisors, accountants, mortgage brokers, title companies, insurance agents;

- (7) Government buildings and offices;
- (8) Offices;
- (9) Studios, such as photographic, artist, and music;
- (10) Financial institutions, such as savings and loans, credit unions, and banks;
- (11) Retail sales and rental facilities;
- (12) Cosmetology, barber and beauty shops;
- (13) Dry cleaners, laundries, laundromats and washaterias;
- (14) Accessory uses and buildings which are accessory to the uses expressly allowed in this district.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-119. - C-2 commercial district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- * (1) Single-family and multifamily detached dwelling units (see additional conditions);
- (2) Multifamily attached dwellings (townhomes, condominiums, apartments, two (2) units or greater);
- (3) Churches;
- * (4) Schools/day cares (see additional conditions);
- (5) Home occupations;
- (6) Parks;
- *☐ (7) HUD-Code manufactured homes (temporary transient rentals prohibited (see additional conditions));
- (8) Hotel, motels;
- (9) Medical, dental, clinics;
- *☐ (10) Hospitals (see additional conditions);
- * (11) Outdoor recreational facilities (such as pools, tracks, tennis courts, and ball fields (see additional conditions));
- *☐ (12) RV parks and RV subdivisions (see additional conditions);
- (13) Buildings for public benefit such as museums, libraries, police and fire stations;
- (14) Cafes/restaurants/bakeries;
- (15) Bars/night clubs/music venues;
- (16) Professional offices;

- * (17) Government/public utility building facilities (see additional conditions);
- (18) Studios, artist, music;
- (19) Financial institutions;
- (20) Retail sales and rental facilities;
- (21) Barber/beauty shops/spas/massage;
- * (22) Dry cleaners/laundromat (see additional conditions);
- (23) Micro-breweries;
- (24) Gasoline service stations;
- * ☐ (25) Storage facilities (see additional conditions);
- (26) Marinas/boat docks/marine charters/bait stands and fish cleaning and sales customarily associated with marinas and docks;
- (27) Recreation facilities (miniature golf, game arcade room, bowling alley, skating rink, movie theaters);
- * (28) Boat, trailer, RV, and automobile service and engine repairs, excluding body work, welding, spray painting or sand blasting (see additional conditions);
- * ☐ (29) Ice plants and cold storage (excluding ice vending machines) (see additional conditions);
- * ☐ (30) Airports and airport support facilities (see additional conditions);
- * (31) Car/boat washes (see additional conditions);
- * (32) Boat and car sales (see additional conditions);
- * (33) Home improvement outdoor retail, lumberyards, nurseries (see additional conditions);
- * (34) Dry stack boat storage (see additional conditions);
- * ☐ (35) Carpenter/furniture shops (see additional conditions);
- * ☐ (36) Indoor veterinary hospitals and kennels (outdoor day use exercise yards may be approved by the administrator (see additional conditions));
- (37) Accessory uses and buildings which are accessory to the uses expressly allowed in this district.

Additional Conditions:

- * This use, directly fronting or directly adjacent to Alister Street is prohibited unless an allowable use structure of equal size or greater, lies between this proposed use and the Alister Street right-of-way (as approved by the administrator).
- ☐ This use, directly fronting or directly adjacent to Avenue G (the portion of Avenue G from the Alister Street intersection to the beach) and Cotter Avenue is prohibited unless an allowable use structure of equal size or greater, lies between this proposed use and the Avenue G and Cotter Avenue rights-of-way (as approved by the administrator).

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-120. - I-1 light industrial district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any use allowed in any other district, except the I-2 heavy industrial district;
- (2) Storage and distribution of products, goods, and services such as: food and beverages, apparel and other finished clothing products;
- (3) Boat, trailer, RV, and automobile body and engine service and repair, provided all spray painting and sandblasting shall be done in an enclosed building;
- (4) Contractors or storage yards;
- (5) Monument or marble works, finishing and carving only;
- (6) Paint shops, spray painting or paint mixing, in an enclosed building. Outdoors on a limited use not to exceed ninety (90) days in any calendar year;
- (7) Stables, public or riding;
- (8) Storage in fully enclosed warehouses for commodities and materials;
- (9) Welding shops, custom work, not including structural welding;
- (10) Accessory uses and buildings which are accessory to the uses expressly allowed in this district.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2000-11, § 4, 11-13-00; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-121. - HI Harbor Island district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) Any lawful, non-dwelling, non-residential use listed in R-1, R-2, TR-1, TR-2, TR-3, C-1, C-2, or I-1;
- (2) Light manufacturing;
- (3) Marine terminals;
- (4) Storage Facilities for oil and/or gas;
- (5) Ship yards;
- (6) Fabrication yards;
- (7) Offshore oil/gas support services;
- (8) Cruise ship/Gaming ship terminal;
- (9) Research and testing laboratories;

- (10) Communication towers;
- (11) Concrete and asphalt batch plants;
- (12) Seafood processing, packing, and storage;
- (13) Dwellings for resident watchmen/caretakers;
- (14) Dredge material placement areas.

Planned unit developments are encouraged.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10; Ord. No. 2014-06, § 1.b, 2-20-14)

Sec. 25-122. - P&OS Parks and open space district regulations.

In this district no land or building shall be used, erected for or converted to any use other than:

- (1) Open space preserve areas and associated facilities and programming;
- (2) Public parks and recreation facilities;
- (3) Campgrounds and amenities;
- (4) Fishing piers and retail/food and beverage sales provided they are clearly incidental and secondary with the main use to which the property is put.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-123. - CSPUD Cinnamon shore planned unit development district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) As regulated by Ordinance No. 2007-21.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-124. - NPUD Newport and PBPUD Palmilla Beach planned unit development district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) NPUD—Newport as regulated by Ordinances Nos. 2003-04, 2008-19 and 2010-05.
- (2) PBPUD—Palmilla Beach Resort as regulated by Ordinance No. 2015-10.

(Ord. No. 2010-05, § 1, 3-18-10; Ord. No. [2016-13](#), § 1, 8-2-16)

Sec. 25-125. - BPUD Brookdale planned unit development district regulations.

In this district no land or building shall be used, erected for, or converted to any use other than:

- (1) As regulated by Ordinance No. 2008-18.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-126. - CZ-1 corridor zone.

- (a) *Use regulations.* As there are multiple zoning districts within this corridor zone, each district's allowable uses shall be permitted with the following exceptions:

- (1) RV parks and RV subdivisions are not permitted;
- (2) HUD-Code manufactured homes, sites and HUD-Code manufactured home parks and HUD-Code manufactured home subdivisions are not permitted;
- (3) Storage facilities for the storage of personal effects, boats, RVs and other motor vehicles are not permitted.

Notwithstanding the above, no adult motion picture theater, adult book store, or commercial sexual exhibition as defined at section 25-211 and no sexually oriented commercial activity as defined at section 25-226 is allowed in the CZ-1 corridor zone.

- (b) *Setback/yard regulations.* Save and except for existing platted lots that do not face Highway 361, a building setback from the lot line fronting Highway 361 shall be a minimum of forty (40) feet or twenty-five (25) feet if the setback incorporates twenty (20) feet of greenbelt landscaping to include sod, plantings, and/or trees and impervious surface does not exceed seven hundred forty (740) square feet within the twenty (20) foot greenbelt;

- (c) *Driveway regulations.* All driveways shall be built to comply with the Texas Department of Transportation's regulations for access drives to state highways, and in addition the following requirements shall apply:

- (1) The width of all drives with highway access shall be a minimum of sixteen (16) feet and a maximum of thirty-seven (37) feet with a maximum radius of twenty-five (25) feet;
- (2) All highway access drives shall be constructed using hot mix asphalt, concrete material, brick, decorating stone, or grass crete from the edge of the pavement of Highway 361 to the building setback line;
- (3) In order to have a driveway accessing Highway 361, properties platted after the date of this section must have a minimum of one hundred (100) feet of frontage along Highway 361. For lots with over three hundred (300) feet of frontage on Highway 361, additional driveway access points to Highway 361 will be allowed according to the table below:

Continuous Frontage Along State Hwy 361	Number of Driveways Allowed
0—99	0
100—300	1
301—600	2 One (1) additional driveway is allowed for each additional three hundred (300) feet of frontage along Highway 361.

Some platted developments may contain a platted lot fronting on Highway 361, which lot has less than one hundred (100) feet of frontage along Highway 361 and which lot is legally dedicated to private roadway purposes, providing vehicular access to Highway 361 from the other lot or lots in the platted development. The lot which is dedicated by plat to such private roadway purposes is not a "lot" for the purposes of this subsection (3), and the construction of a driveway within or upon such lot onto Highway 361 is not intended to be precluded by this subsection (3).

- (4) For lots platted prior to the date of this section, one (1) driveway per parcel shall be allowed along Highway 361. Additional driveways shall be allowed in accordance with the table above;
- (5) Drainage structures under the driveway shall be in accordance with the master drainage plan and shall be approved by the city engineer.
- (d) *Lighting standards.* All lighting fixtures shall comply with the division 3 outdoor lighting standards as set forth in this chapter.
- (e) *Utility lines.* All new utility lines shall be placed underground.
- (f) *Environmental controls.* To promote safety and preserve an attractive appearance in the corridor zone district, the following rules shall apply:
 - (1) Satellite dishes over twenty (20) inches in diameter shall be completely screened from view from any adjacent property or public way.
 - (2) All dumpsters shall be located at the rear of the property or shall be completely screened on three (3) sides and must be screened from any adjacent property or public way. All trash and debris shall be kept out of sight.
 - (3) Television, microwave and radio towers are prohibited in this district.
 - (4) This district allows outdoor display of products that are sold regularly and that pertain to the business use of the property in question. Outdoor storage of any goods is

prohibited. This provision supplements section 12-1, et seq., Port Aransas Code of Ordinances.

(g) *Sign regulations.* The following rules apply to all outdoor signs:

- (1) On-premises signs are allowed;
- (2) No new off-premises signs will be permitted for a period of one (1) year commencing on May 18, 2001;
- (3) Off premises signs lawfully existing on the effective date of this article shall be allowed as nonconforming uses and structures, in accordance with other applicable provisions of this Code.

(h) *Minimum lot size.*

- (1) Any lot fronting Highway 361 shall be a minimum of twelve thousand (12,000) square feet in area and have a minimum of one hundred (100) feet of continuous frontage on Highway 361. Some platted developments may contain a platted lot fronting on Highway 361, which lot has less than one hundred (100) feet of frontage along Highway 361 and which lot is legally dedicated to private roadway purposes, providing vehicular access to Highway 361 from the other lot or lots in the platted development. It is not intended that this subsection (1) preclude such a lot or development.
- (2) Any lot lawfully platted at the time of this section does not require the above minimum area and frontage. The above minimum area and frontage shall be required if the lot is replatted.

(Ord. No. 2000-3, § 4, 5-18-00; Ord. No. 2000-11, § 2, 1-13-00; Ord. No. 2001-04, § 1, 7-19-01; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-127. - CZ-2 zone.

- (a) This zone is an overlay zone. The regulations imposed by this section will apply to all real property located within the zone regardless of the underlying zoning designation of said property. In the event of a conflict between a regulation imposed by this section and a regulation imposed by the underlying zoning district in which a particular property is located, this regulation shall apply.
- (b) The following regulations apply to all properties within this zone.
 - (1) *Height.* No structure shall exceed thirty-five (35) feet in height as defined in section 25-1.
 - (2) *Glass.* No structure shall have more than four (4) square feet of glass per linear foot of exterior front or sidewall. The allowable glass area can be placed in any location or configuration within the wall for which it was calculated. Glass must be contiguous with associated floor area, meaning that glass must be located in the wall where a floor is abutting that wall. Any additional floor must be composed of at least twenty-five (25) percent of the square footage of the bottom floor.

- (3) *Roofs and equipment.* If a building has a roof slope of three (3) to one (1) or less, a two (2) feet minimum or greater parapet wall not to exceed the height limit as stated in subsection 25-153(b)(1), awning, dormer, or mansard roof shall be attached on the front of the building.
- (4) *Above-ground storage containers.* All above ground storage containers such as dumpsters, grease storage containers, and metal storage containers, located within the property, shall be completely screened from view from any public right-of-way. In no case shall this provision require screening in excess of eight (8) feet above average grade.
- (5) *Utility lines.* All new construction service lines must be located underground.
- (6) *Antenna towers.* No antenna towers over fifty (50) feet in height are allowed.
- (7) *Landscaping.* All new construction shall have an area of landscaping equal to a minimum twenty-five (25) percent of front twenty (20) feet as measured from front property line. For construction with internal parking circulation this area shall be located between the parking area and the street and for frontal pull-in parking the area shall be forward of the front building line.
- (8) *Lighting standards.* All lighting fixtures shall comply with the division 3 lighting standards as set forth in this chapter.
- (9) *Building scale design.*
 - a. Definitions: The following are definitions of specialized terms and phrases used in this chapter.

Colonnade shall mean a series of ornamental or structural columns used to support a roof, deck or trellis on the outer surface of a wall plane.

Column shall mean an ornamental or structural, vertical supporting member used to support a roof, deck or trellis on the outer surface of a wall plane.

Mezzanine shall mean one (1) or more intermediate levels between the floor and ceiling of a story.

Perceptually separated shall mean when a wall plane appears to be separated by a prescribed method.

Physically separated shall mean when two (2) wall plane segments are considered separated by a prescribed dimension.

Scale shall mean a measure of size as it relates to a specific proportion.

Wall plane shall mean a two-dimensional surface that represents the outside face of one (1) side of a building envelope.

Wall plane segment shall mean a segment of a wall plane that represents a proportion with a desirable scale.

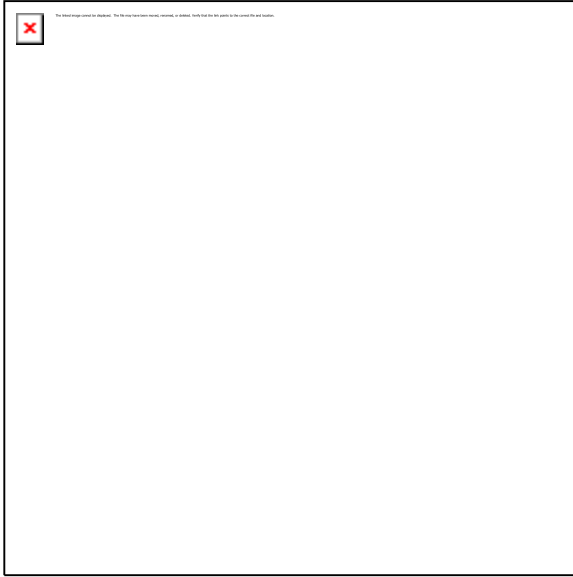
- b. The following regulations apply to all properties that are larger than eighteen hundred (1,800) square feet for single story and twenty-four hundred fifty (2,450)

square feet for multi-story. Mezzanines shall have no effect on the number of stories; however, their area shall contribute to the total square footage of a building.

1. Large wall planes facing a street and adjacent to these properties shall be separated into smaller wall segments. The wall segments will be no larger than thirty-five (35) by twenty-two (22) feet or twenty-two (22) by thirty-five (35) feet.
2. To accomplish the use of smaller wall planes at least one (1) of the following methods must be used:
 - (a) Wall planes shall be considered physically separated, accomplishing horizontal and vertical offsets, if:
 - i. An offset of five (5) feet or more is utilized between them;
 - ii. Turned at a corner not greater than one hundred thirty-five (135) degrees and extend a minimum of five (5) feet in length beyond the corner;
 - (b) Wall planes shall be considered perceptually separated if:
 - i. Use of colonnades. A minimum of three (3) columns shall be placed no less than five (5) feet off the wall plane and the columns shall be spaced no more than fourteen (14) feet on center. Each wall surface framed between a pair of columns, the finished floor, and structure above, not exceeding one hundred thirty (130) square feet shall be considered a wall segment. The height of wall or beam over the colonnade shall not exceed two (2) feet, and any wall plane above and behind the colonnade shall not exceed three hundred (300) square feet. Single-level or multi-level colonnades can be used;
 - ii. Use of colonnades to accomplish horizontal off-sets. They must extend the whole length of the wall segment or within eighteen (18) inches of the corner to be considered separated. A minimum of three (3) columns will be no less than five (5) feet off the wall, and the columns shall be spaced no more than twelve (12) feet on center. The space framed between pairs of columns, finished floor and structure above shall not exceed one hundred thirty (130) square feet. Single-level or multi-level colonnades can be used;
 - iii. Using a covered stoop or balcony to accomplish vertical offsets. They must extend within eighteen (18) inches of the whole height for the wall segment to be considered separated. A minimum of two (2) columns will be no more than twelve (12) feet apart on center or less than five (5) feet off of the wall. The space framed between pairs of columns, finished floor and structure above shall not exceed one hundred thirty (130) square feet. Single-level or multi-level balconies can be used;

- (c) Through setbacks. If front, side, or rear setbacks are increased by ten (10) feet or greater, the wall segment length or width may be increased by one-half ($\frac{1}{2}$) foot for every foot of setback. At least twenty-five (25) percent of the additional setback area should be used for green space or landscaping.
 - (d) Through materials. Door, window, or sculptural elements and material changes will not be acceptable to accomplish a wall offset.
- (c) *Non-conformity/compliance.*
 - (1) Height, glass, building materials, roof and roof equipment. If associated structure is altered, damaged, or destroyed, the building shall be allowed to be reconstructed to the existing configuration so long as the building permit process is initiated within one (1) year of the alteration, damage, or destruction.
 - (2) Above-ground storage containers. All above-ground storage containers such as dumpsters, grease storage containers, and metal storage containers shall meet current codes within one (1) year of the adoption of this ordinance.
 - (3) Lighting standards. All lighting fixtures shall comply with the division 3 lighting standards as set forth in this chapter.
 - (4) Building scale design. Any addition to an existing building, creating an area over eighteen hundred (1,800) square feet for single story and twenty-four hundred fifty (2,450) square feet for multi-story, shall meet all regulations of chapter 25.

Any building which is legally existing on the date of passage of section 25-139(b)(9) but which is not in conformity with that subsection is covered as a legal, nonconforming building by sections 25-241 and 25-242, and additionally, notwithstanding any conflicting provisions of section 25-241 or section 25-242: if (1) said building is destroyed or damaged by fire or other accidental or natural cause or said building is altered, and (2) the damage or destruction or the alteration work includes the exterior or any part of it, and (3) the cost to repair all of the damage or destruction or the cost to complete all of the alteration work exceeds fifty (50) percent of the appraised value of the building according to the Nueces County Tax Appraisal District at the time of the occurrence of said alteration, damage or destruction, the building must be made to conform to the requirements of subsection (b)(9).



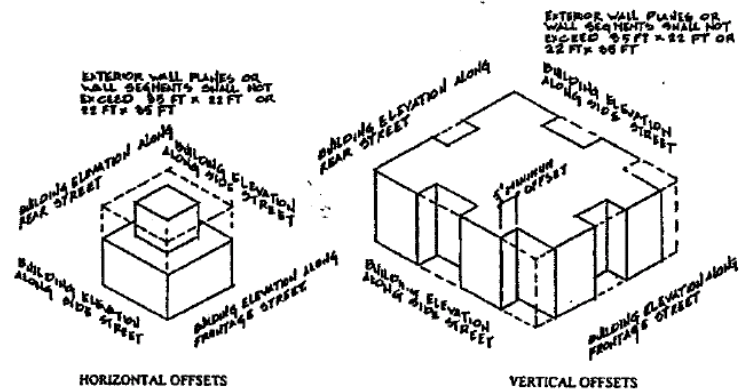


FIGURE 1

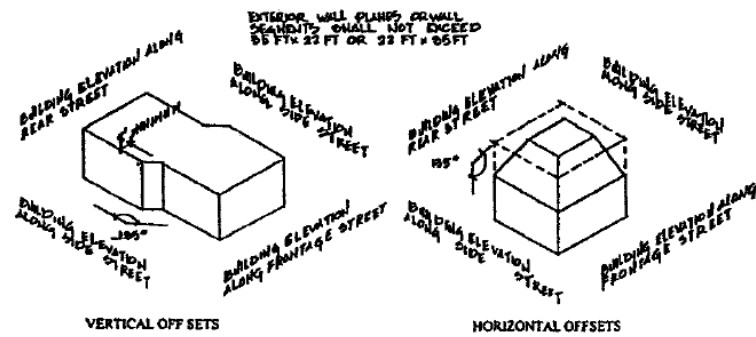
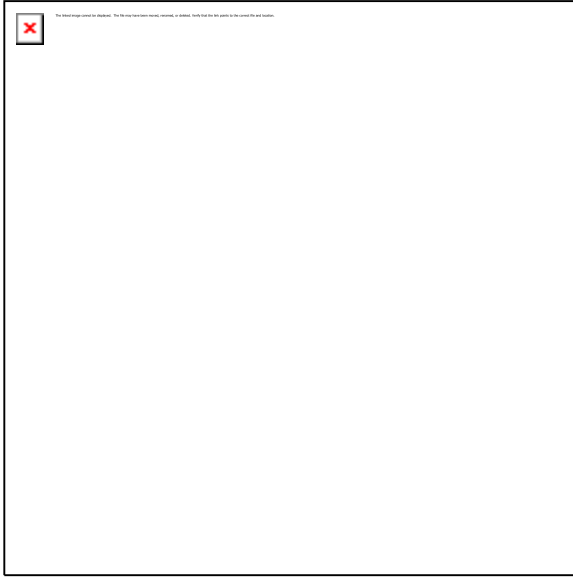
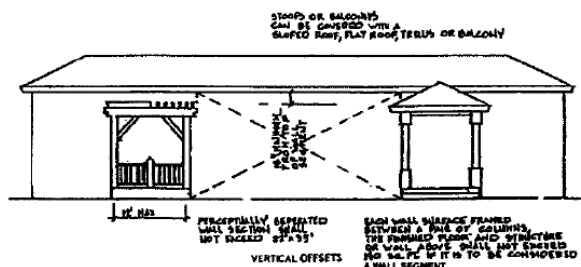
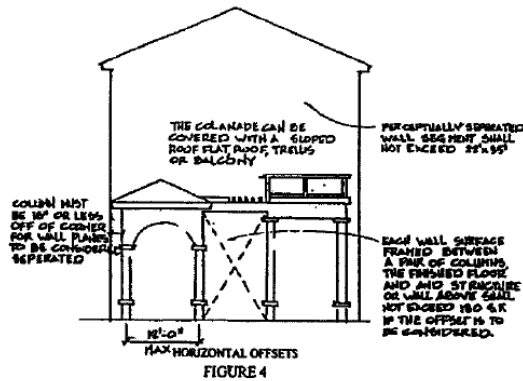
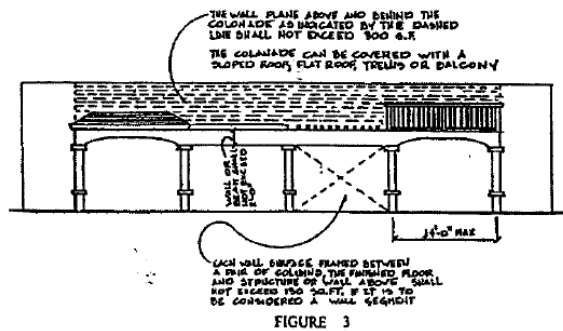


FIGURE 2

Horizontal and Vertical Offsets—(Figs. 1, 2)



ZONING



Wall plane, Colanade, stoops or balconies (Figs. 3, 4)

(Ord. No. 2002-08, § 3, 7-18-02; Ord. No. 2002-17, § 1, 9-12-02; Ord. No. 2003-03, § 1, 2-20-03; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-128. - New and unlisted uses.

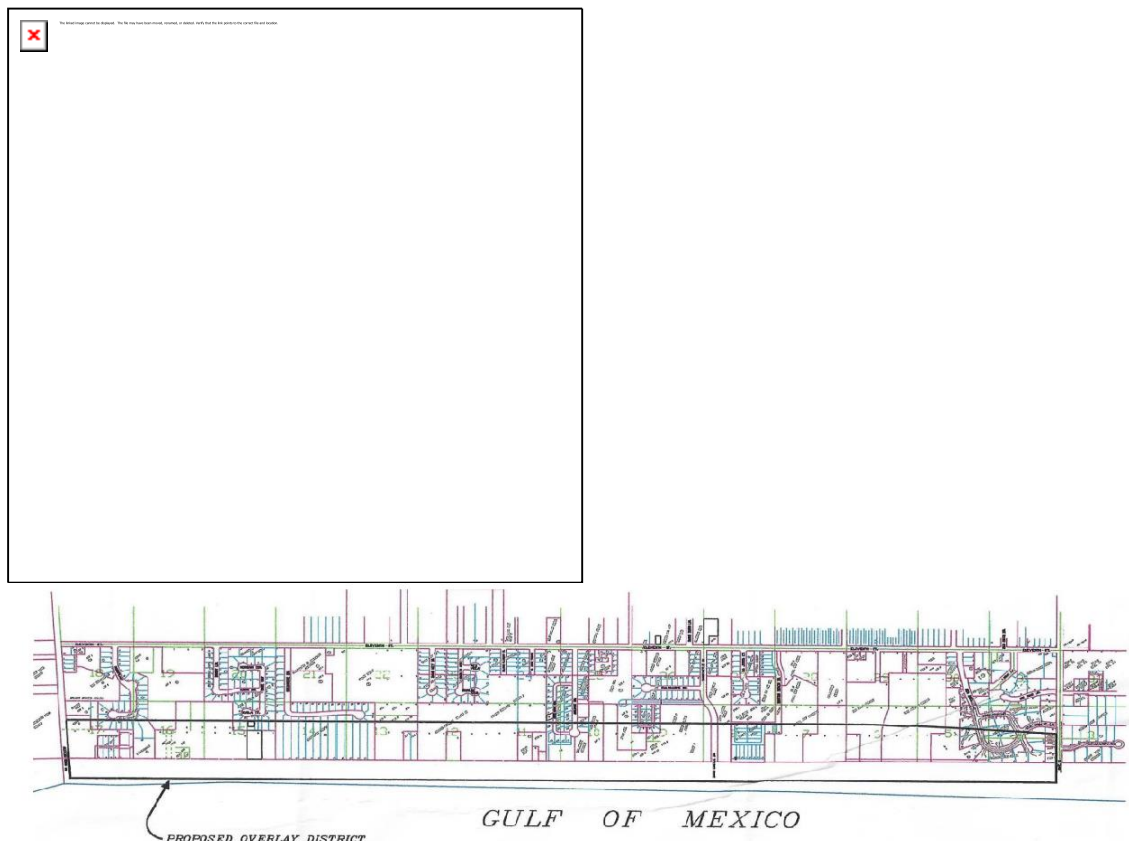
In order to provide for new and unlisted uses, a determination as to the appropriate classification of such uses shall be made in the same way as any other change to regulations applicable within a zoning district is made.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2000-3, § 2, 5-18-00; Ord. No. 2002-08, § 3, 7-18-02; Ord. No. 2002-17, § 1, 9-12-02; Ord. No. 2010-05, § 1, 3-18-10)

Cross reference— Administration, Ch. 2.

Sec. 25-129. - CPOZ—Coastal protection overlay zone.

The area described by this zone is bound by the thousand-foot (1,000)(dune protection line to the west, mean high tide line to the east, Access Road 1A to the south and Avenue G to the north.



- (1) This zone is an overlay zone. The regulations imposed by this section will only apply to all real property located within the zone whose sole access is derived from the beach road abutting the Gulf of Mexico regardless of the underlying zoning designation of said property. These regulations will apply unless or until such time as the real property and each lot therein secures frontage on a paved street. In the event of a conflict between a regulation imposed by this section and a regulation imposed by the underlying zoning district in which a particular property is located, this regulation if applicable shall apply.
- (2) The following special regulations apply to applicable properties within this zone.

- a. Any and all development within the coastal protection overlay zone must still conform to the city's coastal management plan.
- b. Property may be platted per chapter 21, article III, plat contents and approval procedure, provided there is no subdivision of the property.
- c. Development of property is limited to a maximum of three (3) dwelling units per acre.
- d. No structure shall exceed thirty-five (35) feet in height.
- e. Access from the Gulf Beach Road is limited to one (1) access per property regardless of the number of dwelling units. Access must be approved by the city and when applicable the Texas General Land Office.
- d. New access requested after September 1, 2016 when so permitted resulting in a cut through the dune system must be restored to its previous state within one hundred eighty (180) days at such time approved landward access from a paved street becomes available. When approved landward access is obtained, any associated Texas General Land Office ingress/egress leases shall immediately be vacated.

(Ord. No. [2016-13](#), § 1, 8-2-16)

Secs. 25-130—25-145. - Reserved.

ARTICLE IV. - SUPPLEMENTAL DISTRICT DEVELOPMENT AND USE REGULATIONS^[4]

The following general development standards shall apply to all zoning districts, except where expressly stated to apply to, or exclude, specific districts.

DIVISION 1. - GENERAL PROVISIONS

Sec. 25-146. - Environmental controls established.

- (a) *Screening*. Open storage and loading or service areas shall be screened from any adjacent residence or public way by six-foot, opaque fencing, junk, trash or debris shall be confined out of sight.
- (b) *Green space*. In any multifamily dwelling development there shall be three hundred twenty-five (325) square feet of green space per dwelling unit average.
- (c) No machine, process, or procedure shall be employed on any property in the city, in which:
 - (1) Emission of smoke, dust, or noxious, toxic or lethal gases that are deemed "excessive" above normal operations that produce such emissions, and that are detectable beyond the perimeter of the property that causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity;
 - (2) Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are

noxious, toxic, radioactive, contain oil or grease, wood, cellulose fibers, hair, feathers, or plastic, or have a pH factor greater than nine (9) or less than six (6);

- (3) Vibration is discernible beyond the property line.
- (d) *Septic systems.* In the absence of public water or public sewer, no building permit shall be issued until the lot meets all applicable requirements of this chapter, and a septic system meeting State regulations has been approved by Nueces County Water Control District No. 4.
- (e) *Drainage and stormwater management.* If a development project is not directly associated with a building permit or subdivision development a development permit shall be required for any manmade change in improved and unimproved real estate, said development including but not limited to excavation or fill of material, mining, grading, or paving. If the development is associated with a building permit or subdivision, the required development information shall be included with the submitted construction plans.

For drainage and stormwater design, all development within the city shall utilize the policies and technical information standards as set forth in the latest edition of the City of Port Aransas "Storm Drainage Design manual." (For more information, see also: Chapter 8, flood damage prevention, and/or the development permit on file with the building department).

Exemptions from development permit.

- (1) The project is solely for the blanket filling of a residential or commercial property with a fill depth less than one (1) foot in depth.
- (2) The project consist of filling isolated portions of a residential or commercial property that exceed one (1) foot in depth and are determined by the building official to be inconsequential in regards to its effect on the properties drainage or impacts to adjacent properties.
- (f) *Wetlands.* It is the sole responsibility of the property owner to determine whether or not their proposed development activity impacts wetlands that are under the jurisdiction of the U.S. Army Corps of Engineers.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-147. - Lot area and density requirements.

~~Cottage Unit Developments (C.U.D.),~~ Neighborhood Unit Developments (N.U.D.)₂ and Planned Unit Developments (P.U.D.) shall have densities and lot areas as allowed in their respective divisions.

~~For subdivisions of property within an R-1 District, the first A dwelling unit requires five thousand (5,000) square feet of lot size (the addition of an ADU does not require additional lot square footage). For subdivisions of property south of Beach Access Road 1A and Piper Blvd. that are not classified as a N.U.D., a P.U.D., or a multifamily tract, the first dwelling unit requires five thousand (5,000) square feet of lot size.~~

~~In all other districts (outside of an R-1 District) lying north of Beach Access Road 1A and Piper Blvd., the first dwelling unit requires three thousand (3,000) square feet of lot size (see additional height restrictions in section 25-153). For multifamily lots, two (2) dwelling units on a single lot requires six thousand (6,000) square feet, and three (3) dwelling units on a single lot requires nine thousand (9,000) square feet. The minimum lot size for any multifamily dwelling consisting of more than three (3) dwelling units shall be nine thousand (9,000) square feet plus the number of square feet required for each dwelling unit as listed in the multifamily development summary chart under article XIII of chapter 25. For the purposes of this section, lot size is calculated exclusive of streets and/or driveways whether public or private (parking spaces are not included in this calculation).~~

Additionally, no multifamily dwelling/townhouse development shall exceed the number of dwelling units per acre of land within the development, exclusive of streets and/or driveways whether public or private (parking spaces are not included in this calculation), hereinafter set forth with respect to each: townhouse/low rise multifamily (attached or detached) 5000 sq ft per dwelling unit; ~~twenty-one (21)~~; high rise building greater than 3 stories to be approved as a Planned Unit Development (PUD).

Lots that are created for the specific use of utility and drainage facilities shall be exempt from the minimum lot area standards.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-148. - Yard requirements.

The following rules apply to all buildings:

- (1) A building setback from the front lot line shall be a minimum of twenty (20) feet;
- (2) A building setback from the side lot line shall be a minimum of five (5) feet;
- (3) On the side of a corner lot which abuts a street, the minimum building setback from the side lot line adjacent to such street shall be fifteen (15) feet;
- (4) A building setback from the rear lot line shall be a minimum of ten (10) feet; provided however, that a detached garage may be a minimum of three (3) feet from the rear lot line. On lots where the rear lot line abuts on a street (double frontage), the rear setback shall be twenty (20) feet, if through a plat note, the rear of a double frontage property prohibits driveway access then the rear setback shall be fifteen (15) feet. On lots where the rear lot line abuts an alley, the setback shall be ten (10) feet for buildings and one (1) foot for detached garages that may contain an ADU;
- (5) Interior side and rear building setback requirements on a lot in a commercial district shall not be less than five (5) feet and ten (10) feet respectively when the lot is adjacent to a residential district (not a residential use). Rear building setback requirements on a lot in a commercial district adjacent to a dedicated alley may be one (1) foot. In all other cases rear setbacks shall be ten (10) feet. Lots located in a commercial district shall have no minimum building setback requirements from interior side lot lines and

buildings shall be located thereon with reference to the interior side lot lines in any manner authorized by the building code.

- (6) Exterior walls of commercial buildings located within five (5) feet of a lot line must provide a minimum of two (2) hour fire protection.
- (7) Notwithstanding the above, in a townhouse development, the above and foregoing rules are modified in order to allow for zero (0) foot lot lines and common walls. NUD's, and PUD's shall have setbacks as allowed in their respective divisions.
- (8) Setbacks are measured from the property line;

(Ord. No. 2010-05, § 1, 3-18-10; Ord. No. 2012-05, § 1, 8-16-12)

Sec. 25-149. - Features allowed within required yard setback areas.

The following features may be located within a required yard but may be subject to additional regulations applied herein: None of the following features shall cause rain water or ground water to be diverted onto the adjacent property.

- (1) Trees, shrubbery, or other landscape features, excluding gazebos or other similar structures that require a building permit;
- (2) Fences and walls;
- (3) Driveways and parking spaces;
- (4) Sidewalks;
- (5) Utility lines, wires, and associated structures, such as power poles;
- (6) Mechanical equipment such as air conditioning units, pool pumps, and similar equipment;
- (7) Uncovered porches, uncovered steps to building entrances, and uncovered patio decks that do not exceed thirty (30) inches in height from the average ground grade;
- (8) Sills, belt courses, cornices, garden windows, buttresses, chimneys, flues, roof eaves, or extensions may extend up to twenty-four (24) inches into any required side yard and four (4) feet into front and rear yard;
- (9) Cantilevered balconies or decks located more than eight (8) feet from the ground may project up to fifty (50) percent into the required yard rear and side setbacks, and up to twenty-five (25) percent into the required front yard setback;
- (10) Accessory structures that do not require building permits in accordance with the International Building Code (IBC) and International Residential Building Code (IRC);
- (11) Bus stops that offer shelter from the elements. Such shelters may be located within a front or side street yard. Shelters may be located within a public right-of-way if a private improvement in public right-of-way permit has been duly issued; and
- (12) Swimming pools and hot tubs without overhead shelters or structures.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-150. - Corner clearance.

On any corner lot, within the lots boundaries, nothing shall be erected or placed or plants allowed to grow higher than two and one-half (2½) feet above the centerline grade of the intersecting streets within fifteen (15) feet of the intersection of the property lines (the corner of the lot). Any repairs or alterations done on existing fences must be done in compliance with the requirements of this section. Existing plantings which are nonconforming must be kept trimmed in such a manner as to allow adequate visibility of stop signs, street name signs or other traffic control or informational devices.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-151. - Fences/walls.

Fences of wood, chain-link, or similar material, and less than eight (8) feet in height, and walls of brick, stone, concrete, or similar material, and less than six (6) feet in height, shall not be construed to be structures, nor shall they require a building permit or engineering. Fences shall not protrude into the public right-of-way.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-152. - Height.

(a) Building height refers to the vertical distance measured from the average building site elevation, or the base flood elevation where applicable, and the following points:

- (1) The mean height level between the eaves and ridge for a hip and gable, hip, or gambrel roof;
- (2) The deck line of a mansard roof; or
- (3) The highest point of the coping of a flat roof.

Note: Elevator/stair cupolas providing access to rooftops are excluded in the determination of the height calculation, but shall be sized to the smallest possible dimensions as determined by the administrator, and shall not contain any additional storage areas, living space, utility space or the like.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-153. - Height and additional side yard requirements for multistory buildings and structures.

(a) The yard requirement for all multistory buildings up to thirty-five (35) feet in height is defined in section 25-148.

- (b) Single-family, duplex, triplex and fourplex residential buildings and related structures which exceed thirty-five (35) feet in height, in addition to the sideyard setback required under subsection (a) above, must provide an additional one and one-half (1½) feet of sideyard setback on each side for each additional one (1) foot of height above thirty-five (35) feet.
- (c) No structures on any property located ~~within the boundaries of Avenue G, Eleventh Street and Beach Access Road 1A~~ north of Beach Access Road 1A shall exceed thirty-five (35) feet in height.
- (d) All buildings and structures located on a parcel/lot ~~that was platted after the enacting of this chapter,~~ whose parcel/lot is less than 5,000 square feet, shall not exceed twenty-seven (27) feet in height.
- (e) All buildings and structures which exceed thirty-five (35) feet in height, except those covered under subsection (b) above, must provide a minimum sideyard setback of forty (40) feet on each side, and, in addition to the forty (40) feet on each side, those buildings and structures which exceed sixty (60) feet in height must provide an additional one and one-half (1½) feet of total sideyard setback for each foot of additional height above sixty (60) feet (the additional footage can be provided in any proportion on either or both sides). Structures are permitted within the additional setback area but may not exceed twenty-five (25) feet in height. For properties with structures exceeding thirty-five (35) feet in height, the required setbacks shall not encompass the entire property but shall be extended parallel from lot side to lot side from the furthest apart two (2) points of a structure (see figures below).

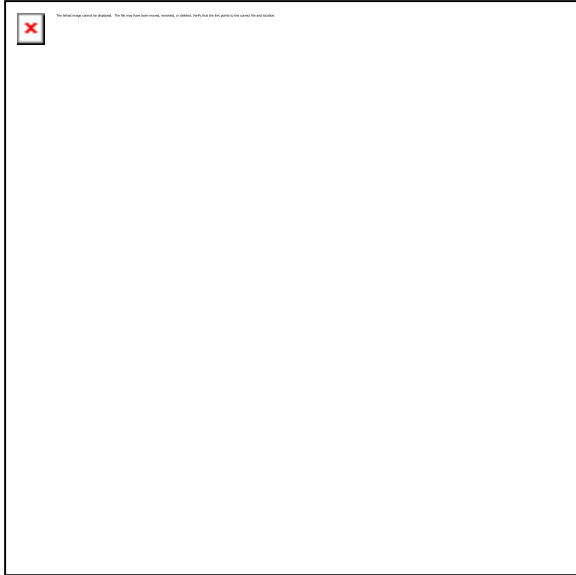


Figure 7.1-9(a) Front view

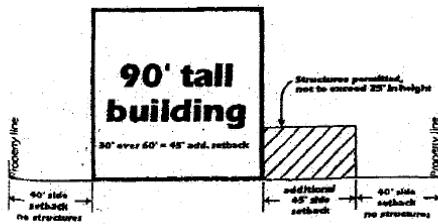
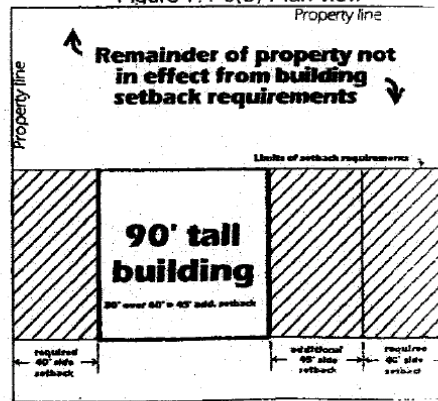


Figure 7.1-9(b) Plan view



(f) ~~No single family, duplex, townhouse, triplex or fourplex dwelling building shall have more than three (3) livable stories, exclusive of the garage.~~

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-154. - Dwelling unit minimum and single retail store maximum floor areas established.

(a) *Dwelling unit minimum floor area.* The minimum floor area for a dwelling unit shall be at least six hundred (600) square feet as determined by measurements of the exterior dimensions of the unit exclusive of accessory buildings and detached or attached garages.

Except that an accessory dwelling unit, as approved in Division V of this chapter may have a minimum floor area of three hundred (300) square feet.

- (b) *Single retail store maximum floor area.* No single retail store whether located in a single building, a combination of buildings, single tenant space, and/or combination of tenant spaces shall exceed twenty-five (25,000) thousand gross square feet of floor area in the aggregate. This size restriction shall apply to new retail stores and expansion of existing retail stores.

(Ord. No. 2010-05, § 1, 3-18-10; [Ord. No. 2014-10, § 1, 7-7-14](#).)

Sec. 25-155. - Mobile homes.

Mobile homes will be allowed in mobile home parks which conform to section 25-161. Mobile homes may be occupied on a separate lot in any district only if permanently attached to the ground as required in section 14-1 and in compliance with applicable sections of this chapter for single-family dwellings. Temporary, transient rental of mobile homes is prohibited.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-156. - Recreational vehicles.

Recreational vehicles will be allowed in recreational vehicle parks and recreational vehicle subdivisions which conform to chapter 14 and chapter 21 of the Port Aransas Code. Recreational vehicles may be stored or occupied outside of recreational vehicle parks and recreational vehicle subdivisions only in accordance with chapter 14.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-157. - Special area regulations.

- (a) The planting of ornamental palms or trees along the property line is permitted for highway beautification purposes provided such planting will not constitute a traffic hazard or interfere with adjoining businesses.
- (b) Wreckage, debris resulting from hurricanes, windstorms, high water, wave action or storm damage shall be cleared up, removed from the property to prevent littering the surrounding area within four (4) months following the cause of damage. Failure to clean the premises is hereby declared a nuisance.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 2. - OFF-STREET PARKING AND LOADING

Sec. 25-158. - Off-street parking facilities required.

Off-street parking facilities required. Off-street parking facilities shall be provided for all development within the city pursuant to the requirements of this Code. The facilities shall be maintained as long as the use exists that the facilities were designed to serve. It shall be unlawful for any owner or operator of any building or land use affected by the code to cause or permit the discontinuance or reduction of required parking or loading facilities without the establishment of alternative parking or loading facilities which meet the requirements of and are in compliance with this article and approved by the city manager or his or her designee. It shall be unlawful to discontinue or dispense with, or cause the discontinuance or reduction of, the required parking facilities apart from the discontinuance of the building, use, or structure without establishing alternative off-street parking facilities that meet these requirements.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-159. - Surfacing standards.

All parking areas shall have durable surfaces for vehicle use areas, shall be properly drained and shall be designed with regard to pedestrian safety. A durable surface shall consist of an improved surface, including concrete, asphalt, stone, compacted shell and other permanent surfaces. Each parking space shall be accessible from a driveway.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-160. - General standards.

- (a) Each off-street parking space for automobiles shall have an area of not less than nine (9) by eighteen (18) feet and for commercial uses each stall shall be striped or marked with a parking bumper (wheel stop). This standard size shall apply for off-street parking for all uses including single-family residential, duplexes, multifamily, townhouses, and detached single-family uses. Single-family structures and duplexes are not required to stripe parking spaces or place parking bumpers.
- (b) A sixteen (16) foot paved space (ninety (90) degree only) may be utilized where the space abuts a low profile landscaped island in which the front of the vehicle can protrude two (2) feet over the island. A sixteen (16) foot space may also be used when adjacent to a sidewalk in which the front of the vehicle can protrude two (2) feet over the sidewalk provided that the minimum width of the sidewalk is six (6) feet.
- (c) Each parking space intended for use by the handicapped shall be designed in accordance with the standards of the Texas Architectural Barriers Act (TABAA) administered by the Texas Department of License and Regulation.
- (d) Each parking space and the maneuvering area thereto shall be located entirely within the boundaries of the building plot except where shared parking is approved by the city.
- (e) All parking spaces, aisles, and modules shall meet the minimum requirements, as shown in the following table. All dimensions are measured from wall to wall.

Parking Space and Aisle Dimensions

A	B	C
Angle (degrees)	Width of stall	Depth of stall 90° to aisle
0	9 feet	18.0 feet
45	9 feet	21.1 feet
60	9 feet	22.3 feet
90	9 feet	20.0 feet

- (f) If the required parking for all the combined uses of a lot exceed ten (10) spaces or more, the following shall apply:
- (1) Only nine (9) spaces (per street frontage) shall be permitted to back into a public way;
 - (2) Only one (1) driveway is allowed for lots with up to fifty (50) feet of frontage. Corner lots are allowed one (1) entrance and one (1) exit on each abutting street. If necessary to meet this requirement, uses shall arrange for shared egress;
 - (3) Such parking lots shall be screened from any abutting residential use;
 - (4) Facilities shall be so sized and arranged that no vehicles need back onto or off of a public way or be parked on a public way while loading, unloading or waiting to do so. (See also subsection (g) below).
- (g) If internal parking conditions are possible, then backing out onto the major arterials of Alister Street, Highway 361, Eleventh Street between Avenue G and Beach Access Road 1A, Avenue G, Cut-Off Road, and Cotter Ave. west of Station Street is prohibited.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-161. - Number of off-street parking spaces required.

In computing the number of parking spaces required, the following rules shall govern:

- (1) Off-street parking spaces shall be provided upon the erection of any building or structure. Whenever a building or use constructed or established after the effective date of this section is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, floor area or otherwise, parking requirements shall be met on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this section is enlarged, the enlarged building or increased use shall then and thereafter comply with the parking requirements set forth herein;

- (2) In all zoning districts off-street parking requirements are exclusive of individually owned/assigned enclosed garages. Common use covered garage spaces (example: a parking garage) in multi-family uses shall be counted towards parking requirements;
- (3) The parking space requirements for a use not specifically listed shall be the same as those for the most similar to the proposed use, as determined by the administrator;
- (4) Where fractional spaces result when computing required parking spaces, the required number of spaces must be increased to the nearest whole number;
- (5) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately;
- (6) When a developer presents an alternative development plan (i.e. PUD, , NUD) and can demonstrate that such development will require fewer parking spaces than required by the standards of this section without endangering the health, safety and general welfare of the public, the administrator may permit a reduction in the number of required parking spaces for the development. Such a reduction in parking spaces shall be justified through the development of a parking study prepared by a professional engineer or transportation planner and submitted to the administrator. The balance of the land necessary to meet these requirements may be held in reserve as an undeveloped area, to meet any future needs generated by an expansion of the business, a change in land use, or underestimated parking demand;
- (7) Stacked parking shall be permitted for residential dwelling units only, where the required parking can be assigned to a particular dwelling unit. The stacking of parking for a commercial use shall be prohibited except where expressly allowed. Additional parking approved in a separately designated area or by an approved alternative parking plan as described in this division, must be within two hundred fifty (250) feet of the lot or property for which the parking is being required;
- (8) Parking is expressing prohibited in any location that results in a safety issue or obstructs visibility from adjacent driveways or street corners; and
- (9) Parking requirements based on square footage shall be based upon the gross floor area, unless otherwise stated. Service areas such as mechanical rooms, restrooms, and closets shall be included in the calculation of "gross floor area" for determining required parking spaces; Where requirements are established on the basis of the number of seats, such requirements shall be based on the seating capacity as determined by the administrator or building official; Where the basis for parking requirements are the number of bedrooms/sleeping rooms, such requirements shall be based on a determination by the administrator or building official.

Minimum Off-Street Parking Requirements: SR - Sleeping Room; DU - Dwelling Unit

Use	Category	Unit	Parking Spaces Per	Additional Information
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			Unit	
Residential	R-1 single-family dwelling	DU	2.0	No transient rental allowed.
	HUD-Code manufactured home	DU	2.0	Transient rental of HUD manufactured home is not allowed.
	All dwelling units (ADU) other than R-1	SR	1.0	2 space minimum per dwelling unit excluding ADU. Occupancy load to be determined by administrator.
	Bed & Breakfast	SR	1.0	1 Additional parking space required for proprietor
Commercial	Arcades, game room		1.0	For every 250 SF of gross floor space
	Airport			As determined by the administrator
	Auto - repair, sales, rentals		1.0	For every 400 SF of gross floor area.
	Auto - service station		2.0	Four (4) spaces for each service bay.
	Auto - wash	Wash bay	2.5	Each stall shall have a minimum on-site storage lane capacity of three (3) motor vehicles.
	Bank, savings & loan, financial institution	250 SF	1.0	Each drive-in teller window or ATM machine shall have a minimum on-site storage lane capacity of three (3) motor

				vehicles.
	Barbershop, beauty parlors	Each employee station	2.0	
	Bowling alley			As determined by the administrator
	Car wash (self-serve)	Wash bay	1.0	1.0 space per vacuum bay
	Churches/other places or public assembly			1 space for every three (3) seats within the main auditorium, or if there are no fixed seats, 1 space for every 35 SF of Gross Floor Area within the main auditorium.
	Convalescent, nursing homes	Bed	0.25	
	Convenience stores	250 SF	1.0	
	Day care center, nursery schools	250 SF	1.0	
	Driving range - Golf	Tee station	1.0	
	Golf course - regulation	Hole	6.0	
	Health studio/club	250 SF	1.0	
	Hospital			As determined by the administrator
	Hotel/motel	DU/room	1.0	1 space for every 200 SF meeting room

	Laundromat	250 SF	1.0	
	Lumber yards, nursery	250 SF	1.0	Plus 1 space for every 5,000 SF of exterior ground area.
	Manufacturing			As determined by the administrator
	Medical, dental, clinic - offices	200 SF	1.0	
	Miniature golf	Hole	1.5	
	Mini-storage, boat barns			No minimum parking shall be required for the mini-storage units provided that the aisle widths between buildings are a minimum of 18 FT and through access or turnaround space is provided. Parking shall be required for the square footage devoted to other uses on the site.
	Neighborhood pocket parks			Minimum 1 handicap parking space per park
	Night clubs	75 SF	1.0	
	Office buildings - administrative, business, governmental, utility	250 SF	1.0	
	Restaurant	Per 4 seats	1.0	Administrator may charge for open spaces that show no tables, such as deck space or space at bar showing no bar stools.

	Retail sales & service - department store	250 SF	1.0	
	Retail sales & service - furniture/appliance store	500 SF	1.0	
	Rooming, boarding, bed & breakfast		1.0	For every room for rent
	Shopping strip centers	250 SF	1.0	Covers all tenant uses
	Theaters, movies	Seat	0.25	Plus 1 space for each employee on biggest shift
	Theme, amusement parks			As determined by the administrator
	Warehouse, storage			1 space for every 1,000 SF of gross floor area for the first 20,000 SF devoted to warehousing
	Vending machine, kiosk in existing parking lot	Per employee	1.0	3 on-site stacking spaces per window (cannot take away required parking)
Marine- related	Dry boat storage facility	Per boat space	0.5	1 Parking Space for every 4 boat storage spaces. Required auto parking spaces cannot be used for wash/dry racks or for boats or trailers.
	Party vessels: fishing, sight-seeing, dining			1 space per 3 seats on boat plus 1 space for crew per boat. stacking of vehicles is allowed, plus required parking for any other

				uses on the site.
	Marinas	Per public/private slip	1.5	And additional parking requirements for other uses specified herein.

(Ord. No. 2010-05, § 1, 3-18-10; [Ord. No. 2015-04, § 2, 5-21-15](#))

Sec. 25-162. - Alternative parking plans.

- (a) *Scope.* An alternative parking plan represents a proposal to meet vehicle parking and transportation access needs by means other than providing parking spaces on-site in accordance with the ratios established in section 25-159, number of off-street parking spaces required.
- (b) *Applicability.* Applicants who wish to provide fewer on site parking spaces than allowed above shall be required to secure approval of an alternative parking plan, in accordance with the standards of this section. The administrator may require that an alternative parking plan be submitted in cases where the administrator deems the listed standard to be inappropriate based on the unique nature of the use or in cases where the applicable standard is unclear.
- (c) *Contents.* Alternative parking plans shall be submitted in a form established by the administrator and made available to the public. At a minimum, such plans shall detail the type of alternative proposed and the rational for such a proposal.
- (d) *Review and approval procedure.* The city council, upon recommendation of the planning and zoning shall be authorized to approve alternative parking plans.
- (e) *Recording.* An attested copy of an approved alternative parking plan shall be submitted to the county clerk's office for recordation on forms made available in the department of planning and projects. Proof of recordation of the agreement shall be presented to the administrator prior to issuance of a building permit. Minor amendments an approved alternative parking plan may be approved by the administrator.
- (f) *Eligible alternatives.* A number of specific parking and access alternative are described below. The city council shall, however, be authorized to consider and approve any alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates that the proposed plan shall result in a better situation with respect to surrounding neighborhoods, city-wide traffic circulation, and urban design than would strict compliance with otherwise applicable off-street parking standards.
 - (1) *Shared parking.* The city council may authorize a reduction in the number of required off-street parking spaces for multiple-use developments or for uses that are located near one another and that have different peak parking demands or different operating hours. Shared parking shall be subject to the following standards:

- a. *Location.* Shared off-street parking spaces shall be located no farther than two hundred fifty (250) feet from the building site. The city council may waive this distance limitation, if adequate assurances are offered that van or shuttle service shall be operated between the shared lot and the principal use;
 - b. *Zoning classification.* Shared-parking areas shall be considered accessory uses of principal uses that the parking spaces are intended to serve. Shared parking areas shall require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared parking area;
 - c. *Required study and analysis.* The applicant shall submit a shared parking analysis to the city council that clearly demonstrates the feasibility of shared parking. The study shall be provided in a form established by the administrator and made available to the public. It shall address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that shall be sharing off-street parking spaces. The city council shall have the authority to require a revised study and analysis should conditions change that may result in a change in site parking conditions;
 - d. *Shared parking agreement.* A shared parking plan shall be enforced through written agreement among the owners of record. An attested copy of the agreement shall be submitted to the county clerk's office for recreation on forms made available in the planning and projects department. Proof of recordation of the agreement shall be presented to the administrator prior to issuance of a building permit. A shared parking agreement may be revoked by the parties to the agreement only if off-street parking is provided pursuant to this section, or if an alternative parking plan is approved by the administrator;
 - e. *Revocation.* Failure to comply with the shared parking provisions of this section shall constitute a violation of this chapter and shall specifically be cause for revocation of a certificate of occupancy or building permit.
- (2) *Off-site parking.* The administrator may permit a portion of the required off-street parking spaces to be located on a remote and separate lot from the lot on which the principal use is located, subject to the standards of this section. No more than fifty (50) percent of the required parking shall be allowed off-site.
- a. *Location.* Shared off-street parking spaces shall be located no farther than two hundred fifty (250) feet from the building site. The city council may waive this distance limitation, if adequate assurances are offered that van or shuttle service shall be operated between the shared lot and the principal use;
 - b. *Zoning classification.* Off-site parking areas shall be considered accessory uses of principal uses that the parking spaces are intended to serve. Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served;
 - c. *Off-site parking agreement.* In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement among the

owners of record shall be required. An attested copy of the agreement between the owners of record shall be submitted to the county clerk's office for recreation on forms made available in the office of the administrator. Proof of recordation of the agreement shall be presented to the administrator prior to issuance of a building permit. An off-site parking agreement may be revoked by the parties to the agreement only if off-street parking is provided on-site pursuant to section 25-159, off-street parking standards or if an alternative access and parking plan is approved by the city council.

- (3) *Bicycle parking.* The city council may authorize a reduction in the number of required off-street parking spaces for developments or uses that make special provisions to accommodate bicyclists. Examples of accommodations include bicycle lockers, employee shower facilities, and dressing areas for employees.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 3. - LIGHTING

Sec. 25-163. - Lighting and glare standards.

- (a) *Lighting limited.* Any light fixture shall be operated so as not to produce an obnoxious and intense glare or direct illumination across the bounding property line, and shall not be of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All lights projecting light to any exterior area shall be made up of a light source and reflector so selected that acting together, the light beam is controlled and not directed across any bounding property line above a height of three (3) feet (See section 25-166, nuisance declared).
- (b) Lighting that illuminates any outdoor area shall conform to the definition for "full shielded light fixtures" and be designed, arranged and screened so that the point light source shall not be visible from adjoining lots or streets.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-164. - Luminaries.

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

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-165. - Temporary holiday lighting.

Strings of bulbs and strings of lamps are prohibited except for low wattage temporary lighting used for holidays and decorative seasons are permitted for a maximum time period of

thirty (30) days before each holiday use and must be removed fifteen (15) days after the holiday ends.

The list of holidays shall be established and kept by the administrator.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-166. - Specific lighting requirements.

- (a) Facade and flagpole lighting must be directed only toward the facade or flag and shall not interfere with the night-visibility on nearby thoroughfares or shine directly at any adjacent residential use.
- (b) All lighting fixtures incorporated into non-enclosed structures (i.e., gas pump canopies, car washes, etc.) shall be fully recessed into the underside of such structures and shall meet section 25-161 of this division.
- (c) No flashing lights of any type, except for temporary holiday lighting.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-167. - Exempt lighting.

- (a) Public recreation facilities lighting used on a temporary or seasonal basis is exempt from the standards of this chapter.
- (b) Public street lights are exempt except that all replacement lights for any public street light shall be of the "Cut-off refractor" lighting type.
- (c) Traffic control lighting is exempt.
- (d) Federal Aviation Administration required lighting for the airport.
- (e) Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- (f) Exit signs and other illumination required by building codes.
- (g) Lighting for stairs and pedestrian ramps, as required by the building code.
- (h) Signs are regulated by the sign code, but externally lit signs and displays must be shielded so as not to create obtrusive light.
- (i) Low voltage landscape lighting, but such lighting shall be shielded or directed in such a way as to eliminate obtrusive light.
- (j) Low intensity gas lighting in residential areas.
- (k) Low intensity "ambiance" lighting, such as "rope" lighting and frosted globe lighting.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-168. - Nuisance declared.

The shining of light produced by a luminaire beyond the boundaries of the property on which the luminaire is located and onto another property under circumstances where the lighting element of the luminaire is visible from such other property and in such a manner and with such intensity as to disturb and annoy the reasonable sensibilities of a person living on and using such other property in a reasonable and customary manner as a residence is declared to be a nuisance and is prohibited. Street lights, traffic control lights, and public facility lighting are exempt from this chapter.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-169. - Filing of complaint; unlawful noncompliance; fines.

Any person may complain to the city in regards to lighting that does not comply with the standards set forth in this division. The complaint must be filed in writing to the city code enforcement officer. It shall be unlawful for the owner or tenant within the city to fail to comply with the standards set forth in this section within fifteen (15) days after notice is mailed or published, directing that such standards be met; the code compliance office or any other individual assigned such duties may, whenever a violation is found, file a complaint with the municipal court and/or issue citations.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 4. - OUTDOOR STORAGE AND DISPLAY

Sec. 25-170. - General.

Outdoor storage and display is allowed in nonresidential uses in according with this section. Any merchandise, material, or equipment situated outdoors and visible from the public right-of-way or adjacent properties shall be subject to the requirements of this section. No outdoor storage or display shall be allowed to occur in required parking areas. (Also see: chapter 10, health and sanitation and chapter 12 licenses and business regulations for additional requirements of outdoor storage and display)

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-171. - Permanent structure required for commercial activities; exceptions.

- (a) It shall be unlawful for any person to sell, lease, rent, barter or exchange any goods, wares, merchandise or services on a commercial, retail basis or to offer to do so except out of a permanent structure complying with all construction codes, ordinances and regulations of the city applicable thereto, including, but not limited to, parking requirements. However, notwithstanding the general prohibition of this subsection, a person who engages in any of the hereinabove described activities out of a permanent structure complying with the hereinabove set forth requirements can engage in the like activities outside of his permanent structure so long as he does so on the same premises as his permanent structure is located.

Examples of like activities: An approved food service establishment can engage in the outdoor sale of same menu food service items. A T-shirt store can engage in the outdoor sale of T-shirts and other same store items. A T-shirt store cannot engage in outdoor food sales and a food service store cannot engage in outdoor T-shirt sales.

(b) This section is not applicable to the following:

- (1) Peddlers as defined and regulated by other provisions of this Code;
- (2) Activities upon the public beach which are regulated by other provisions of this Code;
- (3) A sale of used, consumer, household goods by an individual who is not regularly engaged in the business of such sales, the sale being commonly known as a garage sale;
- (4) A nonprofit, charitable or fund-raising event for a charitable purpose;
- (5) Coin-operated vending machines, including newspaper type racks, located on the same property as a permanent structure which complies with the requirements of subsection (a) above; and
- (6) The sale of fuel and other goods and services customarily provided by a gasoline or automobile service station, so long as the sales are made on the same property as a permanent structure which complies with the requirements of subsection (a) above is located.
- (7) Activities upon public places permitted, licensed or otherwise allowed by the city for specific purposes regulated by other provisions of this Code.
- (8) Activities in the public harbors and marinas which are regulated by other provisions of this Code.
- (9) Any existing commercial activity approved by the city prior to January 14, 2015 may continue operating in non-conforming fashion under the same terms and conditions of their earlier approval until such time they are no longer able to meet those terms and conditions. Should the non-conforming commercial activity cease for a period greater than twelve (12) months, compliance with all current requirements will be required to resume said activity.

(Ord. No. 2010-05, § 1, 3-18-10; [Ord. No. 2015-01, § 1, 1-15-2015](#))

Sec. 25-172. - Categories of outdoor storage and display.

- (a) *Outdoor display.* Outdoor display is display of items actively for sale. Such storage shall not be permitted to block windows, entrances, or exists, and shall not impair the ability of pedestrians to use the building or sidewalk.
- (b) *Permanent outdoor sales areas.* Merchandise may be stored or displayed for sale to customers in areas contiguous to the principle building. Permanent outdoor sales areas must comply with district setback requirements. Such areas may not interfere with parking and parking lot requirements. Permanent areas open to the public for the display and/or sale of

merchandise shall be shown on a site plan and will be included in parking requirement calculations and approved by the administrator.

- (c) *Temporary outdoor sales and storage.* Temporary outdoor sales areas, including sales tents, may be displayed for a two-week period in a calendar year as approved by the administrator. Such areas shall be clearly defined and shall not interfere with parking lot requirements. Christmas trees and associated sales tents may be displayed for sale from November 15 to December 31 on any commercial use property and do not count towards the two-week allotment.
- (d) *General outdoor storage.* Outdoor storage consists of all remaining forms of outdoor storage not classified above. Outdoor storage visible to the public right-of-way or adjacent properties is allowed so long as it is completely screened from view outside the site by a solid wall or solid fence at least six (6) feet but not more than eight (8) feet in height. Outdoor storage shall not be allowed within a required front setback.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-173. - Exceptions.

- (a) Vehicles for sale as part of a properly permitted vehicle sales use (including boats and manufactured housing) shall not be considered merchandise, material, or equipment subject to the restricts of this section.
- (b) Waste generated on-site and deposited in ordinary refuse containers shall not be considered outdoor display or storage.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 5. - ACCESSORY DWELLING UNITS (ADU)

Sec. 25-174. - Purpose and intent.

It is the policy of the City of Port Aransas to promote and encourage the creation of legal ADUs in a manner that enhances residential neighborhoods and helps residents meet their housing needs and realize the benefits of ADUs.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-175. - Eligibility.

An ADU may be permitted as an accessory use to a single-family home under the following conditions:

- (1) ADU's shall not be allowed on a lot with two (2) or more dwelling units.
- (2) Only one (1) ADU is permitted per single-family residence (SFR). The ADU may be located in the same building as the principal dwelling unit or in a directly adjacent

building accessory to the principal dwelling unit, or directly adjacent to the principal dwelling unit as a separate stand-alone structure.

- (3) ADUs are allowed in any zoning district where there is an existing SFR or may be built in conjunction with a newly permitted SFR.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-176. - General requirements.

All ADUs shall meet the following requirements:

- (1) An ADU shall be constructed only through the issuance of a building permit.
- (2) ADUs are allowed on any legally platted lot.
- (3) ADUs shall meet all setback requirements.
- (4) An ADU may not be sold separately from the sale of the entire property, including the primary dwelling unit, and shall not be rented or leased unless separate utility meters have been installed.
- (5) The square footage of an ADU shall be no less than three hundred (300) square feet and less than six hundred (600) square feet measured in air-conditioned living space (excludes air-conditioned garages and the like).
- (6) A minimum of one (1) additional parking space shall be provided for each bedroom that the ADU contains.
- (7) ~~Rental of an ADU shall be determined by the properties existing zoning district use regulations.~~ Regardless of zoning district, temporary, transient rentals of an ADU is prohibited unless the property owner permanently lives on site and the property is designated the owner's homestead residence with the Nueces County appraisal district. Additionally, temporary, transient rentals of an ADU is allowed only if rentals of the ADU, upon which occupancy taxes are or were lawfully due, took place in 2021 before August 5, 2021 and occupancy tax reports were or are timely filed with the appropriate state and city authorities applicable to such rentals and taxes. A qualified ADU may be used for temporary, transient rentals until the earlier to occur of (1) August 5, 2026 or (2) sale, conveyance, transfer or assignment of legal title to the property occurs after August 5, 2021, at which time temporary, transient rentals of said ADU shall cease.
- (8) Properties must be in compliance with existing density regulations before an ADU is permitted.

(9) RV, campers, mobile homes, modified container van or any similar structure are not allowed as an ADU.

(10) On lots sized for multifamily development, and where there exists a SFR with an ADU if the owner of such lot wishes to build an additional dwelling unit(s), the ADU must be sized to at least six hundred (600) square feet at which point it will be considered a "second" dwelling unit and not an ADU.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 6. - ACCESS AND DRIVEWAYS

See chapter 20 streets, sidewalks and other public ways.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 7. - SIGNS

See chapter 19 signs.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 8. - LANDSCAPING

See chapter 16 planning and development.

(Ord. No. 2010-05, § 1, 3-18-10)

DIVISION 9. - SOLID WASTE

See chapter 9 sanitation

(Ord. No. 2010-05, § 1, 3-18-10)

Secs. 25-177—25-210. - Reserved.

DIVISION 10. - ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 25-211. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult book store means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or

specified anatomical areas as herein defined or an establishment with a segment or section devoted to the sale or display of such material.

Adult motion picture theater means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined for observation by patrons therein.

Church includes the primary church building where worship services are conducted and the grounds and structures surrounding or in close proximity thereto and used in connection therewith.

Commercial sexual exhibition means a commercial establishment where any goods or services are provided to customers or patrons on a commercial basis and where, for observation by customers or patrons while the customers or patrons are buying or consuming the goods or services, there is provided a live, human exhibition, including by way of illustration and not limitation, dancing, modeling, plays and other displays, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined.

School means preschool, primary and secondary schools and colleges and the structures and grounds surrounding same or in close proximity thereto and used in connection therewith or which are used in connection therewith although not in close proximity thereto, including, but not limited to, playgrounds, stadiums, tract and field areas, etc.

Specified sexual activities means:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

Specified anatomical area means:

- (1) Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttock, and (c) female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-212. - Prohibition.

All adult motion picture theaters, adult book stores, and commercial sexual exhibitions are prohibited, except in the commercial and industrial districts. Within any such districts such businesses, activities, and uses are prohibited within one thousand three hundred twenty (1,320) feet of any church; one thousand three hundred twenty (1,320) feet of any areas zoned exclusively for residential use; two thousand six hundred forty (2,640) feet of any school; one

thousand three hundred twenty (1,320) feet of any city park or public building; two thousand six hundred forty (2,640) feet of the public beach as measured from the natural vegetation line; one thousand three hundred twenty (1,320) feet of any other adult book store, adult motion picture theater, or commercial sexual exhibition and one thousand three hundred twenty (1,320) feet of any sexually oriented commercial activity as defined by section 25-226.

(Ord. No. 2010-05, § 1, 3-18-10; Ord. No. 2010-08, § 1, 7-15-10)

Sec. 25-213. - Measurement of distances.

- (a) For the purpose of measuring the distance from a church, school, city park, public building, public beach, or an area zoned exclusively for residential use to an adult book store, adult motion picture theater, or a commercial sexual exhibition, the measurement shall be taken along a straight line starting from that point of the building in which such business, activity or use is or is proposed to be conducted which is closest to the church, school, city park, public building, public beach, or boundary line of such area zoned exclusively for residential use.
- (b) For the purpose of measuring the distance from an adult motion picture theater, adult book store or commercial sexual exhibition (the regulated use) to another adult motion picture theater, adult book store or commercial sexual exhibition or to a sexually oriented commercial activity as defined by section 25-226 (another regulated use), the measurement shall be taken along a straight line, starting at that point of the building where the regulated use is or is proposed to be conducted which is closed to a point of the building where another regulated use is conducted and ending at such latter point.

(Ord. No. 2010-05, § 1, 3-18-10; Ord. No. 2010-08, § 1, 7-15-10)

Secs. 25-214—25-225. - Reserved.

DIVISION 11. - SEXUALLY ORIENTED COMMERCIAL ESTABLISHMENTS

Sec. 25-226. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Church include the primary church building where worship services are conducted and the grounds and structures surrounding or in close proximity thereto and used in connection therewith.

School means preschool, primary, and secondary schools and colleges and the structures and grounds surrounding same or in close proximity thereto and used in connection therewith or which are used in connection therewith although not in close proximity thereto, including, but not limited to, playgrounds, stadiums, track and field areas, etc.

Sexually oriented commercial activities means massage parlors, nude studios, modeling studios, love parlors, and other similar commercial enterprises whose major business is the

offering of a service which is intended to provide sexual stimulation or sexual gratification to the customer. Sexually oriented commercial activities, as used herein, does not include bookstores, movie theaters, or any business:

- (1) Operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers engaged in performing functions authorized under the license held; or
- (2) Operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-227. - Prohibition.

All sexually oriented commercial activities as herein defined are prohibited, except in commercial and industrial districts, and within any such district such activities are prohibited within one thousand three hundred twenty (1,320) feet of any church, one thousand three hundred twenty (1,320) feet of any areas zoned exclusively for residential use, two thousand six hundred forty (2,640) feet of any school, one thousand three hundred twenty (1,320) feet of any city park or public building, two thousand six hundred forty (2,640) feet of the public beach as measured from the natural vegetation line, one thousand three hundred twenty (1,320) feet of any other sexually oriented commercial activity, and one thousand three hundred twenty (1,320) feet of any adult motion picture theater, adult book store, or commercial sexual exhibition as defined by section 25-211.

(Ord. No. 2010-05, § 1, 3-18-10; Ord. No. 2010-08, § 2, 7-15-10)

Sec. 25-228. - Measurement of distances.

- (a) For the purpose of measuring the distance from a church, school, city park, public building, public beach, or an area zoned exclusively for residential use to a sexually oriented commercial activity, the measurement shall be taken along a straight line starting from that point of the building in which such activity is or is proposed to be conducted which is closed to the church, school, city park, public building, public beach, or boundary line of such area zoned exclusively for residential use.
- (b) For the purpose of measuring the distance from a sexually oriented commercial activity (the regulated use) to another sexually oriented commercial activity, an adult motion picture theater, an adult book store or a commercial sexual exhibition as defined by section 25-211 (another regulated use), the measurement shall be taken along a straight line, starting at that point of the building where the regulated use is or is proposed to be conducted which is closed to a point of the building where another regulated use is conducted and ending at such latter point.

(Ord. No. 2010-05, § 1, 3-18-10; Ord. No. 2010-08, § 2, 7-15-10)

Secs. 25-229—25-240. - Reserved.

ARTICLE V. - NONCONFORMING USES AND LOTS^[5]

Sec. 25-241. - Continuation and restoration.

Any use or structure, which is nonconforming to this chapter, may be continued if that use or structure was lawfully existing on the effective date of the provision to which it does not conform. Such uses may be restored if destroyed or damaged by fire or other accidental or natural cause provided restoration is accomplished within one (1) year after the occurrence of said destruction or damage. However, if such nonconforming uses are discontinued or abandoned for more than one (1) year, subsequent use must comply with this chapter.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-242. - Alteration.

Legally nonconforming structures may be altered if they are not expanded, the use is not changed, and the exterior of the structure is made to conform to the specific rules and regulations, if any, existing on the date of the alteration and governing the appearance of the exterior of structures in the zoning district in which the structure is located. However, nonconforming structures or uses may be expanded or changed to a more restrictive use if granted permission by the board of adjustment and appeals as a special exception in accordance with article VIII. When the nonconforming use is a structure's penetration into a setback, only the portion of the structure that is not violating the setback may be expanded, the portion of the structure that is in violation of a setback may not be expanded in any horizontal or vertical direction.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-243. - Nonconforming lots.

On any platted lot which contains less than the minimum lot size and frontage required in this chapter and which is owned separate from any adjoining land at the date of application for building permit, a single-family dwelling may be erected provided required setbacks are observed. Existing buildings in violation of lot area requirements may be remodeled or repaired to the original size, but may not be enlarged unless setback requirements are met.

(Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-244. - Signs in CZ-1 corridor zone.

This section applies to all outdoor signs in the CZ-1 corridor zoning district. Any sign, having been permitted to remain in place as a nonconforming use or structure, must be brought into compliance or dismantled and removed if the sign or any substantial part of it is blown down or otherwise destroyed or dismantled, unless it is dismantled only for maintenance operations or

for changing the letters, symbols or other matter on the sign. A sign is considered to be blown down or destroyed to the point where it is required to be brought into compliance or dismantled and removed only if the cost of repairing the sign is more than sixty (60) percent of the cost of erecting a new sign of the same type at the same location. A sign is considered destroyed regardless of the cause of its destruction, whether it is destroyed by some calamitous event or by gradual deterioration.

(Ord. No. 2010-05, § 1, 3-18-10)

Secs. 25-245—24-255. - Reserved.

ARTICLE VI. - PLANNED UNIT DEVELOPMENTS^[6]

The purpose of this article is to encourage creative approaches for better quality and lower cost residential and mixed-use developments by permitting reasonable modifications of the standard zoning and subdivision regulations in a completely planned development. It is the intent of this section to provide for greater flexibility in the design of buildings, houses, yards, courtyards, streets, and pedestrian and automobile circulation within a development than would otherwise be possible through the application of existing rules and regulations of this chapter and the platting ordinance. It is further the intent of this section to provide for maximum choice in the types of environment and living units available to the public, an integration of open space and recreation areas with residential and commercial development, a pattern of development which preserves trees, outstanding natural topography, and geologic features, a creative approach to the use of land and related physical development, an efficient use of land resulting in small networks of utilities and streets and thereby lower building, housing and maintenance costs, with positive impact on public costs, and an environment of stable character in harmony with surrounding development. The planned unit development concept is a recognition that at times greater quality of development can be achieved by permitting modification of established zoning and subdivision regulations and when property is planned, and developed as a unit, modification to standard regulations is possible without endangering the health, safety and general welfare of the public. In order to ~~insure~~ ensure the flexibility aforesaid, it is important for the planning and zoning commission and the city council to retain and exercise their discretion on a case-by-case basis with respect to such developments with a view towards ~~insuring~~ ensuring that the purposes of the planned unit development as hereinabove set forth are achieved and maximized. Towards that end, no inflexible, rigid standard rules and regulations which are normally applicable to development under zoning and platting rules will be applicable to planned unit developments. Each development must stand on its own merits and the grant of any single application shall not constitute a waiver with respect to any other application concerning the same or similar matters or developments.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-257. - Location.

A PUD may be located within any zoning district south of Beach Access Rd 1A.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-258. - Application.

The owner must submit an application with a plan to the city building official showing in detail the manner in which the land is to be used, the location, size, character and appearance of buildings and provision of traffic circulation, off-street parking, service areas, drainage, landscaping, open space, statement indicating proposing and projected timing of each phase, etc., together with restrictive covenants.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-259. - Phased development.

Plans shall be divided into sections of proposed development so that in the event of failure to timely commence or complete bona fide construction in any section of an approved development plan, there will be:

- (1) Definitely established lines showing the reduced PUD after the elimination of the unused portion of the site area.
- (2) The plan must minimize damage to the unused portion of the site from the standpoint of its suitability for future use.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-260. - Procedure.

- (a) The same procedures as are applicable to a zoning change for a particular piece of property shall apply to an application for approval of a PUD under this article.
- (b) Approved plans may be amended by the same procedure by which there were originally approved, except that minor changes in the plan may be approved by the city manager if the change does not violate the intent of the originally approved plan.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-261. - Area, height and yard requirements.

- (a) Property proposed for a PUD must be no less than ten (10) acres in area, and no section of a phased PUD may be less than ten (10) acres in area.
- (b) Minimum yard and setback and maximum height requirements shall not apply, except that the minimum yards shall be provided around the boundaries of the area to be developed shall meet the IRBC or the IBC.

(Ord. No. 97-8, § 1, 7-17-97; Ord. No. 2010-05, § 1, 3-18-10)

Sec. 25-262. - Platting.

The plan shall comply with applicable procedures of the platting and subdivision regulations. A plat of the development must be recorded regardless of whether a subdivision is proposed, and such plat shall show building lines, common land, if any, streets, drives, easements, and other applicable features required by the subdivision regulations. The maximum number of dwelling units permitted shall comply with the development performance standards.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-263. - Conditions.

The planning and zoning commission may recommend and the city council impose such conditions as are reasonable to protect the health, safety and welfare of the public.

(Ord. No. 97-8, § 1, 7-17-97)

Secs. 25-264—25-269. - Reserved.

ARTICLE VII. - SPECIAL PERMITS

Sec. 25-270. - Authorization.

Any uses not permitted in a particular district by this chapter may be authorized by a special permit granted by the city council after recommendation made by the commission. Conditions may be imposed.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-271. - Blanket special permit.

- (a) A blanket special permit is hereby granted for the following qualified, single-family residence structures to be used for temporary, transient rentals in the R-1 zoning district for the duration hereinafter provided. A single-family residence structure is qualified to engage in temporary, transient rentals hereunder only if rentals, upon which occupancy taxes are or were lawfully due, took place in 1998 and an occupancy tax report, or reports, were filed with the appropriate state and city authorities before February 28, 1999, applicable to such rentals and taxes. A qualified, single-family residence structure may be used for temporary, transient rentals in an R-1 zoning district until the sale, conveyance, transfer or assignment of legal title to the property at which time temporary, transient rentals of said single-family residence structure shall cease, provided said sale, conveyance, transfer, or assignment occurs after February 28, 1999.
- (b) A blanket special permit is hereby granted for the following qualified, multifamily dwelling structures containing four dwelling units or less to be used for temporary, transient rentals in the R-2 zoning district. A multifamily dwelling structure is qualified to engage in temporary, transient rentals, hereunder only if rentals upon which occupancy taxes were or

are lawfully due, took place in 1998 and an occupancy tax report, or reports, were filed with the appropriate state and city authorities before January 31, 1999 applicable to such rentals and taxes.

(c) The following are granted special permits for RV park purposes on the conditions hereinafter set forth:

(1) Recreational vehicle parks which are in existence and being actively used as such in conformity with the zoning laws and RV park regulations of the city on November 13, 2000 (the "eligibility date") are hereby granted a special permit to continue that use, as if the park was located within a zoning district which, immediately after the effective date of Ordinance No. 2000-11, which passed third and final reading on November 13, 2000, allowed that use, and if, on the eligibility date, the owner of any such RV park also owned land adjacent to such RV park, said RV park use may be expanded onto said adjacent land, as if said adjacent land was, on the date of such expansion, in a zoning district which allowed that use, but any such expansion must otherwise conform with the then current rules and regulations applicable to such use. The lands which are granted said permit are described as follows:

a. The Pioneer RV Park lands described as follows:

1. The land upon which the existing Pioneer RV Park is, on November 9, 2000, located: Lots 1, 3, 5, and 4A, of Block 1 Gulfside Estates Subdivision.
2. Adjacent land: A one hundred sixty (160) foot wide strip of land out of the northeast end of a tract of land deeded to Chubba Trust #1 by deed recorded under document No. 808420 Official Public Records, Nueces County Clerk and consisting of approximately 8.54 acres of land, and Ward Samuel Survey .53 Ac out of Survey 590 LS 192 Abst 406.

(2) If an RV park permit under Chapter 14 has been applied for or granted with respect to a parcel of land as of November 13, 2000 (the "eligibility date"), a special permit is hereby granted for the land covered by that permit to be developed for that purpose in conformity with that permit, as if said land was located within a zoning district which, immediately after effective date of Ordinance No. 11-00, which passed third and final reading on November 13, 2000, allowed that use. The lands which are granted said permit are described as follows:

a. The Marshall RV Park lands described as follows: Lots 7 and 8, Mustang Island, as recorded at Vol. 38, pp. 130-131, Map Records Nueces County, TX.

(3) Any special permit granted hereunder may be terminated at any time by the council in the same form and fashion as it could rezone the property, but, if the zoning of the property at that time is still such that RV parks are not an allowable use on the subject property under the zoning laws of the city, such termination shall not affect the right of the owner to then and thereafter have and claim, as to his land which is then actually being used as an RV park in conformity with this special permit, and the adjacent lands hereinabove described lawful, nonconforming use status as of the date of said termination.

(Ord. No. 99-2, § 1, 2-18-99; Ord. No. 2000-11, § 5, 11-13-00)

Secs. 25-272—25-279. - Reserved.

ARTICLE VIII. - SPECIAL EXCEPTIONS

Sec. 25-280. - Purpose.

Special exceptions are specified uses that this chapter determines are appropriate and allowed in designated districts, if the board of adjustment determines that the particular placement will not adversely affect the public and neighborhood interests. Special exceptions relate to uses which are allowed by this chapter. Variances do not. Variances require a showing of hardship. Special exceptions do not.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-281. - Standards.

A special exception may be granted an applicant when the board finds that:

- (a) The granting of such exception will not be injurious or otherwise detrimental to the public health, safety, morals, and general welfare of the public;
- (b) The granting of such exception will not be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located; and
- (c) The granting of such exception will be in harmony with the general purpose and intent of this chapter, and will serve the general welfare and preserve the community interest.

In determining its findings, the board shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such building or upon such land, traffic conditions in the vicinity, and the conformance of such area to the official zoning map and comprehensive plan.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-282. - Conditions.

In granting any special exception under this chapter, the board may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this chapter.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-283. - Authorized special exceptions.

The board may authorize special exceptions to this chapter, limited to the following and to such other situations as may be elsewhere in this chapter addressed:

- (1) The board may authorize the extension of a height or area regulation into an adjoining district for a distance of not more than twenty-five (25) feet, where the boundary line of the district divides a lot which is under single ownership as of the effective date of this chapter.
- (2) Reserved for later use.

(Ord. No. 97-8, § 1, 7-17-97)

Secs. 25-284—24-289. - Reserved.

ARTICLE IX. - VARIANCES

Sec. 25-290. - Purpose.

A variance is an authorization by the board of adjustment granting relief and doing substantial justice in the use of the applicant's property by a property owner where, owing to special and unique conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. The board may permit variance of the height, area, front yard, side yard, rear yard, lot width, lot depth, coverage, and minimum setback standard and landscaping where the literal enforcement of these provisions would result in an unnecessary hardship, and where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such restricted 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. The variance procedure may not be utilized to change the use of property or to allow a use prohibited by this chapter.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-291. - Findings required.

A variance may be granted to an applicant when the board finds that:

- (1) There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same zoning or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building; and
- (2) The granting of such variance will not be detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located; and
- (3) The granting of the variance is necessary for the reasonable use of the land or building and the variance as granted by the Board is the minimum variance that will accomplish this purpose; and

- (4) The literal enforcement and strict application of the provisions of this chapter will result in an unnecessary hardship inconsistent with the general provisions and intent of this chapter and that, in granting such variance, the spirit of the chapter will be preserved and substantial justice done; and
- (5) In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining the findings, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-292. - Conditions.

In granting any variance under the provisions of this article, the board may designate such conditions in connection therewith which will, in its opinion, secure substantially the purpose and intent of this chapter.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-293. - Limitation.

A variation from the standards established by this chapter shall not be granted to relieve a self-created or personal hardship, nor for financial reason only, nor shall such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the district.

(Ord. No. 97-8, § 1, 7-17-97)

Secs. 25-294—25-299. - Reserved.

ARTICLE X. - APPEALS OF ERROR IN ADMINISTRATIVE DECISIONS

Sec. 25-300. - Authorized.

Appeals to the board of adjustment and appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building or other administrative official relative to the enforcement of this chapter. Such appeal shall be taken within fifteen (15) days time after the decision has been rendered by the building or other official, by filing, with the officer from whom the appeal is taken and with the board of adjustment and appeals, a notice of appeal specifying the grounds thereof and by paying the required fee. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(Ord. No. 97-8, § 1, 7-17-97)

Sec. 25-301. - Stay of proceedings.

An appeal shall stay all proceedings of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment and appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board of adjustment and appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(Ord. No. 97-8, § 1, 7-17-97)

Secs. 25-302—25-309. - Reserved.

ARTICLE XI. - FLEXIBLE DEVELOPMENT^[7]

Sec. 25-310. - Purpose.

The purpose of this article is to encourage flexible development regulations that may include an array of strategies to allow deviation from standard development regulations in certain cases. This deviation could be in setbacks, lot sizes, parking requirements, height, and more. By permitting flexibility in certain cases, development can become more affordable and allow for greater housing diversity, which can in turn affect housing prices.

([Ord. No. 2016-11, § 1, 6-16-16](#))

Sec. 25-311. - Eligible projects.

To encourage and facilitate creative construction projects that serve a public or community purpose, the commission will consider and the city council may grant reasonable development bonuses and allowances. Eligible projects might include but not be limited to:

- (1) Development that dedicates land or property for public benefit, i.e. parks, off-beach parking, utility and drainage easements and road rights-of-way;
- (2) Housing development restricted to long-term occupancy only; or
- (3) Unique residential construction or modification designed for workforce housing.

([Ord. No. 2016-11, § 1, 6-16-16](#))

Sec. 25-312. - Development bonuses and allowances.

Development bonuses and allowances might include but are not limited to:

- (1) Smaller dwelling unit size;
- (2) Higher density development projects;

- (3) Special residential use allowances;
- (4) Modification of street and sidewalk requirements;
- (5) Modification of lot requirements including frontage, total area and dimensions for certain types of development i.e. recreational vehicle/manufactured home parks and subdivisions and motor-court styled projects;
- (6) Modification to required on-site parking;
- (7) Consideration of residential housing types not specified in current ordinances;
- (8) Reduction in open space requirements;
- (9) Modification of set-back requirements; and
- (10) A legal reduction or waiver of any building/development fees.

([Ord. No. 2016-11, § 1, 6-16-16](#))

Sec. 25-313. - Minimum requirements.

- (a) A flexible development proposal must clearly demonstrate how the project deviates from the City's existing design and construction standards and what public or community benefit will be realized.
- (b) Any housing related project requesting a development bonus or allowance to increase density (number of dwelling units) must prohibit the transient rental of the resulting additional dwelling units.

([Ord. No. 2016-11, § 1, 6-16-16](#))

Sec. 25-314. - Procedure.

- (a) *Individuals, builders, developers:* Anyone interested in applying for designation as a flexible development project whether or not they are seeking a development bonus or allowance must follow the requirements of city's planning review and permitting process as outlined in this chapter.
- (b) *Staff:* Shall evaluate the flexible development proposal as submitted and provide a recommendation to the commission for consideration.
- (c) *Modification:* Any proposed modifications to development projects that have been accepted for flexible development purposes, and that include an amendment to a flexible development eligibility feature or flexible development standard called out in the application materials submitted as part of the original proposal must be re-submitted to staff for evaluation and recommendation.
- (d) *Planning and zoning commission:* The commission will review any proposed flexible development projects considering guidance established in this chapter including the anticipated effect the proposed development could have on adjacent property and ensure resulting projects do not have an adverse effect on the value or area's established character.

- (e) *City council:* The city council shall receive the commission's recommendation and make the final determination after considering the matter.

([Ord. No. 2016-11, § 1, 6-16-16](#))

Secs. 25-315—25-320. - Reserved.

ARTICLE XIII. - MULTI-FAMILY DEVELOPMENT SUMMARY CHART^[9]

The following chart illustrates requirements applicable to multi-family developments as set forth in various other sections of Chapter 25 and Chapter 21, references to which are made in the various blocks of this chart.

Proposed Multifamily Chart

Type of Bldg. Project	Height (Feet and Stories)	Min. Front Yard Setback	Min. Side Yard Setback	Min. Rear Yard Setback	Green Space (Sq. Ft. per dwelling unit)	Min. Off- street Parking (parking spaces per unit)	Min. Space between Bldgs.	Max. Dwelling Units per Acre	Min. Lot Width in feet
Low Rise Multifamily/Townhouse/ <u>Condominium</u>	3 Stories and see 25- 193 PACO	20' 25- 177 PACO	5' 25- 177 PACO but must follow 25-153 PACO	10' 25- 177 PACO or as allowed by zoning Ord.	325 25- 146 PACO	2 1/4 25-161 PACO	Per Bldg. Code	24 <u>8.712</u>	Per Platting Ord. Ch. 21
High Rise	Determined with P.U.D approval See 25-193 PACO	20' 25- 177 PACO	40' 25- 177 PACO but must follow 25-153 PACO	10' 25- 177 PACO or as allowed by zoning Ord.	325 25- 146 PACO	2 1/4 25-161 PACO	Per Bldg. Code	Determined with P.U.D approval	Per Platting Ord. Ch. 21

(Ord. No. 2002-09, § 7, 7-18-02; Ord. No. 2010-05, § 1, 3-18-10)

SECTION 2. EFFECTIVE DATE.

As provided by Article III, Section 12.C. and by Article XII, Section 2 of the Charter of the City of Port Aransas, this ordinance shall be effective upon adoption on third and final reading.

SECTION 3. READING.

As provided by Article III, Section 13 and Article III, Section 12.b. of the Charter of the City of Port Aransas, this ordinance or the caption of it shall be read at three city council meetings with at least one week elapsing between each reading.

SECTION 4. SEVERANCE.

If any part of this ordinance is invalid or void or is declared to be so, then said part shall be severed from the balance of this ordinance and said invalidity shall not affect the balance of this ordinance, the balance of the ordinance to be read as if said invalid or void portion thereof were not included.

PASSED, ORDAINED, APPROVED and ADOPTED this 9th day of AUGUST, 2021.



CITY OF PORT ARANSAS, TEXAS

A handwritten signature in blue ink, appearing to read "Charles R. Bujan", is written over a horizontal line.

Charles R. Bujan, Mayor

ATTEST:

A handwritten signature in black ink, appearing to read "Francisca Nixon", is written over a horizontal line.

Francisca Nixon, City Secretary

First Reading: July 15, 2021

Second Reading: July 26, 2021

Third Reading: August 9, 2021