

Division 23-3D-1: Specific to Use

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23-3D-1010 Purpose

- (A) This division establishes site plan, development, and operating requirements for certain land uses where allowed by Article 23-3C (Zones) and for uses that require special standards to ensure their compatibility with site features and existing uses.

23-3D-1020 Applicability

- (A) The standards of this division apply to all proposed development, in all zones, unless otherwise named in this division, and must be considered in combination with all other applicable provisions of Title 23. If there is a conflict between any standards, the provisions of this division control over Article 23-3C (Zones). If there is a conflict with any other requirements of this Title, the provision which is more restrictive or imposes higher standards or requirements shall control, so that in all cases the most restrictive provision shall apply.

23-3D-1030 Accessory Dwelling Unit - Residential

- (A) **Development Standards.** An accessory dwelling unit (ADU) in a residential zone must comply with the standards of the base zone, except where modified in Table 23-3D-1030(A) (Requirements for Accessory Dwelling Units).

Table 23-3D-1030(A) Requirements for Accessory Dwelling Units	
	Requirement
Floor Area	(1) Maximum of 1,100 sf
Placement	(1) If detached, minimum 6' to the front, rear, or side of the primary structure or above a detached garage; may be connected to the primary structure with a covered walkway; (2) If attached, may be connected to the primary structure with a common wall or roof; or (3) Within the primary structure.
Other	(1) May not be used as a short-term rental for more than 30 days in a calendar year if the unit was constructed after October 1, 2015. (2) Only one ADU may be built per site, and the total dwelling units per site shall not exceed the density permitted by the base zone. (a) Exception. Additional Accessory Dwelling Units may be allowed in compliance with the Preservation Incentive in Section 23-3C-3060 (House-Scale Preservation Incentive), Section 23-3C-4060 (Multi-Unit Preservation Incentive), and Section 23-3C-5060 (Multi-Unit Preservation Incentive).

23-3D-1040 Accessory Dwelling Unit - Non-Residential

- (A) **Development Standards.** Except as otherwise provided in this section, one accessory dwelling unit is allowed in non-residential zones if no more than 50 percent of the building area is used for the accessory dwelling unit. The occupant of the accessory dwelling unit is not required to be engaged in the principal use.
- (B) **Additional Requirements for Industrial Zones.**
 - (1) For all Industrial Zones except Industrial Flex, an accessory dwelling unit is allowed as an accessory use if:
 - (a) The accessory dwelling unit is occupied by a person engaged in security, leasing, or management for the principal use; and
 - (b) No more than 25 percent of the building is used for the accessory dwelling unit.
 - (2) For an Industrial Flex zone, an accessory dwelling unit is allowed as an accessory use if the dwelling unit occupies no more than 40 percent of the building.

- (C) **Additional Requirements for Civic Uses.** An accessory dwelling unit is allowed if:
 - (a) The accessory dwelling unit is used for residential purposes; and
 - (b) One individual who resides in the accessory dwelling unit is employed on-site for security, maintenance, management, supervision, or personal service.

23-3D-1050 Accessory Uses

- (A) **Applicability.** Article 23-3C (Zones) establishes the zones where accessory uses are permitted
- (B) **Accessory Uses.**
 - (1) An accessory use is a use that:
 - (a) Is incidental to and customarily associated with a principal use;
 - (b) Unless otherwise provided, is located on the same site as the principal use; and
 - (c) May share parking with the principal use.
- (C) Table 23-3D-1050(A) (Allowed Accessory Uses) establishes the accessory uses allowed based on the site's primary use.

Table 23-3D-1050 (A) Allowed Accessory Uses

Accessory Uses to a Residential Use

Childcare, Small

Dock

Garage sales that comply with Subsection (F)(6)

The keeping of dogs, cats, and similar small animals as household pets

Playhouses, patios, cabanas, porches, gazebos, and household storage buildings

Radio and television receiving antenna, and dish-type satellite receivers

Recreational activities and facilities

Religious study meetings

Residential convenience service

Residential tours that comply with Subsection (F)(5)

Solar collectors

Vehicle storage

Accessory Uses to a Commercial Use

Retail, restaurant, bar/nightclub, an entertainment and recreation use, or an industrial use that is otherwise prohibited in the base zone subject to the requirements of Subsection (G)(1)

Parking facility subject to Subsection (G)(2)

Accessory uses described in the Commercial Recreation (CR) Zone in Subsection (H)

Accessory Uses to an Industrial Use

Commercial use otherwise prohibited in the base zone subject to the requirements of Subsection (I)(1)

Major utility

Table 23-3D-1050 (A) Allowed Accessory Uses (cont.)
Accessory Uses to a Civic and Public Assembly Use
Cafeterias, dining halls, and similar
Accessory Uses to a Civic and Public Assembly Use (cont.)
Gift shops, newsstands, and similar
Parking facilities
Refreshment stands, convenience food or beverage sales
Accessory Uses to an Agricultural Use
Uses that are necessarily and customarily associated with the purpose and function of an agricultural use
Accessory to a Recreation Use
Bathroom facilities
Communications
Dock
Maintenance Buildings
Gift shop subject to Subsection L
Library, museum, or public art gallery subject to Subsection L
Meeting facility
Parking facility
Recreational Vehicle Park subject to Subsection L
Refreshment stand subject to Subsection L
Single-family, duplex, or ADU subject to Subsection L
Storage shed
Utilities, local

- (D) A use other than one described in this section is allowed as an accessory use if the director determines that the use is necessary, customary, appropriate, and incidental to a principal use.
- (E) **Development Requirements.** A structure associated with the accessory use must comply with the development requirements of the base zone.
- (F) **Accessory Uses to a Principal Residential Use.** An accessory use to a principal residential use must comply with the requirements of this subsection.
 - (1) A residential use includes a use listed in the residential and residential support services use categories in the land use table in Article 23-3C (Zones).
 - (2) An accessory use may not generate more than 10 guest vehicle trips a day or 30 guest vehicle trips a week.
 - (3) The following uses are allowed as an accessory use to a principal residential use:
 - (a) Childcare, small
 - (b) Recreational activities and recreational facilities for use by residents;
 - (c) Religious study meetings;

- (d) Playhouses, patios, cabanas, porches, gazebos, and household storage buildings;
 - (e) Radio and television receiving antenna and dish-type satellite receivers;
 - (f) Solar collectors;
 - (g) The keeping of dogs, cats, and similar small animals as household pets;
 - (h) A home occupation that complies with Section 23-3D-1210 (Home Occupations);
 - (i) A garage sale that complies with Subsection (F)(6);
 - (j) A residential tour that complies with Subsection (F)(5);
 - (k) Vehicle storage that complies with Subsection (F)(4);
 - (l) A dock that complies with Subsection 23-3D-9060(G) (Docks as Accessory Uses);
 - (m) A residential convenience service if:
 - (i) The principal use is a multi-family use or a manufactured home park use;
 - (ii) It is operated as an integral part of the principal use;
 - (iii) Is not identifiable from outside the site; and
 - (iv) Is intended to be utilized solely by the occupants of the principal use.
- (4) **Vehicle storage.** This subsection establishes the requirements for vehicle storage as an accessory use.
- (a) Not more than one motor vehicle for each licensed driver residing on the premises may be stored on the premises.
 - (b) A private garage for the storage of maximum four motor vehicles is allowed.
 - (c) Except for an antique vehicle or recreational vehicle, a motor vehicle with a capacity of one ton or greater is prohibited.
 - (d) One commercial vehicle may be stored on the premises if:
 - (i) The vehicle is less than or equal to 14,000 gross vehicle weight rating (GVWR); and
 - (ii) The vehicle is owned or operated by the individual who resides at the premises.
 - (e) An inoperable motor vehicle may not be stored on an adjacent public right-of-way. A motor vehicle is inoperable if, for more than 120 hours, the vehicle:
 - (i) Does not have license plates or has license plates that have been expired for more than 90 days;
 - (ii) Does not have a current registration sticker or has a registration sticker that has been expired for more than 90 days; or
 - (iii) Cannot be started or legally operated in a public right-of-way.
 - (f) Up to two vehicles that are either antique or recreational vehicles may be stored on the premises, if the storage area is not a health hazard and is either:
 - (i) In an enclosed building; or
 - (ii) Screened from public view with a solid wood fence or masonry wall at least six feet high.

- (5) **Residential Tours.** Participation on an annual or semi-annual tour is allowed as an accessory residential use subject to the requirements in this subsection and all other applicable regulations.
- (a) A tour is an organized event in which multiple residential properties are opened to members of the public for any lawful purpose, including:
 - (i) The appreciation and study of architecture; and
 - (ii) The production and incidental sale of artwork by an individual responsible for making or producing the artwork.
 - (b) To qualify as an accessory use, under this subsection, a residential tour that includes the production or sale of art may not take place on more than six days per calendar year, may not include a garage sale, may not include six guest artists in addition to the primary artist, and a participating residential property may not:
 - (i) Participate on a tour more than 12 days per calendar year;
 - (ii) Participate in more than three tours per calendar year;
 - (iii) Participate in a tour more than three days per week;
 - (c) A tour organizer shall provide the dates of the tour and the address of all participating properties to the Director if the tour includes the production or sale of art
- (6) **Garage Sales.** This subsection establishes the requirements for garage sales as an accessory use.
- (a) A garage sale includes yard sales, carport sales, or similar types of sales involving:
 - (i) The sale of used or secondhand tangible property customarily found at a residence; and
 - (ii) The production and incidental sale of artwork by an individual responsible for making or producing the artwork.
 - (b) A garage sale must be conducted entirely on a property used as the seller's principal residence.
 - (c) A garage sale may not be held at the same property more than four days per calendar year.
 - (d) A garage sale may not be held concurrently at a property participating in a residential tour described in Subsection (F)(5).
- (G) **Accessory Uses to a Principal Commercial Use.** An accessory use to a principal commercial use located in a non-residential zone must comply with the requirements in this subsection.
- (1) A commercial or industrial use that is otherwise prohibited in the base zone is allowed as an accessory use if the use:
 - (a) Is operated primarily for the convenience of employees, clients, or customers of the principal use;
 - (b) Occupies less than 10 percent of the total floor area of the use;
 - (c) Is an integral part of the principal use; and
 - (d) For an industrial use, is not located within 100 feet of any residential zone.

- (2) A parking facility is only allowed as an accessory use in Regional Center Zones.
- (H) **Accessory Uses for a Commercial Recreation Zone.** An accessory use to a principal commercial use located in a Commercial Recreation Zone must comply with the requirements in this subsection. The requirements in this subsection supersede the requirements in Subsection (G) to the extent of conflict.
- (1) The following are allowed as accessory uses in a Commercial Recreation (CR) Zone:
 - (a) Childcare;
 - (b) Food sales;
 - (c) General retail sales;
 - (d) Personal services;
 - (e) Public safety facilities; and
 - (f) Restaurant without alcohol sales.
 - (g) An accessory use described in this subsection, may not occupy more than 50 percent of the site area or the gross floor area of the structures on the site.
- (I) **Accessory Uses to a Principal Industrial Use.** An accessory use to a principal industrial use must comply with the requirements in this subsection.
- (1) A retail, restaurant, office, business and financial/professional service, personal storage, childcare, or recreation use that is otherwise prohibited in the base zone is allowed as an accessory use if the use:
 - (a) Is operated primarily for the convenience of employees, clients, or customers of the principal use;
 - (b) Occupies less than 40 percent of the total floor area of the use; or
 - (c) Is an integral part of the principal use.
 - (2) A major utility is allowed as an accessory use if the facility is operated as an integral part of the principal use, and the facility is not a public utility under the Texas Public Utility Regulatory Act.
- (J) **Accessory Uses to a Principal Civic and Public Assembly Use.** An accessory use to a principal civic use includes:
- (1) Refreshment stands and convenience food or beverage sales that serve a civic use;
 - (2) Cafeterias, dining halls, and similar food services that are primarily for the convenience of employees, residents, clients, patients, or visitors;
 - (3) Gift shops, newsstands, and similar commercial activities primarily for the convenience of employees, residents, clients, patients, or visitors;
 - (4) Parking facilities; except for a facility located in a Residential House-Scale Zone, which may not exceed the minimum parking requirements of the principal use; and
 - (5) A columbarium that:
 - (a) Is affiliated with a religious assembly use;
 - (b) Occupies no more than 10 percent of the site area or 10,000 square feet, whichever is less;

- (c) Is oriented to the interior to the site; and
 - (d) Is not visible from public rights-of-way.
- (K) **Accessory Use to a Principal Agricultural Use.** For a principal agricultural use, accessory uses that are necessarily and customarily associated with the purpose and function of the agricultural use are allowed.
- (L) **Accessory Use to a Principal Recreation Use.** An accessory use for a principal recreation use includes:
- (1) Bathroom facilities;
 - (2) Communications;
 - (3) Dock;
 - (4) Maintenance buildings;
 - (5) Meeting facility;
 - (6) Parking facility
 - (7) Utilities, local;
 - (8) Storage shed;
 - (9) If part of an approved master plan:
 - (a) Recreational vehicle park;
 - (b) Library, museum, or public art gallery; and
 - (10) For Outdoor, Formal Recreation use:
 - (a) A single-family, duplex, or accessory dwelling unit that is occupied by at least one individual who is employed on-site for security, maintenance, management, supervision, or personal service;
 - (b) A refreshment stand or convenience food or beverage sales that serve a public assembly use; and
 - (c) A gift shop that serves the use.

23-3D-1060 **Adult Entertainment**

- (A) **Purpose and Findings.**
- (1) The Legislature of the State of Texas has determined that sexually oriented businesses such as the businesses regulated in this section may be detrimental to the public health, safety and welfare of a community by contributing to the decline of neighborhoods and contributing to the growth of criminal activity.
 - (2) The Legislature of the State of Texas grants authority to regulate sexually oriented businesses in V.T.C.A., Local Government Code ch. 243.
 - (3) The City, as a home-rule city, has other authority under the Texas Constitution and Local Government Code to enforce ordinances to protect the health, safety and welfare of its citizens.

- (4) A number of studies have found that adult oriented businesses (a/k/a sexually oriented businesses) have an adverse secondary effect on property values, contribute to an increased crime rate in neighborhoods containing these businesses, cause an increase in sex-related crimes in such neighborhoods, and show a compounding of adverse secondary effects when two or more adult oriented businesses are located in close proximity.
 - (a) Survey of Texas Appraisers and Crime Related Secondary Effects, Texas City Attorney's Association, June 2008;
 - (b) A report on Zoning and other Methods of Regulating Adult Entertainment, Amarillo, Texas;
 - (c) Adult Entertainment an Analysis, Indianapolis, IN, February 1984;
 - (d) Study and Proposed Zoning Ordinance Amendment, Los Angeles, California, April 1978;
 - (e) Study of Adult entertainment Establishments in the City of Los Angeles, Los Angeles Department of City Planning, June 1977; and
 - (f) Report of the Attorney General's Working Group of the Regulation of Sexually Oriented Businesses; State of Minnesota, June 1989.
- (5) The city council also relies on these additional studies, reports or testimony in other communities including, but not limited to: Austin, Texas; Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington;
- (6) The city council finds and determines, based on these studies, testimony, and other available information, that the regulation of adult oriented businesses is necessary to control and limit these adverse secondary effects because:
 - (a) When the uses are concentrated, they affect the use and enjoyment of adjacent areas, and increase law enforcement problems. Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to blighting or downgrading of surrounding neighborhoods, endanger public safety, or decrease the value of surrounding properties. The purpose of these standards is to promote the health, safety, and welfare of the city by preventing a concentration or clustering of these uses in any one area of the city and to restrict their proximity to residential areas, schools, religious institutions, parks, and other public facilities.
 - (b) Adult-oriented businesses, as a category of commercial land uses, are associated with a wide variety of adverse secondary effects, including negative effects on surrounding properties, personal and property crimes, illicit drug use and trafficking, lewdness, prostitution, potential spread of disease, and sexual assault.
 - (c) Adult-oriented businesses must be separated from the sensitive land uses to minimize the effect of their secondary effects on these uses and must be separated from other adult-oriented businesses to ensure that these adverse secondary effects will not contribute to the blighting.

- (7) There is a substantial government interest in preventing each of the foregoing negative secondary effects. This substantial government interest exists independent of any comparative analysis between adult-oriented businesses and non-adult-oriented businesses.
 - (8) The evidentiary record before the City establishes a reasonable basis to show that this standard has the purpose and effect of suppressing secondary effects related to adult-oriented businesses while leaving the quantity and accessibility of speech substantially intact. The City finds that a substantial interest and sufficient evidence exists to regulate adult-oriented businesses independent of any comparative rationale or comparative analysis involving the secondary effects of adult-oriented businesses. The City further finds that sufficient evidence exists in the record that the secondary effects associated with adult-oriented businesses will be reduced by these standards.
- (B) **Intent of Regulations.** It is not the intent of this Title to restrict access by adults to sexually oriented materials protected by the First Amendment, suppress any speech activities protected by the First Amendment, or deny access by the distributors and exhibitors of sexually-oriented entertainment to their market. The provisions propose content-neutral standards that address the negative secondary effects of adult retail uses and entertainment establishments and prevent the negative economic and aesthetic effects on neighboring properties and the community as a whole.
- (C) **Advertisements and Displays.** On-premises advertisements, displays, or other promotional materials for an adult entertainment business that emphasize specified sexual activities or specified anatomical areas must not be visible from public or semi-public places outside the business.
- (D) **Permitted.** Except as provided in Subsection (E).
- (1) An adult entertainment use other than an adult lounge:
 - (a) Is permitted in a MU5B; and
 - (b) Is permitted with a conditional use permit in the DC or CC Zone; and
 - (2) An adult lounge is permitted with a conditional use permit in a MU5B, DC, or CC Zone.
- (E) **Location Restrictions.** An adult entertainment use may not be located on a lot:
- (1) That is within 1,000 feet of a lot on which another adult entertainment use is located;
 - (2) That is within 1,000 feet of a lot on which a school, church, public park or playground, licensed day-care center, museum, or library is located; or
 - (3) Where 50 percent or more of the lots within a 1,000-foot radius include a residential use.
- (F) **Measurement.** The radius described in Subsection (E)(3) is measured from the structure where the proposed adult entertainment use is proposed.

23-3D-1070 Alcohol Sales

- (A) **Alcohol Sales for Off- Site Consumption.** A business that sells alcohol (including beer, wine, or liquor) for off-site consumption must comply with applicable State requirements.
- (B) **Location Restrictions.** A use that includes the sale of alcohol shall comply with Section 4-9-4 (Minimum Distance from Certain Uses) of Title 4 (Business Regulations and Permit Requirements).

23-3D-1080 Alternative Financial Services

- (A) **Location Restrictions.** An alternative financial service use may not be located on a site that is:
 - (1) Within 1,000 feet of a site that contains another alternative financial services use;
 - (2) Within 200 feet of a property in a base or overlay zone in which a residential use is allowed or in which a residential use is located;
 - (3) Within 500 feet of the rights-of-way of Interstate Highway 35, U.S. Highway 183, U.S. Highway 290, Texas State Highway Loop 360, Texas State Highway Loop 1, Texas State Highway 130, or Texas State Highway 45; or
 - (4) Within the Waterfront Overlay, the University Neighborhood Overlay, or the area bounded by Interstate Highway 35, Airport Boulevard, and Lady Bird Lake.
- (B) A use may be located only within a freestanding structure and may not be co-located in the same structure with other uses.

23-3D-1090 Bar/Nightclub

- (A) **Late Hours Permit.** A bar/ nightclub operating with a late-hours permit from the Texas Alcoholic Beverage Commission requires a conditional use permit if it is located within 200 feet of a Residential House-Scale Zone and must comply with 23-3B-1040 (E) (Conditions of Approval).

23-3D-1100 Bed and Breakfast

- (A) **Allowed.** A residential structure may be used as a bed and breakfast residential use only if it qualifies as a Group 1 or Group 2 bed and breakfast residential use structure.
 - (1) **Group 1.** Except as provided in Subsection (A)(3), a Group 1 bed and breakfast residential use structure contains not more than:
 - (a) Five rental units if the structure used as the bed and breakfast is more than 50 years old; or
 - (b) Three rental units if the building in which the bed and breakfast residential use is located is 50 years old or less.

- (2) **Group 2.** Except as provided in Subsection (A)(3), a Group 2 bed and breakfast residential use structure contains not more than:
 - (a) Ten rental units if the building used as the bed and breakfast more than 50 years old; or
 - (b) Five rental units if the building used as the bed and breakfast is 50 years old or less.
 - (3) **Before October 1, 1994.** For an establishment that operated as a lodging house residential use on or before October 1, 1994:
 - (a) A Group 1 bed and breakfast residential use structure contains not more than five rental units; and
 - (b) A Group 2 bed and breakfast residential use structure contains not more than 10 rental units.
- (B) **General Requirements to Bed and Breakfast Structures**
- (1) A bed and breakfast use must comply with requirements of Chapter 23-6 (Permits and Special Approvals);
 - (2) Each separate structure used for a Group 2 bed and breakfast residential use facility must comply with this section and other applicable city requirements of this Title.
 - (3) A person may not structurally alter the exterior of a Group 1 bed and breakfast structure in a manner that changes the existing residential character of the structure.
 - (4) A Group 1 bed and breakfast residential use must be located in the principal residential structure on the lot.
- (C) **License Required.** The owner must obtain a license to operate a bed and breakfast residential use structure. The license must be renewed annually.
- (D) **Ownership.**
- (1) A person may own only one bed and breakfast residential facility.
 - (2) The owner of a bed and breakfast residential use must:
 - (a) Reside in the bed and breakfast residential use structure or in another residential structure on the lot on which the structure is located; and
 - (b) Own the land on which the bed and breakfast residential structure is located.
 - (3) The owner may employ one or more persons who do not permanently reside on the lot on which the use is located to assist in the operation of the bed and breakfast residential use if the total hours worked by the employees does not cumulatively total more than 40 hours per week.
- (E) **Operational Standards.**
- (1) Except for breakfast service to an overnight guest, meal service is prohibited.
 - (2) An owner shall maintain a register of guests.
- (F) **Location Requirements.** A bed and breakfast residential use must be more than 1,000 feet from an existing bed and breakfast residential use. A city council-adopted neighborhood plan that allows spacing of 1,000 feet or less supersedes this subsection.

(G) Number of Rooms for Rent.

- (1) A bed and breakfast residential use structure may contain:
 - (a) One room for each 500 square feet of gross floor area within the structure if the owner resides in the structure; and
 - (b) One rental unit for each 700 square feet of gross floor area within the structure if the owner resides in another residential structure on the lot.
- (2) In this subsection, gross floor area does not include rooms occupied exclusively by the owner.

(H) Parking Requirements.

- (1) Pervious pavers can be used as driveway and parking surface materials within the property boundaries.
- (2) No more than 25 percent of the parking surface may be constructed of gravel.
- (3) A guest parking space is not allowed in the front setback of a bed and breakfast residential use structure.

(I) Rental of a Bed and Breakfast Residential Use Facility for Gatherings.

- (1) The use of a bed and breakfast residential use facility as a rented site for a gathering, including a wedding, requires a conditional use permit.
- (2) A conditional use permit may be approved only if:
 - (a) The bed and breakfast residential use structure is not located in a Residential House-Scale Zone; and
 - (b) A certificate of occupancy has been issued that authorizes the use of the site for a gathering.
- (3) The maximum number of attendees at a gathering held under this subsection equals four times the total of the number of parking spaces for rental units plus the number of spaces on the property that are not required for other uses on the property.
- (4) Amplified live outdoor music is prohibited at a gathering.
- (5) A gathering must end at 9:00 p.m. on Sunday through Thursday and at 10:30 p.m. on Friday and Saturday.
- (6) The Land Use Commission may not approve an increase of the maximum number of attendees, authorize amplified live outdoor music, or extend the hours of gathering through the conditional use permit process.
- (7) The Land Use Commission may reduce the hours for gatherings.

(J) Waivers.

- (1) The owner of an establishment that operated as a lodging house residential use on or before October 1, 1994, may submit to the Director an application for a waiver of the requirements prescribed in Subsections (B)(3), (B)(4), (D)(1), (D)(2), (D)(3), (F), (G), and (I).
- (2) The Director shall give notice of a waiver application under Section 23-2D-5020 (Notice of Administrative Decision).
- (3) Except as provided in Subsection (J)(5), the Director shall grant a waiver application if the director determines that the waiver will not harm the surrounding area.

- (4) An applicant may appeal the Director's decision to deny a waiver to the Land Use Commission.
- (5) If an interested party files a protest of a waiver application, Land Use Commission shall consider the application.
- (6) The Land Use Commission shall review a waiver application submitted under this subsection using the conditional use permit process described in Section 23-3B-1040 (Conditional Use Permit).

23-3D-1110 Commercial Blood Plasma Center

- (A) **Conditional Use Permit Required.** A commercial blood plasma center that requires a conditional use permit if the use is within:
- (1) One-half mile of another commercial blood plasma center; or
 - (2) 500 feet of a lot used for:
 - (a) Any residential use;
 - (b) Any residential support service use;
 - (c) A public or private school;
 - (d) A church;
 - (e) A childcare facility; or
 - (f) A public park or playground.

23-3D-1120 Communications

- (A) **Requirements Supersede.** For a communications use, the requirements in this section supersede the base zone requirements.
- (B) **Base Zone Requirements.** Base zone requirements for lot size, lot width, floor area ratio, and building coverage do not apply.
- (C) **Site Development Standards.** A site used for communications must comply with the requirements of this subsection.
- (1) **Side Setback.** The minimum width of a side setback is the lesser of:
 - (a) Five feet; or
 - (b) The width required by the site development standards for the base zone.
 - (2) **Front and Street Side Setbacks.** A structure must be set back at least 25 feet from a front or side street if the structure is located:
 - (a) In a Residential House-Scale Zone;
 - (b) Adjacent to or across a street from a Residential House-Scale Zone; or

- (c) Adjacent to or across a street from a property used for a residential or residential support service use.
- (3) **Landscaping.** At least 50 percent of the setback areas must be landscaped, and one tree at least six feet in initial height is required in the front setback. The following landscaping standards do not apply:
 - (a) Section 23-3D-3050 (Surface Parking Tree Islands);
 - (b) Section 23-3D-3110 (Visual Screening);
 - (c) Section 23-3D-3140 (Submittal Requirements); and
 - (d) Section 23-3D-3150 (Final Inspection).
- (4) **Impervious Cover.** Impervious cover may not exceed the greater of the maximum percentage allowed by the applicable site development standards for the base zone or:
 - (a) 95 percent for a site that is less than 2,500 square feet in size;
 - (b) 85 percent for a site that is at least 2,500 square feet but less than 3,600 square feet in size;
 - (c) 50 for a site that is at least 3,600 square feet but less than 5,000 square feet in size; or
 - (d) 45 percent for a site that is more than 5,000 square feet in size.
- (5) **Height.** A structure may not exceed 12 feet in height.
- (6) **Visual Obstruction.** A structure's location may not create a visual obstruction to traffic.

23-3D-1130 Community Agriculture

(A) Requirements for Community Agriculture Uses Greater Than One Acre in Size.

- (1) A community agriculture use is allowed within the critical water quality zone if it meets the requirements in Section 23-4D-4040 (Critical Water Quality Zone Development) for sustainable urban agriculture or a community garden.
- (2) A site used for community agriculture must be at least one acre and may not exceed five acres.
- (3) The number of dwelling units allowed on a site may not exceed two units.
- (4) Animal raising that complies with this section is not allowed unless a dwelling unit on the site.
- (5) An accessory structure is allowed without a principal dwelling unit.
- (6) Raising livestock is prohibited.
- (7) A property that is not zoned residential is subject to requirements of this subsection:
 - (a) The raising, slaughtering, processing, and composting of fowl, rabbits, and aquatic foods using an aquaponic system is allowed in accordance with Chapter 3-2 (Restrictions on Animals) of Title 3 (Animal Regulations);

- (b) One animal (either fowl or rabbit) may be processed per 1/10th of an acre per week;
 - (c) Composting, slaughtering, or processing of animals must occur at least 50 feet from the nearest residential structure other than the structure associated with the use.
 - (d) Slaughtering and processing animals must take place out of public view.
- (8) A property zoned residential is subject to the requirements of this subsection:
- (a) The raising of fowl, rabbits, and aquatic foods using an aquaponic system is allowed in accordance with Chapter 3-2 (Restrictions on Animals) of Title 3 (Animal Regulations).
 - (b) Slaughtering and processing of aquatics foods is allowed.
 - (c) Slaughtering or processing of fowl and rabbits is prohibited.
 - (d) Composting of animal parts is prohibited in residential zones.
- (9) Water conservation practices must be followed, at minimum, in accordance with Chapter 6-4 (Water Conservation) of Title 6 (Environmental Control and Conservation).
- (10) The use of synthetic inputs is prohibited. An Integrated Pest Management Plan, developed in accordance with the Environmental Criteria Manual and approved by the Director, must be followed.
- (11) Agricultural and value-added agricultural products raised by the farmer or produced within the State of Texas may be sold from the site or distributed off-site to buyers. Agricultural products and value-added agricultural products produced off-site by someone other than the farmer cannot exceed 20 percent of the retail space by area.
- (12) The maximum number of full-time, non-seasonal employees is two for each full acre, plus two for the remaining portion of an acre, if any. This does not include the property owner.
- (13) The property owner must maintain residential character of the lot and dwelling.
- (14) A sign is allowed in accordance with Chapter 23-7 (Signage).

(B) Requirements for Community Agriculture Uses Less Than One Acre in Size.

- (1) A community agriculture use is allowed within the critical water quality zone if it meets the requirements in Section 23-4D-4040 (Critical Water Quality Zone Development) for sustainable urban agriculture or a community garden.
- (2) A site may not exceed one acre.
- (3) The number of dwellings units on a site may not exceed the number of dwelling units allowed under the base zone requirements.
- (4) The raising of fowl, rabbits, and aquatic foods using aquaponic systems is allowed in accordance with Chapter 3-2 (Restrictions on Animals) of Title 3 (Animal Regulations).
- (5) Animals may not be slaughtered, processed, or composted on-site.
- (6) An Integrated Pest Management Plan, developed in accordance with the Environmental Criteria Manual and approved by the Director, must be followed. Synthetic fertilizers and pesticides may not be used.

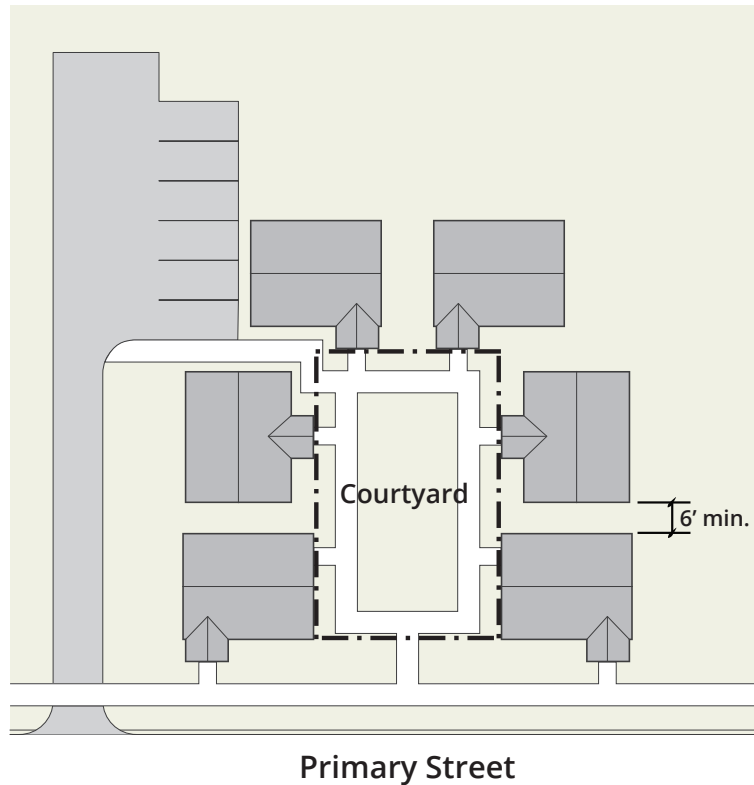
- (7) Water conservation practices must be followed in accordance with Chapter 6-4 (Water Conservation) of Title 6 (Environmental Control and Conservation).
- (8) Agricultural products produced on-site may be sold from the site or distributed off-site to buyers. On-site farm stands are not allowed. Sales must be conducted out of sight of the general public on the property. No more than three customer-related trips per day are allowed.
- (9) The maximum number of full-time employees is one. This does not include the property owner.
- (10) A person shall maintain the residential character of the lot and dwelling.
- (11) A sign is allowed in compliance with Chapter 23-7 (Signage).

23-3D-1140 Community Events

- (A) **Location Restrictions.** A community events use is allowed only on:
 - (1) City-owned land located within the area bounded on the north by the southern right-of-way of Riverside Drive, on the east by the western right-of-way of South First Street, on the south by the northern right-of-way of Barton Springs Road, and on the west by a line 1,500 feet west of and parallel to the western right-of-way of South First Street; or
 - (2) City-owned land located with the area bounded on the north by a line 650 feet north of and parallel to the northern right-of-way of Toomey Road, on the east by the western right-of-way of South Lamar Boulevard, on the south by northern right-of-way of Toomey Road, and on the west by a line 700 feet west of and parallel to the western right-of-way of South Lamar Boulevard.
- (B) **Council Approval.** Council approval is required for a site plan for a community events use. An approved site plan:
 - (1) Establishes the site development requirements; and
 - (2) Waives requirements that are not consistent with the site plan, if any.
- (C) **Public Hearing.** A public hearing is required for each site plan considered under this section. The Director shall give notice of the public hearing in accordance with Section 23-2D-4040 (Type 2 Public Hearing Notice).

23-3D-1150 Convention Center

- (A) **Council Approval Required.**
 - (1) Council approval of a conditional use permit is required for a convention center use.
 - (2) An approved conditional use permit establishes site development standards and waives standards that are inconsistent with the conditional use permit, if any.
- (B) **Hearing.** A public hearing is required for each conditional use permit considered under this section. Notice for the public hearing shall comply with the requirements established in Section 23-2D-4020 (Type 1 Public Hearing Notice).

23-3D-1160 Cottage Court

- (A) **Applicability.** A cottage court shall comply with the requirements of the base zone and the requirements established in this section.
- (B) **Number of Units Permitted.** The maximum number of dwelling units permitted is determined by the maximum number of units permitted by the base zone.
- (C) **Design Requirements.**
- (1) **Courtyard Area.**
 - (a) A minimum of 200 square feet of courtyard area must be provided per unit, and all areas must be clustered together to form a single courtyard.
 - (b) The minimum width of the courtyard is 15 feet.
 - (c) Courtyard requirements cannot be met with a required setback.
 - (2) **Courtyard Configuration.**
 - (a) At least two sides of the courtyard must be defined by building facades.
 - (b) The courtyard may not be used for vehicular access or parking.
 - (c) The primary entrance to the courtyard must be from the primary street.
 - (3) **Pedestrian Access.**
 - (a) Each unit must front the common courtyard and/ or the street.
 - (b) Units adjacent to either the primary or side streets must front the street.

- (c) A walkway must link each building to the public right-of-way, courtyard, and parking area.
- (4) **Parking.**
 - (a) Parking must be either:
 - (i) Clustered; or
 - (ii) Located at the rear of each unit, away from the courtyard.
 - (b) Parking may not be located:
 - (i) Within the front setback;
 - (ii) Closer to the front lot line than the front-most exterior wall of the unit closest to the primary street; or
 - (iii) Between the courtyard and the primary street.

23-3D-1170 Drive-Through

- (A) **Limitation on Location.** A drive-through must be located along the building's side or rear facade, and away from a primary street frontage.
- (B) **On-site Circulation.** An internal circulation and traffic control plan must comply with the requirements of this section:
 - (1) **Drive-through Lane Design.**
 - (a) The entrance and exit of a drive-through lane must be at least 50 feet from an intersection of public rights-of-way when measured at the closest intersecting curbs.
 - (b) The drive-through lane must be at least 10-feet wide with a minimum 10-foot interior radius at curves.
 - (c) A drive-through lane may not be located between a property line and the front of the building except when not feasible. If the drive-through lane must be located between the property line and the front of the building it must be screened by a wall designed to match the building materials of the primary building(s) on the site.
 - (2) **Drive-through Stacking Area.** The stacking area is an area provided for vehicles waiting for drive-through service that is physically separated from other on-site traffic circulation. A stacking area must:
 - (a) Be marked;
 - (b) Accommodate a minimum of five cars for each drive-up or drive-through window in addition to the vehicle receiving service;
 - (c) Be located at and before the service window;
 - (d) Be separated from other traffic using concrete curbing or paint striping on at least one side of the lane; and
 - (e) Not be adjacent and parallel to streets or public rights-of-way.

(C) Pedestrian Access.

- (1) A business that has a drive-through facility and walk-in service must provide a safe and convenient access for pedestrians to cross from the pedestrian right-of-way to the business with an on-site pedestrian walkway that does not intersect with the vehicular drive-through aisle.
 - (2) A business that has a drive-through facility, but does not have walk-in service must provide safe and convenient access for pedestrians to the drive-through facility:
 - (a) Access the drive-through facility service window with an on-site pedestrian walkway that does not intersect with the vehicular drive-through aisle; or
 - (b) Access a pedestrian-only window with an on-site pedestrian walkway that does not intersect with the vehicular drive-through aisle.
- (D) Visual Buffer.** A drive-through aisle must be screened from the public right-of-way with a landscape buffer, or walls and berms.

23-3D-1180 Duplex**(A) Configuration.**

- (1) The two units must be attached; and
- (2) At least one of the two units must have a front entry that faces the primary street except on a corner lot, where each unit must have a front entry that faces a separate street.

23-3D-1190 Food Sales

- (A) Additional Requirements.** A food sales use that requires a conditional use permit is subject to the following requirements.
- (1) Fresh or frozen produce must be provided.
 - (2) The facility is limited in size to 20,000 square feet.
 - (3) No on-site parking is required.

23-3D-1200 Gas Station

- (A) Screening.** A gas station must be screened from the street by a building or a landscape buffer that includes shade trees and complies Division 23-3D-4 (Landscaping).
- (B) Fuel dispensers.** A gas station may not exceed 16 fuel dispensers.
- (C) Vehicle Queue Lanes.** A gas station may not exceed eight vehicle queue lanes.
- (D) Location.** In Commercial Center (CC), Downtown Core (DC), Urban Center (UC), or Main Street Zones, a gas station must be located behind the primary building.

23-3D-1210 General Retail with Outside Storage

- (A) If herbicides, pesticides, fertilizers, or other equipment are stored on the site, the storage area must be shown on the site plan.
- (B) This subsection applies to products the Environmental Protection Agency requires to be labeled: “combustible”, “corrosive”, “danger”, “flammable”, “highly flammable”, “poison”, or “warning.”
 - (1) The product must be stored or displayed in an enclosed building.
 - (2) If the site exceeds one acre, the products must be separated from property used or zoned as residential by at least 75 feet plus 20 feet for each acre of site area over one acre.
 - (3) The total storage and display area may not:
 - (a) Exceed 100 square feet for each acre, or portion of an acre, of site area; and
 - (b) Exceed 1,000 square feet.
- (C) A bulk storage area for soil, compost, or a similar product outside of an enclosed building must:
 - (1) Not exceed 10 percent of the site area;
 - (2) Be located at least 25 feet from property zoned for a residential use;
 - (3) Be screened from view from an adjacent property zoned for a residential use; and
 - (4) Not cause noxious odors that are detectable from an adjacent property zoned for a residential use.

23-3D-1220 Home Occupations

- (A) A home occupation is a commercial use that is accessory to a residential use.
- (B) A home occupation shall be conducted entirely within the dwelling unit or an accessory structure.
- (C) Participation in a home occupation is limited to occupants of the dwelling unit, except two people who are not occupants may participate in a medical, professional, administrative, or business office.
- (D) The owner or occupant shall maintain the residential character of the lot and dwelling. Unless a modification is required to comply with accessibility requirements, a home occupation that requires a structural alteration of the dwelling to comply with a nonresidential construction code is prohibited.
- (E) A home occupation may not generate more than 32 vehicle trips each day of customer-related vehicular traffic.
- (F) The sale of merchandise directly to a customer on the premises is prohibited.
- (G) Equipment or materials associated with the home occupation must not be visible from locations off the premises.

- (H) A home occupation must not produce dust, glare, heat, noise, vibration, smoke, odor, fumes, electrical interference, or waste run-off outside the dwelling unit or accessory structure.
- (I) A commercial vehicle associated with the home occupation may be stored on the premises if it complies with Subsection 23-3D-1050(F)(4) and it is screened from the street or housed in a garage that conforms with residential standards.
- (J) A sign on the premises that is related to the home occupation must comply with Chapter 23-7 (Signage).
- (K) A use that complies with this section is allowed as a home occupation, except the following uses are prohibited:
 - (1) An activity requiring an H-occupancy in compliance with Division 23-10B-1 (Building Code);
 - (2) Adult-oriented businesses;
 - (3) Animal breeding;
 - (4) Animal service or boarding;
 - (5) Automobile repair, sales, or rental;
 - (6) Bar/nightclub (any kind);
 - (7) A business that involves the repair of any type of internal combustion engine, including equipment repair services;
 - (8) Commercial services and repair, no outside storage;
 - (9) Commercial services and repair, with incidental outside storage;
 - (10) Heavy equipment sales, rental, and storage;
 - (11) Hospital;
 - (12) Medical services, except mental health services such as psychologist, psychiatrist, counselor, and guidance services;
 - (13) Personal services, restricted;
 - (14) Recycling centers;
 - (15) Recreational and sports vehicle sales, rental, and storage;
 - (16) Restaurants (any kind); or
 - (17) Salvage/junk yard.

23-3D-1230 Live/Work

- (A) **Maximum Floor Area.** A live/work use may not exceed 5,000 square feet of gross floor area.
- (B) **Allowed Uses.** The uses allowed in a non-residential component of a live/work development are the uses allowed in the zone in which the building is located as well as uses permitted as a home occupation.
- (C) **Prohibited Uses.** A live/work unit may not be used for following activities:
 - (1) Adult-oriented businesses;
 - (2) Vehicle maintenance, repair, detailing, or painting;
 - (3) Storage of flammable liquids or hazardous materials beyond that normally associated with a residential use;
 - (4) Welding, machining, or any open flame work;
 - (5) Outdoor storage of materials;
 - (6) The use of welding equipment, fiberglass, or epoxy; and
 - (7) Any other activity or use the Director determines is not compatible with residential activities; and
 - (8) An activity the Director determines has the possibility of affecting the health or safety of live/work unit residents because of the potential for the use to create dust, glare, heat, noise, vibration, smoke, odor, noxious gases, traffic, or other effects, or would be hazardous because of materials, processes, products, or wastes.
- (D) **Residential Density.** The number of live/work units on a site must comply with the density allowed in the base zone.
- (E) **Occupancy Requirement.** The residential space within a live/work unit must be occupied by at least one individual who is employed in the business that is conducted within the non-residential component.
- (F) **Design Requirements.**
 - (1) **Floor Area.** The floor area of the residential space must be at least 51 percent of the total floor area. Floor area other than that reserved for work space must be reserved and regularly used for living space.
 - (2) **Access.** Each live/work unit must be separately accessible from a public street or common access area, corridor, or hall.
 - (3) **Facilities for Non-Residential Activities.** A live/work unit used for commercial or light industrial activities must be constructed in the same manner as a facility used exclusively for the same commercial or light industrial activities.
 - (4) **Integration of Living and Working Space.** An area within a live/work unit that is designated as residential space is an integral part of the live/work unit. The residential space shall be accessible to the non-residential space using an interior connection. Exterior access shall comply with Division 23-10B-1 (Building Code).
 - (5) **Mixed Occupancy Building.** A building may contain live/work units and other non-residential occupancies. The occupancies, other than live/work, must comply with all applicable requirements for those uses and proper occupancy separations shall be

provided between the live/work units and other occupancies, as determined by the building official.

- (6) **Signage.** All signage for live/work units must comply with Chapter 23-7 (Signage).
 - (7) **Parking.** The Director may modify parking requirements for the reuse of existing residential structures with limited parking.
- (G) **Operating Requirements.**
- (1) **Sale or Rental of Portions of Unit.** No portion of a live/work unit may be rented or sold separately as a commercial or industrial space to a person not living in the premises or as a residential space to a person not working in the same unit.
 - (2) **On-premises Sales.** Goods produced within the live/work unit may be sold on-premises if the sales activity is incidental to the primary production work within the unit. Gallery showings and sales of goods produced within the live/work unit are permitted as part of a residential tour.
 - (3) **Nonresident Employees.** Participation in the business conducted within the live/work unit is limited to five individuals who do not reside in the live/work unit.

23-3D-1240 Manufacturing and Storage

- (A) **Lighting.**
- (1) An exterior light source:
 - (a) May not be directly visible to a residential use; and
 - (b) Shall be hooded or shielded.
 - (2) Lighting used to illuminate an off-street parking area, sign or other structure shall be designed to deflect light away from any adjoining property or from public streets.
- (B) **Noise and Vibration.**
- (a) The noise level of mechanical equipment or other activities associated with light manufacturing operations must not exceed 70 "A"-weighted decibels when measured at the property line of a residential use or is across a public right-of-way from the site.
 - (b) Vibration from mechanical equipment or other activities associated with light manufacturing operations causes a vibration at a residence that abuts or is across a public right-of-way from the site is prohibited.
- (C) **Odor.** The activities associated with the use may not cause noxious or objectionable odors that are detectable from adjacent property used or zoned for a residential use.
- (D) **Outdoor Storage.** If materials are stored outdoors, the materials must be screened with an opaque fence from ground-level view from a public right-of-way or a residential use. The materials may not be piled or stacked higher than the opaque fence.
- (E) **Loading Docks.** Where the site abuts a residential use, a service door opening or loading dock may not be oriented toward the residential use.

(F) Requirements for a Brewery/Winery/Distillery

- (1) **Allowed.** The sale of beer, ale, wine, or distilled liquor produced on-site for on-site consumption:
 - (a) Is an allowed use, if the use is at least 200 feet from any Residential House-Scale Zone, as measured from lot line to lot line;
 - (b) Is a conditional use, if the use is less than 200 feet from any Residential House-Scale Zone, as measured from lot line to lot line; and
 - (c) Except as provided in Subsection (F)(2), the area utilized for on-site consumption may not exceed the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
- (2) **On-site Consumption Area.**
 - (a) During a tour, on-site consumption is allowed in an area that exceeds that which is permitted in Subsection F(1)(c).
 - (b) If the use is located in Airport Overlay Zones AO-1, AO-2, or AO-3, on-site consumption is allowed in an area that exceeds the lesser of 33 percent or 5,000 square feet of the total floor area of the principal developed use.
- (3) **Increased Square Footage.** During the conditional use permit approval process, the Land Use Commission or council may increase the square footage allowed under Subsection (F)(1)(c).

23-3D-1250 Micro-Brewery/Micro-Distillery/Winery

- (A) **Allowed.** The sale of beer, ale, wine, or distilled liquor produced on-site for on-site consumption:
 - (1) Is an allowed use, if the use is at least 200 feet from any Residential House-Scale Zone, as measured from lot line to lot line;
 - (2) Is a conditional use, if the use is less than 200 feet from any Residential House-Scale Zone, as measured from lot line to lot line; and
 - (3) Except as provided in Subsection (B)(2), the area utilized for on-site consumption may not exceed the lesser of 50 percent or 5,000 square feet of the total floor area of the principal developed use.
- (B) **On-site Consumption Area.**
 - (1) During a tour, on-site consumption is allowed in an area that exceeds that which is permitted in Subsection (A)(3).
 - (2) If the use is located in Airport Overlay Zones AO-1, AO-2, or AO-3, on-site consumption is allowed in an area that exceeds the lesser of 50 percent or 5,000 square feet of the total floor area of the principal developed use.
 - (3) **Increased Square Footage.** During the conditional use permit approval process, the Land Use Commission or council may increase the square footage allowed under Subsection (A)(3).

23-3D-1260 Mobile Food Sales**(A) Permitting.**

- (1) May operate if the operator obtains a permit required by Chapter 10-3 (Food and Food Handlers) of Title 10 (Public Health Services and Sanitation) from the health authority;
- (2) The permit holder is the person to whom the health authority issues a permit for a mobile food establishment permit required by Chapter 10-3 (Food and Food Handlers) of Title 10 (Public Health Services and Sanitation).
- (3) The permit holder shall comply with this section. A violation of this section is a Class C misdemeanor.
- (4) A site plan, site plan exemption, or temporary use permit is not required for the operation of a mobile food establishment.
- (5) Mobile food sales use operating in the public right-of-way must also comply with standards in Title 14 (Use of Streets and Public Property).
- (6) A mobile food establishment located on private property for three hours or less between the hours of 6:00 a.m. and 10:00 p.m. is not subject this section.

(B) Where Prohibited. A mobile food establishment is not allowed:

- (1) On private property, except as provided in this section;
- (2) Within 50 feet of a lot with a building that contains both a residential and commercial use; or
- (3) Within 20 feet of any restaurant use.

(C) Operational Requirements. A mobile food establishment:

- (1) May not provide drive-through service;
- (2) Located within 300 feet or less from a Residential House-Scale Zone may operate between 6:00 am and 10:00 pm; and
- (3) Located more than 300 feet from a Residential House-Scale Zone may operate between 6:00 am and 3:00 am.

(D) Noise. Noise from mechanical equipment or sound equipment associated with a mobile food establishment must not exceed 70 "A"-weighted decibels when measured at the property line that is across the street from or abutting a residential use.**(E) Lighting.** An exterior light source:

- (1) May not be directly visible to a residential use; and
- (2) Must be hooded or shielded.

(F) Signs. A mobile food establishment is limited to signs attached to the exterior of the mobile food establishment. The signs:

- (1) Must be secure and mounted flat against the mobile food establishment; and
- (2) Must not project more than six inches from the exterior of the mobile food establishment.

(G) **Landfill Trash and Diversion of Recyclable and Organic Material.** The permit holder shall:

- (1) Provide a landfill trash container for use by customers during business hours; and
- (2) Keep the area around the mobile food establishment clear of litter and debris at all times.
- (3) Comply with Article 5 (Universal Recycling) of Chapter 15-6 (Solid Waste Services) of Title 15 (Utility Regulations), if applicable.

(H) **Utilities.**

- (1) A permanent water or wastewater connection is prohibited.
- (2) Electrical service may be provided only by:
 - (a) Temporary service or other connection provided by an electric utility; or
 - (b) An on-board generator.

23-3D-1270 Mobile Retail Sales

(A) A mobile retail establishment that is located on private property for three hours or less between the hours of 6:00 a.m. and 11:00 p.m. is not subject to this section.

(B) **Application.**

- (1) A site plan, site plan exemption, or temporary use permit is not required for the a mobile retail sales use.
- (2) A person may not operate a mobile retail establishment unless the Director approves the establishment.
- (3) The Director shall approve the establishment if the operator provides an application that includes:
 - (a) The name and address of the mobile retail establishment owner;
 - (b) Proof of motor vehicle or trailer registration;
 - (c) A description of the items that the mobile retail establishment sells;
 - (d) Proof of sales tax;
 - (e) Proof of Texas Department of Licensing and Regulation license(s), if applicable for personal services use;
 - (f) An itinerary of the locations where sales occur;
 - (g) If at one location more than two hours, a written agreement from a business within 150 feet of the location to allow employees of the mobile retail establishment to use flushable restrooms or other facilities approved by the health authority during hours of operation;
 - (h) A fee, as established by separate ordinance; and
 - (i) Any other information reasonably required by the Director to enforce this section.

- (C) **Items and Services Sold.** An operator may only sell non-food retail items or services. Mobile retail establishments may only sell items or services allowed under a general retail, animal service/boarding (housepets), indoor recreation and personal service use. All sales items and supplies must be stored within the mobile unit.
- (D) **Location Requirements.** A mobile retail establishment must comply with the requirements of this subsection:
- (1) A mobile retail establishment may not be located less than 50 feet from a Residential House-Scale Zone.
 - (2) A mobile retail establishment may not be located less than 20 feet from an existing general retail, animal service/boarding (housepets), or personal service use.
 - (3) A mobile retail establishment may not be located within the right-of-way unless the mobile retail establishment obtains and possesses the permission required under Sections 14-8-2 (Permit Required; Waiver of Deadlines) and 14-9-21 (Street Vendor License Authorized) of Title 14 (Use of Streets and Public Property).
 - (4) A mobile retail establishment may not occupy or impede required parking for another use.
- (E) **Operational Requirements.**
- (1) A mobile retail establishment may not remain at the same location for more than 180 consecutive days.
 - (2) A person shall not operate a mobile retail establishment between the hours of 11:00 p.m. and 6:00 a.m.
 - (3) A mobile retail establishment may not provide drive-through service.
 - (4) A person shall not place sales items, equipment, or supplies that are part of its operations outside of the allowed unit and shall conduct all of its operational activities within the mobile retail establishment.
- (F) **Lighting.** An exterior light source:
- (1) Must not be directly visible to a residential use; and
 - (2) Must be hooded or shielded.
- (G) **Noise.** Noise from mechanical equipment or sound equipment associated with the mobile retail establishment must not exceed 70 "A"-weighted decibels when measured at the property line that is across the street from or abutting a residential use.
- (H) **Signs.** A mobile retail establishment is limited to signs attached to the exterior of the mobile retail establishment. The signs:
- (1) Must be secured and mounted flat against the mobile retail establishment;
 - (2) May not project more than six inches from the exterior of the mobile retail establishment;
 - (3) May not use a flashing light source; and
 - (4) May not use an LED message board.
- (I) **Landfill Trash and Diversion of Recyclable and Organic Material.** The operator of the mobile retail establishment shall:
- (1) Provide landfill trash containers for use by customers during business hours;

- (2) Keep the area around the mobile retail establishment clear of litter and debris at all times; and
 - (3) Comply with Article 5 (Universal Recycling) of Chapter 15-6 (Solid Waste Services) of Title 15 (Utility Regulations), if applicable.
- (J) **Utilities.**
- (1) A permanent water or wastewater connection is prohibited.
 - (2) Electrical service must be provided only:
 - (a) By a temporary service or other connection provided by an electric utility; or
 - (b) By an on-board generator.
- (K) **Mobility.** An operator shall demonstrate that the vehicle or trailer is readily movable if requested by the Director.
- (L) **Revocation and Appeal.** An application approved by the Director may be revoked under this subsection.
- (1) The Director may revoke an approved application under Subsection (B) if an operator provided false information on an application or commits repeated violations of applicable law.
 - (2) In determining whether to revoke an approved application, the Director shall consider the frequency of any repeated violations, whether a violation was committed intentionally or knowingly, and any other information relevant to the degree to which an operator has endangered the public health, safety, or welfare.
 - (3) An operator may appeal the Director's decision to revoke an approved application to the Land Use Commission.
 - (4) An operator must file the appeal no later than the 20th day following the date of the Director's decision. The appeal must be on a form approved by the Director.
 - (5) After notice and public hearing, the Land Use Commission shall either uphold or overturn the decision of the Director. In making its decision, the Land Use Commission shall consider the criteria contained within this subsection. The Land Use Commission's decision shall be final on this matter.
- (M) **Violation.** An operator shall comply with this section. A violation of this section is a Class C misdemeanor.

23-3D-1280 Parking Facility

- (A) **Conditional Use in Commercial Center (CC) Zone and Downtown Core (DC) Zone.**
- (1) A parking facility is only permitted as a conditional use if at least 50% of parking facility use lies within and complies with the Capitol View Corridor Overlay (23-3C-10060).
 - (2) A conditional use permit must meet the requirements of Section 23-3B-1040 (Conditional Use Permit) and take into account:
 - (a) Use of the parking facility as a shared parking facility for multiple uses;

- (b) Use of the parking facility as a regional parking facility;
- (c) On-site provisions and accommodations for bicycles, car-share, and other modes of transportation that support a 50/50 mode split.

23-3D-1290 Performance Venue

- (A) **Alcohol Sales as an Accessory Use.**
 - (1) The incidental sale of alcohol for on-site consumption related to the primary use is allowed and must comply with all applicable state and local regulations.
 - (2) The sale of alcohol is not incidental if 50 percent or more of the gross income is from alcohol sales.

23-3D-1300 Personal Storage

- (A) **Location Restrictions.** A Personal Storage use requires a conditional use permit if it is located within 1000 feet of another property with a Personal Storage use and must comply with Subsection 23-3B-1040(E)(2) (Conditional Use Permit). The distance is measured to the lot line.

23-3D-1310 Recreation Indoor/Outdoor

- (A) **Alcohol Sales as an Accessory Use.**
 - (1) The incidental sale of alcohol for on-site consumption related to the primary use is allowed and shall comply with all applicable state and local regulations.
 - (2) The sale of alcohol is not incidental if 50 percent or more of the gross income is from alcohol sales.

23-3D-1320 Recreational Vehicle Parks

- (A) **Applicability.** This section applies to a site used for a recreational vehicle park.
- (B) **Site Plan Approval.** The Development Services Director must approve a site plan under this section.
- (C) **Site Development Requirements.**
 - (1) A recreational vehicle park must be located on land that is well-drained, free from heavy growth or brush or weeds, and graded or equipped with storm sewers to insure rapid drainage of rainwater.
 - (2) An entrance or exit drive to a recreational vehicle park licensed must:
 - (a) Be surfaced with a minimum width of 18 feet;
 - (b) Be well marked to designate roadway, parking, and unit boundaries;
 - (c) Be lit at night; and

- (d) Comply with Division 23-10B-7 (Fire Code).
- (3) A unit reserved to accommodate a recreational vehicle must:
 - (a) Have a minimum area of 576 square feet, excluding the driveway;
 - (b) Be at least 24 feet wide, defined clearly by markers at each corner; and
 - (c) Be level, free from rock and weeds, and well drained.
- (4) The owner or licensee of a recreational vehicle park shall provide the park with a water supply that complies with Division 23-5C-3 (Utilities).
- (5) The owner or licensee of a recreational vehicle park shall provide the park with a sewer system, either by connecting to the City sewerage system if available, or to a private on-site sewage facility that complies with the applicable provisions of this Title.
- (6) The owner or licensee of a recreational vehicle park shall provide the park with facilities for the collection and removal of landfill trash and recyclable material that complies with this Title.
- (7) An owner or licensee of a recreational vehicle park with two or more recreational vehicles shall provide toilet facilities, wash basins, bathing facilities, slop basins, and water faucets and spigots that comply with the Building Criteria Manual and applicable City Codes where private conveniences for each site or cottage are not provided.
- (8) A toilet facility must be in a room separate from a bathing facility, or partitioned in a manner that provides privacy and promotes cleanliness.
- (9) A community toilet facility must provide private toilet stalls separated by a partition.
- (10) The floor surface surrounding a toilet facility must be designed and constructed to prevent that area from draining into a shower floor.
- (11) At least five feet must separate a recreational vehicle or other structure from the property line that separates the court from the adjoining property, when measured from the nearest point of the recreational vehicle.
- (12) A sleeping room in a recreational vehicle park must contain at least 1,000 cubic feet, and must have at least two well screened windows with a total window surface area that exceeds 25 square feet. The greatest dimension of a single room must not be more than twice its minimum dimension, and the height from the floor to the top of the wall must be at least seven feet.

23-3D-1330 Recycling Center

- (A) **Frontage.** A recycling center site must have a minimum of 150 feet of frontage on a public street.
- (B) **Outdoor Unloading Area.** An outdoor unloading area for recyclable materials must be at least 50 feet from a Mixed-Use or Main Street Zone or residential zone. This requirement does not apply to a portion of a site that abuts a railroad right-of-way.
- (C) **Screening.** The portion of site used for truck maneuvering or the storage, bailing, processing, or other handling of recyclable material must be enclosed by a solid fence or wall not less than eight feet in height with a non-glare finish. This requirement does not apply to a portion of a site that abuts a railroad right-of-way.

(D) Loading/Unloading Area.

- (1) A loading or unloading area or a truck maneuvering area must be paved.
- (2) A facility operator shall keep the facility free of refuse and putrescible materials.
- (3) A facility operator may not use chemical or heating processes on the recyclable materials.

(E) Drop-off Recycling and Reuse Facility.

- (1) A drop-off recycling collection facility must comply with the requirements of this subsection.
 - (a) A facility must be located in an enclosed structure or enclosable trailer, or be screened on three sides by a solid fence or wall not less than six feet in height. This requirement does not apply to a single-feed reverse vending machine.
 - (b) A facility must be at least 100 feet from an adjoining property that is zoned or used for residential or commercial use.
 - (c) A sign that is visible to the public identifying the facility operator, its telephone number, its hours of operation, and the City of Austin Recycling Hotline telephone number is required.
 - (d) A facility operator shall exchange a trailer that contains a facility for another trailer when the facility reaches its capacity. The operator shall place a replacement trailer in the exact location of the trailer it replaced, unless the trailer is in the fenced boundaries of a drop-off recycling collection facility site.
 - (e) Storage containers that are marked to identify the materials to be deposited are required. Coverable containers for paper and plastic products are required for an unenclosed facility. A sign near the containers stating materials may only be deposited between the hours of 7:00 a.m. and 10:00 p.m. is required.
 - (f) Storage and unloading areas must be paved.
 - (g) The facility operator shall remove all deposited materials from the facility:
 - (i) At least once a week; or
 - (ii) When the containers for a material are full.
 - (h) A facility operator may not remove deposited materials between the hours of 8:00 p.m. and 8:00 a.m.
 - (i) A facility operator shall keep the facility free of refuse and putrescible materials.
 - (j) A facility operator may not use power driven processing equipment at an unenclosed facility. This limitation does not apply to a bulk or single-feed reverse vending machine.
 - (k) A facility that shares a site with another use may not be designed or operated to interfere with the off-street parking, shared parking, traffic circulation, or access required by the other use.
- (2) The operator may seek a waiver of a requirement of Subsection (E)(1) from the council. The waiver request must demonstrate that:
 - (a) Compliance with the requirement is an undue hardship on the applicant;

- (b) Waiver of the requirement will not adversely affect surrounding properties; and
- (c) The facility substantially complies with requirements of this section.

23-3D-1340 Research and Development

- (A) A research and development use located in a Commercial Center (CC) or Downtown Core (DC) Zone must comply with the requirements in this section.
- (B) The building in which the use occurs:
 - (1) Must be a single-tenant building;
 - (2) May not include any residential uses or ground floor pedestrian-oriented uses;
 - (3) May not exceed 90 feet in height; and
 - (4) The proposed use does not require Group H occupancy, per Division 23-10B-1 (Building Code).

23-3D-1350 Restaurant

- (A) **Restaurant with Alcohol Sales for On-Site Consumption.** A business that serves alcoholic beverages for on-site consumption must comply with the following standards:
 - (1) **Gross Income.** 51 percent or more of the gross income of the business must be derived from food sales.
 - (2) **Advertising.** An area within a business devoted to the preparation, sale, and consumption of alcoholic beverages must not be operated or advertised under a name different from the primary business. An outside sign, separate identification, or advertising for the area within the business devoted to the preparation, sale, and consumption of alcoholic beverages must be incidental to and in conjunction with the primary use.
 - (3) To verify compliance with gross income requirements, the building official may require a person who operates or owns a business subject to this subsection to produce documents submitted to taxing authorities. A person's failure to timely produce requested documents is prima facie evidence of a violation of this subsection.
 - (4) **Location Restrictions.** A use that includes the sale of alcohol must comply with Section 4-9-4 (Minimum Distance from Certain Uses) of Title 4 (Business Regulations and Permit Requirements).
- (B) **Late-Hours Permit.** A restaurant operating with a late-hours permit from the Texas Alcoholic Beverage Commission requires a conditional use permit if it is located within 200 feet of a Residential House-Scale Zone and must comply with Subsection 23-3B-1040(E)(2) (Conditional Use Permit). The distance is measured to the lot line.
- (C) **Live Entertainment.** Live entertainment is allowed if the amplified sound does not exceed 70 "A"-weighted decibels, measured at the property line of the licensed premises. In this subsection, "premises" has the meaning ascribed to it in the Texas Alcoholic Beverage Code.

23-3D-1360 School**(A) Colleges, Universities or Private Schools.**

- (1) A site must be located on a street that has a paved width of at least 40 feet from the site to where it connects with another street that has a paved width of at least 40 feet.
- (2) If more than one dwelling unit is located on the site, the dwelling units must comply with the standards of this Title that are applicable to residential uses.

(B) Public Schools.

- (1) In this section, unless stated otherwise, a reference to public school is inclusive of both primary and secondary schools.
- (2) Except as provided in Subsection (C), this subsection applies to the development of a public primary or secondary school, including an open enrollment public charter school as defined under the Texas Education Code.
- (3) A public school is exempt from:
 - (a) The requirements of Chapter 23-3 (Zoning Code) related to floor to area ratio, building entrance, building form, frontages, maximum setbacks parking placement, common open space, connectivity, and building design.
 - (b) The requirements of Chapter 23-8 (Transportation) and Chapter 23-3 (Zoning Code) related to block length and internal circulation routes.
- (4) A public school must comply the requirements of the base zone except where modified by this subsection and Subsection (B)(3).
 - (a) Outside the boundaries of the Austin Independent School District, a public school may not be constructed closer than 25 feet from an adjoining residential use.
 - (b) Within the boundaries of the Austin Independent School District, building height may not exceed the lesser of:
 - (i) 60 feet;
 - (ii) 30 feet, if the facility is located within 50 feet of a Residential House-Scale Zone or single-family use; or
 - (iii) 40 feet, if the facility is located within 100 feet of a Residential House-Scale Zone or a single-family use.
 - (c) Outside the boundaries of the Austin Independent School District, a building may not exceed the lesser of:
 - (i) Two stories or 30 feet, if the facility is located within 50 feet of a Residential House-Scale Zone or a single-family use; or
 - (ii) Three stories or 40 feet, if the facility is located within 100 feet of a Residential House-Scale Zone or a single-family use.
 - (d) An intensive recreational use associated with a public school outside the boundaries of the Austin Independent School District, excluding a multi-use trail and including a swimming pool, tennis court, ball court, or playground, may not be constructed within 50 feet of an adjoining Residential House-Scale Zone.

- (e) Except for security lighting, exterior lighting must be hooded or shielded so that the light source is not directly visible from an adjoining Residential House-Scale Zone.
 - (f) A public school must comply with the impervious cover limits established in Section 23-4D-3110 (Impervious Cover Limits for Educational Facilities).
 - (g) No opaque fencing or screening is required around any building. All other screening requirements apply.
- (5) Within the Industrial General (IG) Zone:
- (a) A public elementary school is prohibited; and
 - (b) A public secondary school that is not limited to the senior high school level is prohibited.
- (6) Fees associated with the review of a site plan or building permit application required for a public school are waived.
- (7) The Director shall conduct a neighborhood traffic analysis on a site plan or building permit for a public school in accordance with Section 23-8C-2030 (Transportation Impact Analysis).
- (C) **School District Development Agreements.** Development of an independent school district school site may be governed by an agreement authorized by Section 212.902 of the Local Government Code. If the City and an independent school district have executed an agreement, the terms of that agreement supersede the requirements of this Title and the criteria manuals to the extent of conflict.

23-3D-1370 Senior/Retirement Housing

- (A) **Registry with Housing Authority of the City of Austin.** The owner of a senior/retirement housing use shall register the use with the Housing Authority of the City of Austin and other local agencies that provide housing assistance to elderly or physically handicapped persons.

23-3D-1380 Short-Term Rental

- (A) **Type 1 Short-Term Rental Regulations.**
- (1) A Type 1 Short-Term use:
- (a) Is rented for periods of less than 30 consecutive days; and
 - (b) Is owner-occupied or is associated with an owner-occupied principal residential unit.
- (2) A Type 1 Short-Term Rental use may not:
- (a) Include the rental of less than an entire dwelling unit, unless all of the following conditions are met:
 - (i) A partial unit must at a minimum include the exclusive use of a sleeping room and shared use of a full bathroom;

- (ii) The owner is generally present at the licensed short-term rental property for the duration of any short-term rental of a partial unit;
- (iii) Not more than one partial unit at the property is simultaneously rented for any period less than 30 consecutive days; and
- (iv) Rental of the partial unit is limited to a single party of individuals;
- (b) Operate without a license as required by Subsection (D);
- (c) Operate without providing notification to renters as required by Subsection (E); or
- (d) Include an accessory dwelling unit except as provided by Section 23-3D-1030 (Accessory Dwelling Unit - Residential).

(B) Type 2 Short-Term Rental Regulations.

- (1) A Type 2 Short-Term Rental use:
 - (a) Is rented for periods of less than 30 consecutive days;
 - (b) Is not part of a multi-family residential use; and
 - (c) Is not owner-occupied and is not associated with an owner-occupied principal residential unit.
- (2) Type 2 Short-Term permitted use regulations is allowed in a residential zone if:
 - (a) A license was issued before November 23, 2015; or
 - (b) A license was issued for an application received prior to September 17, 2015; and
 - (c) The license is renewed timely.
- (3) A Type 2 Short-Term Rental use must not:
 - (a) Include the rental of less than an entire dwelling unit;
 - (b) Operate without a license as required by Subsection (D);
 - (c) Operate without providing notification to renters as required by Subsection (E); or
 - (d) Include an accessory dwelling unit except as provided by Section 23-3D-1030 (Accessory Dwelling Unit - Residential) and Section 23-3D-1040 (Accessory Dwelling Unit - Non-Residential).
- (4) If a license for a Type 2 Short-Term Rental use meets the requirements for annual renewal under Subsection (D)(5) and the property received a notice of violation related to the life, health, or public safety of the structure, the property is subject to an inspection every three years by the building official to determine if the structure poses a hazard to life, health, or public safety.
- (5) A Type 2 Short-Term Rental use may not be located on a lot that is within 1,000 feet of a lot on which another Type 2 Short-Term Rental use is located, unless the license:
 - (a) Was issued on or before November 23, 2015;
 - (b) Has not been suspended after November 23, 2015; and
 - (c) Is renewed timely.

(C) Type 3 Short-Term Rental Regulations.

- (1) A Type 3 Short-Term Rental use:
 - (a) Is rented for periods of less than 30 consecutive days; and
 - (b) Is part of a multi-family residential use.
- (2) A Type 3 Short-Term Rental use may not:
 - (a) Include the rental of less than an entire dwelling unit;
 - (b) Operate without a license as required by Subsection (D); or
 - (c) Operate without providing notification to renters as required by Subsection (E).

(D) License Requirements and Procedures.

- (1) This subsection applies to a license required under Subsections (A)-(C).
- (2) To obtain a license, the owner of a short-term rental use must submit an application on a form approved by the Director. The application must include the following:
 - (a) A certification by the property owner and, if applicable, property manager that the property is not subject to outstanding City Code or state law violations;
 - (b) The name, street address, mailing address, and telephone number of the owner of the property;
 - (c) The name, street address, mailing address, and telephone number of the local contact required by Subsection (I);
 - (d) The street address of the short-term rental use;
 - (e) Proof of property insurance;
 - (f) Proof of payment of hotel occupancy taxes due as of the date of submission of the application; and
 - (g) Any other information requested by the Director.
- (3) The Director shall issue a license under this section if:
 - (a) The application includes all information required under Subsection (D)(2);
 - (b) The proposed short-term rental use complies with the requirements of Subsections (A)-(C);
 - (c) For a Type 2 short-term rental, no more than three percent of the single-family, detached residential units within the census tract of the property are a Type 1 or Type 2 short-term rental use as determined by the Director under Subsection (F); and
 - (i) The structure has a valid certificate of occupancy or compliance, as required by Division 23-2C-5 (Certificates of Occupancy and Compliance) issued no more than 10 years before the date the application is submitted to the Director; or
 - (ii) The building official determined the structure does not pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.

- (d) For a Type 3 Short-Term Rental located in a zone that is not a Mixed-Use or Main Street Zone, no more than three percent of the total number of dwelling units at the property and no more than three percent of the total number of dwelling units located within any building or detached structure at the property are a Type 3 short-term rental use as determined by the Housing Director under Subsection (F); and
 - (i) The structure and the dwelling unit at issue have a valid certificate of occupancy or compliance, as required by Division 23-2C-5 (Certificates of Occupancy and Compliance) issued no more than 10 years before the date the application is submitted to the Director; or
 - (ii) The building official determined the structure and the dwelling unit at issue does not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.
 - (e) For a Type 3 short-term rental use located in a Mixed-Use or Main Street Zone:
 - (i) No more than 25 percent of the total number of dwelling units at the property and no more than 25 percent of the total number of dwelling units located within any building or detached structure at the property are a Type 3 short-term rental use as determined by the Director under Subsection (F); or
 - (ii) For a property constructed after (effective date of code adoptions), no more than 10 percent of the total number of dwelling units at the property and no more than 10 percent of the total number of dwelling units located within any building or detached structure at the property are a Type 3 short-term rental use as determined by the Director under Subsection (F), and
 - The structure and the dwelling unit at issue have a valid certificate of occupancy or compliance, as required by 23-2C-5 (Certificates of Occupancy and Compliance) issued no more than 10 years before the date the application is submitted to the Director; or
 - The building official determined the structure and the dwelling unit at issue does not to pose a hazard to life, health, and public safety, based on a minimum life-safety inspection.
 - (f) If applicable, the Austin Water Utility determines the septic system complies with Chapter 15-5 (Private Sewage Facilities) of Title 15 (Utility Regulations);
 - (g) The property is not subject to outstanding City Code or state law violations;
 - (h) The owner pays the fee set by separate ordinance;
 - (i) The owner does not meet the standards described in Subsection (J); and
 - (j) If applicable, the owner pays the fee required by Subsection (K).
- (4) A license issued under this subsection:
- (a) Is valid for a maximum of one year from the date of issuance, subject to a one-time extension of 30 days at the discretion of the Director;
 - (b) May not be transferred by the property owner listed on the application and does not convey with a sale or transfer of the property; and
 - (c) Satisfies the requirement for a change of use permit from residential to short-term rental use.

- (5) Except as otherwise provided in this subsection, a license may be renewed annually if:
 - (a) The licensee pays a renewal fee established by separate ordinance;
 - (b) The licensee provides documentation showing that hotel occupancy taxes have been paid for the licensed unit as required by Section 11-2-4 (Quarterly Reports; Payments) of Title 11 (Taxation) for the previous year;
 - (c) The licensee provides updates of any changes to the information required by Subsection (D)(2);
 - (d) The property is not subject to outstanding City Code or state law violations;
 - (e) The licensee or operator does not meet the standards described in Subsection (J);
 - (f) If applicable, the building official determined the structure does not to pose a hazard to life, health, or public safety; and
 - (g) If applicable, the owner pays the fee required by Subsection (K).
- (6) A license for a Type 2 short-term rental described in Subsection (B) may not be renewed in a manner that would extend the license past March 31, 2022.
- (7) The Director may deny an application to renew a license if, on to the date the renewal application was submitted, the license for a short-term rental was suspended as authorized under Section 1307 (1307 (License Suspension) of Division 23-10B-9 (Property Maintenance Code).
- (8) A violation of any provision in the City Code or other applicable law is grounds to deny, suspend, or revoke license.

(E) Notification Requirements.

- (1) The Director shall provide a packet of information with each license summarizing the restrictions applicable to the short-term rental use, including:
 - (a) The name and contact information of the local contact designated in the application;
 - (b) Occupancy limits applicable under Subsection (H);
 - (c) Restrictions on noise applicable under Subsections (G)(1)-(G)(3), including limitations on the use of amplified sound;
 - (d) Parking restrictions;
 - (e) Trash collection schedule;
 - (f) Information on relevant burn bans;
 - (g) Information on relevant water restrictions;
 - (h) Information on applicable requirements of the Americans with Disabilities Act; and
 - (i) Other guidelines and requirements applicable to short-term rental uses.

- (2) The licensee or operator of a short-term rental use must:
 - (a) Provide renters with a copy of the information packet provided in Subsection (E)(1); and
 - (b) Post the packet conspicuously in the common area of each dwelling rental unit included in the registration.
- (3) The Director shall mail notice of the contact information for the local contact to all properties within 100 feet of the short-term rental use, at the licensee or operator's expense.

(F) Determination of Short-Term Rental Density.

- (1) The Director shall determine on an annual basis the total number of single-family, detached residential structures within each census tract and use that number to calculate the maximum number of licenses for Type 2 short-term rentals that may be issued in compliance with Subsection (D).
- (2) The determination required in compliance with Subsection (F)(1) is based on the most current utility records for each census tract within the zoning jurisdiction and may not be revised until the next annual determination is made.
- (3) For a Type 3 short-term rental use, the Director shall determine based on active license records following receipt of an application that complies with the requirements of Subsection (D)(2), whether issuance of the license would result in the short-term rental use of more than three percent of the total number of dwelling units at the property or more than three percent of the total number of dwelling units within any building or detached structure at the property.
- (4) For a Type 2 short-term rental use one Type 2 short-term rental license per census tract is allowed if no other property within the census tract is currently licensed as a Type 1 accessory dwelling unit (ADU) or Type 2 short-term rental use and the use complies with all other license requirements, even if approval of a single Type 2 license in the census tract would otherwise exceed the density cap in compliance with Subsections (F)(1) or (F)(2) or fail to meet the standard of Subsection (D)(3)(c).
- (5) For a Type 3 short-term rental use one Type 3 short-term rental license per property is allowed if no other dwelling unit or structure in the building or at the property is currently licensed as a Type 3 short-term rental use and the use complies with all other license requirements, even if approval of a single Type 3 short-term rental for the building or property would otherwise exceed the density cap in compliance with Subsection (F)(3) or fail to meet the standard of Subsection (D)(3)(d).

(G) General Requirements for Short-Term Rentals.

- (1) A licensee or guest of a short-term rental may not use or allow the use of sound equipment that produces sound in excess of 75 decibels at the property line between 10:00 a.m. and 10:00 p.m.
- (2) A licensee or guest of a short-term rental may not use or allow use of sound equipment that produces sound audible beyond the property line between 10:00 p.m. and 10:00 a.m.
- (3) A licensee or guest of a short-term rental may not make or allow another to make noise or play a musical instrument audible to an adjacent business or residence between 10:30 p.m. and 7:00 a.m.

- (4) If a building permit prohibiting occupancy of the structure is active, no person can occupy, for sleeping or living purposes, the structure until final inspections have been passed and the building permit is closed.
- (5) A licensee or operator may not advertise or promote or allow another to advertise or promote a short-term rental without including:
 - (a) The license number assigned by the City to the short-term rental; and
 - (b) The applicable occupancy limit for the short-term rental.
- (6) An owner, or a person in control of a dwelling, may not advertise or promote, or allow another to advertise or promote, the dwelling as a short-term rental if the dwelling is not licensed by the Director as a short-term rental.
- (7) A licensee or operator may not advertise or promote or allow another to advertise or promote a short-term rental in violation of the City Code or state law.
- (8) A person must obtain a license to operate a short-term rental before a property may be used as a short-term rental.
- (9) Requirements in this subsection apply only when the dwelling unit is being used as a short-term rental, and apply only to that dwelling unit. For purposes of this subsection dwelling unit means the area being used as a short-term rental, including a partial unit described in Subsection (A)(2)(a).

(H) Occupancy Limits for Short-Term Rentals.

- (1) Unless a stricter limit applies, not more than two adults per bedroom plus two additional adults may be present in a short-term rental between 10:00 p.m. and 7:00 a.m.
- (2) A short-term rental is presumed to have two bedrooms, except as otherwise determined through an inspection approved by the Director.
- (3) A licensee or guest may not use or allow another to use a short-term rental for an assembly between 10:00 p.m. and 7:00 a.m.
- (4) A licensee or guest may not use or allow another to use a short-term rental for an outside assembly of more than six adults between 7:00 a.m. and 10:00 p.m.
- (5) For purposes of this subsection, an assembly includes a wedding, bachelor or bachelorette party, concert, sponsored event, or any similar group activity other than sleeping.
- (6) A short-term rental use may not be used by more than:
 - (a) Ten adults at one time, unless a stricter limit applies; or
 - (b) Six unrelated adults.

(I) Local Contacts.

- (1) A licensee of a short-term rental use who does not reside within the Austin Metro Area shall identify an individual or individuals to serve as local contacts and respond to emergency conditions.

- (2) A local contact designated under Subsection (I)(1) must be present within the Austin Metro Area and be available to respond within two hours after being notified of an emergency by a guest of the short-term rental, by a City employee, or by an individual entitled to notice of the contact information under Subsection (E), during any 24-hour period.
 - (3) If there is a change related to a local contact, the licensee shall provide updated or new information to the Director in writing within three business days.
- (J) **Repeat Offenses.**
- (1) If the Director finds that the licensee or operator failed to comply with Subsections (G) or (H) at least twice in a 12-month period, the Housing Director may deny an application to renew a short-term rental license for a period of 12 months.
 - (2) If the Director finds that an owner or person in control of a property violated Subsection (G) at least twice in a 12-month period, the Director may deny an application to renew a short-term rental license for a period of 12 months.
 - (3) If a property is the subject of repeated substantiated violations of City Code or state law during a 24-month period prior to applying for a license or renewing a license to operate a short-term rental, the Director may deny the short-term rental license based on:
 - (a) The frequency of any repeated violations;
 - (b) Whether a violation was committed intentionally or knowingly; and
 - (c) Any other information that demonstrates the degree to which the owner or occupant has endangered public health, safety, or welfare.
 - (4) A licensee may appeal the Director's decision to deny an application using the process established in Section 1308 (Appeal from License Suspension) of Division 23-11B-5 (Property Maintenance Code).
- (K) **Non-compliance Fees.**
- (1) A person who submits an application for a short-term rental license shall pay an additional fee if the application is submitted after the Housing Director sends a notice of violation or cites the person for operating a short-term rental without a license.
 - (2) A person who submits a request to renew a short-term rental license shall pay an additional fee if the request is submitted after the Director sends a notice of violation or cites the person for operating with an expired short-term rental license.
 - (3) The fee described in this subsection is set by a separate ordinance and must be based on the City's cost to enforce the licensing requirements.
- (L) **Prima Facie Evidence of a Violation.**
- (1) An advertisement promoting the availability of a short-term rental in violation of any City Code or state law requirement is prima facie evidence of a violation and is cause to issue an administrative citation for a violation of Subsections (G)(5) – (G)(7).
 - (2) Except for a short-term rental use described in Subsection (A), a visual inspection of more than six adults by a City employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of Subsections (H)(1), (H)(4), or (H)(6)(b).

- (3) Except for a short-term rental use described in Subsection (A), a visual inspection of more than 10 adults by a City employee at a short-term rental is prima facie evidence of and is cause to issue an administrative citation for a violation of the occupancy limits of Subsection (H)(6)(a).

23-3D-1390 Special Use in Historic Districts

- (A) **Applicability.** This section applies to a site if all of the following conditions are met:
 - (1) The structure and land are zoned as a Historic Landmark (H) or Historic District (HD) Overlay;
 - (2) The property is owned and operated by a non-profit entity;
 - (3) The property is directly accessible from a street with at least 40 feet of paving;
 - (4) The site has at least one acre of contiguous land area;
 - (5) At least 80 percent of the required parking is on site;
 - (6) A single commercial use does not occupy more than 25 percent of the gross floor area;
 - (7) Civic and public assembly uses occupy more than 25 percent of the gross floor area;
 - (8) Civic and public assembly uses occupy at least 50 percent of the gross floor area; and
 - (9) The property owner does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in leasing the property.
- (B) **Allowed with Conditional Use Permit.** If not otherwise permitted in the base zone, the following are allowed with a conditional use permit on a site described in Subsection (A):
 - (1) Business and Financial/ Professional Services;
 - (2) Performance Venue, Indoor;
 - (3) Studio: art, dance, martial arts, music;
 - (4) Meeting Facility;
 - (5) General retail;
 - (6) Library, museum, or public art gallery;
 - (7) Office, general (non-medical); or
 - (8) Restaurant without alcohol sales.

23-3D-1400 Studio: art, dance, martial arts, music

- (A) **Applicability.** This section applies only to a production studio.
- (B) **Sales.** On-site sales are prohibited.
- (C) **Noise.**
 - (1) Noises generated from studio activity may not be audible to an adjacent residence between 7:30 p.m. and 9:00 a.m.

- (2) The noise level of studio activity may not exceed 70 "A"-weighted decibels, measured at the property line.

23-3D-1410 Telecommunications

- (A) **Exempt.** A telecommunications tower used by a public agency exclusively for police, fire, emergency medical services, 911, or other public emergency communications is exempt from this section.
- (B) **General Site Development Standards.**
 - (1) A telecommunication tower may exceed the height restrictions of the base zone.
 - (2) A telecommunication tower must be constructed in accordance with the most recent American National Standard Institute structural standards for steel antenna towers.
- (C) **Telecommunications Towers Allowed by Right in All Zones.** Unless Subsections (D) or (E) apply, a telecommunication tower that complies with the requirements of this subsection is allowed in any zone.
 - (1) The tower must be a replacement for a functioning:
 - (a) Utility pole or light standard within a utility easement or public right-of-way;
 - (b) Recreation facility light pole; or
 - (c) Telecommunication tower.
 - (2) The tower must be similar in appearance and function to the pole, standard, or tower that it replaces, except for the antennae.
 - (3) The tower, including antenna array, may not exceed the height of:
 - (a) The original utility pole, light standard, or recreation facility pole by more than 10 feet; or
 - (b) The original telecommunication tower and antenna array.
 - (4) The tower may not obstruct a public sidewalk, public alley, or other public right-of-way.
- (D) **Telecommunications Allowed by Right in Some Zones.** A telecommunication tower that complies with this subsection is an allowed use in all zones except Residential House-Scale Zones or a Residential Manufactured Home (MH).
 - (1) The tower may not be located within 200 feet of a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone.
 - (2) The tower, excluding antenna array, may not exceed the following height:
 - (a) 75 feet, for a tower less than 250 feet from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone;
 - (b) 100 feet, for a tower at least 250, but less than 500, feet from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone; or
 - (c) 120 feet, for a tower 500 feet or more from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone.

- (E) **Telecommunications Allowed with a Conditional Use Permit in Some Zones.** A telecommunications tower that is not an allowed use under Subsection (D) is allowed with a conditional use permit in all zones except Residential House-Scale Zones or a Residential Manufactured Home (MH) Zone, if the tower complies with the requirements of this subsection.
- (1) The tower must be located at least 75 feet from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone.
 - (2) The tower, excluding antenna array, may not exceed the following height:
 - (a) 75 feet for a tower less than 100 feet from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone;
 - (b) 100 feet, for a tower at least 100, but less than 200, feet from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone;
 - (c) 120 feet, for a tower at least 200, but less than 300, feet from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone; or
 - (d) A height set by the Land Use Commission, for a tower 300 feet or more from a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone.
- (F) **Site Development Standards for Certain Telecommunication Towers.** A telecommunication tower described in Subsections (D) or (E) must comply with the standards of this subsection.
- (1) The tower may not be located:
 - (a) On or within 300 feet of property that is zoned as Historic Landmark (H) or Historic District (HD) Overlay Zone or included in a National Register District;
 - (b) Within 50 feet of a childcare (commercial) use; or
 - (c) Within 50 feet of a residential dwelling unit.
 - (2) The tower must be of monopole construction and designed to accommodate at least two antenna array.
 - (3) The antenna array may not exceed tower height by more than 10 feet.
 - (4) Guys and guy anchors must be at least 20 feet from adjoining property.
 - (5) The tower must be:
 - (a) Enclosed by security fencing; and
 - (b) Screened from street view by landscaping at least six feet high.
 - (6) The tower must be identified by a sign visible from outside the screened area. The sign must state in letters, at least two inches high, the name and telephone number of the tower manager and the Federal Communications Commission license number.
 - (7) The distance from a tower to a zone is measured:
 - (a) Along a straight line from the center of the tower base to the nearest property line of the zone; or
 - (b) For a distance prescribed by Subsection (F)(1)(c), along a straight line from the center of the tower base to the nearest exterior wall of the dwelling unit.

(G) **Excluded Properties by Zone.** In this section, a reference to a Residential Manufactured Home (MH) Zone or a Residential House-Scale Zone does not include property that is:

- (1) Vacant, undeveloped, or unplatted;
- (2) Used for a public or private primary or secondary school;
- (3) Used for a college or university;
- (4) Owned by the United States, the State of Texas, a county, or the City;
- (5) Used primarily for religious assembly;
- (6) Used for a cemetery; or
- (7) Used for a non-residential, nonconforming use.

(H) **Special Requirements.**

- (1) An application to construct a telecommunication tower described in Subsections (D) or (E) must be accompanied by an affidavit that includes:
 - (a) A description of the search area for the tower location;
 - (b) The elevation required for the antenna array; and
 - (c) The reasons that the antenna array cannot be located on an existing tower or other structure.
- (2) An applicant who prepares an affidavit required by Subsection (H)(1) shall record the name and address of each person the applicant contacts in attempting to locate the antenna array on an existing tower or other structure. If requested by the City manager, the applicant shall disclose to the City manager the recorded information.
- (3) This subsection applies if a telecommunication tower, described in this section, ceases to be used for wireless communications.
 - (a) The tower owner and the property owner shall notify the Director that the tower is not being used for wireless communications within 30 days of the cessation of use.
 - (b) If the tower is not used for wireless communications for a continuous one year period, the tower owner and the property owner shall remove the tower. The tower owner and the property owner shall finish the tower removal within 18 months of the date that wireless communications cease.
- (4) The Director shall maintain a map of all telecommunication towers located within the planning jurisdiction.

23-3D-1420 Townhouse

(A) **Site Development Requirements.**

- (1) A lot may contain no more than one townhouse. Minimum lot size for a townhouse lot is determined by the base zone in Article 23-3C (Zones).
- (2) **Setback.** The minimum interior side yard setback for a townhouse is zero feet. All other setbacks are determined by the base zone in Article 23-3C (Zones).
- (3) A townhouse use must consist of a run of at least 3 townhomes.
- (4) A townhouse must be oriented with the primary entrance facing the primary street. If on a corner lot, a townhouse must orient at least one of the primary entrances to the side street.
- (5) A townhouse must have a Private Frontage in compliance with Division 23-3D-5 (Private Frontage).
- (6) **Height.** Within a Residential House-Scale zone, a townhouse site may be treated as a single lot for the purpose of measuring height.
- (7) **Impervious Cover.** In a Residential 3 (R3) Zone, a Residential 4 (R4) Zone, or Residential Multi-Unit 1 (RM1) Zone:
 - (a) The impervious cover allowance for a townhouse lot is determined by the total number of townhouse lots proposed for a single site. A townhouse site may utilize the graduated impervious cover allowed in the zone, with each townhouse lot counted as a dwelling unit.
 - (b) Each lot on a townhouse site may not exceed the maximum impervious cover allowed for the site.

- (B) **Parking.** Other than in a garage, required on-site parking is prohibited between the street and the corresponding street-facing building facade.