

5.17. *Short term rental or occupancy.*

5.17-1 Purpose This section is intended to provide a procedure to allow the rental of private residences to visitors on a short-term basis, while ensuring that such rental use does not create adverse impacts to residential neighborhoods due to excessive traffic, noise, and density. Additionally, this section is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure to cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect visitors from unsafe or unsanitary conditions.

5.17-2 *Definitions:*

**“Adult”** means an individual 17 years of age or older.

**“Bedroom”** means a room designated and used primarily for sleeping and rest on a bed.

**“Floodway”** means the channel for a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**“Non-Residential District”** means the following zoning districts: R-3, R-3L, R-3H, MU-A, MU-B, C-1, C-1A, C-1B, C-2, C-2A, C-3, C-4, C-4A, C-4B, C-O, M-1, M-1A, and M-2A. This includes all subsequently approved Special Districts identified as Non-Residential unless otherwise specified within the Special District.

**“Occupant”** means the person or persons who have rented the Short Term Rental and their guest(s).

**“Operator”** means every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit who is the proprietor of a Short Term Rental, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, license or any capacity. Where the operator performs his or her functions through a managing agent of any type of character, other than an employee, or where the operator performs his or her functions through a rental agent, the managing agent or the rental agent shall have the same duties as his or her principal.

**“Owner”** means the person or entity that holds legal and/or equitable title to the private property.

**“Residential District”** means the following zoning districts: R-1, R-1A-43.5, R-1A-12, R-1A-8, R-1A-6.6, R-2, R-2A, B-1, B-1A, B-1B, TH, TH-A, ZH, ZH-A and SND-1. This includes all Special and Planned Development Districts identified as Residential unless otherwise specified within the Special District.

**“Resort Condominiums”** means a form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned and rented out for use of persons for less than 30 days while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

**“Resort Property”** means a compound of buildings and facilities located together that provides lodging, entertainment and a relaxing environment to people on vacation. This includes 24 hour security and 24 hour front desk personnel. These units comply with all commercial building code standards.

**“Short Term Rental”** means the rental for compensation of one- or two -family dwellings, as defined in the IRC (International Residential Code), for the purpose of overnight lodging for a period of not less than one (1) night and not more than thirty (30) days other than ongoing month-to-month tenancy granted to the same renter for the same unit. This is not applicable to hotels, motels, bed and breakfasts, resort properties as defined in this ordinance or resort condominiums.

**“Short Term Rental Decal”** means the decal issued by the City as part of a Short Term Rental permit that identifies the subject property as a Short Term Rental, the Short Term Rental permit number, the owner or rental agent’s name and 24-hour emergency contact phone number of either the owner or the rental agent.

**“Sleeping Area”** means a room or other space within a Dwelling designed or used for sleeping, including a Bedroom. Tents and Recreational Vehicles shall not be considered a Sleeping Area.

**5.17-3 Applicability.**

- (a) Short Term Rental within Residential Districts is prohibited.
- (b) Short Term Rental is prohibited in any floodway located within the city limits, regardless of zoning district.
- (c) A Short Term Rental Permit is required prior to the use of a one family or two family dwelling as a Short Term Rental located within a Non-Residential District. Subject to Subsection (d), Standards, of this Section, an Owner shall obtain and maintain a current permit whenever a dwelling is used as a Short Term Rental. Annual inspection is required as specified in Subsection (f), Inspections, of this Chapter. A Special Use Permit is required in all zoning districts except C-4, C-4A and C-4B.
- (d) Within one hundred and eighty (180) days of the effective date of this Ordinance, the Owner or Operator of each existing legally established short term rental shall apply for and pay the permit fee for a Short Term Rental Permit. Within forty-five (45) days of receipt of a completed application, the permit fee and compliance with Subsection (e), Short Term Rental Permit, of this Section, a permit shall be issued to the Owner or Operator that will be good for one (1) year from the date issued and subject to the annual renewal inspection by the Fire Marshal. Ability to approve said permit is predicated on verification that the short term rental is in compliance with Section 2.3(b, c, d), Nonconforming Use.

**5.17-4 Standards.** All Short Term Rentals permitted pursuant to this Chapter are subject to the following standard requirements:

- (a) **Occupancy.** The maximum number of persons allowed to reside in a Short Term Rental is two (2) adults per Sleeping Area plus an additional four (4) adults per residence.
- (b) **Short Term Rental Decal Display.** As part of a Short Term Rental Permit, the City issued Short Term Rental Decal shall be posted on the front of each Short Term Rental in a location that is accessible and legible to an individual at the entry of the Short Term Rental.
- (c) **Parking.** A minimum of one (1) off-street parking space, not including the garage, per Sleeping Area shall be provided with a minimum of two (2) and a maximum not to exceed the number of Sleeping Areas plus one (1). No required parking shall be permitted within public right-of-way or access easements as defined by City and State regulations regarding parking.
- (d) **Life Safety.**
  - (1) All building and fire related construction shall conform to the City’s adopted IRC (International Residential Code) building code.
  - (2) A 2A:10B:C type fire extinguisher (a standard 5 lb. extinguisher) shall be properly mounted within 75 feet of all portions of the structure on each floor.

- (3) Every sleeping room shall have at least one operable emergency escape and rescue opening.
  - (4) An evacuation plan posted conspicuously in each Sleeping Area.
  - (5) Every bedroom / sleeping area in a Short Term Rental that does not comply with Subsection (d)(4), Life Safety, of this Section shall not be used as a Sleeping Area and where equipped with a door, shall remain locked at all times when the Dwelling is being used as a Short Term Rental. Such a non-compliant sleeping area shall not be included in the maximum occupancy calculation for the Short Term Rental. The owner / operator shall notify every Occupant, in writing, that the non-compliant Sleeping Area may not be used for sleeping.
- (e) *Conduct on premises.*
- (1) Each occupant and visitor to a Short Term Rental shall comply with all applicable provisions of the City's Code, including, without limitation: noise and disorderly conduct restrictions from Chapter 82, Offenses and Miscellaneous Provisions; litter prohibition from Chapter 50, Environment; and others such as parking, and trespassing provisions. No occupant of or visitor to a Short Term Rental shall cause or permit a public nuisance to be maintained on such property. This information shall be included in the rental agreement and inside the Short Term Rental as specified in Subsection (7), Tenant Indoor Notification, below.
  - (2) All Occupants shall be informed in writing of relevant City ordinance including, but not limited to, the City's nuisance and water conservation ordinances by the Owner/Operator of the Short Term Rental.
  - (3) Excessive noise or other disturbance outside the Short Term Rental is prohibited between the hours of 10:00 p.m. and 8:00 a.m. This includes, but is not limited to, decks, portals, porches, balconies, patios, hot tubs, pools, saunas or spas.
  - (4) No sleeping outdoors.
- (f) *Signage.* Signage shall be in compliance with the City's current Sign Code.
- (g) *Tenant Indoor Notification.* The Operator shall post in a conspicuous location of the Dwelling the following minimum information:
- (1) Maximum number of occupants.
  - (2) Location of required off-street parking, other available parking and prohibition of parking on landscaped areas.
  - (3) Quiet hours and noise restrictions.
  - (4) Restrictions of outdoor facilities.
  - (5) 24 hour contact person and phone number.
  - (6) Property cleanliness requirements.
  - (7) Trash pick-up requirements, including location of trash cans.
  - (8) Flooding hazards and evacuation routes. Including information on the emergency siren system.
  - (9) Emergency numbers.
  - (10) Notice that failure to conform to the occupancy and parking requirements is a violation of the City's Municipal Code and occupant or visitor can be cited.
  - (11) Other useful information about the community.
- (h) *Rental Agreement Notification.* The rental agreement between the owner/operator of the Short Term Rental and the occupant shall include by attachment, all of the information provided on the Tenant Indoor Notification signage.

#### 5.17-5 *Short Term Rental Permit.*

- (a) *Application.* Application for a Short Term Rental Permit shall be in writing on an application form available in the Planning Director's office, shall be accompanied by a one-time payment of the fee of \$50 and shall include the following information, at a minimum:

- (1) A list of all Owners of the short term rental including names, address and telephone numbers.
  - (2) A sketch or narrative describing the location of the available parking spaces as required by Subsection d(3), Parking, of this Section.
  - (3) A sketch of the floor plan.
  - (4) The name, address and 24 hour telephone numbers of a contact person who shall be responsible and authorized to respond to complaints concerning the use of the Short Term Rental.
  - (5) Proof of Hotel Occupancy Tax compliance with Chapter 351 of the Tax Code, before permit is granted.
  - (6) A statement that the Owner of the Short Term Rental has met and will continue to comply with the standards and other requirements of this Ordinance.
  - (7) Provide current email address of Owner/Operator, if applicable.
  - (8) If Owner/Operator has a property management or agent, Owner/Operator shall provide property management or agent phone number, mailing address and email address.
- (b) *Completeness of Application.* If the application is incomplete or the full fee has not been paid, the Planning Director shall notify the applicant in writing, within 10 business days of the date of the application, that the application is incomplete and will not be considered by the City until the application is complete and/or the full fee is paid. If the full fee is not paid or the application is not complete within 45 days of the date of the application, the application shall expire.
- (c) *Annual Renewal.* A Short Term Rental Permit will be renewed annually through an inspection conducted by the Fire Marshal to verify continued compliance with Subsection 17-4, Standards, of this Section.
- (d) *Transferability.* A Short Term Rental Permit is transferable to a new property owner, if the new property owner submits a Short Term Rental Permit application and agrees in writing to comply with the requirements of this Ordinance. A new Owner must apply for a Short Term Rental Permit within ninety (90) days from the closing date of the purchase. The new Owner must provide a copy of the closing statement with the Short Term Rental Permit application form. Failure of the new property owner to apply for permit within ninety (90) days from the closing date will revoke the Short Term Rental Permit. Short Term Rentals existing prior to the effective date of this ordinance that are non-conforming to the zoning for which property is located, but obtained a permit in compliance with Subsection 17-3(d), Applicability, shall become null and void if the new Owner fails to apply for the Short Term Rental Permit within ninety (90) days from the date of the deed of the new Owner's purchase.
- (e) *Appeal.* If an application for a Short Term Rental Permit or renewal is denied, the Owner or Operator may appeal to the Planning and Zoning Commission by written notice delivered within thirty (30) days of denial or revocation.

5.17-6 *Inspections.* To ensure continued compliance with the requirements of this Section a Short Term Rental shall be inspected in the following methods:

- (a) *Transfer Inspection.* As part of the transfer of a Short Term Rental Permit to a new Owner, in accordance with Subsection (e(4), Transferability, and the issuance of a new Short Term Rental Permit the City's Fire Marshal shall conduct an inspection to verify compliance with this Ordinance.
- (b) *Fire Extinguishers.* The Owner/Operator is responsible for obtaining annual independent inspections of the fire extinguishers in compliance with the City's current Fire Code.
- (c) *Immediate Inspection.* The City will perform inspections immediately when a violation is suspected.

- (d) *Annual Fire Inspection.* The City's Fire Marshal's Office will perform annual inspections for compliance with this Ordinance.

**5.17-7 Enforcement/Penalty.**

- (a) *Emergency Contact.* The Owner/Operator of the Short Term Rental shall provide the City with a twenty-four (24) hour contact number. Should a law enforcement officer respond to the Short Term Rental and issue a citation for any violation of City Ordinances, the Owner/Operator shall be called by the officer. The Owner/Operator shall attempt to contact the occupants within one hour of the call to address the occupants about the complaints. Should a second complaint be filed and citation issued to any part of the occupants or guests, the Owner/Operator must take appropriate step, in accordance with the individual rental agreement, to assure future complaints do not occur. Should three (3) separate citations be issued to an occupant or their guest(s), involving separate occupants under separate rental agreements within a six (6) month period, the Short Term Rental Permit may be revoked in accordance with the revocation process specified in Subsection (h), Revocation.
- (b) Violations of any Subsection of this Section may revoke the Short Term Rental Permit in accordance with Subsection (h), Revocation.
- (c) Failure to pay Hotel Occupancy Tax timely is considered a violation of this Section and may result in revocation of the Short Term Rental Permit in accordance with Subsection (h), Revocation. Owner shall have 30 days from the date the City or State issue a notice of delinquency to submit delinquent Hotel Occupancy Tax to City and State before revocation of the Short Term Rental Permit begins.
- (d) Failure to successfully complete the renewal process of a Short Term Rental Permit is considered a violation of this Section. Owner shall have 45 days from the date City issues notice of denial to gain compliance of noncompliant items before the revocation of the Short Term Rental Permit begins.
- (e) The provisions of this Subsection are in addition to and not in lieu of any criminal prosecution or penalties as provided by City Ordinances or County or State Law.
- (f) *Proof.* Prima facie proof of occupancy of a Dwelling is established in any prosecution for violation of this Section if it is shown that vehicles with registrations to persons having different surnames and addresses were parked overnight at the Dwelling. Establishment of a prima facie level of proof in this Subsection does not preclude a showing of illegal "occupancy" of a Dwelling by a person in any other manner.
- (g) *Offense.* It is an offense for the property owner, any agent of the property owner, or the occupant(s) to directly occupy or indirectly allow, permit, cause, or fail to prohibit an occupancy in violation of this Ordinance 144-5.17. Each day that a unit is occupied in violation of this ordinance shall be considered a separate offense, and, upon conviction, shall be subject to a minimum fine of \$500.00 to a maximum fine of \$2,000.00 per violation.
- (h) Each day of violation of said Standards and provisions of this Section constitutes a separate offense and is separately punishable, but may be joined in a single prosecution.

**5.17-8 Revocation.** If any violations stated in Subsection (g), Enforcement/Penalty, of this Section have been committed and not corrected within the time specified the Planning Director shall begin the procedures to revoke the Short Term Rental Permit in accordance with the following:

- (a) The City shall give thirty (30) day written notice to the Owner/Operator regarding the public hearing date and recommendation by the Planning Commission, and public hearing and decision by the City Council.

- (b) The City shall provide written notice to property owners within 200 feet of the subject property at least 15 days prior to the hearing.
- (c) If a Short Term Rental Permit is revoked, the Owner/Operator may not reapply for the same property for a period of twelve (12) months.

**5.17-9 *Abrogation and Greater Restrictions.*** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.3-8. “C-2” *central business district*. The following regulations shall apply in all “C-2” districts:

- (a) *Authorized uses*. Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows:

(1) *Uses permitted by right*:

Residential uses:

- Accessory building/structure
- Accessory dwelling (one accessory dwelling per lot, no kitchen)
- Assisted living facility/retirement home
- Bed and breakfast inn (see Sec. 5.6)
- Boardinghouse/lodging house
- Community home (see definition)
- Duplex / two-family / duplex condominiums
- Family home adult care
- Family home child care
- Home Occupation (See Sec. 5.5)
- Multifamily (apartments/condominiums)
- One family dwelling, detached
- Rental or occupancy for less than one month (see Sec. 5.17)
- Residential use in buildings with the following non-residential uses
- Single family industrialized home (see Sec. 5.8)

Non-residential uses:

- Accounting, auditing, bookkeeping, and tax preparations
- Adult day care (no overnight stay)
- Adult day care (with overnight stay)
- All terrain vehicle (ATV) dealer / sales
- Ambulance service (private)
- Amphitheater
- Amusement devices/arcade (four or more devices)
- Amusement services or venues (indoors) (see Sec. 5.13)
- Animal grooming shop
- Answering and message services
- Antique shop
- Appliance repair
- Art dealer / gallery
- Artist or artisan’s studio
- Armed services recruiting center
- Assembly/exhibition hall or areas
- Athletic fields
- Auction sales (non-vehicle)
- Auto body repair, garages (see Sec. 5.11)
- Auto leasing
- Auto glass repair/tinting
- Auto interior shop / upholstery
- Auto muffler shop
- Auto or trailer sales rooms or yards
- Auto or truck sales rooms or yards - primarily new
- Auto paint shop
- Auto repair garage (general)
- Auto repair as an accessory use to retail sales
- Auto supply store for new and factory rebuilt parts
- Auto tire repair /sales (indoor)
- Automobile driving school (including defensive driving)

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Bakery (retail)  
Bank, savings and loan, or credit union  
Bar/Tavern  
Barber/beauty college (barber or cosmetology school or college)  
Barber/beauty shop, haircutting (non-college)  
Barns and farm equipment storage (related to agricultural uses)  
Battery charging station  
Bicycle sales and/or repair  
Billiard / pool facility  
Bingo facility  
Bio-medical facilities  
Book binding  
Book store  
Bowling alley/center (see Sec. 5.13)  
Broadcast station (with tower) (see Sec. 5.7)  
Bus passenger stations  
Cafeteria / café / delicatessen  
Campers' supplies  
Car wash, full service (detail shop)  
Car wash (self service; automated)  
Caterer  
Cemetery and/or mausoleum  
Check cashing service  
Child day care/children's nursery (business)  
Church/place of religious assembly  
Civic/conference center and facilities  
Cleaning, pressing and dyeing (non-explosive fluids used)  
Clinic (dental)  
Clinic (emergency care)  
Clinic (medical)  
Club (private)  
Coffee shop  
Commercial amusement concessions and facilities  
Communication equipment (installation and/or repair)  
Community building (associated with residential uses)  
Computer and electronic sales  
Computer repair  
Confectionery store (retail)  
Consignment shop  
Contractor's temporary on-site construction office (only with permit from Building Official; see Sec. 5.10)  
Convenience store with or without fuel sales  
Convenience store with fuel sales  
Country club (private)  
Credit agency  
Curio shops  
Custom work shops  
Dance hall / dancing facility (see Sec. 5.13)  
Day camp  
Department store  
Drapery shop / blind shop  
Drug sales/pharmacy  
Electrical repair shop  
Electrical substation  
Exterminator service  
Farmers market (produce market - wholesale)



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Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
Feed and grain store  
Filling station (fuel tanks must be below the ground)  
Florist  
Food or grocery store with or without fuel sales  
Fraternal organization/civic club (private club)  
Frozen food storage for individual or family use  
Funeral home/mortuary  
Furniture sales (indoor)  
Garden shops and greenhouses  
Golf course (miniature)  
Golf course, public or private  
Governmental building or use  
Greenhouse (commercial)  
Handicraft shop  
Hardware store  
Health club (physical fitness; indoors only)  
Heating and air-conditioning sales / services  
Hospice  
Hospital, general (acute care/chronic care)  
Hospital, rehabilitation  
Hotel/motel  
Hotels/motels - extended stay (residence hotels)  
Ice delivery stations (for storage and sale of ice at retail only)  
Kiosk (providing a retail service)  
Laundromat and laundry pickup stations  
Laundry, commercial (w/o self serve)  
Laundry/dry cleaning (drop off/pick up)  
Laundry/washateria (self serve)  
Lawnmower sales and/or repair  
Limousine / taxi service  
Locksmith  
Martial arts school  
Medical supplies and equipment  
Micro brewery (onsite manufacturing and/or sales)  
Mini-warehouse/self storage units (no boat/RV storage permitted)  
Motion picture studio, commercial film  
Motion picture theater (indoors)  
Motorcycle dealer (primarily new / repair)  
Museum  
Needlework shop  
Nursing/convalescent home/sanitarium  
Offices, brokerage services  
Offices, business or professional  
Offices, computer programming and data processing  
Offices, consulting  
Offices, engineering, architecture, surveying or similar  
Offices, health services  
Offices, insurance agency  
Offices, legal services - including court reporting  
Offices, medical offices  
Offices, real estate  
Offices, security/commodity brokers, dealers, exchanges and financial services  
Park and/or playground (private or public)  
Parking lots (for passenger car only) (not as incidental to the main use)

Parking structure/public garage  
Pawn shop  
Personal watercraft sales (primarily new / repair)  
Pet shop / supplies (than 10,000 sq. ft. or less)  
Photographic printing/duplicating/copy shop or printing shop  
Photographic studio (no sale of cameras or supplies)  
Photographic supply  
Plant nursery  
Plant nursery, with retail sales  
Plumbing shop (no outside storage)  
Public recreation/services building for public park/playground areas  
Publishing/printing company (e.g., newspaper)  
Quick lube/oil change/minor inspection  
Radio/television shop, electronics, computer repair  
Recreation buildings (private or public)  
Recreation buildings (public)  
Recycling kiosk  
Refreshment/beverage stand  
Restaurant/prepared food sales  
Restaurant with drive-through  
Retail store and shopping center (misc.)  
Retirement home/home for the aged (public)  
RV/travel trailer sales  
School, K-12 (public or private)  
School, vocational (business/commercial trade)  
Security monitoring company  
Security systems installation company (with outside storage)  
Shoe repair shops  
Storage in bulk  
Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
Studio for radio or television (without tower)  
Tailor shop  
Telecommunications towers/antennas (see Sec. 5.7)  
Telemarketing agency  
Telephone exchange buildings (office only)  
Tennis court (commercial)  
Theater (non-motion picture; live drama)  
Tire sales (outdoors)  
Tool rental  
Travel agency  
University or college (public or private)  
Upholstery shop (non-auto)  
Used or second hand merchandise/furniture store  
Vacuum cleaner sales and repair  
Video rental / sales  
Warehouse / office and storage / distribution center  
Waterfront amusement facilities - berthing facilities sales and rentals  
Waterfront amusement facilities - boat fuel storage / dispensing facilities  
Waterfront amusement facilities - boat landing piers / launching ramps  
Waterfront amusement facilities – swimming / wading pools / bathhouses  
Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system  
Wholesale sales offices and sample rooms  
Woodworking shop (ornamental)

Any comparable use not included in or excluded from any other district described herein.

- (2) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

(1) Non-residential uses.

- (i) *Height.* 75 feet.
- (ii) *Front building setback.* No building setback required.
- (iii) *Width of lot.* 60 feet. Where a lot has less width than required and such lot was in separate ownership prior to February 4, 1984, this requirement will not prohibit the construction of a use enumerated in this district.
- (iv) *Corner lots.* No setback from a street is required.
- (v) *Side building setback.* No side building setback is required except that where a side lot line of a lot in this district abuts upon the side line of a lot in a “R” or “B-1” zone, a side building setback of not less than six feet shall be provided.
- (vi) *Rear building setback.* 20 feet.
- (vii) *Residential setback.* Effective November 8, 2006, where a non-residential building abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* See Section 5.1 for other permitted uses’ parking.

(2) One family dwellings.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.

- (vii) *Lot area.* Every single-family dwelling hereafter erected or altered shall have a lot area of not less than 6,600 square feet for interior lots, and 7,000 square feet for corner lots. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall not prohibit the erection of a one-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less one half acre and one acre on the Edwards Aquifer Recharge Zone.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* Two off-street parking spaces shall be provided for each one-family detached dwelling. See Section 5.1 for other permitted uses' parking.

(3) Duplexes.

- (i) *Height.* 45 feet.
- (ii) *Front building setback.* 25 feet.
- (iii) *Rear building setback.* 20 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (vii) *Lot area.* Duplexes hereafter erected or altered shall have a lot area of not less than 8,000 square feet for an interior lot and 8,500 square feet for a corner lot. Where a lot was legally under separate ownership prior to September 25, 1967, but has an area less than the minimum required in this provision, this regulation shall prohibit the erection of a two-family residence. Where a public or community sewer is not available and in use for the disposal of all sanitary sewage, each lot shall provide not less than one acre and approved by the City Sanitarian.
- (viii) *Lot depth.* 100 feet.
- (ix) *Parking.* Two off-street parking spaces shall be provided for each two-family dwelling unit. See Sec. 5.1 for other permitted uses' parking.

(4) Multifamily dwellings.

- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
- (ii) *Front building setback.* 25 feet.

- (iii) *Rear building setback.* 25 feet.
- (iv) *Side building setback.* There shall be a side building setback on each side of a building not less than five feet in width. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the side lot lines of the adjacent lots.
- (v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
- (vi) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 70 feet, provided that where a lot has less width than herein required, and such lot was in separate ownership prior to September 25, 1967, this requirement will not prohibit the erection of a one-family dwelling.
- (vii) *Lot area.* The minimum lot area for a multifamily dwelling shall be 15,000 square feet; for each unit over ten an additional 1,500 square feet of lot area shall be required. Where public or community sewer is not available and in use, for the disposal of all sanitary sewage, multifamily developments shall be approved by the City Sanitarian.
- (viii) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
- (ix) *Lot coverage.* For multifamily structures, the combined area of all yards shall be at least 55 percent of the total lot or tract; provided, however, that in the event enclosed parking is provided the minimum total yard area requirement shall be 40 percent of the total lot or tract.
- (x) *Distance between structures.* For multifamily structures, there shall be a minimum of ten feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of ten feet between structures backing rear to rear, and a minimum of 20 feet front to rear. (See Illustration 1 in Sec. 3.3-3)
- (xi) *Lot depth.* 100 feet.
- (xii) *Parking.*  
For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:
  - 1. One-bedroom apartment or unit . . . 1 1/2 spaces
  - 2. Two-bedroom apartment or unit . . . 2 spaces
  - 3. Each Additional bedroom . . . 1/2 space
  - 4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

### 3.6. *Special Use Permits.*

- 3.6-1. *Compatible and orderly development.* A special use permit may be granted to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way or only for a limited period of time.
- 3.6-2. *Application processing.* Application for a Special Use Permit shall be processed in accordance with Section 2.1 of this Chapter and shall include the pertinent information as determined by the type of Special Use Permit and additional information as determined by the Planning Director, the Planning Commission or the City Council.

#### Types of Special Use Permit:

*Type 1.* Regulates land use only; does not require specific site plan or schedule. Construction within a Type 1 Special Use Permit will comply with all of the standard construction requirements for the approved use at the time of construction permit, including drainage plans, TIA, driveway location, and landscaping.

*Type 2.* Requires a site plan drawn to scale and shall show the arrangement of the project in detail, including parking facilities, locations of buildings, uses to be permitted, landscaping, and means of egress and ingress.

- 3.6-3. *Standards.* When considering applications for a special use permit, the Planning Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan, if a Type 2, and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Planning Commission and the City Council shall specifically consider the extent to which:
- (a) *Comprehensive plan consistency.* The proposed use at the specified location is consistent with the goals, objectives and policies contained in the adopted Comprehensive Plan;
  - (b) *Zoning district consistency.* The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
  - (c) *Supplemental Standards.* The proposed use meets all supplemental standards specifically applicable to the use as set forth in this Chapter;
  - (d) *Character and integrity.* The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances.

A Type 2 Special Use Permit may include improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (1) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (2) Off-street parking and loading areas;
- (3) Refuse and service areas;
- (4) Utilities with reference to location, availability, and compatibility;

- (5) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
  - (6) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (7) Required yards and open space;
  - (8) Height and bulk of structures;
  - (9) Hours of operation;
  - (10) Paving of streets, alleys, and sidewalks,
  - (11) Provisions for drainage,
  - (12) Exterior construction material and building design; and
  - (13) Roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.
- (e) *Public health, safety, convenience and welfare.* The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

3.6-4. *Procedures for special use permit (SUP).* Granting of an SUP is considered zoning and as such, all the procedures for changing a zoning district apply to an application for an SUP. After a public hearing and upon the recommendation of the Planning Commission, the City Council may approve, deny or modify the site plan and issue a special use permit containing such requirements and safeguards as necessary to protect adjoining property, including conditions addressing the standards in Section 3.6-3(d).

3.6-5. *Revocation.* The SUP for a Type 1 permit may be considered for revocation if a use other than the use approved in the SUP or in the underlying zoning district is developed or other stated requirements are not met. The SUP for a Type 2 permit may be considered for revocation for the following reasons:

- (a) Construction is not begun within five years of the date of approval of the permit.
- (b) Progress toward completion is not being made. Progress toward completion includes the following:
  - (1) An application for a final plat is submitted;
  - (2) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
  - (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of 5% of the most recent appraised market value of the real property on which the project is located;
  - (4) Security is posted with the city to ensure performance of an obligation required by the city; or

- (5) Utility connection fees or impact fees for the project have been paid to the City or New Braunfels Utilities.
  - (c) *Abandonment of the project.* Abandonment includes development of the property in a way other than provided for by the SUP.
  - (d) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
  - (e) *Code violations.* Revocation may be considered if there are three or more code violations in a 720 day period.
    - (1) *Notice to property owner.* If the Planning Director finds no less than three violations of any code of ordinances on the property within a 360 day period, he shall advise the applicant of a revocation hearing. The Planning Director shall notify the property owner in writing of the violations and that an administrative hearing will be held concerning the violations. Such notice shall be given at least 10 days prior to the hearing. The Planning Director shall take evidence and conduct an administrative hearing to determine if a revocation procedure should be initiated. Such a determination is not subject to appeal to the Zoning Board of Adjustment.
    - (2) If the Planning Director finds that there is credible evidence that the code of ordinances has been violated, or there have been convictions or guilty pleas in any court of competent jurisdiction, on at least three separate occasions within a 720 day period, and after the administrative hearing, he shall initiate a SUP revocation process.
    - (3) *Appeal to Municipal Court.* Any code violation may be appealed to, or considered by, the Municipal Court Judge. The parties at interest in this appeal may cross examine witnesses.
  - (f) *Revocation process.* The revocation process shall be the same as for a zoning district change, with notice to property owners within 200 feet, public hearing and recommendation by the Planning Commission, and public hearing and ordinance consideration by the City Council.
  - (g) The City Council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the Council determines, or amend the SUP with probationary requirements and terms the Council determines.
  - (h) Upon revocation of a special use permit the property subject to the special use permit may be used for any permitted use within the applicable base zoning district.
- 3.6-6. *Compliance with conditions.* Conditions which may have been imposed by the City Council in granting such permit shall be complied with by the grantee before a Certificate of Occupancy may be issued by the Building Official for the use of the building on such property.
- 3.6-7. *Telecommunication towers and/or antennas.* See Sec. 5.7
- 3.6-8. *Deviation from Code.* The City Council may approve a special use permit with deviations to any provision of the Code of Ordinances. Such deviations shall be listed or shown in or as part of the Ordinance approving the special use permit.