

Sec. 15.1. Landscape regulations.

(A) *Definitions.* In addition to definitions set forth in Section 9 and Section 20 of this ordinance, the following definitions pertain to the provisions of this section:

- (1) "Drip line." The periphery of the area underneath a tree which would be encompassed by perpendicular lines projected down from the farthest edges of the crown of the tree.
- (2) "Impervious cover." Any surface material or surface treatment or surface condition which sheds fifty (50) percent or more of rainfall, or water, which falls on it.
- (3) "Landscape/landscaping." Landscape or landscaping includes natural or artificial exterior (outdoor) forms, features, furniture, and plantings, including ground and water forms, vegetation, circulation, walks and other landscape features.
- (4) "Tree." A tree shall be defined by any of the following:
 - (a) A woody plant having one well defined stem or trunk and a more or less definitely formed crown and usually attaining a mature height of at least eight (8) feet.
 - (b) A plant listed as a tree in any of the following:
 1. "Forest Trees of Texas," by the Texas Forest Service of Texas A & M University System.
 2. Simon and Shuster's "Guide to Trees."
 3. The Audubon Society's "Field Guide to North American Trees."

(B) *Application of this section.*

- (1) The landscaping section of this ordinance shall apply to all land located in the City of Alamo Heights, except as otherwise noted below. Such landscaping requirements shall become applicable as to each individual lot or tract of land at such time as an application for building permit on such lot or tract of land is made.
- (2) A common development which includes more than one lot shall be treated as one lot for the purposes of satisfying the landscaping requirements of this section. Split ownership, planning in phases, construction in phases, and/or multiple building permits for a project shall not prevent it from being a common development as referred to above. A project planned in phases must have each phase in compliance with the ordinance.
- (3) The requirements of this section shall not apply to the following:

- (a) Single-Family Dwelling District A (SF-A).
- (b) Single-Family Dwelling District B (SF-B).
- (c) Two-Family Dwelling District C (2F-C).
- (d) Building permits for the substantial restoration within a period of twelve (12) months of a building which has been damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- (e) Building permits for remodeling as long as the roof and front, side and rear exterior walls of the building remain in the same location.
- (f) Site development plans approved before July 2, 1984, and granted a building permit by September 1, 1984.
- (C) *Procedures pertaining to this section.*
 - (1) When an application is made for a building permit on any land where the landscaping requirements of this section are applicable, such building permit application shall be accompanied by a site plan(s) containing the information listed below:
 - (a) The date, scale, north arrow, title and name of owner.
 - (b) The location of property lines and dimensions of the tract.
 - (c) The location and size of existing and proposed streets and alleys.
 - (d) The location, size and type (tree, shrub, and groundcover) of proposed landscape plant material, and the location of proposed landscape areas. The use of native plants is encouraged.
 - (e) The location, size and species of existing trees on the site having trunks six (6) inches or larger in diameter and the approximate size of their crowns.
 - (f) The location, size and type of landscape architectural components (drives, walks, curbs, fences, steps, ramps, planters, pools, parking areas, etc.) proposed.
 - (g) A separate grading plan showing proposed topography (at two-foot contour interval) may be required at the request of the building official.
 - (h) Indication if a landscape irrigation system is proposed.
 - (i) Sufficient details to clearly describe all features proposed to be located in the city right-of-way. A written statement shall be submitted holding the city harmless from liability and/or damages caused by features placed in the right-of-way. The city retains

total jurisdiction over features in the right-of-way as necessary for installation and maintenance of utilities, improvements and protection of the public health, safety and welfare.

(j) Information necessary for verifying whether the required maximum percent of impervious cover has not been exceeded under subsection (d) (1--3) of this section.

(k) The certification of a landscape architect, registered to practice in the State of Texas, that the plans satisfy applicable sections of the zoning ordinance, building code and appropriate standards for landscape architectural design and construction.

(l) A perpetual license, binding the property owner, his heirs, successors and assigns, granting the city authorization to enter upon the land for the purpose of installing required landscaping.

(2) Plans shall be subject to approval by the office of the city engineer. Prior to the issuance of a building permit, the applicant shall pay to the city an inspection fee in accordance with a schedule of fees published by the city engineer. The property owner shall furthermore furnish to the city prior to the issuance of a building permit a performance bond or irrevocable letter of credit acceptable to the city engineer for the amount of the landscape construction cost.

(3) The city engineer's office shall inspect each site no sooner than three (3) months nor later than twelve (12) months after the building is ready for occupancy. The owner may call for earlier inspection if desired. If the proposed landscape construction is not completed at the time of the twelve-month inspection, the performance bond or letter of credit shall be forfeited and applied toward the implementation of the landscape plan. Any additional costs beyond those covered by the performance bond or letter of credit shall be affixed as a lien on the property.

(D) *Landscaping requirements.*

(1) Multiple-Family Dwelling District D (MF-D).

(a) At least sixty (60) percent of the proposed front yard must be landscaped. Not more than forty (40) percent of the proposed front yard may receive impervious cover. At least fifty (50) percent of the front yard landscape area must be contiguous with the public right-of-way.

(b) An eight-foot wide landscape area must be provided along the rear property line. The landscaping must be contiguous with the entire length of the property line, except where interrupted by a drive to an alley. If there is more than one rear access drive, the required width of the landscape area shall be twelve (12) feet. In no case shall more than forty (40) percent of the landscape area receive impervious cover.

(c) Corner lots: An eight-foot wide landscape area shall be provided along each side yard property line bordering a street. No more than forty (40) percent of the landscape area may receive impervious cover. Landscaping within a triangular area formed by intersecting street lines shall comply with the requirements of sections 16-71 through 16-77 of the Code of Ordinances.

(d) Double frontage lots: The front yards of a double frontage lot shall be landscaped. At least sixty (60) percent of the front yards shall be landscaped. Not more than forty (40) percent of the landscape area may receive impervious cover. At least fifty (50) percent of the landscape area of each front yard must be contiguous with the public right-of-way.

(e) Lots or tracts of land without buildings and used primarily for parking: The front yard of a lot or tract of land without buildings and used primarily for parking shall have a landscape area located along its entire length with a minimum width of twenty (20) feet. Each rear and side yard of such lots or tracts of land shall have a landscape area located along its entire length with a minimum width of eight (8) feet. Not more than forty (40) percent, in the case of a front or rear yard, nor more than twenty-five (25) percent, in the case of a side yard, of each landscape area may receive impervious cover.

(2) Office District (O-1), Business District Number One (B-1), Business District Number Two (B-2).

(a) An eight-foot wide landscape area is required along all property lines. A minimum of sixty (60) percent of each landscape area shall be landscaped, and not more than forty (40) percent shall receive impervious cover.

(b) Where O-1, B-1 and B-2 property abuts tracts zoned for residential use, the required width of the landscape area shall be fifteen (15) feet.

(c) If less than fifty (50) percent of the building foundation is at grade, the following requirements must be met:

1. The required width of the landscape area shall be fifteen (15) feet.
2. A clear space of at least twenty (20) feet (measured vertically from finished grade) must remain above all landscape areas.
3. Not more than twenty-five (25) percent of the landscape area may receive impervious cover.
4. For each additional four-foot increment added to the width of the landscape area, the parking requirement shall be reduced by one space.

(d) Lots or tracts of land without buildings and used primarily for parking: Lots or tracts of land without buildings and used primarily for parking shall have a landscape

area located along the entire length of each front, rear, and side yard with a minimum width of ten (10) feet. Not more than forty (40) percent of each landscape area may receive impervious cover.

(e) Landscaping within a triangular area formed by intersecting street lines shall comply with the requirements of sections 16-71 through 16-77 of the Code of Ordinances.

(3) Parking (P).

(a) An eight-foot wide landscape area must be provided along the entire length of each front, rear and side yard, or property line. Not more than forty (40) percent of each landscape area shall receive impervious cover.

(b) At least five (5) percent of the total area of each parking lot shall be composed of landscaped islands, peninsulas, medians or planters. The perimeter landscape area shall not be counted toward meeting this requirement. The landscaped islands, peninsulas, medians or planters shall not receive any impervious cover.

(c) At least seven and five-tenths (7.5) percent of the total area of each parking lot shall be composed of landscaped islands, peninsulas, medians or planters when the area of the parking lot is thirty thousand (30,000) square feet or greater. The perimeter landscape area shall not be counted toward meeting this requirement. The landscaped islands, peninsulas, medians or planters shall not receive any impervious cover.

(4) Landscaping shall not obstruct the view between the street and the access drives and parking aisles near the front yard entries and exits, nor shall any landscaping which creates an obstruction of view be located within the radius of any curb return.

(Ord. No. 1083, 8-13-84)

Sec. 16. Nonconforming uses or structures.

(A) Any use of property that does not conform to the regulations prescribed in the preceding sections of this ordinance and which shall have been in existence prior to the adoption of this ordinance or which was nonconforming under the provisions of the previous ordinance and remains so under this ordinance shall be called a nonconforming use.

(B) Any nonconforming use of land or buildings or any nonconforming structure may be continued for indefinite periods provided that the Board of Adjustment may prescribe definite periods of time for the discontinuance of a nonconforming use of land or building subject to such restrictions as the Board of Adjustment may require for the protection and preservation of adjoining property. A nonconforming use of land or building may be changed to another nonconforming use of the same or a more

restrictive classification. If a change of a nonconforming use is made to a use in a more restrictive classification, the use shall not later be changed to a less restrictive classification and the less restrictive use shall be considered to have been abandoned.

(C) If a structure occupied by a nonconforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to the provisions of this ordinance. In the case of partial destruction of a nonconforming use not exceeding fifty (50) percent of its reasonable value, reconstruction will be permitted but the size or function of the nonconforming use cannot be expanded.

(D) A nonconforming use or structure shall not be expanded in any manner or form so as to increase the degree of nonconformity except when such change may be required by law or ordinance for the preservation of the health, safety and welfare of the community.

(E) A building or structure in Business District Number One (B-1) used for a nonconforming use as defined in Section 20(32) of the Zoning Code may be modified or expanded upon approval of a building permit therefore by the city council; provided that any such modification or expansion is for the same use which existed prior to the time of the request for the building permit.

(F) If the final approval of a subdivision plan, plat or replant produces a nonconforming use or structure because of requirements of the zoning code, there shall be no necessity to obtain a variance or special exception from the board of adjustment for the condition which produced the nonconforming use or structure unless such condition is not disclosed in the plat specifications or other documents furnished to the city in connection with the application. In order to preserve the applicant's rights under this subsection, the subdivision plan, plat or replant approved by the city council shall include a plat note specifically describing the condition which otherwise would have necessitated a variance or special exception from the board of adjustment. If the approval of the subdivision plan, plat or replant creates a nonconforming structure, future building permits for the alteration, modification or expansion of the nonconforming structure shall be treated the same as building permit applications for other nonconforming structures.

(Ord. No. 1154, 11-10-86; Ord. No. 1346, 1-23-95)

Sec. 17. Board of Adjustment.

(A) *Organization.* There is hereby created a Board of Adjustment consisting of five (5) members who are citizens and taxpayers of the City of Alamo Heights, each to be appointed by the Mayor subject to the approval of the City Council for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original

appointment was made. The Mayor with the approval of the City Council may appoint two alternate members of the Board of Adjustment who shall serve in the absence of one or more of the regular members when requested to do so by the Mayor. These alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two years, and any vacancy shall be filled in the same manner and they shall be subject to removal the same as the regular members. The officers of the Board shall consist of a Chairman, a Vice-Chairman and a Secretary. The Secretary shall not be a member of the Board and shall not have a vote.

(B) *Function.*

(1) The Board shall adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this ordinance. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Vice-Chairman, may administer oaths and compel the attendance of witnesses.

(2) All meetings of the Board shall be open to the public, and shall be held in the Council Chamber of the City of Alamo Heights. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(3) Appeals to the Board of Adjustment can be taken by any person aggrieved or by an officer, department or board of the municipality affected by any decisions of the administrative officer. Such appeal shall be taken within the time specified by the rules of the Board after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

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

(C) *Notice of hearing.* The Board of Adjustment shall hold a public hearing on all appeals made to it after public notice thereof and written notice of all such public hearings shall be sent to the applicant and all other persons who are owners of real property lying within two hundred (200) feet of the property on which the appeal is made; such notice shall be given not less than five (5) days before the date set for hearing to all property owners as the ownership appears on the last City tax roll. Such

notice may be served by depositing the same properly addressed and postage paid in the United States Post Office. The expense of giving notice shall be borne by the applicant.

(D) *Procedure.* At a public hearing relative to any appeal for a variance, any interested party may appear in person or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to justify the action of the Board of Adjustment on any appeal. Any special exception or variance granted or authorized by the Board of Adjustment under the provisions of this ordinance shall authorize the issuance of a building permit for a period of ninety (90) days from the date of the favorable action of the Board unless said Board shall in its action approve a longer period of time or prior to the expiration of the permit shall grant a longer period and so show such specific longer period in the minutes of its action. If the building permit shall not have been issued within said ninety (90) day period or such extended period as the Board may specifically grant, then the special exception or variance shall be deemed to have been waived and all rights there under terminated. Such terminating and waiver shall be without prejudice to a subsequent appeal to said Board in accordance with regulations herein contained.

(E) *Powers.* When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance or any amendment thereto.

(2) To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.

(3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

(4) To require the discontinuance of nonconforming uses under any plan whereby the full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance, and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The Board may, from time to time, on its own

motion or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the City.

(F) *Actions of the board.*

(1) In exercising its powers, the Board may, in conformity with the provisions of the Statutes of the State of Texas as existing or hereafter amended, revise or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken including the power to impose reasonable conditions to be complied with by the applicant.

(2) The concurring vote of four (4) members of the Board shall be necessary to revise any order, requirement, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this ordinance or to affect any variance in said ordinance.

(3) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment or any taxpayer or any officer, department or board of the municipality may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the Office of the Board and not thereafter.

Sec. 17.1. Fees for appeals to the board of adjustment.

The city engineer of the City of Alamo Heights is directed to collect a base fee of one hundred dollars (\$100.00) for appeals to the Board of Adjustment and an additional fee of twenty-five dollars (\$25.00) for each variance requested in addition to one variance. (Ord. No. 804, 11-26-73; Ord. No. 856, 11-24-75; Ord. No. 1011, 7-7-81; Ord. No. 1079, 5-28-84; Ord. No. 1381, 9-9-96)

Sec. 18. Reserved.

Editor's note: Ord. No. 1260, approved Sept. 9, 1991, repealed former § 18, which pertained to application for building permits, and derived from Ord. No. 927, approved Aug. 14, 1978; Ord. No. 1085, approved Oct. 8, 1984; and Ord. No. 1166, approved Apr. 27, 1987.

Sec. 19. Changes and amendments.

Any person or corporation or group of persons having a proprietary interest in any property may petition the City Council for a change or amendment in the provisions of this ordinance, or the City Planning and Zoning Commission may on its own motion institute proposals for change and amendment in the public interest.

The City Council may from time to time amend, supplement, change, modify or repeal by ordinance the regulations herein established as provided by the statutes of the State of Texas.

When an application for amendment to the zoning District Map has been denied by the City Council, or withdrawn or abandoned by the applicant, a new application for the same or a similar change of zoning on the same property will not be received by the City Planning and Zoning Commission until the expiration of six (6) months time from the date of such denial or unless the City Planning and Zoning Commission shall find that conditions have changed so as to warrant an earlier hearing or that it is then in the public interest that an earlier rehearing be granted.

(Ord. No. 1069, 3-12-84)

Sec. 19.1. Filing fee for application to amend Zoning Ordinance.

The Treasurer of the City of Alamo Heights is directed to collect a fee of sixty-five dollars (\$65.00) for the filing of an application to amend the Zoning Ordinance of the City of Alamo Heights. (Ord. No. 804, 11-26-73)

Editor's note: Ord. No. 804, adopted Nov. 26, 1963, did not expressly amend this Appendix A, hence inclusion herein as § 19.1 was at the editor's discretion. The catch line was added by the editors to facilitate indexing, reference and use.

Sec. 20. Definitions.

Certain words in this ordinance not heretofore defined are defined herein as follows:

(A) Words used in the present tense include the future; words in the singular number include the plural number and words in the plural number include the singular number; the word "building" includes the word "structure;" the word "lot" includes the words "plot" or "tract;" the word "shall" is mandatory and not discretionary.

(1) *Administrative Officer.* The City Engineer or other duly designated official charged with administration and enforcement of the ordinances and codes of the City of Alamo Heights having to do with land use and building.

- (2) *Alley.* A public space or thoroughfare which affords only secondary means of access to property abutting thereon and which may not be used as street frontage or primary access.
- (3) *Apartment.* A room or suite of rooms in a multiple-family dwelling or apartment house arranged, designed or occupied as a place of residence by a single family, individual or group of individuals.
- (4) *Apartment House.* Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more families living in independent dwelling units; also called a Multi-Family Residence and a Multiple Family Dwelling.
- (5) *Basement Story.* A building story which is partly underground, but having at least one-half of its height above the average level of the adjoining ground. Such basement shall be counted as a story in computing building height.
- (6) *Block.* An area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersects said street on the said line.
- (7) *Board.* The Zoning Board of Adjustment established in Section 17.
- (8) *Building.* Any structure designed, built or intended for shelter, enclosure of persons, animals, chattels or movable property of any kind; and when separated by an Absolute Fire Separation, each portion of such building so separated, shall be deemed a separate building.
- (9) *Building Line.* A line parallel or approximately parallel to the street line at a specific distance there from marking the minimum distance from the street line that a building may be erected.
- (10) *Carpport.* A motor vehicle storage structure having a roof and not more than one wall located opposite the entrance. For the purposes of this ordinance, a carport shall not be considered as an enclosed vehicle storage structure.
- (11) *City Council.* The official Governing Body of the City of Alamo Heights.
- (12) *Court.* An open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanent space.

- (13) *District Zoning.* A section of the City of Alamo Heights for which the regulations governing the area, height or use of the land and buildings are uniform.
- (14) *Dwelling, Single-Family.* A detached building having accommodations for and occupied by not more than one family.
- (15) *Dwelling, Single-Family, Attached.* See Section 9; Paragraph (A) (1).
- (16) *Dwelling, Two-Family.* A detached building having separate accommodations for and occupied by not more than two families.
- (17) *Dwelling, Multiple-Family.* Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home residence of three or more families.
- (18) *Dwelling Unit.* A building or portion of a building which is arranged occupied or intended to be occupied as a single living quarters and includes facilities for food preparation and sleeping.
- (19) *Family.* One or more individuals living together as a single housekeeping unit, in which not more than two (2) individuals are unrelated by blood, marriage or adoption.
- (20) *Floor Area.* The total square feet of floor space within the outside dimensions of a building each floor level, but excluding basements.
- (21) *Frontage.* All of the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all of the property abutting on a side between an intersecting street and the dead end of the street.
- (22) *Height.* The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface, (2) to the deck line of mansard roofs, or, (3) to the mean height level between eaves and ridges for hip and gable roofs. In measuring the height of a building, the following uses shall be excluded to the extent of eight (8) feet of additional height; chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, ornamental cupolas, domes or spires, and parapet walls.
- (23) *Lot.* Land occupied or to be occupied by a building and its accessory building, and including such open spaces as are required under this ordinance, and having its principal frontage upon a public street or officially approved place.
- (24) *Lot Area.* The area of the lot shall be the net area of the lot and shall not include portions of streets and alleys.

- (25) *Lot Coverage.* The percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot.
- (26) *Lot, Corner.* A lot situated at the junction of two (2) streets and having an exterior exposure along both streets extending from an intersection.
- (27) *Lot Depth.* The mean distance between the front and rear lot lines.
- (28) *Lot, Double Frontage.* A lot having each of two opposite sides abutting or having frontage upon separate streets, as distinguished from a corner lot.
- (29) *Lot Lines.* The lines bounding a lot as defined herein.
- (30) *Lot Width.* The average width of the lot as measured between the side lot lines midway between the front and rear lot lines.
- (31) *Main Building.* The building or buildings on a lot which are occupied by the primary use.
- (32) *Nonconforming use.* A building, structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is situated.
- (33) *Nonconforming Structure.* A building or structure which contains a use which conforms to the regulations of the district in which it is situated, but which does not conform to one or more of the area, height or parking regulations prescribed herein for the district in which it is situated.
- (34) *Occupancy.* Occupancy as used herein pertains to and is the purpose for which a building is used or intended to be used. A change of occupancy is not intended to include a change of tenants or proprietors.
- (35) *Open Space.* Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches.
- (36) *Premises.* Land together with any buildings or structures occupying it.
- (37) *Private Garage.* An accessory building housing vehicles owned and used by occupants of the main building; if occupied by vehicles of others, it is a storage space.
- (38) *Story.* That portion of a building included between the surface of any floor and surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

(39) *Story, Half.* A story having an average height of not more than eight (8) feet, covering a floor area of not more than seventy-five (75) percent of the area of the floor of the first story below.

(40) *Street.* Any thoroughfare or public driveway, other than an alley, and not less than thirty (30) feet in width, which has been dedicated or deeded to the public for public use and which affords primary access to abutting property.

(41) *Street Line.* A dividing line between a lot, tract or parcel of land and a contiguous street right-of-way.

(42) *Structural Alterations.* Any change in any supporting member of a building, such as a bearing wall, column, partition, beam, rafter, joist, or girder, or any change in the pitch or height of the roof.

(43) *Structure.* A structure shall be interpreted the same as a building, but shall in addition, include such items as a free standing ground sign and pylon when erected on a base and not made integral with a building.

(44) *Yard.* An open, unoccupied space (except for vegetation and surfacing) other than a court, on the lot in which a building is situated and which is unobstructed except as provided herein by any building from the ground to the sky.

(45) *Yard, Front.* An open unoccupied space on a lot facing a street extending across the front of the lot between the side lot lines and from the main building to the front property line (street right-of-way line) as used herein shall represent a line in front of which no building may be erected which line shall be determined as the minimum horizontal distance between the front property line and the main building line as specified for the district in which it is located.

(46) *Yard, Rear.* An open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the main building and the rear lot line. The required rear yard shall have a minimum dimension as specified in the district in which the lot is situated.

(47) *Yard, Side.* An open, unoccupied space or spaces on one or two sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

(48) *Zoning District Map.* The official certified map(s) upon which the boundaries of the various Zoning Districts are drawn and which are an integral part of the Zoning Ordinance and together with the Zoning Text makes up the Zoning Regulations for the City of Alamo Heights.

Sec. 21. Penalty for violation.

Any person or corporation who shall fail to comply with any of the provisions of this ordinance or fail to comply with any of the requirements hereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, or who commits, takes part, directs, or assists in any such violation or who maintains or uses any building or premises or part thereof in which any violation exists shall be guilty of a misdemeanor, and any such person or corporation upon conviction thereof in the Corporation Court of the City of Alamo Heights, Texas, shall be fined as provided in section 1-5 of this Code. Each day that such violation shall occur, continue or be permitted to exist shall constitute a separate offense. Any owner or owners of any building or premises or part thereof, who participates in, or knowingly and willingly permits a violation of this ordinance, and any architect, builder, contractor, agent, person or corporation employed in connection therewith who assists in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as herein provided.

Sec. 22. Remedies for violation.

Any person or corporation who shall fail to comply with any provisions of this ordinance, or any of the requirements hereof, or who shall commit any of the acts described in Section 21 hereof, or be guilty of any of the omissions thereof, shall be liable to injunctive action, being subject to being enjoined and mandatory enjoined in any court of competent jurisdiction, and shall be liable and responsible for any and all expenses that may be incurred by the City in connection with any such action, omission or other violation, including a reasonable attorney's fee.

Sec. 23. Preserving rights in pending litigation.

By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the existing zoning ordinance was amended and this zoning ordinance adopted, shall be discharged or affected by such amendment; but prosecutions and suits for such offenses, liabilities, penalties or forfeiture may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been amended.

Sec. 24. Preserving other ordinances not in conflict.

The provisions of this ordinance shall take precedent over those of any other existing ordinance of the City of Alamo Heights which may contain provisions which are less restrictive than those herein specified. However, nothing herein contained shall mitigate, interfere with, alter or repeal any provisions of any other ordinance of the City of Alamo Heights not in conflict with the provisions of this ordinance.

Sec. 25. Validity.

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of provisions thereof other than the part so decided to be invalid or unconstitutional.