

Sec. 30-26. Specific use permits.

(a) *Purpose.* The provisions of this section for the installation and maintenance of landscaping and screening are intended to protect the character and stability of residential, commercial, institutional and industrial areas, to conserve the value of land and buildings of surrounding properties and neighborhoods, to enhance the aesthetic and visual image of the community, to encourage the preservation of large trees which once removed can be replaced only after generations, and to assist with clean air. In no case shall these provisions restrict ADA requirements.

(b) *Landscape plan required.* All building permit applications for new building construction shall be accompanied by two (2) blue line or backline prints of the landscape plan to be approved by development services before issuance of the building permit.

The landscape plan shall contain sufficient detail to show the following:

- (1) The date, scale, north arrow and names and address and phone numbers of each property owner and person preparing the plans.
 - (2) The footprint of all existing and proposed structures.
 - (3) Remaining and/or proposed site elements such as power poles, fences, walls, drainage swales, easements, sidewalks, parking lot layout, pedestrian walkways, and other such elements.
 - (4) A schedule identifying name, size, number, and location of all landscape elements.
 - (5) Name, location and size of existing trees, and type and location of other vegetation proposed to remain for credit purposes.
 - (6) The size and location of the parking lot and the number of spaces, and how the owner proposes to address the interior landscaping requirement.
 - (7) Such other information as may be reasonably necessary to administer and enforce the provisions of this ordinance.
 - (8) Drawn at a scale of one (1) inch equals fifty (50) feet or greater.
- (c) *Irrigation required.*

(1) All buildings greater than three thousand (3,000) square feet shall require an automatic irrigation system sufficient to provide complete coverage of required screening landscaped areas.

(2) An irrigation system shall be installed and operational prior to issuance of a certificate of occupancy or final building inspection.

(3) State law requires installation by licensed irrigators.

(4) Irrigation systems shall be maintained in good and operating condition.

(5) For buildings three thousand (3,000) square feet or less, hose bibs may be used for irrigation purposes.

(d) *Certificate of occupancy.* No certificate of occupancy for new construction shall be issued or final approval of parking lot expansion made unless complying with terms and conditions required herein.

(e) *Definitions.*

(1) *Berm.* Landscaped earthen hill of three (3) feet height or greater.

GRAPHIC LINK (not available): Berm

(2) *Caliper.* The measure of the diameter of a tree at eighteen (18) inches above grade.

Class A trees must be two (2) inches caliper or greater.

Class B trees if multi-trunked, must have a minimum of three (3) trunks of one (1) inch caliper each.

(3) *Class A tree.* A tree with a mature height of thirty (30) feet or more. See recommended list.

(4) *Class B tree.* A tree with a mature height of less than thirty (30) feet. See recommended list.

(5) *Critical root zone.* A circular region measured outward from the tree trunk to the drip line representing the area of roots that must be maintained or protected for the tree's survival.

(6) *Drip line.* A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

GRAPHIC LINK (not available): Drip Line

(7) *Easement.* The legal grant of right-of-use to an area of designated private property, utilized by public corporations (states, municipalities) and also made to companies providing public services such as gas, electricity, and telephone.

(8) *Island.* A curbed landscaped area in a parking lot that is surrounded on all sides by parking spaces.

GRAPHIC LINK (not available): Island

(9) *Landscaped.* Shall consist of any combination of turf/grass/ground cover, shrubs, and trees. It must be installed in a sound manner and in accordance with accepted standards of the nursery industry.

(10) *Median.* A curbed landscaped area in a parking lot that separates parking aisles.

GRAPHIC LINK (not available): Median

(11) *Open space buffer planting strip.* The area between single-family residential and any other zoned property. This strip is to include required trees.

(12) *Planting strip.* The area between the curb and sidewalk, two (2) curbs, a curb and fence, or a sidewalk and fence.

(13) *Peninsula.* A curbed landscaped area that protrudes into parking aisles and adjoins other no parking open space.

GRAPHIC LINK (not available): Peninsula

(14) *Public right-of-way.* The entire strip of land lying between the property line and a street or thoroughfare, alley, crosswalk, or easement.

(15) *Shrub.* A woody plant of low or medium height, usually multi-stemmed. See recommended list for three foot high hedge.

(16) *Vehicular use area.* The total area of all the parking spaces and drives serving the parking area.

(f) *Perimeter landscaping and screening.*

(1) When a commercial or industrial use is established on a lot or premises located adjacent to any residential zoning district, or when any multiple-family dwelling use is established on a lot or premises adjacent to any property located in a single-family residential zoning district, a ten-foot width of landscaping open-space buffer strip shall be installed and maintained by the owner, developer or operator of the commercial or industrial property between it and the adjacent residentially zoned property.

(2) In an open space buffer planting strip required under the terms of this section, a minimum of one (1) class A tree or two (2) class B trees shall be planted and maintained for each twenty-five (25) lineal feet or portion thereof of said open space buffer strip. The required trees may be planted anywhere within the buffer strip with a minimum of ten (10) feet apart for class A trees and a minimum of five (5) feet apart for class B trees. Refer to definitions on tree size.

GRAPHIC LINK (not available): Open Space Buffer Planting Strip

(3) In addition, an eight-foot high opaque fence or wall shall be erected and maintained along the property line to provide visual screening. The fence or wall shall be masonry or a wood diagonal, horizontal or vertical stockade type privacy fence, although the framing may be metal.

(4) In lieu of the fence, a thirty-foot wide landscape planted buffer for the purpose of screening, may be provided along the property line.

(5) For a thirty-foot wide landscape planted buffer, one (1) class A tree or two (2) class B trees shall be planted and maintained for each ten (10) lineal feet of buffer. The required trees may be planted anywhere within the buffer strip with a minimum of twenty (20) feet apart for class A trees and a minimum of ten (10) feet apart for class B trees. Refer to definitions on tree size.

GRAPHIC LINK (not available): Thirty-foot Wide Landscape Planted Buffer

(6) The provisions of this perimeter landscaping and screening shall not apply where districts are separated by a public street.

(7) When a specific use permit is required, the landscape buffering and fencing required by this section may be modified or eliminated as a condition of a specific use permit.

(g) *Dumpster and immobile trash containers.* Any fixed or otherwise immobile trash container must be set back from the property line no less than twenty-five (25) feet or be completely screened from view from any street via landscaping and solid, opaque fencing on a minimum of three (3) sides.

No such container shall be allowed on city right-of-way.

(h) *Landscaping of off-street parking.*

(1) *Island, median and/or peninsula requirements.*

a. Any parking lot or portions thereof which is to contain twenty (20) or more parking spaces shall provide permanently landscaped areas consisting of islands,

peninsulas, or medians within the parking area. The required landscaped island, peninsula, or median shall be provided as follows:

1. Sites having less than one hundred (100) parking spaces: One (1) landscaped island, peninsula, or median per twenty (20) parking spaces is required.
2. Sites having more than one hundred (100) parking spaces: One (1) landscaped island, peninsula, or median per ten (10) parking spaces is required.
3. The landscaped island or peninsula located within the parking spaces shall be no less than nine (9) feet wide or if a landscaped median shall be no less than six (6) feet wide.

GRAPHIC LINK (not available): Landscaped Island or Peninsula

4. Each island or peninsula required herein shall at minimum contain one (1) class A tree or two (2) class B trees.
5. Each median required herein shall at minimum contain one (1) class A tree or two (2) class B trees for each twenty-five (25) linear feet of median.
6. All such landscaped areas shall be protected from vehicular access to these areas by curbing or other protective devices. No automobile or other type of vehicle shall be driven on any required landscaped space.

2. *Perimeter requirements.*

- a. A landscaping edge or buffer shall be required along each side of a parking lot that faces towards a public right-of-way.
- b. The landscaping edge shall be no less than six (6) feet wide and may use up to three (3) feet of the public right-of-way, if unused and available at the time of permitting.

GRAPHIC LINK: Landscaping

- c. The landscaping edge shall be for the parking lot's entire length.
- d. The landscaping edge shall contain no less than one (1) class A tree or two (2) class B trees for each twenty-five (25) lineal feet or fraction thereof of the edge.
- e. The required trees may be located anywhere within the six (6) foot landscape edge with a minimum of ten (10) feet apart for class A trees and a minimum of five (5) feet apart for class B trees. Refer to definitions on tree size.

GRAPHIC LINK: Location

f. If overhead lines are present along the perimeter landscape edge, no trees will be permitted in that perimeter landscape edge. In addition, no trees shall be permitted within a thirty-foot distance from the outermost power line.

g. A screen no less than three (3) feet height comprised of a wall, solid fence, berm, or plant material or combination of shall be provided along the entire length of the landscaping edge or buffer, if any part of the landscaping edge is within ten (10) feet of the right-of-way. The screen does not have to be straight with the street or parking edge.

GRAPHIC LINK: Screen

h. The three-foot high screen shall not be on the right-of-way.

i. The three-foot high screen shall not be required across driveways.

j. The three-foot high screen shall not be within three (3) feet of a driveway or restrict a driver's line of sight of approaching vehicles as determined by the city.

k. The required three-foot high screen, when planted, shall be a minimum of two (2) feet in height. See list of suggested shrubs.

l. A minimum width of three (3) feet is required for the bed containing the planted screen.

m. The required three-foot high screen, if planted shall be maintained at no less than three (3) feet high.

(3) An increase in the size of an existing parking lot by twenty-five (25) percent in the number of parking spaces or more shall require the entire parking lot, in addition to the twenty-five (25) percent expansion, to be brought into compliance with this section.

(i) *Landscaping bonus provisions.*

(1) In order to receive credit for preserved trees, the owner must include as part of the landscape plan submittal, a tree preservation plan which must be approved by development services.

a. The tree preservation plan shall include the name, location, size and condition of each tree to be preserved, along with an indication of proposed development features which may impact such trees, and any other pertinent information as required to evaluate existing and proposed conditions.

b. The tree preservation plan shall include a detailed description of all methods to be used to ensure the survival of all trees scheduled for preservation credit, including information that may be required to interpret the intent and methodology proposed.

- c. Any tree to be preserved for credit shall be protected from excavation and all construction by fencing off the area which constitutes the critical root zone as defined herein.
- d. All building material, dirt, debris and equipment shall be kept outside the fenced area.
- e. All tree preservation methodology shall conform to the standards of the Texas Department of Agriculture and Forestry, the Texas Forest Service and the International Society of Arboriculture.
- f. If a preserved tree dies within five (5) years, it is the responsibility of the owner to replace that tree with the number of class A trees credited on a matching basis within six (6) months.

(2) Credit may be received for preservation of existing trees as follows:

- a. For each existing tree between two (2) to four (4) inches in caliper, a tree credit of one (1) for one (1) is allowed.
- b. For each existing tree between five (5) and twelve (12) inches in caliper, a tree credit of two (2) for one (1) is allowed.
- c. For each existing tree over twelve (12) inches in caliper, a tree credit of three (3) for one (1) is allowed.

(3) The required minimum front building setback for development in GC-MD and GC-MD-2 Districts and for multi-family housing in RM-M and RM-H Districts shall be reduced to fifteen (15) feet when a landscaped planting strip is provided across the first ten (10) feet of the property adjacent to the street right-of-way.

- a. A turf area is to be located between the paved or curbed portion or sidewalk of the adjacent street right-of-way and the front property line.
- b. The landscape planting strip shall not be used for parking, but can be crossed with driveways providing direct ingress and egress to the development that have been approved by the development services manager or his designee.
- c. This landscape planting strip shall be planted with one (1) class A or two (2) class B trees for each twenty-five (25) lineal feet or fraction thereof along the property line. The required trees may be planted anywhere within the landscape planting strip with a minimum of ten (10) feet apart for class A trees and a minimum of five (5) feet apart for class B trees.
- d. Three (3) feet of public right-of-way may be used with written permission from development services.

(j) *Installation and maintenance.*

(1) All landscaping shall be installed in accordance with accepted standards of the Texas Nurseryman's Manual.

(2) All plant material shall be true to name, variety, and size and shall conform to all applicable provisions of the American Standards for Nursery Stock, latest edition.

(3) The owner and/or tenant shall be responsible for installing and maintaining all landscaping according to standard horticultural practices.

(4) All landscaping shall be maintained in a healthy, neat, and orderly condition.

(5) No trees may be located within ten (10) feet of a fire hydrant.

(6) No trees may be topped if the limbs are three (3) inches in diameter or greater.

(7) Required three-foot hedges shall be maintained at a minimum of three (3) feet in height.

(8) Dead, dying or damaged landscaping material shall be immediately replaced in conformance herein.

(9) Irrigation systems must be in good and operating condition.

(10) Failure to install required material or maintain landscaping within sixty (60) days of notification shall be subject to legal action pursuant to section 1-8 of the Codes of Ordinances of the city.

(11) Any request for a modification to the terms of this ordinance must be submitted in writing and be responded to in writing by the development services manager.

(k) *Letter of credit.*

(1) A letter of credit may be utilized when the landscaping improvements required by section 30-31 have not been completed prior to the issuance of a certificate of occupancy.

(2) The applicant shall post cash or an irrevocable letter of credit payable to the city in an amount equal to one hundred thirty (130) percent of the estimated cost. This amount shall include the city's cost of administering the completion of the improvement in the event the subdivider defaults as provided herein. The security shall be deposited with the city or in escrow with a bank at the option of the city. Such letter of credit shall comply with all statutory requirements and shall be satisfactory to the city attorney as to

form, sufficiency, and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the city manager or his designee and shall be incorporated in the letter of credit. In those cases where a letter of credit has been posted and the required improvements have not been installed within the terms of the letter of credit, the government body may thereupon declare the letter of credit in default and require that all of the improvements be installed.

TREES FOR BEAUMONT

TABLE INSET:

<i>Class A Tree:</i>	Mature height greater than thirty (30) feet
	Branches begin at six (6) feet
	Must be two (2) inches or greater in caliper when planted

TABLE INSET:

Common Name	Latin Name
American Beech	Fagus grandifloia
Arizona Ash	Fraxinus velutina
Bald Cypress	Taxodium distichum
Canary Island Date Palm	Phoenix canariensis
Cedar Elm	Ulmus crassifloia
Cherrybark Oak	Quercus falcata var. pagodifolia
Chinese Elms	Ulmus parvifolia
Green Ash	Fraxinus pennsylvanica
Hackberry	Celtis laevigata
Live Oak	Quercus virginiana
Sawthooth Oak	Quercus
Loblolly Pine	Pinus Taeda
Magnolia	Magnolia grandiflora
Nuttall Oak	Quercus Nuttallii
Pecan	Carya illinoensis
Red Cedar	Juniperus virginiana
Red Maple	Acer rubrum 'Drummondii'
Sabal Palms, Florida Fan Palm	Sabal palmetto
Shumard Oak	Quercus Shumardii
Slash Pine	Pinus Elliottii
Southern Red Oak	Quercus falcata

Spruce Pine	Pinus glabra
Swamp Chestnut Oak, Cow, Basket	Quercus Michauxii
Sycamore	Platanus occidentalis
Washingtonia Palm	Washingtonia robusta
Water Oak	Quercus nigra
White Oak	Quercus alba
Willow Oak	Quercus phellos
Windmill Palm	Tracycarpus fortunei
Winged Elm	Ulmus alata

TABLE INSET:

<i>Class B Tree:</i>	Less than thirty-foot mature height
	Eight (8) to ten (10) feet height when planted

TABLE INSET:

Common Name	Latin Name
American Holly	Ilex opaca
Cherry Laurel	Prunus caroliniana
Chinese Fan Palm	Livistona chinensis
Chinese Fringe Tree	Chioanthus virginicus
Chinese Pistachio	Pistacia chinensis
Crape Myrtle	Lagerstroemia indica and hybrid
Flowering Pear	Pyrus Calleryana 'Bradford', 'Aristocrat'
Savannah Holly	Ilex attenuata 'Savannah'
Golden Rain Tree	Koelreuteria bipinnata
Japanese Evergreen Oak	Quercus glauca
Loquat	Eriobotrya japonica
Mexican Plum	Prunus mexicana
Parsley Hawthorn	Crataegus Marshallii
Pindo Palm	Butia capitata
Purple Leaf Plum	prunus cerasifera
River Birch	Betula nigra
Sweet Bay Magnolia	Magnolia virginiana
Texas Redbud	Cercis canadensis 'Texensis'
Tree Ligustrum	Ligustrum lucidum
Tulip Magnolia	Magnolia soulangiana

Vitex	Vitex Agnus-castus
Wax Ligustrum Tree	Ligustrum japonicum
Yaupon Tree	Ilex vomitoria

SHRUBS FOR SCREENING REQUIREMENTS

TABLE INSET:

<i>Shrubs:</i>	Maintain three-foot height or greater
	Must be evergreen

TABLE INSET:

Common Name	Latin Name
Banana Shrub, Magnolia Fuscata	Michelia Figo
Blue Vase Juniper	Juniperus chinensis 'Glauca'
Bottlebrush	Callistemon rigidus
Burford Holly	Ilex cornuta 'Burfordii'
Camellia Sasanqua, upright	Camellia Sasanqua
Camellia	Camellia japonica
Chinese Holly	Ilex cornuta 'Rotunda'
Cleyera	Ternstoremia gymnanthera
Dwarf Burford Holly	Ilex cornuta 'Burfordii Nana'
Dwarf Japanese Holly	Ilex crenata 'Compacta'
Dwarf Wax Myrtle	Myrica pusilla
Elaeagnus	Elaeagnus pungens
English Boxwood	Buxus sempervirens
Florida Jasmine	Jasminum floridum
Fringe Flower	Loropetalum chinense
Gardenia, Cape Jasmine	Gardenia jasminoides
Glossy Abelia	Abelia grandiflora
Indian Azalea	Rhododendron indica
Indian Hawthorn	Raphiolepis indica
Japanese Viburnum	Viburnum japonicum
Japanese Yew	Podocarpus macrophyllus
Kumquat	Fortunella japonica
Nandina	Nandina domestica
Oleander	Nerium Oleander

Pineapple Guava	Feijoa Sellowiana
Pittosporum	Pittosporum Tobira
Pyracantha	Pyracantha coccinea
Red Tip Photinia	Photinia glabra
Sweet Olive	Osmanthus fragrans
Texas Sage	Leucophyllum frutescens
Variegated Pittosporum	Pittosporum Tobira 'Variegata'
Variegated Privet	Ligustrum sinense variegata
Viburnum suspensum	Viburnum suspensum
Wax-leaf Ligustrum	Ligustrum japonicum
Wax Myrtle	Myrica cerifera

(Ord. No. 81-17, § 1, 3-10-81; Ord. No. 82-134, §§ 6, 12, 12-14-82; Ord. No. 87-33, § 9, 4-28-87; Ord. No. 91-66, § 2, 8-27-91; Ord. No. 92-62, § 5, 8-11-92; Ord. No. 98-7, § 10, 2-3-98; Ord. No. 00-96, § 1, 11-28-00; Ord. No. 05-022, § 1, 3-8-05; Ord. No. 05-034, § 2, 3-29-05)

Sec. 30-32. Performance standards.

(a) *Compliance required.* Except as otherwise provided herein, no land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration; smoke, dust, or other form of air pollution; heat, cold, dampness, electrical or other substance, condition or dangerous element in such a manner or in such amount as to adversely affect the surrounding area or adjoining premises. Permitted uses as set forth in this chapter shall be undertaken and maintained only if they conform to the regulations of the section.

(b) *Performance standard regulations.* The following standards shall apply in the various zoning districts as indicated:

(1) *Exterior noise.* The following noise standards, unless otherwise specifically indicated, shall apply to all property within the City of Beaumont:

a. For noise emanating from a facility on property located within any residential zoning district, the allowable noise level shall be as follows:

TABLE INSET:

Time Interval	Allowable Exterior Noise Level
10:00 p.m. to 7:00 a.m.	50 dB(A)

7:00 a.m. to 10:00 p.m.	55 dB(A)
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b. For noise emanating from a facility on property located within any commercial zoning district, the allowable noise level shall be as follows:

TABLE INSET:

Time Interval	Allowable Exterior Noise Level
10:00 p.m. to 7:00 a.m.	65 dB(A)
7:00 a.m. to 10:00 p.m.	70 dB(A)

c. For noise emanating from a facility on property located within the Light Industrial zoning district, the allowable noise level shall be 75 dB(A).

d. For noise emanating from a facility on property located within the Heavy Industrial zoning district, the allowable noise level shall be 85 dB(A).

e. Noise emanating from property within any zoning district may exceed:

1. The allowable noise level plus up to five (5) dB(A) for a cumulative period of no more than thirty (30) minutes in any hour; or

2. The allowable noise level plus six (6) to ten (10) dB(A) for a cumulative period of fifteen (15) minutes in any hour; or

3. The allowable noise level plus eleven (11) to fifteen (15) dB(A) for a cumulative period of five (5) minutes in any hour; or

4. The allowable noise level plus sixteen (16) dB(A) or more for a cumulative period of one minute in any hour.

f. In the event the ambient noise level exceeds the allowable noise levels in subparagraphs b, c, and d above, the allowable noise level for the property in question shall be increased to equal the maximum ambient noise level.

g. For the purpose of determining compliance with the noise standards in this section, the following noise sources shall not be included:

1. Noises not directly under the control of the property owner, lesser, or operator of the premises.

2. Noises emanating from construction, grading, repair, remodeling or any maintenance activities between the hours of 7:00 a.m. and 8:00 p.m.

3. Noises of safety signals, warning devices and emergency pressure relief valves.
4. Transient noise of mobile sources, including automobiles, trucks, airplanes and railroads.
5. Activities conducted on public parks, playgrounds and public or private schools.
6. Occasional outdoor gatherings, public dances, shows and sporting and entertainment events, provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events.
7. Air conditioning or refrigeration systems or associated equipment.
- h. For the purpose of determining compliance with the noise standards in this section, noise levels are to be measured at any residential property line within any permanent residential zoning district.
- i. For the purpose of determining compliance with the foregoing subparagraphs c through f, and with regard to noise emanating from property already zoned industrial at the time this chapter is enacted, noise levels are to be measured at residential property lines within residential zoning districts as such residential zoning district lines exist at the time this chapter is enacted.

(2) *Vibration.* No vibration from any use within any zoning district shall be permitted which is perceptible without instruments at any residential property line within any permanent residential zoning district. For the purpose of determining compliance with this standard, and with regard to vibration generated from any property already zoned industrial at the time this chapter is enacted, vibration is to be measured at residential property lines within residential zoning districts as such residential zoning district lines exist at the time this chapter is enacted.

(3) *Glare.* Primary and secondary glare (both direct and reflective glare) having a source on private property shall not be permitted to produce visual discomfort for viewers on other property in any residential zoning district or on adjacent street rights-of-way. Direct glare which produces visual discomfort is to be corrected or avoided by reducing the intensity of the light source and/or the uses of directional lighting or shading devices. Welding, new construction and repairs of facilities shall be exempt from these regulations. Provided, however, that no requirements will be imposed in derogation of federal or state safety and health regulations.

(4) *Particulate air contaminants.* No emissions, dust, fumes, vapors, gases, or other forms of air pollution shall be permitted in violation of the rules and regulations of the Texas Air Control Board and the Environmental Protection Agency.

(c) *Exceptions from performance standards.* The owner or operator of any building, structure, operation or use which violates any performance standard may file an application for a variance from the provisions thereof wherein the applicant shall set forth all actions taken to comply with said provisions and the reasons why immediate compliance cannot be achieved. The board of adjustment may grant exceptions with respect to time of compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieve maximum feasible compliance with the provisions of this section of the chapter. In its determinations, the board of adjustment shall consider the following:

- (1) The magnitude of the nuisance caused by the violation;
- (2) The uses of property within the area of impingement by the violation;
- (3) The time factors related to study, design, financing and construction of remedial work;
- (4) The economic factors related to age and useful life of the equipment;
- (5) The general public interest, welfare and safety;

(d) *Exemptions.* The provisions of this section shall not apply to industrial uses, or expansions thereof upon adjacent property, which exist within the city on the effective date of this chapter.

(Ord. No. 81-17, § 1, 3-10-81)

Cross references: Heliports and helistops, § 2 1/4-21 et seq.

Sec. 30-33. Special conditions.

(a) *General.* The following sections describe the special conditions under which certain uses are permitted in a zoning district when reference is made to one or more of said sections in the chapter. A building permit or certificate of occupancy shall not be issued for any permitted use with "special conditions" until all of the required conditions have been met.

(b) *Special conditions by use.*

(1) *Cluster housing developments.* Cluster housing developments shall meet each of the following conditions:

- a. Area. The site shall contain two (2) or more acres of land.

- b. Density. The minimum average net land area per dwelling unit shall be governed by section 30-25(b), but shall not include public and private streets in the development.
- c. Yards. A minimum twenty-five-foot yard or open space area shall be required from all public street rights-of-way and from the boundary of the development. A minimum yard of ten (10) feet shall be established between all unattached dwellings.
- d. Lot area and yards. Individual lots are exempt from the minimum lot area and yard regulations otherwise imposed in this chapter.
- e. Common open space. There shall be a minimum of one thousand (1,000) square feet of useable common open space per dwelling unit in the development. Common open space must be useable for recreational activities and must be assembled in contiguous areas of not less than ten thousand (10,000) square feet.
- f. Final plat. A recorded final plat covering all the area of a cluster housing development shall be required before a building permit shall be issued.
- g. Development phases. A description of planned development phases shall be included in the application for, and made a part of the approval of, the final plat for cluster housing development. Each scheduled phase of development shall include a reasonable proportion of required common open space.
- h. Co-owner's association and assessments. A co-owner's association or other legal entity shall be created to provide for the retention and perpetual maintenance of all common open space, private utilities and private streets and approved by the city attorney. There shall be a declaration creating an association of co-owners, whether called by that name or any other, the membership of which shall be composed of all owners of lots or other units within the perimeter of the development. Voting within the association may be weighted in any manner, except that provision shall be made that upon the conveyance of all lots or other units by the applicant of the permit, each owner of each lot or other unit shall have an equal vote. The word "owner" shall mean the record owner, whether one or more persons or other unit which is a part of the development, including sellers under contract for deed, but excluding those having such interest as a security for the performance of an obligation.

There shall be a declaration that each owner of a lot or other unit shall, by acceptance of a deed therefore, whether expressly stated in such deed or not, be deemed to covenant and agree to pay to the association the following minimum assessments and maintenance fees.

- 1. Private street maintenance. An assessment for ordinary maintenance and also a special assessment for capital improvements and extraordinary maintenance and repair of all private streets within the development. The word "street" as used in the subsection shall mean all paved or unpaved roads open to all owners of the

development, so designated on the plat of the development, as distinguished from private driveways leading into one or more lots or other units.

2. Utility, water and sewer assessments. A monthly assessment for each owner's pro rata share of the monthly utilities which may be metered or sold to the development as a unit; provided, however, that in the event one or more utilities are not provided to all owners within the development, the declaration may provide for a pro rata assessment as between those owners actually serviced by the utility, only. In addition to the monthly assessment hereinabove provided, there shall be declared provisions for special assessments for ordinary maintenance and repair, as well as a special assessment for extraordinary maintenance and repair, as well as capital improvements for, all sewage collection systems and water lines shared in common by, and servicing in common, all owners within the development, as distinguished from lines which serve only one or more units. Declaring may choose to dedicate water and sewer easements for water and sewer collection systems shared in common by all owners of the development that are within the perimeter of the development to the public, and, providing such dedication is accepted by the City of Beaumont, no assessment for the maintenance of water and sewer collection systems shared in common by the owners of said development shall be required.

3. Maintenance of common open space. The applicant shall also submit a scheme, subject to the approval of the city council, for assuring continued retention and perpetual maintenance of common green areas for as long a time as the development exists. The approved documents embodying restrictive covenants, deed restrictions or other methods of giving such assurance shall be filed for record in the county clerk's office at such times as the commission or council directs.

(2) *Adult entertainment uses.* The following special conditions and regulations shall apply for adult entertainment uses without regard to whether the adult entertainment use is a primary or accessory use. Adult entertainment uses are those which exclude minors by virtue of age under the state penal code unless such minor is accompanied by a consenting parent, guardian, or spouse and shall include but not be limited to, adult motion picture theaters, massage parlors, nude modeling studios, nude photography studios, adult bookstores, orating and drinking establishments which have sexually oriented entertainment such as go-go dancers, exotic dancers, strippers or other similar entertainers.

a. An adult entertainment use shall not be established or expanded within one thousand five hundred (1,500) feet of any dwelling.

b. An adult entertainment use shall not be established or expanded within three hundred (300) feet of any other adult entertainment use, bar, pool hall, or liquor store.

c. An adult entertainment use shall not be established or expanded within one thousand five hundred (1,500) feet of a church, child care facility, school, hospital, public building, or public park.

d. The method of measuring the distance between an adult entertainment use and another adult entertainment use or any other use shall be from nearest property line to nearest property line of said uses.

e. Eating places (SIC 5812) and drinking places (SIC 5813) that have adult entertainment and video tape rental (SIC 7841) that rents adult video tapes shall not be allowed in the RCR, NC, NSC, GC-MD and GC-MD-2 districts.

(3) *Swimming pool.* Exception for private recreation facilities under subsection (8) below.

a. If located in any residential zoning district, the pool shall be intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located and their guests.

b. A pool may be located anywhere on a premises except in the required front yard, provided that the pool and pump and filter installations shall not be located closer than five (5) feet to any property line of the property on which located.

c. The swimming pool shall be enclosed by a wall or fence six (6) feet in height with locking gates.

(4) *Mobile home.* A mobile home shall be permitted only in a mobile home park or a mobile home subdivision or as a single-family use for security caretaker housing on property and facilities used as a governmental or public school district use through a specific use permit.

(5) *Garage apartments.* Garage apartments that are occupied by members of the family of the occupant of the principal dwelling and that meet all yard, open space, and off-street parking requirements that are permitted.

(6) *Servant's or caretaker's quarters.* Accessory dwellings are permitted only if located in the rear of a principal building on the same lot and only if conforming to all the yard, open space, and off-street parking requirements.

(7) *Accessory buildings.* An accessory building may be erected as an integral part of the principal building or erected detached from the principal building and it may be connected therewith by a breezeway or similar structure. An accessory building attached to the main building shall be made structurally a part and have a common wall with the principal building and shall comply in all respects with the requirements of this chapter applicable to the main building.

(8) *Private recreation facility.* Private recreation facilities in residential districts shall for multi-family developments, subdivisions, or homeowners associations be restricted to use by the occupants of the residence and their guests, or by members of a club or homeowner's association and their guests, and shall be limited to such uses as

swimming pools, open game fields, basketball, shuffleboard, racquet ball, croquet, and tennis courts, and meeting or locker rooms. Private recreation facilities shall not be located within twenty-five (25) feet of any street right-of-way or within ten (10) feet of any abutting property line. Activity areas shall be fenced and screened from abutting properties. Dispensing of food and beverages shall be permitted on the premises only for the benefit of users of the recreation facility and not for the general public. Off-street parking shall be required on the basis of each four thousand (4,000) square feet of area devoted to recreational use with a minimum of four (4) spaces and a maximum of twenty (20)spaces.

(9) *Auto repair garage.* Automobile repairing, painting, upholstering and body and fender work shall be performed only under the following conditions:

a. All body and fender repairing shall be done within a completely enclosed building or room with stationary windows that may be opened only at intervals necessary for ingress and egress;

b. No spray painting may be done except in a building or room specially designed for that purpose;

c. All other auto repairing, etc., shall be conducted within a building enclosed on at least three (3) sides.

(10) *Temporary batching facility.* Before a specific use permit may be granted for a temporary batching facility, the city council shall find that such batching plant, yard, or building is both incidental to and necessary for construction within two (2) miles of the plant. A specific use permit may be granted for a period of not more than one hundred and eighty (180) days, and approval shall not be granted for the same location for more than four (4) specific use permits during any thirty-month period. Within thirty (30) days following the termination of any batching plant, the permittee shall cause the site to be returned to its original condition.

(11) *Restaurant.* The sale of alcoholic beverages shall be permissible only as an adjunct, minor and incidental use to the primary use which is the sale and service of food unless the restaurant is located in a district which permits drinking places as a use of right.

(12) *Offices.* Office development in the OP, Office Park District, shall be subject to the following additional supplemental conditions:

a. A minimum ten-foot landscaped open space buffer strip shall be provided along any property line which abuts a residential zoning district.

b. A minimum twenty-five-foot landscaped open space area shall be provided in the required front yard and also in the side yard if the property is a corner lot.

- c. No parking spaces shall be located in the minimum front yard or side yard if the property is a corner lot, and driveways shall provide direct access to any parking areas.
- d. All lighting shall be so situated as not to reflect light on any residential property.
- e. Building site coverage consisting of all buildings and structures and all paved surfaces shall not exceed ninety (90) per cent of the total lot area.
- f. Store front, show window, or display window effects shall not be permitted and there shall be no display from windows or doors and no storage of merchandise in the building or on the premises except in quantities customarily found in a professional or business office.

(13) *Renting equipment.* Special use permits are not required for the rental of equipment in a zoning district that permits the sale of the equipment as a right.

(14) *Accessory parking.* Accessory parking of vehicles with more than two (2) axles or that have a rated carrying capacity in excess of two (2) tons, other than recreational vehicles, shall not be allowed in residential zoning districts.

(15) *Storage limitations.* In a GC-MD District a towing service shall only be permitted to store not more than ten (10) vehicles on the lot or premise on which it is located as a use of right. Storage of more than ten (10) vehicles shall be permitted only with a specific use permit.

(16) *Heliports and helistops.* Heliports and helistops, as defined in section 30-4(b), are subject to the requirements of sections 2 1/4-21 through 2 1/4-27 of the Code of Ordinances.

(17) *Veterinary services.* Veterinary services and clinics in RCR, NC, NSC, GC-MD, GC-MD-2 and CBD Districts shall be limited to the care of household pets and shall not provide overnight kennel services, except on a medical emergency basis. Overnight kennels and veterinary services not limited to household pets may be allowed in GC-MD, GC-MD-2 and CBD Districts with a specific use permit. Veterinary services for animal specialties (SIC 0742) may be permitted as an accessory use to existing kennels (SIC 0752) with a specific use permit.

(18) *Permitted land uses.* The land uses listed under SIC Group number 20 through 26, 30 through 32, 34, 35, 37 and 44 shall be permitted within the GC-MD, CDB and C-M Zoning Districts if: (1) Granted a specific use permit and; (2) comply with the following conditions:

- a. All business-related activities, including storage of materials and equipment, shall be conducted within a completely enclosed structure.

b. All lighting shall be situated so as not to cast or reflect light on any residential property.

c. A traffic circulation plan showing all parking, drives, loading/unloading areas, and curb cuts and truck routes shall be submitted to the city engineer for his approval. The city engineer may, as a condition of approval of the traffic circulation plan, restrict the size of trucks parked on the site or involved in deliveries and pickup. The city engineer may also designate or restrict truck routes.

d. The maximum gross floor area for any lot or premise shall be five thousand (5,000) square feet.

e. Signs shall comply with the sign requirements for the NC, Neighborhood Commercial District.

f. Industrial performance standard, as specified in section 30-31, will be applicable.

(19) *Residential care uses:* Compliance with the following conditions is required:

a. At least fifteen (15) days prior to the issuance of a building permit and/or a certificate of occupancy, written documentation must be submitted to the building official outlining the type, size, location, characteristics and proposed activities of the facility. The names, addresses and phone numbers of the operators, general operation information, a site plan and a list of the licenses and grants the facility will operate under must also be submitted.

b. The owners of property within two hundred (200) feet of the proposed facility's property lines must receive a written notice of compliance with the ordinance no less than ten (10) days prior to the issuance of the building permit and/or the certificate of occupancy. The notice will contain a copy of the written documentation submitted to the building official as required in special condition (19)(a). A processing fee of one hundred twenty-five dollars (\$125.00) shall be paid to the city.

c. A facility must be licensed, certified, or accredited by an agency of the county, state or federal government prior to providing services and the issuance of a certificate of occupancy. Approval of a specific use permit by city council may be used in lieu of a license.

d. A facility must provide twenty-four hour on-site supervision of its residents or clients.

e. A facility must comply with the following densities:

TABLE INSET:

Zoning District	Minimum Square Feet of Lot Area Per Resident
RMM	800
RMH	500
RCR	500
GC-MD	500
GC-MD-2	500
CBD	No minimum as determined by specific use permit
PUD	

f. A sign measuring not less than ledger (eleven (11) inches by seventeen (17) inches) in size will be posted in the public right-of-way adjacent to the proposed facility's location not less than ten (10) days prior to the issuance of a building permit. The sign will state the type of land use and the name, address and phone number of the agent or agency responsible for the proposed facility.

(20) *Storage of plastic and rubber material.* The storage of plastic and rubber material within the city limits shall meet the following conditions:

- a. The warehouse shall be limited to a one-story structure with a height limit of forty-five (45) feet.
- b. The warehouse shall be located on a lot of no less than ten thousand (10,000) square feet in area.
- c. The building setbacks shall be a minimum of twenty (20) feet from any and all lot lines or as listed on the Area and Height Regulations Tables, Section 30-25B.2 and 3., whichever is greater.
- d. The regulations of section 10-27, "Fire protection and prevention" shall be complied with.

(21) Garage sales are a permitted use in all the residential zoning districts provided the following conditions are complied with:

- a. A garage sale shall not be for more than three (3) continuous days;
- b. No more than two (2) garage sales per calendar year per premises shall be allowed;
- c. Hours of operation shall be limited from sunrise to sunset;
- d. No merchandise shall be displayed or placed on the public right-of-way; and,

e. Only one unlit sign, no larger than six (6) square feet, and set off of the public right-of-way shall be allowed.

f. Garage sales conducted out of a dwelling unit are exempt from the parking requirements.

(22) *Bed and breakfast facility:*

a. General purpose and description. The establishment of bed and breakfast facilities has been found to not only provide an alternative type of lodging for visitors to Beaumont, but the income for such facility provides incentives from maintaining Beaumont's older homes.

This subsection is enacted on the basis of the public policy that supports the City of Beaumont as a tourist destination of person interested in the architectural and historic significance of the city's older residential structures. This subsection focuses on the need to provide an incentive for owners of Beaumont's older homes to continue occupancy and maintenance of historic structures.

b. Definition. An owner occupied private home built prior to 1950 and located within an historic district or awarded a HC-L designation and/or of historic significance which offers lodging for paying guests, which serves food to only those guests and which allows for limited social functions as regulated in this article.

c. Special regulations for bed and breakfast facilities:

1. Structure. The bed and breakfast facility shall be operated within the principal structure and not in any accessory structure. The owner shall live in the main structure. The structure to be used as a bed and breakfast facility shall have been constructed prior to 1950 and be located in an historical district or awarded an HC-L designation and/or of historic significance.

2. Specific use permit required:

(i) A specific use permit granted by city council is required for the establishment of a bed and breakfast facility, the granting of which is provided for in the City of Beaumont Code of Ordinances (section 30-40).

(ii) An application for a specific use permit shall be filed with the director of planning, who shall prepare a report for review by the planning commission and city council.

(iii) Issuance of a specific use permit by the city council, after recommendation by the planning commission, is conditioned on whether the proposed bed and breakfast facility will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents and buildings or structures.

(iv) The specific use permit for a bed and breakfast facility shall expire once the applicant ceases to occupy the premises. Any subsequent occupant must apply for and be granted a new specific use permit prior to the continuation of use of the premises as a bed and breakfast facility.

3. Size. A bed and breakfast facility shall not be less than two thousand five hundred (2,500) sq. ft. in floor area.

4. Number of guest rooms. A maximum number of five (5) guest rooms is allowed.

5. Management. The facility shall be owner occupied.

6. Length of stay. Maximum length of stay is limited to fourteen (14) consecutive days in any thirty-day period of time. The resident owner shall keep a current guest register including names, addresses and dates of occupancy of all guests.

7. Signage. Signs shall be permitted upon approval of a building permit by the Chief Building Inspector and in accordance with the City of Beaumont Code of Ordinances (section 30-28). In those zoning districts that prohibit signs, a nameplate, not to exceed two (2) square feet in size and consisting of the name of the establishment only, shall be permitted. The nameplate shall be nonilluminated and shall be attached either to the structure or to the fence surrounding the property. The nameplate shall be compatible with the style and detailing of the house.

8. Parking. One (1) off-street parking space per guest room and for the owner is required. The maximum number of permitted spaces shall not exceed seven (7). The front yard shall not be used for off-street parking. All off-street parking must be screened from the street and from adjacent lots containing residential uses. Screening from the street and adjacent lots containing residential uses must comply with the standards established in the City of Beaumont Code of Ordinances (section 30-31).

9. Additions and alterations. No exterior additions or alterations shall be made for the express purpose of maintaining or adding to a bed and breakfast facility, other than those required to meet health, safety and sanitation requirements. Minimal outward modification of the structure or grounds may be made if such changes are deemed compatible with the character of the area or neighborhood. Such alterations and additions must meet all zoning standards and building code requirements and must be approved by the historic landmark commission (when such property is located in a historic district, awarded an HC-L designation and/or of historic significance).

10. Other uses:

(i) The sale and/or display of merchandise or other commodities is prohibited.

(ii) Weddings, receptions, luncheons, cocktail parties, or any other such function for which the owner receives payment for the use of the facility, and which is not a

function for the personal use of the owner, their friends or relatives, may be allowed if sufficient off-street or satellite parking is provided and documented. The number of functions shall not exceed twenty-four (24) events per year or more than two (2) events per month. The planning division is to be notified of the functions taking place. Notification shall be filed with the planning division on a quarterly basis, indicating the type of function, the date, and the number of guests. City council may restrict the number of social events based upon neighborhood compatibility, lack of parking facilities, traffic generation and/or traffic capacity of surrounding streets.

11. Health, fire and building considerations: All bed and breakfast facilities shall meet all applicable local and state regulations.

(23) In GC-MD, SIC Group number 15, 16, and 17 are permitted by right if there is no fabrication or outside storage or repair.

(24) Cellular telephone transmission towers shall be prohibited within two hundred (200) feet of a residentially zoned property. The method of measuring the distance between the cellular telephone transmission tower and the residential zoning district shall be from the nearest lease or property line of the cellular telephone transmission tower facility to the nearest residential district boundary.

(Ord. No. 81-17, § 1, 3-10-81; Ord. No. 81-58, § 1, 7-28-81; Ord. No. 82-109, §§ 2, 3, 9-14-82; Ord. No. 86-89, § 3, 8-2-86; Ord. No. 87-33, § 2, 4-28-87; Ord. No. 87-60, § 2, 7-28-87; Ord. No. 87-74, § 3, 9-22-87; Ord. No. 87-79, § 1, 10-13-87; Ord. No. 87-84, § 1, 10-27-87; Ord. No. 89-10, § 1, 2-28-89; Ord. No. 89-14, § 2, 3-7-89; Ord. No. 89-21, § 2, 4-25-89; Ord. No. 92-63, § 3, 8-25-92; Ord. No. 93-69, § 3, 11-23-93; Ord. No. 98-7, § 11, 2-3-98; Ord. No. 02-029, § 2, 4-23-02; Ord. No. 02-058, § 1, 8-27-02; Ord. No. 05-010, § 1, 1-11-05; Ord. No. 05-034, § 2, 3-39-05)

Cross references: Heliports and helistops, § 2 1/4-21 et seq.