

Section 8. Supplementary district regulations.

- A. *Visibility at intersections in residential districts.* On a corner lot in any residential district, vegetation shall not be planted or allowed to grow in such a manner to materially impede vision between a height of 2 1/2 feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines on such corner lots and a line joining points along said street lines 25 feet from the point of the intersection.
- B. *Fences, walls, and hedges.* Except as provided below, fences, walls, and hedges are permitted in or along the edge of any required yard. However, no fence, wall, or hedge shall be construction on any exterior side yard so as to constitute a hazardous visual obstruction to traffic in any direction, and same must conform to subsection A. of this section. Additionally, fences, walls, and hedges may only be constructed in front yards on lots adjacent to FM 528, FM 2351, and FM 518 north of FM 2351 and south of FM 528, or on lots greater than two acres, provided that no hazardous visual obstruction is created. Additionally, fences must be installed with the finished side facing outward.
- C. *Accessory buildings.* Except as specifically permitted by this ordinance, no accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five feet of any other buildings.
- D. *Erection of more than one principal structure on a lot.* In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard, street frontage, and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
- E. *Structures to have access.* Every building hereafter erected shall be on a lot adjacent to a public street, or an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- F. *Off-street parking and loading regulations.*
1. *Purpose* . It is the intent of this section to assure [ensure] that adequate off-street parking is provided with the construction, alteration, remodeling or change of use of any building or change of use of land. Specific guidelines regarding recommended off-street parking spaces and parking lot geometrics shall comply with the requirements of the current design criteria.
 - a. Approval of the parking area layout and design of all off-street parking areas shall be by the city engineer. The city engineer shall determine that spaces provided are usable, and that the circulation pattern of the area is adequate.

- b. Bonus for landscaping of off-street parking facilities. The minimum off-street parking requirements shall be reduced up to a maximum of 50 percent of the requirement where an equal percent of the total parking area has been retained and developed as landscaped open space area. The percent of the landscaped open space area shall determine the maximum percent reduction which will be permitted in the total number of off-street parking spaces.

G. *Off-street loading regulations.* The intent of this section is to ensure that an adequate off-street loading area is provided with the construction, alteration, or change of use of any business building or structure, or with any change in land use.

1. The owner and the occupier of any property upon which a business is located shall provide loading and unloading areas of sufficient number and facility to accommodate on such business premises all vehicles that will be reasonably expected to simultaneously deliver or receive materials or merchandise, and of sufficient size to accommodate all types of vehicles that will be reasonably expected to engage in such loading or unloading activities.
2. Any person desiring a building permit for the construction, alteration, or change of use of the land or any business building or structure shall submit a plot plan to the building official designating the number, dimensions and locations of all loading areas and all proposed avenues of ingress and egress to the property from adjacent public thoroughfares. The building official shall not issue such permit if it is determined that the proposed loading and unloading facilities will present a direct or indirect hazard to vehicular or pedestrian traffic.

H. *Planned unit development standards and requirements.*

1. *General plan.* Prior to the issuance of a specific use permit or any building permit for property located in a PUD, planned unit development district, a general land use and density plan must be submitted to the planning and zoning commission. The plan shall include a schematic land use plan identifying proposed general uses, densities, major open spaces, circulation and access features, elevations reflecting the general architectural and landscaping features, and a statement indicating proposed phasing of development and the projected timing of each phase and the purposes for which the project is to be utilized. The planning and zoning commission shall forward the plan with its recommendation to the city council. The applicant shall pay a processing fee as established in section 14. Advertisement and public hearings shall be held by the planning and zoning commission and city council in accordance with the notification procedure set forth for a rezoning application.

2. *Cluster home development.* For purposes of this ordinance, a cluster home development is a development where residences are located on a portion of the developable area so as to concentrate the remaining open space in the remaining area which is protected from development. To gain approval as a cluster home development the project shall have the following characteristics:
- a. Open space to remain undeveloped shall be equivalent to one of three minimums: At least twenty percent, at least thirty percent or at least forty percent of the total project area subject to the density requirements set forth in subparagraph b. below. The area of amenities within a dedicated open space (for example: green space, trails, lakes, pavilions, benches, outdoor cooking facilities, detention areas and the like), may be counted as part of the open space calculation.
 - b. Twenty percent open space shall allow a density of up to 2.7 units per acre; 30 % open space shall allow up to 3.0 units per acre; 40% or more open space shall allow up to 4.0 units per acre.
 - c. Must total a minimum of 6,000 square feet.
 - d. Twenty percent open space shall allow overall lot coverage of up to 40%; 30% open space shall allow overall lot coverage of up to 45%; 40% or more of open space shall allow overall lot coverage of up to 50%.
 - e. There shall be a minimum 40 feet of lot frontage required.
 - f. Refer to the section 7.Q.2 the Regulation Matrix - Residential Districts for building setbacks which are based on the percentage of open space preserved in the overall development.
 - g. Commission may grant a modification to reduce the street pavement widths of streets or reduce rights-of-way only if the open space equals 30% or more of the overall project. Should a modification be granted, the ROW may be reduced from 60 feet to 50 feet in width; street paving may be reduced from 28 feet to 24 feet so long as no driveway access is permitted to the reduced pavement. In addition, the modification must include a ten feet landscape buffer on each side of the paving with minimum five feet sidewalks along each buffer.
 - h. Open space and green space shall be platted as an open space restricted reserve, and shall be restricted from future development. Green space may never be developed or converted to open space.

- i. Open space in a cluster home developments may be included in the calculation for park dedication credit under the subdivision ordinance, but such credit shall not exceed 50 percent of the total allowable park dedication exaction.
 - j. Aboveground development infrastructure within open space shall be minimized or eliminated except as required for detention. Open space in a cluster home development shall meet the following requirements:
 - (1) A landscaping plan shall be submitted as part of the general land use plan.
 - (2) Restrictive covenants shall be filed in the public records of the appropriate county providing for the creation and continuing operation of one or more property owners associations (POA). The restrictive covenants shall require that all owners of property contained in the development be members of the POA. The POA created pursuant to the restrictive covenants shall be responsible for maintaining all green or open space contained within the development. Restrictive covenants shall be in a form approved by the city attorney, and the city reserves the right to be included as a party or a third party beneficiary with enforcement powers.
 - (3) The open space may, alternatively, be dedicated to the city, with the city's agreement.
 - (4) Only aboveground low-impact features of limited scope and requiring minimal infrastructure for maintenance such as maintained trails, shelters and playgrounds may be permitted in an open space restricted reserve.
3. *Mixed use development* . To initiate a zoning change to PUD-mixed use, planned unit development district, a general land use and density plan must be submitted to the planning and zoning commission. The plan shall include a schematic land use plan and an illustrative master plan identifying proposed general uses, densities, major open spaces, circulation and access features, examples of typical elevations reflecting the general architectural and landscaping features, a statement indicating proposed phasing of development and the projected timing of each phase and the purposes for which the project is to be utilized. The applicant shall pay a processing fee as established in section 14. Advertisement and public hearings shall be held by the planning and zoning commission and city council in accordance with the notification procedures set forth for a rezoning application.

- a. An application shall consist of the materials and information described below, in as great a detail as possible. Unless specified below as being required in a specific format, the information shall consist of drawings and written documents providing the information requested.
 - (1) A general master plan, and an illustrative master plan, both drawn using a standard engineering scale. Electronically formatted drawings and copies (24"× 36") and smaller (11"× 17") shall be provided, and shall be in color. The master plan representations shall identify the land use mix that is proposed in the overall development, and shall be accompanied by sufficient tables or additional information to identify the density of uses, or the approximate acreage and gross floor area for each use. The list of uses shall include the land area estimated to be dedicated to parking, streets, parks, trails or open spaces, and other privately owned or public facilities, such as drainage. No more than 35 percent of the total acreage shall be allocated to residential uses.
 - (2) Information for proposed development standards for each type of use, including setbacks, height, bulk, coverage, placement, configuration, number of buildings, minimum landscaping and screening requirements, if these standards proposed to be different from the standards in the city's current zoning ordinance.
 - (3) Information on the proposed preservation and protection of environmental and natural features, including significant trees.
 - (4) Examples or typical descriptions for the design and exterior appearance of the buildings, by use or phasing, if appropriate.
 - (5) Declaration of intent to follow the city's sign ordinance, or submittal of sign standards that are more stringent than the city's ordinance.
 - (6) A general description of lighting within the proposed development, such as use of ballards, decorative lighting, limitations on overhead or other types of lighting. All lighting must meet or exceed city lighting regulations.
 - (7) Proposed location of major streets, drives, and possible parking, pedestrian and bike-ways [bikeways], or other transportation methods that interconnect the proposed uses. All design of these elements must meet the city's design and

construction specifications at the time of platting or, if standards are not specified therein, design specifications must be identified no later than the final plat.

- (8) A general statement identifying the potential timing, sequencing and phasing of the development, including coordinating the type, location and intensity of development permitted with the construction and availability of public facilities and services.
- (9) Provision for the construction of public improvements and utility facilities on-site or as may be otherwise required to serve and benefit development within the district, or as required to mitigate impacts resulting from the development or on other properties and uses outside of the district.
- (10) Preliminary information regarding future ownership and maintenance of proposed common areas within the district. Developers shall provide for the perpetual maintenance of such areas, and shall submit restrictive covenants providing for such maintenance no later than the final plat application.

b. Application and approval process.

- (1) A development review committee meeting with staff is required. Following such conference, a conceptual plan application must be submitted to the planning and zoning commission, which shall review the plan, but shall not take action on it. Such plan shall be for informational purposes for both the planning and zoning commission and developer, for identifying major issues with the proposal.
- (2) An application, containing three copies of the documents described in subparagraph 3 above, shall be submitted to city staff prior to scheduling the public hearing.
- (3) Joint public hearing, following which an ordinance rezoning the property shall be required.
- (4) Action by planning and zoning commission, then city council, and readings of the rezoning ordinance as required by the state law, the city Charter and this ordinance.
- (5) The rezoning ordinance shall include as exhibits the master plan, and all components of the application or other conditions

and information necessary to provide complete documentation of the regulations applicable to the specific district.

- c. Site plan requirements. A site plan shall be required at the time of building permit application for every commercial and multifamily use located in a PUD-mixed use district. The director of planning, or this designee, shall review the site plan to verify compliance with the specific PUD-mixed use ordinance adopted by city council, all attachments, and other applicable city ordinances. If the site plan complies with such requirements, the plan shall be approved and such recommendation shall be forwarded to the building official.
- d. Modification of standards proposed within a PUD mixed use district. Following adoption of a PUD-mixed use ordinance pursuant to this section, all subsequent plans prepared for the development or any portion of the property within a PUD-mixed use must substantially conform to the approved plan in accordance with the standards of the PUD-mixed use ordinance, this section, and all other applicable ordinances of the city.

Provided, however, the city recognizes that market conditions may alter the development of a large PUD-mixed use, and hereby provides that alterations in the land area or square footage, as appropriate, covered by a category of use, may be varied by not more than 25 percent. In no case shall such variations change traffic or circulation patterns, substantially alter the number or arrangement of buildings, increase the height of buildings, lessen the amount or effectiveness of open space or landscaped buffers, or result in a greater impact on adjacent properties or neighborhoods. Percentage changes specified herein shall be the maximum change allowed; multiple changes exceeding those percentages shall not be approved administratively, but shall require the owner to submit an application for an amendment to the district standards. In no case shall the percentage of total acreage devoted to residential use exceed 35 percent.

- e. A PUD-mixed use is a unique zoning classification, and shall be granted only when the planning and zoning commission and city council determine that the applicant has submitted a complete application containing sufficient detail regarding the mix of uses and the overall development plan and how such proposal is consistent with the purposes of this district. However, unless specifically described and addressed in the application and resulting ordinance, all other design standards of the zoning ordinance shall apply to a PUD-mixed use.

I. *Landscaping and screening requirements.*

1. *Purpose.* The provisions of this subsection I 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, and to enhance the aesthetic and visual image of the community. In furtherance thereof, trees utilized to comply with the requirements of this subsection I shall be of a type contained in the list of qualified trees approved from time to time by the city council and contained in the city's design criteria manual ("Qualified Tree List").
2. *Perimeter landscaping and screening.*
 - a. *[Adjacent property, buffer maintenance and installation.]* When a commercial (CSC, LNC, NC, OP, OBD, PUD, A-1) or industrial (LI, I, BP) 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, or when an industrial use is established on a lot or premises adjacent to any property located in a commercial zoning district, a ten-foot in width landscaped open space buffer strip shall be installed and maintained by the owner, developer or operator of the multiple-family dwelling, commercial or industrial property between it and the adjacent protected property. In addition, an eight-foot-high opaque fence or wall shall be erected and maintained along the common property line. Graduated fences may be allowed by the commission, when the safety and general welfare of the public would be better protected by such design. The fence or wall shall be constructed of wood, masonry, or decorative concrete, or any combination thereof. Metal may be used only as a concealed structural element. Alternatively, some types of vegetation may be allowed for such screening, provided plantings are evergreen and dense enough to provide an opaque or substantially opaque screen. Any combination of fencing, earthen berms, and vegetation may be used to comply with the eight-foot screening requirement. The provisions of this subparagraph may not apply where zoning districts are separated by a public street, drainage ditch, or canal, which are a minimum width of 30 feet. Conversely, when a single-family use is established on property adjacent to any commercial, industrial, or multiple-family zoning district, an eight-foot high opaque fence or wall shall be erected and maintained along the property line. The ten-foot buffer strip shall not in this instance be required. All land zoned commercial or industrial as that term is defined in this section, shall have a minimum ten-foot landscaped open space adjacent to each public right-of-way located within the required yard provided,

however, that in the local neighborhood commercial district (LNC) the landscaped open space adjacent to a public right-of-way and within the required yard, shall be 15 feet. The commission shall determine the required screening, after giving due consideration to the intensity of the commercial use, the zoning classification, and adjacent land uses. When a residentially zoned property adjacent to a commercially zoned property is rezoned to commercial, an existing fence may, if requested by the staff, the commission, or the applicant, be removed, in whole or in part, to allow joint or shared access to parking and driving areas. Documentation may be required detailing a joint use agreement between or among property owners.

- b. *Trees for buffer strips.* If an open space buffer strip is required under the terms of this subsection I, not less than one tree, whether existing or planted, shall be maintained for each 25 lineal feet or portion thereof of solid open space buffer strip. Each such tree shall [be not less than eight feet in height immediately upon planting and shall] have a caliper of not less than two inches measured 18 inches above the natural ground level.

- c. *Off-street parking landscaping.* All areas, other than those located within the industrial district, that are used for parking or display of vehicles, boats, construction equipment or production equipment, shall conform to the minimum landscaping requirements of this subparagraph c. Areas that are of a drive-in nature such as filling stations, grocery stores, banks and restaurants also shall conform to the minimum landscaping requirements of this subparagraph c.

It is the intent of this subparagraph c to promote the placement of trees along the thoroughfares of the City. Therefore, at least 50 percent of the required trees shall be located between the street and any buildings. No tree other than those species listed as small trees (size 2 or 3) on the qualified tree list may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

Parking lots shall be considered small if they contain spaces for 20 or less cars. Small parking lots shall have "open" landscaped areas that are equal to not less than ten percent of the parking area and drives in the parking area. The required area may be used as islands or perimeter landscaping or in any combination. A minimum of one Class 1 or Class 2 tree from the qualified tree list shall be planted and maintained for each 250 square feet or portion thereof of landscaped open space area. Parking lots with more than 20 parking spaces shall have open landscaped areas equal to ten percent of the

parking area and drives in the parking area. Fifty percent of the required landscaped area shall be used as islands. Perimeter landscaping shall have at least one such tree for each 40 lineal feet or fraction thereof. Each island shall have one such tree planted and maintained thereon.

Off-street parking areas that are adjacent to residentially zoned property shall have opaque fences or walls, eight feet in height above ground level, which shall be erected and maintained along the property line to provide visual screening.

All trees required in this subparagraph c shall have a caliper of not less than two inches, measured 18 inches above the natural ground level.

- d. *Existing plant material.* Where healthy planting exists on a site, the building official shall credit the property owner for existing plants that are retained and used when calculating vegetation requirements under this section. When healthy trees exist on a site, and when they are equivalent in size and species to those required by this subsection, the building official shall credit the property owner for existing trees that are retained and used when calculating requirements under this subsection.
- e. *Maintenance and care of trees.*
 - (1) *Maintenance period for trees.* For any tree installed in fulfillment of the requirements of this ordinance, or any previously existing tree used in fulfillment of the requirements of this ordinance, it shall be the responsibility of the then property owner(s) to maintain such tree in a healthy condition for the follow-up period. In the event of serious damage, disease or death of the tree, or if the tree should otherwise fail to survive said follow-up period, the then property owner(s) shall, at his/its sole cost and expense, replace it with a tree that meets the requirements of this ordinance, within 120 days from the date of notification by the city. For purposes of this subparagraph e.(1), the follow-up period shall be a period of two years from the date of issuance of a certificate of occupancy for each such development site or from the date of the acceptance of such development's infrastructure by the city or, in the case where both have occurred, whichever is later.
 - (2) *Pruning of trees.* It shall be unlawful as a normal practice for any person, firm or city department to top any tree on public

property. Topping is hereby defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the building official.

- (3) *Maintenance of trees over rights-of-way.* Any entity pruning trees located in public rights-of-way or in excavating in rights of way or in easements shall be required to notify the city building official and to prepare such plans or outline such programs as the official deems necessary. The building official's permission must be secured before such work may begin. A developer shall have the responsibility to verify that such approval has been granted prior to the installation of utilities within easements on the developer's property.

Every owner of any tree overhanging an street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right, with 14 days advance notice to the owner or agent, to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with the visibility of any traffic control device or sign.

- (4) *Removal of hazardous trees.* The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the city. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owners' property tax notice.

f. *Preserving trees--Historical significance.*

- (1) *Findings.* The founders of Friendswood chose to locate the community in its present location because of the inspiring, tranquil beauty of the huge oaks which occupied the creek banks and surrounding terrain. The name given the new town, Friendswood, was chosen because of its apt description of the settlers members of the Friends Church, and the topographical character of the land, and the woods found in abundance along the four creeks. The city council hereby finds and determines that the preservation of the naturally wooded topography is of historical significance to the city.
- (2) *Purpose.* It is the intent of this subsection to encourage the preservation of existing trees within the city, and the historical significance thereof, and to prohibit their unwarranted destruction.
- (3) *Tree survey required.*
 - (a) A tree survey showing thereon the location of all living trees that have a caliper of 12 inches or greater, measured at a point four and one-half feet above the natural ground level, shall be required for:
 - (i) All proposed development on land located in districts zoned as Neighborhood Commercial (NC), Community Shopping Center (CSC), Original Business District (OBD), Local Neighborhood Commercial (LNC), Office Park District (OPD), Light Industrial (LI), Industrial (I), Agricultural (A-1), Business Park (BP), Planned Unit Development - Mixed Use (PUD - Mixed Use), or Multi-Family Residential, low density (MFR - L), Multi-Family Residential, medium density (MFR - M), and Multi-Family Residential, high density (MFR- H); and
 - (ii) All proposed development on land for which a specific use permit is required by Sections 7.P. and 9.G. of this Appendix C; and
 - (iii) For residential developments on land located in districts zoned as Single-Family Residential (SFR), Planned Unit Development - Cluster Home (PUD - Cluster Home), or Multi-Family Residential - Garden Home District (MFR - GHD); provided, however, the tree survey required by this subparagraph f.(3)(a)(iii) shall be required only for the common areas located within those developments, such as community parks and detention areas, where

residents of the developments would have common access.

- (b) If the property contains no trees fitting the description in paragraph (a) above, no tree survey shall be required if a signed statement verifying that no such trees exist is filed with the community development office of the city (hereinafter "community development").
 - (c) The developer or owner of the property to be developed shall sign the tree survey certifying that it is, to the best of their knowledge, true and correct.
 - (d) The tree survey shall be submitted to community development concurrently with or as a part of the site plan, development permit, or plat. Community development shall be authorized to review the data onsite for verification. The tree survey shall be accepted by community development within 30 days of its submission, or community development shall within such 30-day period provide a notice, in writing, of its reasons for any action other than an acceptance thereof. If community development fails to take action on the tree survey within said 30-day period, the tree survey shall be deemed accepted.
- (4) *Site plan to include trees.*
- (a) Every site plan submitted shall include all living trees identified on the tree survey as required by subparagraph f.(3) above. Each such tree identified on the site plan shall bear a notation indicating the tree's status as either "protected" or "to be removed." A tree identified as "protected" indicates a tree that is not scheduled for removal during construction. A tree identified as "to be removed" indicates a tree that is scheduled for removal during construction. Each tree removed during construction shall be mitigated as required in subparagraph f.(6) below.
 - (b) Trees identified with the notation "protected" shall also be physically marked at the development site so as to be readily distinguishable from trees that are identified on the site plan as "to be removed."
- (5) *Review and acceptance of site plan.*

- (a) Community Development shall review the Tree Survey portion of Site Plans to assure compliance with the provisions of this Subsection.
- (6) *Mitigation and incentives.*
- (a) Every development requiring the issuance of a development permit or the approval of a site plan or plat shall maintain a minimum of one tree from the qualified tree list for each 30 linear feet of street frontage, with such trees having a minimum caliper of two inches measured at a point 18 inches above the natural ground level.
 - (b) Class 1 or Class 2 trees, 12 inches in diameter or greater, measured at a point four and one-half feet above the natural ground level, shall be counted, on a one-for-one basis, toward the minimum number of trees required by this subsection I. Trees located within a buffer zone shall not be counted unless identified as "protected."
 - (c) Mitigation shall be required, on a one-for-one basis, for every tree with a caliper of 12 inches or greater, measured at a point four and one-half feet above the natural ground level, that is removed from the development site. For each such tree removed, mitigation shall be accomplished by planting one Class 1 or Class 2 tree from the qualified tree list.
 - (d) New trees used for mitigation purposes or for landscaping shall have a caliper of at least three inches, measured at a point 18 inches above the natural ground level.
 - (e) The landscaping plan shall clearly indicate which trees are being planted to replace trees identified as "to be removed" during development
 - (f) If, due to the nature of a proposed development and unique characteristics of land, trees cannot be planted in a sufficient number to meet the requirements hereof, a developer may elect to provide for a compensating tree(s) to be planted elsewhere within the city. Compensating trees shall be placed on public property, as near as reasonably practicable to the development site, and may be accomplished by donating a tree(s) in kind, or by payment to the city of such amounts as may be established from time to time by city council, based on the city's actual costs of acquisition.

Compensating trees shall be planted within the time periods required for replacement trees.

- (g) To encourage maintenance of the suburban wooded character of the community, the city council may from time to time establish incentives to developments which retain more Class 1 or Class 2 category trees than is required by this subsection.

- (7) *Tree protection.* Property owner(s) shall be required to ensure that each of the trees identified as "protected" on the site plan survives the follow-up period, as defined in subparagraph e.1. herein. If a tree identified as "protected" fails to survive such follow-up period, the property owner(s) shall replace such tree, at its sole cost and expense, within 120 days from the date of notification by the city, with a Class 1 or Class 2 tree from the qualified tree list, which has a minimum caliper of three inches, measured 18 inches above natural ground level.

- g. *One tree required for each lot developed for single-family residential use.* Each lot developed for single-family residential use shall have one of the required trees located in the required front yard, before a certificate of occupancy may be issued. An exception may be made by the building official for substantially wooded lots, in instances where the building official determines there is not sufficient space in the front yard for proper growth, or where the planting of the tree would constitute a hazard to persons or property.

J. *Performance standards.*

- 1. *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 ordinance shall be undertaken and maintained only if they conform to the regulations of the section.
- 2. *Performance standard regulations.* The following standards shall apply in the various zoning districts as indicated:

a. *Exterior noise.* The following noise standards, unless otherwise specifically indicated, shall apply to all property within the City of Friendswood.

(1) 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)

(2) 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)

(3) For noise emanating from a facility on property located within the light industrial zoning district, the allowable noise level shall be 70 dB(A).

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

(5) Noise emanating from property within any zoning district may exceed:

- (a) The allowable noise level plus up to five dB(A) for a cumulative period of no more than 30 minutes in any hour; or
- (b) The allowable noise level plus six to ten dB(A) for a cumulative period of 15 minutes in any hour; or
- (c) The allowable noise level plus 11 to 15 dB(A) for a cumulative period of five minutes in any hour; or

- (d) The allowable noise level plus 16 dB(A) or more for a cumulative period of one minute in any hour.
- (6) In the event the ambient noise level exceeds the allowable noise levels in subparagraphs (2), (3), and (4) above, the allowable noise level for the property in question shall be increased to equal the maximum ambient noise level.
- (7) For the purpose of determining compliance with the noise standards in this section, the following noise sources shall not be included:
 - (a) Noises not directly under the control of the property owner, lesser, or operator of the premises.
 - (b) Noises emanating from construction, grading, repair, remodeling or any maintenance activities between the hours of 7:00 a.m. and 8:00 p.m.
 - (c) Noises of safety signals, warning devices and emergency pressure relief valves.
 - (d) Transient noise of mobile sources, including automobiles, trucks, airplanes, and railroads.
 - (e) 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.
 - (f) Air conditioning or refrigeration systems or associated equipment.
 - (g) 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.
- b. *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 residential zoning district.
- c. *Lighting and glare.* It shall be unlawful for any person to cause or permit to be energized on property under his possession or control any lighting including, but not limited to, spotlights, floodlights or similar illuminating devices which project a glare or brightness, in

excess of the standards described below, directly or indirectly upon any lot, tract, or parcel of land, other than that upon which such lighting is situated, which shall annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others, within the limits of the city.

All lighting in the city consisting of spotlights, floodlights, or similar illuminating devices shall be installed, hooded, regulated and maintained by the owner or person in control thereof in such a manner that the direct beam of any such light shall be oriented so that it will not glare upon any lot, tract, or parcel of land other than that upon which it is situated and so that it will not cause or permit any illumination from direct or indirect lighting in, on, or over the ground at or beyond the boundary of the lot, parcel, or tract above the following levels:

1. One (1) foot-candle where the adjacent development is zoned for nonresidential uses.
2. Twenty-five hundredths (0.25) foot-candle where the adjacent development is zoned for residential uses.

Shielding required. All exterior light sources visible to pedestrian or vehicular off-premises traffic are required to be shielded, except as provided below, so that the light source is not visible to said pedestrian or vehicular traffic. Lights elevated on standards, for example in parking areas, shall be side-shielded on pedestrian or off-premises vehicular travel sides. Lighting mounted on low standards (such as bollard lights) is the preferred method for illuminating smaller parking areas and walkways.

Exceptions.

- (1) Unshielded lighting facing pedestrian or off-premises vehicular sides of the property shall be permitted provided the light source is not in excess of one thousand seven hundred (1,700) lumens.
- (2) Historical-style or architectural lighting visible to pedestrian or vehicular off-premises traffic shall be permitted provided that the fixture or fixtures does not cause or permit any illumination in, on, or over the ground at or beyond the boundary of the lot, parcel, or tract above the following levels:
 - a. One (1) foot-candle where the adjacent development is zoned for nonresidential uses

- b. Twenty-five hundredths (0.25) foot-candle where the adjacent development is zoned for residential uses.

Compliance required. This ordinance shall apply for all new facilities upon adoption and publication as required by law. All existing facilities with lighting in place on the date of adoption shall comply with the requirements herein within twenty-four (24) months after the effective date of the ordinance by installing shielding, redirecting lights, or other steps necessary for compliance. The commission may grant a one-time extension of up to an additional twenty-four (24) months if the property owner or agent can demonstrate hardship, including undue expense related to the time requirement for facilities replacement. Further, existing publicly owned facilities shall be required to comply with the requirements herein at such time as the facilities undergo renovation to the exterior or where overall renovation exceed fifty (50) percent of the costs of construction of the existing facilities. 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.

- d. *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.

- 3. *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 ordinance. In its determinations, the board of adjustment shall consider the following:
 - a. The magnitude of the nuisance caused by the violation.
 - b. The uses of property within the area of impingement by the violation.
 - c. The time factors related to study, design, financing and construction of remedial work.
 - d. The economic factors relating to age and useful life of the equipment.
 - e. The general public interest, welfare and safety.

4. *Swimming pool.* Exception for private recreation facilities under subparagraph 5 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 and side yard, and shall not be located within any yard setback required under the terms of this ordinance, provided that the pool's pump and filter installations shall not be located closer than five feet to any property line of the property on which it is located. A pool is considered an accessory structure under the terms of this ordinance, and is subject to all requirements and restrictions hereunder.
5. *Private recreation facility.* Private recreation facilities in residential districts shall for multifamily 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 homeowners' association and their guests, and shall be limited to such uses as swimming pools, open game fields, basketball, shuffleboard, racquetball, croquet, and tennis courts, and meeting or locker rooms. Private recreation facilities shall not be located within 25 feet of any street right-of-way or within ten 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 one space for each 4,000 square feet of area devoted to recreational use with a minimum of four spaces and a maximum of 20 spaces.
6. *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 spray booth especially designed for that purpose.
 - c. All other auto repairing, etc., shall be conducted within a building enclosed on at least three sides.
7. *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 miles of the plant. A specific use permit may be granted for a period of not more than 180 days, and approval shall not be granted for the same location for not [sic] more than four specific use permits during any 30-month period. Within 30 days following the termination of any batching plant, the permittee shall cause the site to be returned to its original condition.

8. *Junkyards.* No property located within the corporate limits of the City of Friendswood shall be used and no building shall be erected for or converted to be used as an auto wrecking yard, junkyard, salvage storage, scrap metal storage yard or wrecking material yard, except in the I, industrial district.
9. *Dry cleaning facilities.* Dry cleaning establishments shall be subject to the following additional supplemental requirements at the time of submittal for site plan approval, certificate of occupancy, first permit or zoning compliance request. Compliance with all applicable city, state and federal codes, ordinances and regulations shall be required prior to the issuance of a certificate of occupancy. In the case of a conflict between city, state and federal regulations, the more stringent shall control. Reports and copies of all documentation listed below must be provided to the city on a quarterly basis.
 - a. The facility may process only the clothing dropped off by customers at that location.
 - b. All employees shall be certified by the equipment manufacturer before operating or maintaining the equipment at that site.
 - c. The facility shall be registered with the EPA and TNRCC as a small industrial generator of hazardous waste, if required by state or federal regulations, or the owner shall provide proof that it is exempt from such registration.
 - d. The facility shall have a sampling port installed on its property to allow compliance sampling by city, state, or federal agencies, of sewer effluent.
 - e. Perchloroethylene waste storage shall be limited to no more than 90 days on-site.
 - f. Perchloroethylene waste removal shall be handled by a third-party transporter and removed to a RCRA permitted treatment storage and disposal facility.

- g. No perchloroethylene shall be stored onsite other than in the dry cleaning machine system.

K. *Sign regulations.* [The sign regulations are printed in appendix A of this volume.]

L. *Personal care facilities.* Personal care facilities shall be subject to the following additional supplemental requirements at the time the first permit, certificate of occupancy, or zoning compliance request is submitted.

1. A site plan shall be submitted showing the layout of the proposed site, including present and proposed structures, driveways, parking areas, loading and delivery areas, trash collection areas, or other improvements. A site plan submitted under this subsection shall be subject to review and recommendation to the city council by the planning and zoning commission and approval by the city council.
2. An elevation shall be submitted that shows the exterior of the structure and any and all proposed changes to any existing building, yard, or other improvements. A personal care facility shall maintain its residential appearance. In no case will parking lots or spaces be authorized in a front yard, nor may loading and delivery areas, trash collection areas, or recreation areas be located in the front yard or so as to be visible from the street of any personal care facility.
3. A copy of the state license authorizing the individual proposing the use to open and operate such a facility, or, if the license has not been granted, a copy of the application submitted to the state department of licensing and regulation for such a license, along with a list of the remaining approvals or requirements to be met in order to obtain such a license. Within 60 days of receipt of such license, and in any case, prior to the issuance by the city of a certificate of occupancy for the facility, a copy of such state license shall be provided to the city's building official.
4. No personal care facility shall be allowed to open or operate until a license has been issued by the appropriate state regulatory agency. Any facility opening or operating without a valid state license or city approved site plan shall be subject to immediate closure by the city and all remedies and penalties available under Texas law.
5. All applications filed with the city must indicate what type (A, B, or C) of facility is planned for operation under the Licensing Standards for Personal Care Facilities published by the Texas Department of Human Services, so staff may evaluate the plans under the appropriate code requirements.
6. Compliance with all applicable city and state codes, ordinances and regulations shall be required prior to issuance of a certificate of occupancy

for the operation of a personal care facility. In case of a conflict between city and state regulations, the more stringent shall control.

M. *Commercial activities and outdoor sales.*

1. *Commercial activities.*

- (a) *Permanent structure required.* Except as herein provided, every business within the city must be operated out of a permanent, stationary, site-built building.
- (b) *Temporary construction structures.* Temporary buildings and building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the building official for a period not exceeding the period of construction. Upon completion or abandonment of construction, such field offices and buildings shall be removed at the owner's expense. Such uses shall be located on a platted lot, and may not be placed on-site until improvements are accepted by the council, or in the case of developed sites where improvements exist, until a permit is issued.
- (c) *Temporary sales structures.* Temporary buildings for temporary sales offices, and temporary off-street parking areas, may be permitted in conjunction with new home sales. Such uses shall be located on a platted lot, may not be placed on-site until improvements are accepted by the council, or in the case of developed sites where improvements exist, until a permit is issued. Such structures and parking areas shall be removed when the subdivision is sold out. One temporary sales office is permitted per builder in a subdivision.
- (d) *Businesses creating nuisance.* Any business operating within a temporary structure as authorized above that constitutes a public nuisance to the surrounding neighbors or endangers public health, safety or welfare shall be cited for nuisance violations under this Code and shall be required to cease operations as directed by the building official, or other designee.
- (e) *Portable buildings or structures.* Portable buildings or structures, including but not limited to cargo boxes or tractor-trailers, are not permitted for use as commercial or business operations. Provided, however, that such may be used as accessory structures for storage for a main business, The number and location of such structures are subject to a site plan review and approval by the city community development department. Mobile homes or RVs are not permitted to be used as accessory buildings.

- (f) *Restroom facilities.* Every business within the city must provide permanent restroom facilities on-site available for use by the customers of that particular business. These facilities may be located within the same building as the business, or may be provided in an adjacent business with evidence of a perpetual agreement for such with the owner of the adjacent business. Restroom facilities shall be in compliance with all applicable state, county and city building and health code provisions, including restroom facilities for handicapped individuals, for the size and type of business to be conducted at that location.
 - (g) *Exceptions* In the event of a natural disaster (e.g., flood, hurricane), or other catastrophic loss (e.g., fire), the city council may suspend this ordinance for such period of time as may be determined to be necessary for reconstruction of permanent structures.
2. *Outdoor sales.* For the purposes of this section, outdoor sales are defined as the display outside of a permanent structure, for the purpose of purchase by consumers, whether immediately or by placing of orders, of any merchandise, services, products, or goods irrespective of whether payment for such is made outdoors or in a permanent structure. Outdoor sales for commercial or business purposes shall be allowed only under the following conditions and procedures:
- (a) *Permit required.* No person shall conduct outdoor sales either in the open or under a tent or other temporary cover for commercial or business purposes within the city limits without first obtaining a permit under this article.
 - (b) *Application for permit.* Any person desiring to conduct outdoor sales shall apply to the building office for a permit. The application shall state: the name of the person conducting the activity; the proposed location; the name of the owner of the property where the sales are to be located; the nature of the intended activity; and the proposed dates of use; and other pertinent information on the form. Proof of insurance for the activity, in a minimum amount of coverage as determined by city council, or required by law, and a copy of the activity's sales tax certificate shall also be submitted prior to issuance of a permit. A site plan shall also be submitted to city staff containing all information required by the zoning ordinance for administrative review. The city reserves the right to require additional information or verifications, such as health permits, depending upon the type of business and regulatory oversight by other entities.
 - (c) *Fee.* The building department shall charge and collect a fee before issuance of a permit, in an amount set by the city council. If

the activity ceases, closes, or is terminated for any reason prior to the expiration of the permit, there shall be no refund of the above fee.

- (d) *Zoning compliance required.* Outdoor sales will be allowed for commercial or business purposes only at locations which are properly zoned for the nature of commercial or business activity to be conducted at that location. Further, all outdoor sales activities must comply with the setback requirements, parking requirements and other standards in city ordinances.
- (e) *Number of permits.* There shall not be more than three (3) permits issued to a person or business, or for a location, within a calendar year, nor shall permits be allowed to run consecutively during two (2) 12-month periods. Permits shall be issued a minimum of thirty (30) days apart.
- (f) *Hours of operation.* A permit for outdoor sales shall be for a period not to exceed fifteen (15) consecutive calendar days. The commercial or business activity shall be allowed to conduct business no earlier than 9:00 a.m., and must close activities no later than 10:00 p.m., or until dark (official sundown) whichever comes first, unless the applicant shows adequate lighting on the site plan or it is an outdoor sales activity related to the primary business activity on the site and adequate lighting is provided on-site. [The] permittee must remove all items, tents, and materials used for the conduct of the outdoor sales from the location not later than 5:00 o'clock p.m. of the day after the final date of the permit. However, any such permit issued for an activity commencing on the Friday, Saturday, or Sunday immediately preceding Thanksgiving shall be effective from that date until midnight, December 25 that year, and all materials shall be removed by 5:00 o'clock p.m., December 26.
- (g) *Compliance with all codes.* All tents or other coverings and materials used for commercial and business purposes must otherwise comply with all applicable fire, safety, and other codes in effect during the dates of the permitted activity.
- (h) *Posting.* A copy of the permit shall be conspicuously posted at or upon the entrance to the outdoor sales activity at all hours during the approved dates of the activity.
- (i) *Operating without a permit; false information.* Any person or entity conducting outdoor sales for commercial or business purposes without complying with this article, or who gives false, misleading, or incomplete information on an application, shall within one (1) day of notice of violation obtain the required permit for a fee in an amount

which shall be triple the normal fee, or immediately cease and desist from all activity covered by this article, and remove the outdoor sales activity from the premises before midnight of that day.

- (j) *Existing outdoor sales.* Any person conducting outdoor sales as defined above on the effective date of this ordinance must either apply for and receive a permit, or cease the use and remove the activity no later than 5:00 o'clock p.m. on the seventh calendar day after the effective date of this section.

3. *Exemptions.*

- (a) *Charitable or nonprofit events* . The conducting of outdoor sales or commercial activity by a governmental entity, public utility, or tax exempt not-for-profit organization formed for education, philanthropic, scientific, or religious purposes, where any proceeds and profits are designed to be contributed to such entity conducting the activity, or where the activity occurs on property owned by a governmental entity. However, such entities and organizations shall comply with all other ordinances and laws applicable to their activity, and no such activities shall be allowed on the public rights of way.
- (b) *Outdoor displays of merchandise.* Outdoor displays of merchandise by retail businesses shall be allowed if the display involves items for sale by a commercial retailer located within a permanent structure. Such displays may not cover more than half of the width of the pedestrian walkway between the storefront and the curb, unless other accommodations for pedestrian travel satisfactory to the building official are made. A permit shall be required for the placement of outdoor sales activities or items within any parking lot, and a permit shall not be granted if the proposed area eliminates required parking areas. Provided, however, that special events shall be exempt from this latter provision, where emergency access and parking is approved by the building official in advance of the event. For the purposes of this section, "special event" is defined as a temporary outdoor use on private property that extends beyond the normal uses and standards allowed by the zoning ordinance of the city and which runs not longer than four days. Special event includes, but is not limited to, art shows, sidewalk sales, pumpkin and holiday sales, festivals, craft shows, and church bazaars.
- (c) *Suspension in the event of disaster or loss.* In the event of a natural disaster (e.g. flood, hurricane), or other catastrophic loss (e.g., fire), the city council may suspend this ordinance for such period of time as may be determined to be necessary for reconstruction of permanent structures.

(Ord. No. 86-10, § 1, 8-18-1986; Ord. No. 96-6, § 1, 5-20-1996; Ord. No. 97-14, §§ 1--11, 11-3-1997; Ord. No. 98-1, §§ 6, 7, 4-20-1998; Ord. No. 98-14, § 4, 8-17-1998; Ord. No. 99-6, §§ 8--12, 1-18-1999; Ord. No. 99-1, § 1, 1-18-1999; Ord. No. 2000-21, § 1, 9-11-2000; Ord. No. 2000-24, §§ 2--4, 8-7-2000; Ord. No. 2000-33, § 1, 10-16-2000; Ord.