

## Notice of Zoning and Planning Commission Meeting

Notice is hereby given of a **Regular Meeting of the Zoning and Planning Commission** on **Thursday, February 12, 2026**, beginning at **6:15 P.M.**, in the **Municipal Building** located at 3800 University Blvd., West University Place, Texas, for the purpose of considering and taking action on the following agenda items:

*Note: The Commission reserves the right to convene in a closed meeting for any agenda item if the need arises pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code*

### CALL TO ORDER

1. **Notices, Rules, Etc.** Matters relating to notices, rules and meeting procedures, identifying parties, swearing of witnesses, etc.
2. **Public Comments.** This is an opportunity for citizens to speak relating to agenda items. The speaker can either speak at this time or defer his/her comments until such time the item is discussed. Speakers are advised that comments cannot be received on matters which are the subject of a public hearing. Public comments must be kept relevant to the subject before the Board. The presiding officer shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Board during the meeting. Speakers must limit their presentations to three minutes each.
3. **Discussion Items from City Council.** Discuss, review, and consider action on amending the City's Zoning Ordinance with regards to the following matters:
  - Yard art and sculptures: Discuss, review, and consider action on potential land use-based regulatory tools that may be appropriate for further consideration.
  - Lighting/Seasonal decorations: Discuss, review, and consider action on potential land use-based regulatory tools that may be appropriate for further consideration.
4. **Ordinance Review.** Discuss, review, and consider action on amending the City's Zoning Ordinance with regards to the following matters:
  - Sexually oriented businesses: First draft of proposed ordinance.
  - Various enterprises: First draft of proposed ordinance.
5. **Selection of Vice-Chairman.** Matters related to the selection of a Vice-Chairman.
6. **Minutes.** Discuss and approve the minutes of September 11, 2025, December 11, 2025, and January 8, 2026.

### Adjourn

In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact the person that signs this below at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Municipal Building is wheelchair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area.

**I CERTIFY THAT THIS NOTICE AND AGENDA OF ITEMS TO BE CONSIDERED BY THE WEST UNIVERSITY PLACE ZONING AND PLANNING COMMISSION WAS POSTED ON THE MUNICIPAL BUILDING BULLETIN BOARD ON OR BEFORE THE 6TH DAY OF FEBRUARY 2026, AT OR BEFORE 6:15 P.M.**

*Chris Guess*

Planning and Zoning Administrator/[cguess@westutx.gov](mailto:cguess@westutx.gov) 713-662-5830

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To: **The Zoning and Planning Commission**  
From: **Chris Guess, Planning and Zoning Administrator**  
Date: **February 12, 2026**  
Re: **Yard Art and Sculptures**

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### **Background Information:**

At its meeting on December 8, 2025, the City Council of the City of West University Place directed the Zoning and Planning Commission (ZPC) to review regulations related to yard art and sculptures and to prepare a report evaluating potential amendments or additional regulatory measures.

In September 2025, following the installation of a prominent sculpture at a highly visible intersection, city staff presented the ZPC with photographs of various existing structures located throughout the city. This presentation was intended to be proactive and informational, illustrating the range of eclectic structures currently within the city's jurisdiction, which vary in scale, height, and massing.

Most recently, at the ZPC meeting held on January 8, 2026, several residents attended to express questions and concerns regarding this issue. Public comments addressed a range of topics, including privacy considerations, the structural integrity of existing works, and recognition of certain structures that have received notable acclaim and awards.

### **Applicable Regulations:**

- **Projection Table**
  - See Attachment: *September 11, 2025 Staff Report – Projection Table*
- **Texas Local Government Code § 211.016**
  - Applies only to zoning regulations that affect:
    - the exterior appearance of a single-family residence, including the type and amount of building materials; or
    - the landscaping of a single-family residential lot, including the type and amount of plants or landscaping materials.
  - Establishes a timing limitation for new zoning regulations affecting appearance or landscaping within residential subdivisions.
  - Zoning regulations adopted after approval of a residential subdivision plat do not apply to that subdivision until the second anniversary of the later of:
    - the date the subdivision plat was approved; or
    - the date the municipality accepts subdivision improvements offered for public dedication.

- **House Bill 2439 (2019 Legislative Session)**
  - See Attachment: *House Bill 2439 (effective September 1, 2019)*
  - Prohibits municipalities from:
    - limiting or prohibiting the use of specific building materials for residential construction, renovation, maintenance, or alteration; and
    - requiring building materials or standards that exceed those contained in applicable national model building codes.
  - Legislative intent includes preventing unnecessary costs and restrictions, promoting housing affordability, and reducing regulatory burdens on residential development.

### **Staff Report:**

Staff noted that the City of University Park, Texas is somewhat unique in that it regulates yard art and sculptures directly through its municipal zoning ordinance, rather than relying primarily on homeowners' associations, deed restrictions, or private architectural review bodies. Specifically, University Park addresses yard art through its **Accessory Uses and Structures regulations (Section 5.3)**, which classify such items as accessory structures and establish objective standards related to **location, height, number, volume, and setbacks** (e.g., limits on the number of statues per lot and maximum height and volume thresholds).

Accordingly, staff has included examples of both HOA bylaws and municipal regulations for comparative purposes.

Staff further notes that direct municipal regulation of yard art would present significant enforcement challenges. Such regulation could result in existing sculptures becoming legally nonconforming, raise concerns due to the inherently subjective and aesthetic nature of art, and necessitate potentially arbitrary determinations of appropriate scale in relation to individual lots or the surrounding built environment.

### **Staff Recommendation:**

Staff recommends that the Zoning and Planning Commission conclude that no action is warranted at this time with respect to the regulation of yard art and sculptures. As discussed in this report, matters related to aesthetics are more commonly and effectively addressed through homeowners' associations, deed restrictions, art boards, or Architectural Review Committees (ARCs), rather than through municipal zoning or code enforcement.

### **Attachments**

- River Oaks Property Owners, Inc (HOA Bylaws)
- City University Park, Texas – Accessory Uses and Structures
- Staff Report (09/11/2025) – Projection Schedule

- Redacted Presentation (09/11/2025) – Existing Sculptures

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Notice  
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AFTER RECORDING RETURN TO:

Gary C. Mangold  
River Oaks Property Owners, Inc.  
3923 San Felipe Road  
Houston, Texas 77027  
email: gary.mangold@ropo.org

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12/02/2014 RP1 \$184.00  
**WINSTEAD**  
ATTORNEYS

**OFFICER'S CERTIFICATE**

The undersigned hereby certifies that she is the President of River Oaks Property Owners, Inc., a Texas nonprofit corporation (the "Association"), that she is duly authorized acknowledge and execute this Officer's Certificate as such, and that Exhibit A attached hereto and made a part hereof is a true and correct copy of that certain 2014 Policies and Procedures with Architectural Review and Approval Process approved and adopted by a majority of the Board of Directors of the Association pursuant to a duly called and regularly scheduled Board meeting held on November 12, 2014.

IN WITNESS WHEREOF, the undersigned has executed this Officer's Certificate on the 1<sup>st</sup> day of December, 2014.

RIVER OAKS PROPERTY OWNERS, INC., a  
Texas nonprofit corporation

By:

*Nicole Perdue*

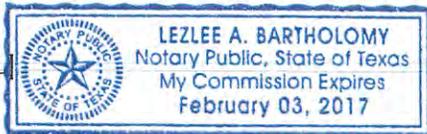
Nicole Perdue, President

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STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS      §

This instrument was acknowledged before me on 1<sup>st</sup> day of December, 2014, by Nicole Perdue, President of River Oaks Property Owners, Inc., a Texas nonprofit corporation, on behalf of said corporation.

[SEAL]



*Lezlee A. Bartholomy*  
Notary Public Signature

Cross Reference to the Amended Reservations, Restrictions and Covenants Applicable to All Properties Located Within River Oaks Additions, Including Tall Timbers Section and Country Club Estates, recorded in the Official Public Records of Harris County, Texas.

STRONG-ARM

EXHIBIT A

2014 POLICIES AND PROCEDURES WITH  
ARCHITECTURAL REVIEW AND APPROVAL PROCESS

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*River Oaks Property Owners, Inc.*

2014

Policies and Procedures

with

Architectural Review and Approval Process

Duly Adopted  
November 12, 2014

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RP 093-39-0423

**Resolution of the Board of Directors  
of River Oaks Property Owners, Inc.<sup>1</sup>**

WHEREAS, River Oaks Property Owners, Inc. (“**ROPO**”) is a property owners’ association as defined in Chapter 204 of the Texas Property Code that has jurisdiction over all sections of Country Club Estates, River Oaks Additions including Tall Timbers Section, and certain additional tracts, all in Harris County, Texas (collectively, the “**Subdivision**” or “**River Oaks**”);

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WHEREAS, ROPO, acting through its Board of Directors (“**Board**”) and the predecessors of ROPO, duly adopted the original and additional reservations, restrictions, covenants and policies and procedures applicable to all sections of the Subdivision, as amended effective June 1, 2006 by the “*Amended Reservations, Restrictions and Covenants Applicable to All Properties Located Within River Oaks Additions, Including Tall Timbers Section and Country Club Estates*” (collectively, the “**Restrictions**”);

WHEREAS, the Restrictions are applicable to any existing and proposed residential dwelling, garage, outbuilding or other real property improvement located on any lot or tract of land within the Subdivision (collectively, “**Improvements**”);

WHEREAS, the Board also duly adopted and had filed of record its 2002 Policies and Procedures (“**P&P**”) dated May 8, 2002 (“**2002 P&P**”), and the 2010 Architectural Review and Approval Process (“**ARAP**”), dated June 30, 2010, and updated August 31, 2010 (“**2010 ARAP**”); 2011 Policies and Procedures with Architectural Review and Approval Process (“**2011 P&PARAP**”) dated November 9, 2011, and April 25, 2013, 2013 Policies and Procedures with Architectural Review and Approval Process (“**2013 P&PARAP**”);

WHEREAS, the Board analyzed its 2002 P&P, 2010 ARAP, 2011 P&PARAP, and 2013 P&PARAP and determined that in the best interest of the Subdivision that these instruments should be consolidated, updated and replaced by the instrument that follows to better provide the Board’s interpretive guidance of and requirements to effectuate the Restrictions; 2014 Policies and Procedures with the Architectural Review and Approval Process (the “**2014 P&PARAP**”);

WHEREAS the Board is vested with authority by the Restrictions and Texas law to implement these 2014 P&PARAP and to enforce them with the assistance of ROPO’s staff;

NOW, THEREFORE, the Board Directors of River Oaks Property Owners, Inc. does hereby duly adopt these 2014 P&PARAP for all real property within the Subdivision effective upon the 12th day of November, 2014, which shall amend and replace, including but not limited to the 2002 P&P, 2010 ARAP, 2011 P&PARAP, and 2013 P&PARAP.

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<sup>1</sup> If one or more provision of these 2014 P&PARAP, or the application thereof to any person or circumstance, shall for any reason be held invalid, illegal or unenforceable in any respect, any such invalidity, illegality or unenforceability shall be deemed stricken and shall not affect any other provision or the application of any other provision or circumstances. The balance of the 2014 P&PARAP shall remain in full force and effect.

## I. ARCHITECTURAL REVIEW AND APPROVAL PROCESS

### A. INTRODUCTION

The Board is responsible for enforcing the Restrictions that, among others, include specific requirements about design and construction within River Oaks. For example, Sections 3, 4, 6, 9, 11, 13, 14 and 15 of the 2006 Amended Restrictions address design and construction requirements. These requirements are complimentary, and any one requirement may not be read in isolation or to the exclusion of other requirements. The Board interprets all of them holistically by giving effect to all that are applicable to design and construction. The Restrictions require the Board to enforce not only requirements with specific numerical limitations, such as site permeability calculations, but also equally important general requirements, such as the preservation of the historical integrity of, and the continuity of architectural styles within, River Oaks.

River Oaks has a significant historical presence in the City of Houston. Much of its historical presence has to do with its original scheme of development. The developers envisioned unity and harmony within River Oaks of the greatest importance in preserving and enhancing property values. River Oaks has always kept stable property values, in part, because it is homogeneous through uniform development and restrictions. The developers contended that the value of a home site is influenced by the neighborhood, the restrictions and the home next door. The original developers asserted that each home could be different in design, but River Oaks would have architectural harmony within the group. Even different sized lots and houses were to exist in harmony. The developers sought a variety of architecture but which fit into the landscaping and entire group scheme; in their words, "harmony without monotony."

Not only did earlier versions of architectural controls prevent, as the developers put it: "some architectural monstrosity just across the street or next door," River Oaks was also conceived in a spacious spirit with ample open space giving vistas of trees and lawns. The original scheme of development was envisioned as a residential park with larger lots laid out so that vistas could never be obstructed or Gulf breezes cut off. The great natural beauty of River Oaks before development -- oaks and towering pines, flowering shrubs and open grassy space -- was preserved by the developers as a setting for homes. River Oaks residents were meant to have quiet enjoyment of property from beautiful large and small homes, all simple and dignified architecturally, set well apart and back from the street, with many surrounded by trees.

The Board acknowledges the wide variety of architecture developed over the decades in River Oaks but is responsible for protection against any incompatible Improvements. The Board further acknowledges the historical character of River Oaks as a subdivision with substantial vegetation and open spaces. Thus, the Board will in its review and approval process consider proposed design features of Improvements such as: setbacks, building materials and colors; roof heights; architectural features such as doors and windows; massing, scale and spatial relationships created both within the tract's building setback lines and with respect to the streetscapes and surroundings houses and tracts; fences and walls; site permeability; and preservation of trees and open spaces.

The Process that follows will assist anyone intending to design and construct Improvements in River Oaks better understand the Restrictions related to design and construction and their enforcement by the Board.

## **B. MANDATORY REVIEW AND APPROVAL PROCESS**

This section describes the architectural review and approval process used by ROPO when an Owner of a lot or tract of real property in the Subdivision (the "**Owner**") seeks approval for proposed designs and construction of Improvements on the Owner's lot or tract, whether such project is considered substantive in scope or minor in nature (a "**Major Project**" or a "**Minor Project**", as more specifically defined below). No construction of any Improvements whatsoever may be commenced without the written approval of the Board or, with Board authority, ROPO staff upon compliance with the review and approval process set forth in terms and provisions set forth in this § I, Architectural Review and Approval Process (hereinafter referred to as the "**Written Approval to Begin Construction**").

In the event an Owner transfers ownership of a lot or tract on which proposed Improvements have been approved by ROPO but construction has not begun (excluding demolition), the approved application and plans are not transferrable to the new owner and the full Architectural Review and Approval Process will have to be initiated by the new owner of the lot or tract.

### **1. Submittal Prerequisites, Time and Place.**

The Board developed these processes to assist each Owner to identify and present the drawings, certificates and other information necessary to request Board approval of proposed Improvements and to demonstrate compliance of the Improvements with the Restrictions (the "**Submittal**").

ROPO will not accept an Owner's Submittal for Board review unless all sums of any nature owed by the Owner to ROPO are paid in full (*e.g.*, maintenance fees and bills for services) in addition to the Architectural Review fees. If during the review process any sums owed by the Owner to ROPO become overdue, the Board will withhold all approvals until all sums owed are paid in full.

The Board considers Submittals at its regularly scheduled meeting on the second Wednesday of each month, or such other meeting time as the Board may periodically set. In order for a Submittal to be considered at a Board meeting, the Owner must submit it on or before the 20th of the preceding month, or if the 20th falls on a Saturday, Sunday or holiday when ROPO is closed, the first business day following the 20th. The Board may request the Owner to meet with the Restrictions Committee and/or the Board to discuss the Submittal, and the Owner is free to request such a meeting, which will be granted in the Board's discretion. Submittals should be deposited at ROPO's offices located at 3932 San Felipe Rd., Houston, Texas 77019 (entry driveway is adjacent to Twin Oaks Cleaners).

**Incomplete Submittals will not be reviewed.**

**2. Preliminary Review and Approval Process for Major Projects.**

The Preliminary Review and Approval Process requires each Owner for a Major Project, as defined below, to obtain the Board's preliminary approval of the design early enough in the design process to reduce costs from the development of a design that may ultimately be disapproved. This Preliminary Review and Approval Process sets minimum requirements for the information to be submitted, but each Owner is responsible for submitting any additional information necessary to adequately explain the proposed design since the Owner is uniquely qualified to determine how best to present it. Each Major Project Owner must obtain the Board's preliminary review and written approval before any further review or approval by ROPO. Commencement of developing or attempted permitting of any construction documents whatsoever without the Board's preliminary approval is not permitted and will be at the Owner's sole risk of the Board's subsequent rejection. Submittals that receive preliminary approval will also be subject to § I.B.3 Review and Approval Process for Construction Documents with City Permit and § I.B.4 Major Project Final Review and Approval Process.

a. Applicability: This Preliminary Review and Approval Process is required for all Major Projects.

i. Major Project means (i) construction of improvements that result in the addition of living space to existing improvements and/or construction of additional square footage to the property or improvements; (ii) substantial modification or renovation to the exterior of any Improvements; and (iii) any other proposed construction project that by its nature includes unusual or complex exterior design features.

ii. Minor Project means any project not defined as a Major Project. A minor project will not result in the addition of any living space to existing improvements and/or construction of additional square footage to the property or improvements. Examples of projects which would be classified as Minor Projects may include, but are not limited to:

- Replacement, addition or new construction of fencing;
- Painting of exterior of improvements;
- Replacement or modification of exterior windows and/or doors;
- Replacement or change of exterior cladding materials or decorative elements (siding, stucco, trim, railings, balconies, etc.) without changing the square footage of the improvement;
- Roofing of improvements;
- Addition of a pool, spa and pool equipment, only.
- Landscaping improvement which does not include hardscape additions or additions of areas such as gazebos or arbors, etc.;

- Replacement of hardscape such as a driveway or sidewalk within the exact footprint of the old driveway or sidewalk (any addition of hardscape would make this a major project);
- Minor changes to an existing porch such as screening or patio covers (enclosing a porch or a large porch addition would be a major project);
- Addition of a satellite dish or solar panels;
- Addition of stationary play equipment such as a play fort or play house;
- Addition or replacement of a generator, air conditioning units, wine chiller condenser, or other exterior mechanical units.

If, at the time of application, a question exists as to the classification of a project, the project shall be classified as major. If it is later determined by the Board that the project is actually a minor project, this fee difference will be refunded.

b. Time for Preliminary Review Submittal: The Submittal should be made once the schematic or preliminary design is established and documented. The design and plans in a preliminary Submittal should be sufficiently developed to give the Board adequate information to make an informed decision. Since the preliminary review process may result in disapproval, the Owner is cautioned against creating and submitting designs and plans that are overly or extensively developed.

c. Information Required for Preliminary Review: Each Preliminary Review Submittal shall be developed to a schematic design level. The items listed below are the minimum requirements for a Submittal. Each Owner is encouraged to submit any additional information necessary to adequately present the proposed design for the Board to make an informed decision.

- i. Information/application form completed with all information requested;
- ii. Two (2) sets of schematic architectural drawings including, without limitation:
  - 1/8 inch scale site plan (showing landscaping, driveways, walkways and other hardscape) in color
  - 1/4 inch scale floor plans
  - Exterior images that illustrate the schematic design for all applicable facades (front, side and rear) comprised of elevations or similar drawings such as 3D images or scaled models, depending upon the complexity of the Submittal, which together shall illustrate at least: all exterior materials and colors; architectural features such as doors and windows; massing, scale and spatial relationships created both within the tract's building setback lines and with respect to the surroundings houses, streetscapes and

similar size lots or tracts; preservation of trees and open spaces; and any fences and screens (but excluding any wall sections, details, schedules and other information not reflecting the exterior appearance of the Improvements)

- In addition, the submitted plans and other supporting information must be submitted in PDF format. Image files may be submitted in JPEG, BMP or TIFF format. The means of electronic transmission includes, but is not limited to, email, cd-rom or thumb/flash drives (non-returnable). Any deviation from the format types outlined must be approved in advance. Drawings may not be submitted in their original drawing file format (DWG, RVT, VWX, etc.).

- iii. A certification that the construction documents will require the contractor to build a mock-up of the approved exterior façade materials (4 ft. x 8 ft. min.) for review by a Board representative during construction, before such exterior materials are procured;
- iv. Schematic site drainage plan prepared by a registered engineer or architect;
- v. Calculations and diagrams showing the square footage of the whole lot or tract and of the impermeable features including, without limitation, all hardscape;
- vi. Drawings and diagrams demonstrating compliance with any applicable restrictions on building heights and proximities, setbacks, Prevailing Setbacks (defined below), fences, exterior equipment and any other restricted feature;
- vii. Exterior materials board(s) displaying samples of exterior materials and colors (each material must have a sample of not less than 1 (one) ft. square);
- viii. A written narrative (not to exceed one (1) page, double-spaced or 300 words) describing and showing with one or more photographs of existing Improvements in the Subdivision how the Owner's design is compatible with the historical integrity and the continuity of architectural styles existing in the Subdivision;
- ix. A certificate of the natural grade of the Owner's lot, signed and sealed by an engineer or surveyor currently licensed and registered in the State of Texas (the "**Natural Grade Certificate**"). The Owner is required to use the River Oaks Natural Grade Certificate Form that is attached hereto and made a part hereof as Attachment 1 but is otherwise made available as a .pdf fillable document on the River Oaks Property Owners website ([www.ropo.org](http://www.ropo.org)), as the same may be amended by the Board from time to time. The Natural Grade Certificate is required for all Major Projects which require the

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determination of structure height above natural grade elevation (see § x below). If, under any circumstances the soil has already been disturbed, or if issuance of the Natural Grade Certificate is somehow not feasible, the Board shall require the Owner to determine grade in an alternate fashion, which process shall be determined in the sole discretion of the Board based upon the circumstances presented at the such time.

x. Any additional information necessary to show compliance with the Restrictions and the 2014 P&PARAP.

d. Retention of Documents: The copy of plans and other documents submitted by an Owner will be retained on file in ROPO's offices and become the property of ROPO. This shall include all plans and documents submitted electronically or using a digital medium.

e. Information to Exclude from Major Project Review: Without diminishing the Submittal requirements described in these 2014 P&PARAP, the Owner should exclude from the Submittal any information that is confidential or sensitive since the records maintained by ROPO, including the information in an Owner's Submittal file, may be subject to certain public disclosure statutes.

f. Board Response to Preliminary Review: The Board will issue its written Preliminary Approval for the Owner to move forward with development of the design and information in the approved Submittal into construction documents and to seek a City of Houston building permit(s); or will issue its disapproval of the Submittal. Disapproved Submittals may be revised and resubmitted or withdrawn from consideration. If approved, the Owner shall have one (1) year from the date of the written Preliminary Approval letter to submit plans that have been approved by the City of Houston. If the Owner fails to submit City of Houston approved plans prior to the one (1) year deadline, Preliminary Approval of the project will expire and the Owner will have to repeat the Architectural Review and Approval Process for Major Projects, including payment of the review fee required at the time of resubmittal.

### **3. Review and Approval Process for Construction Documents With City Permit**

After obtaining a City of Houston building permit, the Owner shall submit to ROPO for review a full-size, to scale copy of the permitted construction documents bearing the City of Houston approval stamps. The Owner shall submit the architectural construction documents and any other portions of the construction documents necessary to demonstrate compliance with the Board's Preliminary Approval. The minimum required documentation to submit for review includes the site plan, all floor plans, roof plan, and all exterior elevations and sections. Additional pieces of documentation may be requested by ROPO to ensure the Improvement meets Restrictions and Policies. The principal purpose of the review is for ROPO to determine whether there are material changes between the design that received the Board's Preliminary Approval and the construction documents that were approved by the City of Houston and received the building permit(s). No construction work, mobilization, utility work or other related activity may begin before the Board's review and written approval of such permitted construction documents. If the

permitted construction documents reflect material changes from the Submittal that received Preliminary Approval, the Board may require all or part of the Preliminary Review and Approval Process to be repeated. If there are no material differences, the Board or, with Board authority, ROPO staff will issue a Written Approval to Begin Construction, which is issued subject to the Owner's continuing compliance with the Final Review and Approval Process for Major Projects.

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#### 4. Final Review and Approval Process for Major Projects

The Owner must meet continuing obligations during the construction activity period. The continuing obligations will generally be listed in the Written Approval to Begin Construction and are listed below in § II.B.1, Mandatory Construction Related Documents for Final Approval of Major Projects. In order for the Improvements to receive the Board's Final Approval the Owner must, in addition to fulfilling all applicable requirements of the Restrictions and the 2014 P&PARAP, fulfill all obligations listed in the Board's Written Approval to Begin Construction and also must be in accordance and satisfy the obligations listed below:

a. No Changes Without Approval: No material changes in the design or construction reflected in the Submittal that received Preliminary Approval may be made without prior, written Board approval. The Board may require all or part of the Preliminary Review and Approval Process to be repeated for any such requested change.

b. Requirements During Construction: During construction the Owner is responsible for compliance with the Restrictions and the 2014 P&PARAP. The Board will not grant Final Approval of the Improvements while any violation remains uncured.

c. Curing Violations: The Board will issue directives to the Owner to correct the work or activity, or the lack of activity, which violates the Restrictions, the 2014 P&PARAP or the Written Approval to Begin Construction. The Owner is responsible for curing any such violation(s) regardless of whether it is identified by ROPO. The Owner shall promptly comply with any such directives and promptly correct the violation(s). If after a reasonable time the violation(s) is not corrected, it will be presented to the Board for further action.

d. Enforcement Activity: If the Owner fails to promptly cure violations, the Board may take measures to obtain compliance including, without limitation, issuance of any necessary cease and desist directive, notification to the City of Houston or other governmental agency with jurisdiction over the construction or seeking enforcement in a court of

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<sup>2</sup> Limited Review: ROPO's staff and the Board will endeavor to disclose to Owners any errors, omissions or inconsistencies discovered while reviewing the Submittals; provided, however, that neither ROPO's staff nor the Board shall have any legal duty to identify, nor shall they be responsible for, any such errors, omissions or inconsistencies. ROPO's staff review is only for the limited purpose of checking for conformance of the relevant information contained in the Submittals with the requirements of the Restrictions and any related requirements. Any review of Submittals by the Board and ROPO's staff: is not for the purpose of determining the accuracy and completeness of any information in Submittals; does not include review or approval of or responsibility for any construction means, methods, techniques, sequences or procedures or any jobsite safety, all of which remain the responsibility of the Owner; and is solely for the benefit of ROPO's staff and the Board. Neither ROPO's staff nor the Board shall be responsible for the activity, errors or omissions of any Owner.

law. ROPO will, after notice and an opportunity to be heard are given, collect reimbursement of its attorney's fees and other reasonable costs incurred by ROPO relating to violations regardless of whether litigation ensues.

e. Expiration of Approval to Begin Construction: A Written Approval to Begin Construction expires by inaction as provided in the 2014 P&PARAP, § II.B.3. Once the approval expires, the Architectural Review and Approval Process for Major Projects must be repeated.

## 5. Review and Approval Process for Minor Projects

Each Minor Project Owner must obtain the Board's approval after completion of the construction documents or other required submittals for all Minor Project Improvements to be constructed or modified (the "**Minor Project Review**"). **Receipt of the Board's final, Written Approval to Begin Construction for all Improvements is required before any work may commence.** All approvals will expire by inaction as explained in more detail, below. Once the approval expires, the Minor Project Review and Approval process must be repeated.

### a. Information to Submit for Minor Projects:

- i. For proposed projects consisting only of exterior painting of all or any part of Improvements, submit a mock-up (not less than 1 ft. square) of the proposed paint with all proposed coats applied to the material to be painted (*e.g.*, plywood, siding or brick).
- ii. For all other Minor Projects, submit:
  - Drawings and diagrams demonstrating compliance with the applicable Restrictions including, without limitation, the extent of proposed Improvements, location on the lot or tract, height, exterior equipment and any other restricted feature;
  - Two (2) sets of construction documents that reflect the appearance and construction of the proposed Improvements;
  - Materials board(s) or sample(s) displaying proposed materials and colors; and
  - Any additional information necessary to show compliance with the Restrictions and the 2014 P&PARAP.

b. Response: The Board will issue its approval for the Owner to move forward with the project or will issue its disapproval of the proposed project. Any disapproved designs may be revised and resubmitted or withdrawn from consideration.

c. Retention of Plans: Plans and other information submitted by the Owner will be retained on file in ROPO's offices and become the property of ROPO.

## 6. Review Fee for Major and Minor Projects

The Board incurs certain expenses processing and reviewing each submission such as the cost of ROPO staff and architectural consultants who advise the Board. In order to defray this expense, the Owner must pay a review fee for the review and approval processes in an amount established periodically by the Board. The amount of this fee is subject to change by the Board without prior notice. Any resubmissions will require payment of additional fees.

## II. POLICIES AND PROCEDURES

The following 2014 P&PARAP are intended to assist the Owner to comply with the requirements of the Restrictions by providing the Board's interpretive guidance and requirements to effectuate the Restrictions. However, nothing contained in these 2014 P&PARAP, no Board action or inaction, nor any activity of or information provided by the ROPO staff shall be construed as a waiver or modification of any provisions of the Restrictions or these 2014 P&PARAP, except to the extent that the Board's approval, disapproval, variance or modification is permitted by the Restrictions or the 2014 P&PARAP. Any such permitted approval, disapproval, variance or modification shall only be granted in writing by the Board.

**A PROPERTY OWNER OR POTENTIAL PROPERTY OWNER BEARS THE SOLE RESPONSIBILITY FOR ASSESSING THE EFFECT OF THE RESTRICTIONS AND THESE 2014 P&PARAP ON A LOT OR TRACT BEFORE PURCHASING IT OR BEGINNING PLANS FOR CONSTRUCTION ON IT.**

### A. POLICIES AND PROCEDURES FOR DESIGN OF IMPROVEMENTS

Some types of Improvements or particular design requirements are principally addressed in specific sections of the Restrictions (*e.g.*, fences in § 4, or setbacks in §§ 6 & 11). However, the design and construction of any and all Improvements must comply with all applicable provisions of the Restrictions, not only those provisions that principally address the type of Improvements or specific design requirement.

#### 1. Location and Setbacks of Improvements and Lot Consolidation

##### a. General Setback Rules

Any planned or existing Improvements in the Subdivision must comply with all location and setback requirements that apply to the lot, tract or Subdivision Section including any modifications to such requirements made by the Board in its authority.

Projections related to roof structures that do not have livable space above, such as overhangs, eaves, awnings, etc. may extend up to eighteen (18) inches beyond the recorded setbacks for the property.

The Board may approve or disapprove the proposed location of Improvements with respect to: setbacks shown in the plat, requirements of the Restrictions or in the original deed, and compliance with any other provisions in the Restrictions. The Board may grant variances from setbacks, the location of any Improvements and the direction that they must

face, and any other architectural restrictions based upon circumstances such as topography, natural obstructions, aesthetics or other relevant considerations. The Board may, in the best interest of designated Subdivision Additions as a whole, modify requirements of the Restrictions concerning the location of any Improvements on the lot or tract, and the direction the Improvements face. No variance granted waives any requirement of the Restrictions except with respect to the single instance, lot or tract to which the written variance applies and subject to the provisions and limitations of such variance.<sup>3</sup>

b. Prevailing Setback Rule

Some Improvements on lots or tracts in certain sections of the Subdivision must be located farther from the front property line shown on the applicable plat, recorded in the real property records or in the Restrictions. If existing Improvements on any such lot or tract were to be razed and new Improvements constructed according to the applicable plat, the recorded real property records or the Restrictions, the new Improvements would disrupt the visual continuity and sight lines on the street. The common distance from the front property line to the front elevation of a residential dwelling on each lot or tract on a street on which existing Improvements are set back farther is the "Prevailing Setback." These 2014 P&PARAP explain the process by which a "Prevailing Setback," if any, is determined.

The Board determined that a Prevailing Setback exists if the Improvements on three (3) or more nearby lots or tracts on a street are set back more than 15 feet farther from the front property line than the front building setback line shown on the applicable plat, recorded in the real property records or in the Restrictions. A Prevailing Setback may also exist in other instances, as determined by the Board.

- i. If a Prevailing Setback exists, the applicable "Segment" of the street for which the Prevailing Setback applies will be determined. The Board will determine the applicable Segment on a case-by-case basis through visual inspection of the Subject Street, review of aerial and other photographs, and other means that help characterize the Prevailing Setbacks within the Segment. The applicable Segment may consist of both sides of the street or one side of the street, and may consist of an entire block or partial block, depending upon existing conditions.
- ii. Once the Segment has been established, the Board will determine the "Common Distance" of the setbacks within the Segment. If all Improvements within the Segment are set back substantially the same distance from the front property line, then this distance will be the Common Distance. If all Improvements within the Segment are not

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<sup>3</sup> The Board may not grant a variance from the requirements of the Restrictions relating to the use of a lot or the use of Improvements on a lot.

set back substantially the same distance, the Board will determine the most common setback. If the most common setback would accomplish the purposes of the Prevailing Setback, with due regard for preserving the visual continuity and sight lines within the Segment, then it will be established as the Common Distance. If the most common setback does not accomplish the purposes of the Prevailing Setback because it would either (i) allow the applicable Improvements to be located too close to the front property line, or (ii) require the applicable Improvements to be located too far from the front property line, the Board will determine the Common Distance with due regard for the applicable circumstances in order to preserve visual continuity and sight lines of the Segment. If at the time of the determination the Improvements on the lot or tract in question have been demolished, the front setback of the previously existing Improvements will be taken into consideration for purposes of determining the Common Distance within the Segment. Once the Common Distance is established, the same shall be deemed the location of the front building setback line for all purposes.

- iii. As a final check, the Board may consider the nature of the Improvements that are proposed for the subject lot or tract. For example, the height, massing and relationship to adjoining properties of the proposed Improvements to be located closest to the building setback line may be taken into account in determining the Prevailing Setback applicable to the subject lot or tract.

**THE OWNER IS RESPONSIBLE FOR SEEKING A DETERMINATION OF WHETHER ANY PREVAILING SETBACK REQUIREMENTS EXIST BEFORE PURCHASING A LOT OR TRACT OR BEGINNING PLANS FOR CONSTRUCTION THEREON.**

c. Combined Lots

The Owner of separate but adjoining single lots may combine up to three such lots into one lot (“**Combined Lot**”), provided that such single lots were not previously combined with another lot. The Owner of the lots must first seek and obtain Board approval for the combination plan and comply with all re-platting requirements of the City of Houston.

- i. Removed Setbacks: The Owner of the Combined Lot is not required to comply with any building setback lines

associated with the common property line(s) removed by combining the lots. All other setback lines remain in force as minimum setback requirements, and more stringent setback requirements of the Restrictions may apply to the Combined Lot.

- ii. Front/Street Setbacks: The amount of setback from the front property line(s), or those property lines parallel and adjacent to a street, for the Combined Lot shall be not less than the greatest of the distances required by: the applicable plat and the recorded real property records, the Restrictions, or if applicable, the Prevailing Setback for any single lot comprising the Combined Lot.
- iii. Side and Rear Setbacks and Permeability: The location of Improvements on a Combined Lot with respect to side and rear setback distances must, at a minimum, meet such requirements set by plat, the recorded real property records or the Restrictions for the single lots comprising the Combined Lot. The permeability requirements for a Combined Lot are based upon the area within the requisite setbacks of the Combined Lot. However, other requirements of the Restrictions may impose applicable limitations on the location, size, dimension and area of Improvements. For example, the Restrictions also require preservation of the historical character of River Oaks as a subdivision with substantial vegetation and open spaces. River Oaks was conceived in a spacious spirit with ample open space giving vistas of trees and lawns. The original scheme of development was envisioned as a residential park with homes set well apart. To meet these and other requirements of the Restrictions, the Board is authorized by the Restrictions to make modifications as described in § II.A. 1(a), above, that may affect the locations, side and rear setback distances and permeability requirements of Improvements on a Combined Lot. The Restriction further empower the Board to disapprove proposed Improvements if the architectural style of the Improvements is not compatible with the predominant architectural styles of Improvements in the Subdivision because of the proposed Improvement location, side and rear setbacks and permeability requirements.

When considering whether the location, side and rear setback distances and permeability requirements for a Combined Lot should be further restricted by other provisions of the Restrictions, the Board will consider relevant factors including, without limitation:

- setback distances for Subdivision lots comparable in size and shape to the Combined Lot;
- massing, scale and spatial relationships created by Improvements both within the confines of the Combined Lot and with respect to the surroundings houses and streetscapes;
- preservation of vegetation and open spaces; and
- the prior disposition of similar Combined Lots.

**THE OWNER IS RESPONSIBLE FOR DETERMINING THE APPLICABILITY OF THESE REQUIREMENTS TO A COMBINED LOT BEFORE PURCHASING LOTS, REPLATTING LOTS OR DESIGNING IMPROVEMENTS FOR A PROPOSED COMBINED LOT AND IS ENCOURAGED TO SEEK GUIDANCE FROM THE BOARD.**

**2. Permeability and Hardscapes**

The purpose of this provision is to preserve permeable areas for surface water, minimize the diversion of surface water to streets and adjacent lots, and preserve the historical character of River Oaks as a subdivision with substantial vegetation and open spaces.

a. General Rule on Permeability

The following lot or tract coverage limitations apply in addition to any other applicable limitations on the size, dimension or area of any proposed Improvements:

- i. For a tract of 15,000 square feet or more, the total combined area of the footprints of the residential dwelling, garage, outbuilding, other improvement and any hardscape shall not exceed one hundred percent (100%) of the total area of the tract within the front, side and rear setbacks of the tract including any Prevailing Setback.
- ii. For a tract of less than 15,000 square feet, the total combined area of the footprints of the residential dwelling, garage, outbuilding, other improvement and any hardscape shall not exceed one hundred ten percent (110%) of the total area of the tract within the front, side and rear setbacks of the tract including any Prevailing Setback.
- iii. For combined (re-platted) tract, which are addressed in § II.A.1(c) above, the total combined area of the footprints of the residential dwelling, garage, outbuilding, other improvement and any hardscape shall not exceed one hundred percent (100%) of the sum of the permissible coverage for the individual lots within their respective front,

side and rear setbacks before combined, including any Prevailing Setback.

For purposes of this paragraph, the footprint of the Improvements is its slab or foundation. Hardscape includes, without limitation, synthetic grass, driveways, walkways, swimming pools, patios, lanais, tennis courts, and hardscape products that are marketed as “permeable” and all impermeable hardscape. ROPO encourages the use of “permeable” hardscape products to the extent impermeable surfaces are permitted under the Restrictions even though such products will be considered part of the hardscape for the purposes of this provision.

**The permitted lot or tract coverage for a proposed design must comply with, and may be further limited by, other requirements of the Restrictions that may affect lot or tract coverage.**

b. Driveways and Walkways

The Submittal for Preliminary Review for any project must show the location, dimensions, material and color of any proposed new or modified driveway or walkways. **The proposed walkway or driveway must be compatible with the predominant types of walkways and driveways in the Subdivision and with the other Improvements proposed for the lot or tract.**

In the event an existing driveway or walkway requires replacement due to normal wear and tear, some casualty event or the like, the driveway or walkway may be repaired or demolished and replaced provided that the completed repair or replacement is substantially similar to the previously existing driveway or walkway in terms of location, dimensions, material and color. Otherwise, Board review and approval is required.

A rock yard or similar type of hardscape is not permitted in the front yard or any other part of the yard if visible from the street in front at ground level, and if a corner lot, from the front street or side street at ground level.

3. **Mechanical Equipment**

The term “Mechanical Equipment” means any exterior heating, ventilating and air-conditioning units, air-handling units, swimming pool equipment, generators and any other mechanical equipment.

a. General Rules

Any Mechanical Equipment installed or replaced after the June 1, 2006, shall meet the following requirements:

- i. Mechanical Equipment shall not be located nearer to any street than permitted for the primary residence.
- ii. Mechanical Equipment shall not be located nearer to any side or rear property line than the corresponding building

setback lines for the lot or tract, and in no event closer than five (5) feet to a property line.

- iii. Mechanical Equipment situated within ten (10) feet of a side or rear property line must provide sound attenuation that reduces the noise generated by the equipment to not more than the limit provided by any applicable City of Houston ordinance, measured from the nearest point at which a structure may be constructed on the lot or tract adjacent to the side or rear property line on which such Mechanical Equipment is to be installed or replaced, except as provided on § 3(c), below.
- iv. Mechanical Equipment shall be located at ground level and be screened from view from any street adjacent to the lot or tract by landscaping or approved fencing.
- v. These General Rules shall apply unless the Board previously granted a variance in writing or the Board grants a written variance upon proper request.

b. Prohibited Mechanical Equipment

- i. No commercial Mechanical Equipment (i.e., units or components primarily designed for use in an office building, shopping center or the like) is permitted on any lot or tract, unless the Board determines that the noise generated by the proposed Mechanical Equipment, whether at start-up or during operation, is no greater than the noise generated by a residential condenser unit of similar capacity.
- ii. No window or wall air-conditioning units are permitted in any Improvement in the Subdivision.

c. Exception for Mechanical Equipment in Certain Limited Locations

- i. This limited exception to the General Rules applies only to the proximity of Mechanical Equipment to a rear property line that is parallel with and immediately adjacent to the following streets: San Felipe, Westheimer and South Shepherd
- ii. Upon prior written approval by the Board, Mechanical Equipment situated within ten (10) feet of the rear property line in these limited locations, but no nearer than five (5) feet, is not required to have the sound attenuation otherwise required in § 3(a)(ii), above. The distance of the Mechanical

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Equipment to the side property line shall remain as set forth in the Restrictions and above.

- d. Existing Mechanical Equipment That is Encroaching or Removed
  - i. Operational Mechanical Equipment existing before June 1, 2006, and located nearer to a side or rear property line than five (5) feet or other than at ground level shall be treated according to these 2014 P&PARAP for Existing Encroachments (§ II.C.1, below). In the event Mechanical Equipment requires replacement due to normal wear and tear, some casualty event or the like, the equipment may be replaced at the same location with new equipment if, and only if, the replacement equipment is substantially similar in terms of type and size as the Mechanical Equipment being replaced and generates an equal or lower level of decibels of sound. Otherwise, the replacement Mechanical Equipment must comply with the General Rules, above.
  - ii. Replacement of existing Mechanical Equipment after June 1, 2006, that does not meet the requirements of § 3(d)(i), must be replaced in accordance with the General Rules, above.

#### 4. Fences, Walls and Hedges

An Owner shall submit to the Board a request for approval of any proposed fence, wall or gate through the Review and Approval Process for Minor Projects, unless the request is included as part of a Major Project review. Any fence, wall or gate proposed to be constructed on a tract on which there is no house or other permanent Improvements must be approved by the Board, as well.

##### a. General Rules

The following requirements apply to all tracts within the Subdivision:

- i. No fence, wall or gate shall be located nearer to any street than permitted for the primary residence.
- ii. The allowable heights stated below are measured from natural grade to the highest point of the fence, wall or gate including, without limitation, architectural embellishments.
- iii. Shrubbery and hedges shall be treated as a fence or wall for the purposes of these provisions.
- iv. An Owner may seek written consent from the Board to build a fence, wall or gate higher than permitted or nearer to a

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street than is permitted for the house. The Board may disapprove a proposed fence, wall or gate that does not comply with applicable setbacks, height restrictions or any other related requirement or if it reasonably determines that the proposed fence, way or gate is not compatible with the overall design of homes and related improvements in the Subdivision.

- v. Retaining walls to control existing natural grade may be constructed at the front property line. The overall height, including all structural decorative or lighting elements, is limited to twenty-four (24) inches from existing natural grade at the base of the wall.

b. General Rules for Height and Location

The following requirements apply to all tracts within the Subdivision that are governed by no other applicable requirements in the Restrictions:<sup>4</sup>

- i. No permissible fence, wall or gate shall exceed eight (8) feet in height, except a fence along the rear property line, as provided below; provided, however, that a fence, wall or gate parallel to the side property line that is adjacent to a street other than a Busy Street, as defined below, shall not exceed six (6) feet in height, and may be installed from the rear property line to the front building line of the house. A fence, wall or gate parallel to the side property line that is adjacent to a Busy Street shall not exceed eight (8) feet in height along the Busy Street and may be installed from the rear property line of the property within two (2) feet of the lot's or tract's front property line.
- ii. No fence, wall or gate installed along the rear property line of a lot or tract shall exceed ten (10) feet in height, except that if, and only if, a window or balcony on an adjacent lot or tract is within ten (10) feet of such rear property line, then a lattice, trellis or a similar approved screening material may be installed on or attached to the fence or wall along the rear property line for privacy purposes, up to a maximum height of twelve (12) feet.
- iii. No fence, wall or gate installed along the common shared side property line between adjoining lots or tracts shall

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<sup>4</sup> Many sections and tracts within the Subdivision are subject to additional or different height and location requirements including, without limitation, those sections identified and addressed in § 4.c, below.

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exceed eight (8) feet in height and may be installed from the rear property line of the property to the front building line of the house.

c. Additional or Different Height and Location Limitations in Certain Sections

The Restrictions contain certain additional or different fence, wall or gate requirements for Country Club Estates, Block 26, the Tall Timbers Section and Sections 7, 8, 9, 10, 11 and 12 of the Subdivision. The Owner should review these requirements in § 4 of the Restrictions if proposing fence, wall or gate Improvements in these sections. The Board will consider an Owner's request for a written variance with respect to these sections including, without limitation, a request to apply the General Rules, above.

d. Variances for Noisy or Busy Streets

The Board may grant a variance based upon the location of the lot, traffic issues, noise and security. Before granting a variance, not less than two (2) members of the Board will inspect the tract to evaluate the basis of the requested variance. Currently, each of the following is considered a "Busy Street":

- River Oaks Boulevard
- Kirby Drive
- Inwood Drive
- South Shepherd Drive
- San Felipe Road
- Westheimer Road
- Locke Lane (behind the Lamar Shopping Center)
- Claremont Lane (see iv. below)

If the lot or tract fronts on or is adjacent to a Busy Street, a variance may be granted to allow a fence, wall or gate to be located nearer to the property line that is adjacent to the Busy Street if the following requirements are met:

- i. A solid fence or wall not exceeding eight (8) feet in height, measured from natural grade, may be constructed along the front of each lot or tract that fronts on South Shepherd Drive, San Felipe Road and Westheimer Road, and along the side of each lot or that is adjacent to South Shepherd Drive, San Felipe Road and Westheimer Road;
- ii. A solid fence or wall not exceeding six (6) feet in height, measured from natural grade, may be constructed along the front of each lot that fronts on Locke Lane and faces the Lamar Shopping Center parking lot (being Lots 29, 30,31 and a part of Lot 32, in Block 23, Section 4);

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- iii. No fence, wall or gate adjacent to the Busy Street shall be nearer to the property line than two (2) feet;
- iv. Properties located on the east side of Claremont will be allowed 6 ft. high fencing, gates and/or hedges closer to the street than allowed for the house. Properties located on the West side of Claremont are not eligible for front fencing or hedges, and side fences or hedges may not extend past the front setback lines on these properties.

e. Materials

Materials must be compatible with the materials commonly used for fences, walls or gates on other lots or tracts in the Subdivision.

- i. Fence and wall materials shall be generally limited to wood, iron and brick or a similar masonry material. Concrete masonry units and similar masonry units visible from a street or another lot or tract must be covered with an approved finish material (*e.g.*, not just painted CMU).
- ii. Gates shall be generally limited to wood and/or metals. All wrought iron or other metal used in the construction of a fence, wall or gate must be painted either black, River Oaks Green (*i.e.*, very dark green), a dark bronze or the like, unless otherwise approved in writing by the Board;
- iii. A fence, wall or gate that is adjacent to a street is required to have a finished side facing the street; in the case of wood fences, **all posts, rails or other supports may not be visible from a street;**
- iv. Barbed wire, razor wire, or any type of electrical wire are prohibited as or on any fence or hedge. This paragraph does not prohibit an “invisible” fence that controls pets through underground electrical wiring.

f. Existing Fences, Walls and Gates

If any existing fence, wall or gate is voluntarily removed or requires replacement due to wear and tear, some casualty event or the like, its replacement must comply with the Restrictions and these 2014 P&PARAP.

g. Measuring the Height of Fences, Walls and Hedges

- i. No fence shall exceed the height limitations established by the Restrictions or the 2014 P&PARAP. (Height limits for

fencing varies from section to section. Please consult the Restrictions and these 2014 P&PARAP for more information about fencing heights).

- ii. The height of a fence shall be measured as the vertical distance from existing natural grade to the top of the tallest element of the fence material.
  - (1) Existing natural grade is defined as the ground level before grading (either inside or outside the fence).
  - (2) The height measurement of a fence includes any decorative features or lighting affixed to the top of any part of the fence.
  - (3) Any existing or new retaining walls are defined as a landscape feature to control natural existing grade. Retaining walls may be either an integral part of a fence or upon which a fence may be erected. However, the retaining wall with a fence will be measured as one, unless there are unusual natural grade issues brought to the attention of the Board for review and approval before construction.
  - (4) If the proposed fence location intersects a drainage or driveway swale perpendicularly, the fence height shall be measured at the edge of the swale. The fence is not required to dip down to follow the slope of the swale.
- iii. Hedges are subject to the same height and location restrictions as fences.

## 5. Height Limitations

The Board established the following height limitations consistent with its duty to preserve the historical integrity of, and the continuity of architectural styles within, the Subdivision.

- a. The height of the primary residence shall be limited as follows:

<b>Lot/Tract Size</b>	<b>Maximum Height</b>
Less than 25,000 sq. ft.	35 feet

25,000 sq. ft. to 43,560 sq. ft.	38 feet
Lots or tracts in excess of 43,560 sq. ft.	41 feet

b. The following additional limitations apply:

- i. Any residence, garage or outbuilding shall not exceed two and one half (2½) stories. Any living space above the soffit line of the second story shall be contained within the gable of a pitched roofline of the house (*i.e.*, within the attic space), and the house shall have the exterior appearance of a two-story house. Roof dormers are permitted. Any residence, garage or outbuilding with a predominantly flat roof shall not exceed two (2) stories, unless the Board grants a variance.
- ii. No part of any residence, garage or outbuilding shall exceed twenty-five (25) feet in height if any part of such residence, garage or outbuilding is within ten (10) feet of any property line.
- iii. In accordance with the schedule presented in § II.B.1.e., and prior to Final Approval, a certificate of the determination of structure height above natural grade elevation (which is certified in the Natural Grade Certificate, Attachment 1), shall be signed and sealed by an engineer or surveyor currently licensed and registered in the State of Texas (the "**Height Elevation Certificate**"). Height Elevation Certificates shall be required for all Major Projects which require the determination of structure height above natural grade elevation and shall incorporate the result(s) of the Natural Grade Certificate required in § I.B.2.c.ix. Such Height Elevation Certificate must be submitted by Owner on that certain River Oaks Height Elevation Certificate Form that is attached hereto and made a part hereof as Attachment 2, but is otherwise made available as a .pdf fillable document on the River Oaks Property Owners website ([www.ropo.org](http://www.ropo.org)), as the same may be amended by the Board from time to time.
- iv. Any proposed change in the natural grade elevation of the subject lot or tract shall be specified on the plans submitted for review and approval, and written Board approval must be obtained to materially change the grade.

6. Enclosed Walkways

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A lot or tract Owner may construct an enclosed walkway between the primary residence and a garage or outbuilding provided it complies with this provision,

- a. The presence of a permissible enclosed walkway, regardless of its length, does not alter the setback requirements of the lot or tract for the residence, garage or outbuilding. The garage or outbuilding to which the enclosed walkway connects must comply with the setback requirements applicable to a garage or outbuilding.
- b. The enclosed walkway may be located at either the first floor or the second floor level but cannot be enclosed on both the first and second floors. The enclosed access walkway's dimensions shall not exceed six (6) feet in exterior width and eight (8) feet high interior ceiling height. There must be a door at each end of the enclosed walkway.

**7. Building Setback Lines for and Accessory Improvements on a Secondary Tract**

The Board adopted the following requirements concerning Accessory Improvements, as defined below, on a Secondary Tract, which is a separate tract of land adjacent to, and under common ownership with, the lot on which the primary residence is located ("Secondary Tract").

- a. Accessory Improvements include, without limitation, swimming pools, pool houses and other such Improvements other than the primary residence on a Secondary Tract ("**Accessory Improvement**").
- b. Unlike secondary Improvements to be located on the lot with the primary residence, the required setbacks for an Accessory Improvement on the Secondary Tract are permitted to comply with the required setback lines for a primary residence, garage, or outbuildings. The building setback lines are measured from the property lines and not lot lines shown for lots as originally platted if such lot lines do not coincide with the property lines.
- c. Setback lines established subsequently to the Owner taking ownership of the Secondary Tract that are more restrictive shall govern such Accessory Improvements.
- d. Proposed Accessory Improvements on a Secondary Tract must be reviewed and approved according to the Review and Approval Process for Major Projects.
- e. The Board reserves the right to withhold approval to construct on a Secondary Tract any proposed Accessory Improvements that in the Board's judgment is likely to be a visual or audible nuisance, even

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if the proposed Accessory Improvement otherwise adhere to these requirements.

- f. Any existing Accessory Improvements not in compliance with these requirements are subject to removal before conveyance of the Secondary Tract to another Owner, unless both the Secondary Tract and the lot on which the primary residence is located are conveyed together to a single grantee. The seller/Owner shall inform ROPO in writing before selling any such Secondary Tract in order for the Board to determine before the sale whether any such existing Accessory Improvements must be removed before sale.
- g. Nothing in these requirements shall be interpreted as granting permission for an Accessory Improvement where otherwise prohibited.

## 8. Solar Energy Devices

The Board adopted the following requirements concerning solar energy devices.

- a. A "solar energy device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power (collectively with any associated supports, frames, support brackets, piping and wiring, an "SED").
- b. An SED may be installed in the Subdivision but only by meeting the requirements of this provision. Any installed SED that becomes and remains continuously inoperable for a period of six (6) months or more shall no longer be considered a permitted SED, and upon written instruction of the Board, must be promptly, safely and legally removed from the Subdivision.
- c. Any SED that threatens the public health or safety or violates a law is prohibited from the Subdivision, and any installed SED that becomes a threat to the public health or safety or violates a law must be promptly, safely and legally removed from the Subdivision.
- d. No solar energy device may be located on any real property owned or maintained by ROPO or on any real property in which the members of ROPO have a common ownership interest.
- e. An SED may only be located: on the roof of the primary residence or other outbuilding or structure permitted by the Restrictions on the

lot or tract; or in a fenced yard or patio of the lot or tract owned and maintained by the Owner.

- i. A roof-mounted SED:
  - a) may not be located on a roof or portion of a roof facing any street adjacent to the tract or lot unless such roof or roof portion faces the rear property line that is adjacent to South Shepherd Drive, San Felipe Road or Westheimer Road;<sup>5</sup>
  - b) may not extend higher than or beyond the permitted rooflines;
  - c) must have its top edge parallel to the permitted roofline and must conform to the slope of the roof; and
  - d) must utilize frames, support brackets, and to the extent visible, piping and wiring that are a silver, bronze, or black tone commonly available in the marketplace and that best match the roof color.
- ii. No portion of an SED in a fenced yard or patio may be located higher than the top of the lowest fence height permitted by the Restrictions for the lot or tract.
- iii. No SED may be installed in a manner that, as installed, voids material warranties.

f. No SED or replacement SED may be installed without first complying with the Major Project Review and Approval Process, The Board may withhold approval of an SED if it determines in writing that the proposed placement of the SED would create a condition that substantially interferes with the use and enjoyment of land in the Subdivision by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The Owner may submit to the Board the written approval of the proposed placement of the SED by all Owners of adjoining lots and tracts confirming that such an objectionable condition does not exist. The Board will consider an appeal, but may in its discretion reject the request in the best interests of complying with the Restrictions and these 2014 P&PARAP.

## **B. POLICIES AND PROCEDURES CONCERNING CONSTRUCTION ACTIVITIES**

The Owner has the duty to comply with these requirements during construction.

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<sup>5</sup> ROPO will consider an alternate location on the roof if the alternate location increases the estimated annual energy production of the SED, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the SED if located in an area designated by ROPO.

**1. Mandatory Construction Related Documents for Final Approval of Major Projects**

Certain information about the construction is required during construction within the time limitations indicated below. The certificates must be to-scale originals and must be signed and sealed by an engineer or surveyor currently licensed and registered in the State of Texas, all surveys must indicate the distance of the Improvement to each property line.

	<b>Required Submittal</b>	<b>Submission Deadline</b>
a.	Copy of the Plans that are stamped "Approved" by the City of Houston (COH) Permit Department	Within three days after receiving approval from COH and not less than one week before commencement of construction
b.	Site plan illustrating the size, color and location of the on-site office or trailer, if any. (NO SIGNS, NAMES, LOGOS OR OTHER GRAPHICS WHATSOEVER ARE ALLOWED ON THE OFFICE OR TRAILER)	At least 3 business days before placing the office or trailer on the lot or tract.
c.	Certified Foundation Form Survey (open areas shown adjacent to building setbacks will not be accepted)	At least 3 business days before placing concrete
d.	Certified Slab Survey that must confirm the slab placement as shown on the approved plans	At least one week before framing or other work atop the slab is commenced
e.	Height Elevation Certificate based upon the natural grade set forth on the Natural Grade Certificate on file with ROPO. Owner is required to use the River Oaks Height Elevation Certificate Form attached hereto as <u>Attachment 2</u> and as available as a .pdf fillable form on ROPO website ( <a href="http://www.ropo.org">www.ropo.org</a> ), as the same may be amended by the Board from time to time.	Upon completion of highest framing and at least 3 business days before installing any roof decking
f.	Notice to ROPO to view the required mock-up of the approved exterior facade materials (4 ft. x 8 ft. min.) for review by a	At least 3 business days before the final ordering of any material reflected in the mock-up

	Board representative during construction and before the installation of such exterior materials. Final approval of the mock-up is required before such materials may be installed	
g.	As-Built Final Completion Survey Certificate showing the location of all the Improvements including, without limitation: street entrances, garage and other outbuildings, pools and pool equipment, air conditioning units, generators, location of and height of all fences and/or gates in compliance with the approved plans	After the house is completed and before its sale or occupancy

Standard survey stakes must be maintained at each corner of the lot or tract to facilitate field inspections.

## 2. Restrictions on Construction Activity

The Restrictions impose certain requirements and limitations on construction activity. The Owner of the lot or tract is responsible for assuring compliance.

### a. General Requirements and Parameters

- i. No construction work, mobilization, temporary or permanent utility work, stockpiling materials or other related activity may commence until the Board issues its Written Approval to Begin Construction. The placement of the construction office or trailer or equipment onto the site or construction utilities are considered commencement of construction.
- ii. The construction trailer or office shall not be moved on-site without the Board's Written Approval to Begin Construction and separate written approval of a site plan illustrating the size, color and location of the construction office or trailer, if any. The Owner shall submit the trailer/office site plan at least 3 business days before the date requested for placement. NO SIGNS, NAMES, LOGOS OR OTHER GRAPHICS WHATSOEVER ARE ALLOWED ON THE OFFICE OR TRAILER. The construction trailer or office

shall be removed from the site within thirty (30) days after the date of Substantial Completion.

- iii. The date of Substantial Completion is the date when the construction work is sufficiently complete in accordance with the construction documents so that the Owner can occupy or utilize the Improvement for its intended use, as further defined by AIA Document A201-2007.
- iv. A construction refuse container placed on the lot shall be designed and maintained to prevent trash and debris from blowing out. It shall be: regularly emptied and maintained; and located in the most unobtrusive, accessible location. .
- v. One (1) port-a-can is permitted. The port-a-can: cannot be onsite more than seven (7) days before construction commences; must be located as far from the front property line as possible while still enabling regular servicing; must be screened from view from adjacent streets or neighbors; must be regularly serviced; and must be removed within thirty (30) days after the date of Substantial Completion.
- vi. ROPO staff members shall have full access to the construction site and construction project once Written Approval to Begin Construction has been issued to the Owner and ending with the Final Completion of All Improvements.

b. Work Hours and Activity

- i. Construction or demolition work is not permitted on any weekday that is not a holiday before 7:30 a.m. or after dusk or 7:00 p.m., whichever is earlier. Construction or demolition work is not permitted at any time on a Sunday, or on a Saturday before 9:00 a.m. or after dusk or 6:00 p.m., whichever is earlier. Construction or demolition work is not permitted at any time on the following listed holidays: NEW YEARS DAY, MEMORIAL DAY, INDEPENDENCE DAY (JULY 4<sup>th</sup>), LABOR DAY, THANKSGIVING DAY and CHRISTMAS DAY. The term "construction work or demolition" in this section means both interior and exterior construction or demolition activities. Construction or demolition work includes actual construction work and staging activities including, without limitation, gathering of workmen, parking of delivery vehicles, delivering, loading and unloading materials, consumables, machinery and equipment or operating any machinery. Notwithstanding the

foregoing, construction or demolition work that is not noisy (interior painting, for example) and which does not involve noisy staging activity or other exterior activity, is permitted between the hours of 9:00 a.m. and 6:00 p.m. within the interior of a residential dwelling or other improvement on any day on which construction or demolition work is otherwise prohibited.

ii. Workmen may not play radios or any other audio equipment at a volume that disturbs neighbors.

c. Posting of Restrictions

From the commencement of construction through final completion, the contractor shall post and maintain a sign at the main entrance to the work site near the street in minimum 48 point font, in both English and Spanish, stating at least the following:

<b>CONSTRUCTION RESTRICTIONS</b>
Construction work, demolition, gathering of workmen, parking of delivery trucks, delivering, loading and unloading materials, consumables, machinery and equipment or operating any equipment is only allowed:
<u>Weekdays:</u>
• 7:30 a.m. until dusk or 7:00 p.m., whichever is earlier
<u>Saturdays:</u>
• 9:00 a.m. until dusk or 6:00 p.m., whichever is earlier
<u>Sundays or the Following Listed Holidays: NEW YEARS DAY, MEMORIAL DAY, INDEPENDENCE DAY (JULY 4<sup>TH</sup>), LABOR DAY, THANKSGIVING DAY and CHRISTMAS DAY:</u>
• No exterior work allowed
Quiet interior work such as painting is allowed on all days from 9:00 a.m. until 6:00 p.m.

3. **Diligent and Continuous Pursuit of Completion**

The Restrictions and these 2014 P&PARAP impose reasonable limitations on the length of time within which construction of Improvements must be completed. The Improvements visible from an adjacent street are not be permitted to exist in an incomplete state without ongoing and meaningful construction once construction starts,

a. The Board expects that construction will commence promptly after issuance of the Written Approval to Begin Construction. The construction of all Improvements must be completed before the

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expiration of the Written Approval to Begin Construction including, without limitation, completion of all landscaping, driveways and sidewalks (“**Final Completion of All Improvements**”). Once commenced, the Owner shall not permit the construction to be stopped, interrupted or abandoned for any substantial period of time, and the construction shall be diligently and continuously pursued through Final Completion of All Improvements, Periods of inactivity for more than thirty (30) days are not permitted absent circumstances the Board determines constitute an event of *force majeure*.

- b. The Written Approval to Begin Construction expires eighteen (18) months after the date of issuance regardless of when construction commences, unless the Board grants an extension. The Board will consider granting up to two consecutive extensions of six (6) months each. Any request for an extension shall be in writing, state the basis for the request and be made at least thirty (30) days before expiration of the Written Approval to Begin Construction. The Owner is required to inform the Board before commencing any construction if the planned schedule for obtaining Final Completion of All Improvements exceeds thirty (30) months because of the difficult or extensive nature of the Improvements. The Board will determine in its sole discretion whether to grant any extensions,
- c. Material changes in the design or construction from that reflected in the Submittal that received Preliminary Approval are not permitted without prior, written Board approval. Any such unapproved changes are subject to modification or removal as required by the Board.

The Owner shall ensure that construction is commenced and performed diligently and continuously according to this provision.

**IF THE OWNER OR OCCUPANT OF A LOT OR TRACT ALLOWS THE PROJECT TO REMAIN INCOMPLETE WITHOUT ONGOING AND MEANINGFUL CONSTRUCTION ACTIVITY, THE BOARD MAY FINISH OR REPAIR THE EXTERIOR OF THE IMPROVEMENTS AND OTHERWISE RESTORE THE PROPERTY TO AN APPROPRIATE CONDITION AT THE OWNER’S EXPENSE, IN ADDITION TO ALL OTHER REMEDIES THE LAW PROVIDES, INCLUDING, WITHOUT LIMITATION, STATUTORY PER DIEM PENALTIES AND ATTORNEYS’ FEES.**

**C. POLICIES AND PROCEDURES CONCERNING OTHER MATTERS**

- 1. Existing Encroachments

An Owner of a lot or tract in the Subdivision has an affirmative obligation to promptly disclose to ROPO the discovery of any existing Improvements that encroach on any lot or tract or setback line shown on the applicable plat, recorded in the real property records or in the Restrictions.

The Board will not require removal of the existing encroachment or violation provided that all of the following circumstances exist:

- a. No ROPO records can be located indicating that a notice of encroachment or violation was issued for the subject lot or tract;
- b. There has been no effort by the lot or tract Owner to conceal the encroachment or violation from ROPO or mislead ROPO concerning it; and
- c. The encroachment was constructed before June 1, 2006.

If any one or more of these conditions are not met, the Owner shall within ninety (90) days after written notice from ROPO remove or correct the encroachment or violation. Written approval must be obtained from the Board before the removal, destruction or correction of the encroachment or violation. The encroachment or violation must be removed in connection with any new construction or remodeling of any or all such Improvements.

**NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF OR CONSENT TO VIOLATE ANY OF THE RESTRICTIONS.**

## **2. Policy Relating to Non-Residential Use of Property**

The Restrictions place limitations on the use of lots or tracts and their Improvements in the Subdivision.

- a. A Subdivision lot or tract and its Improvements may be used for single family residential purposes only.
  - i. Quarters for domestic workers and guests may be used for residential purposes by one or more members of the single family occupying the principal residence on that lot or tract and by domestic workers employed principally for work on the premises.
  - ii. No garage, outbuilding or quarters may be leased or rented.
  - iii. Any use of the principal residential dwelling that involves any lease or other arrangement allowing it to be occupied for a period less than six (6) consecutive months (*e.g.*, corporate lodging) is prohibited.

- iv. The lot or tract and its Improvements may not be used for a duplex apartment, a duplex house, an apartment house, a garage apartment or for any multi-family use.
- v. The lot or tract and its Improvements may not be used as museum, gallery, exhibition venue or the like.
- b. The lot or tract and its Improvements may not be used for any business, professional, religious or commercial activity of any type, unless the business, professional, religious or commercial activity is unobtrusive and merely incidental to the primary use as single family residential.
- i. Prohibited commercial use includes, for example:
- sales, auctions, showings, or solicitations for immediate sale of goods or services, from any residence, even if the sales, auction, showing or solicitation is for the benefit of charity (except as expressly permitted below);
  - catering operations of any kind;
  - estate or garage sales or auctions;
  - movie or television filming or production.
- ii. No business, professional, religious or commercial advertising, sign, symbol, structure, logo, icon, flag or sign may be displayed on the lot or tract, and all related audio or visual displays, by any means, are prohibited, However, the displaying or affixing of religious items on the entry to the Owner's primary residence, the display of which is motivated by the Owner's sincere religious belief, is not prohibited;
- iii. No invited clients, customers, business or professional guests, employees and the like may use the lot or tract and its Improvements for or in connection with business, professional, religious or commercial purposes unless such use is unobtrusive and merely incidental to the primary use;
- iv. No business, professional, religious or commercial related purpose may be otherwise apparent by reason of noise, odor, vehicle and/or pedestrian traffic, and the like.
- c. Fund-raising events of a social nature for friends and neighbors at residences for charitable, civic, or political purposes are not deemed to be nonresidential or commercial use of property. Approval of any

such activity is conditioned upon there being no signs, sales or solicitations on the portion of the lot or tract visible from an adjacent street.

### 3. **Payment of Maintenance Assessments**

The Board adopted the following policies relating to the payment of assessments:

- a. All annual assessments are payable on or before January 1 of the year of the assessment.
- b. Each year's assessment is owed until paid.
- c. The Board reserves the right, in addition to its other rights, to impose an interest charge on the amount of any assessments owed but unpaid. Such interest charge shall commence thirty (30) days following the date the assessment first becomes due. The interest rate charged shall be the lesser of: i) the highest non-usurious interest rate allowed by law; or ii) 6% simple interest per annum. Any payment received on an Owner's delinquent account shall first be applied to delinquent and current assessments, fees and interest in the order determined by the Board.
- d. The Board will not review, consider or approve any Submittal for a lot or tract until all ROPO assessments thereon are paid in full.
- e. The Board reserves the right to suspend services for non-payment.
- f. As an accommodation to Owners, ROPO will respond to inquiries from an Owner's lender or the lender's designee to determine whether the Owner's assessment account is current, provided the fee ROPO charges for providing this information is paid. If such account subsequently becomes delinquent, the Board may in its sole discretion, on or after February 1 of the assessment year: i) initiate communications to advise such lender of the delinquency; and ii) inform such lender that the Board will forebear from foreclosing any of ROPO's lien rights for not less than sixty-one (61) days from the date of the notification in order for the account to be made current. The Board may thereafter exercise any of its rights or remedies with respect to the lot or tract and the Owner of the lot or tract.

**4. Work Hours for Lawn Maintenance and Landscaping Work**

Lawn maintenance work and landscaping work performed by a third party contractor is not permitted at any time on a Sunday or on a Saturday before 9:00 a.m. or after 1:00p.m. Lawn maintenance work and landscaping work is not permitted at any time on any of the following listed holidays: NEW YEAR'S DAY, MEMORIAL DAY, INDEPENDENCE DAY (JULY 4<sup>th</sup>), LABOR DAY, THANKSGIVING DAY, and CHRISTMAS DAY. Lawn maintenance work and landscaping work performed by a third party contractor is not permitted on any weekday that is not a holiday before 8:00 a.m. or after 5 p.m.

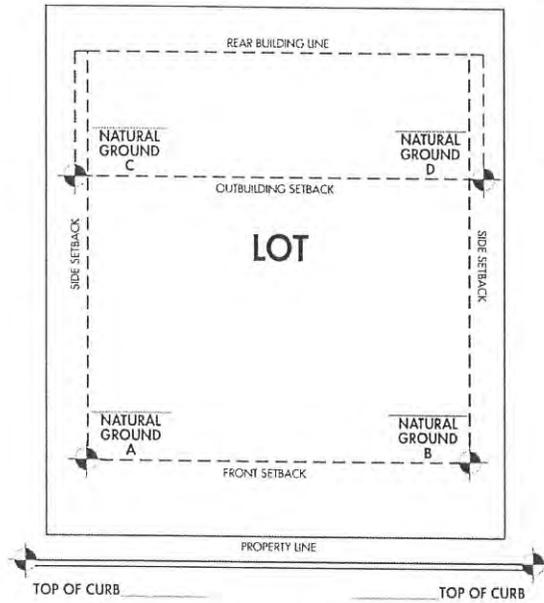
2019-09-04 14:57:14

ATTACHMENT 1  
NATURAL GRADE CERTIFICATE

8510-66-660 11

Print Form

# RIVER OAKS NATURAL GRADE CERTIFICATE



STREET

LOCATION OF PROJECT BENCHMARK

Top of Curb     Nail on Power Pole

Nail in Fence     Other \_\_\_\_\_

YOU MUST USE THE SAME PROJECT BENCHMARK FOR

1. HEIGHT CERTIFICATION FOR MAIN RESIDENCE & GARAGE | OUTBUILDING STRUCTURES
2. SITE PLAN
3. DRAINAGE PLANS

## NATURAL GRADE ELEVATIONS

MAIN RESIDENCE 0.00

Elevations A+B/2 = Natural Grade Elevation

GARAGE | OUTBUILDINGS 0.00

FOR STRUCTURES SUBJECT TO 25' HEIGHT LIMIT

Elevations C+D/2 = Natural Grade Elevation

INSERT SEAL  
OR USE STAMP  
HERE

Owner(s): \_\_\_\_\_

Property Address: \_\_\_\_\_

Lot \_\_\_\_\_ Block \_\_\_\_\_ Section \_\_\_\_\_

Subdivision \_\_\_\_\_

NOTES:

ORIGINAL ENGINEER OR SURVEYOR SIGNATURE

NAME: \_\_\_\_\_

COMPANY: \_\_\_\_\_

JOB #: \_\_\_\_\_

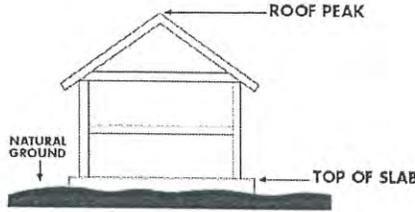
DATE

11 093-39-0459

ATTACHMENT 2  
HEIGHT ELEVATION CERTIFICATE

HP 1293-39-0460

# RIVER OAKS HEIGHT CERTIFICATION Principal & Rear Yard Structures



PROJECT BENCHMARK \_\_\_\_\_  
(Benchmark must be the same as benchmark used for Natural Grade Certificate)

LOCATION OF PROJECT BENCHMARK

- Top of Curb     Nail on Power Pole  
 Nail in Tree     Other \_\_\_\_\_

**STEPS TO DETERMINE THE HEIGHT OF STRUCTURES:**

1. From PROJECT BENCHMARK, determine TOP OF SLAB ELEVATION.
2. When framing is complete, and prior to decking, determine distance from TOP OF SLAB to HIGHEST ROOF PEAK.
3. Subtract NATURAL GRADE ELEVATION from HIGHEST ROOF PEAK ELEVATION (or HIGHEST POINT if closer than 10' to any property line) to determine STRUCTURE HEIGHT above natural grade elevation.

PRINCIPAL STRUCTURE		ACCESSORY STRUCTURE	
TOP OF SLAB ELEVATION	_____	<input type="checkbox"/> Attached <input type="checkbox"/> Detached (check one)	_____
TOP OF SLAB TO HIGHEST ROOF PEAK	+ _____		_____
HIGHEST ROOF PEAK ELEVATION	= <b>0.00</b>		<b>0.00</b>
NATURAL GRADE ELEVATION <small>(From Natural Grade Certificate)</small>	- _____		_____
HEIGHT OF STRUCTURE*	= <b>0.00</b>		<b>0.00</b>
	<small>*MAX Height = _____ above Natural Grade Elevation</small>		<small>*MAX Height = 25' above Natural Grade Elevation ~ within 10' of any property line</small>

Owner(s): \_\_\_\_\_

Property Address: \_\_\_\_\_

Lot \_\_\_\_\_ Block \_\_\_\_\_ Section \_\_\_\_\_

Subdivision \_\_\_\_\_

NOTES:

INSERT SEAL  
OR USE STAMP  
HERE

ORIGINAL ENGINEER OR SURVEYOR SIGNATURE

NAME: \_\_\_\_\_

COMPANY: \_\_\_\_\_

JOB #: \_\_\_\_\_

DATE

**RECORDER'S MEMORANDUM:**  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

2910-66-669 11

FILED

2014 DEC -2 AM 10:03

*Stan Stewart*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas

DEC -2 2014



*Stan Stewart*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

### § 5.3. Accessory Uses and Structures.

5.3.1 Accessory Uses Allowed. Accessory uses and structures are allowed only in connection with lawfully established principal uses.

5.3.2 Allowed Uses and Structures. Allowed accessory uses and structures are limited to those expressly regulated in this article, including this section (Section 5.3) and Table 5-2, as well as those that, in the determination of the community development director, satisfy all of the following criteria:

- A. They are customarily found in conjunction with the subject principal use or principal structure;
- B. They are subordinate and clearly incidental to the principal use of the property; and
- C. They serve a necessary function for or contribute to the comfort, safety or convenience of occupants of the principal use.

5.3.3 Time of Construction and Establishment.

- A. Accessory uses may be established only after the principal use of the property is in place.
- B. Accessory buildings may be established in conjunction with or after the principal building or use. They may not be established before the principal building or use is in place.

5.3.4 Location.

- A. On-Site. Accessory uses and structures must be located on the same lot as the principal use to which they are accessory, unless otherwise expressly allowed.
- B. Rear Yard Location. A detached accessory building or structure, including a garage, may be located in the rear half of the lot between the rear of the principal building and the midpoint of the lot if it is set back from the side lot lines at least 7 feet or a distance equal to 10% of the lot width, whichever is less.
- C. Front Yards. In addition to the building encroachments allowed in accordance with Section 2.10, the following are expressly allowed within the front yard area of residential districts if they are constructed of permanent materials approved by the community development director:
  - 1. Up to 4 freestanding columns not exceeding 5 feet in height or 2 feet by 2 feet in dimension on lots with a width of less than 60 feet;
  - 2. Up to 4 freestanding columns not exceeding 5 feet in height or 3 feet by 3 feet in dimension on lots with a width of 60 feet or more;
  - 3. Freestanding columns not exceeding 8 feet in height on SF-1-zoned lots of more than one acre in area;
  - 4. Lamp posts that are not freestanding columns, no more than 6 inches in

diameter and no more than 8 feet in height;

5. Up to 4 statuaries, bird baths, pedestals or yard art objects per lot, not to exceed 5 feet in height or 20 cubic feet in volume per object and located at least 5 feet from all property lines;
6. Lawn furniture, including benches, tables, and stools no more than 30 inches in height;
7. Retaining walls no more than 2 feet above the average natural grade of the front yard;
8. One flagpole per lot, not exceeding 25 feet in height, measured from natural grade, set back a minimum distance equal to the height of the flagpole, measured at natural grade, from all adjoining lot lines. The flag may not exceed 24 square feet in area; and
9. Earth berms for landscaping and screening purposes, constructed of permanent materials approved by the community development director, provided that the height of the berm may not exceed 1 foot of height for every 2 feet of horizontal distance. The crown of the berm may not exceed 42 inches in height. Berms may not be located or erected so as to obstruct or interfere with vision of a public street by a motorist entering or existing a driveway.

#### 5.3.5 Side Setbacks.

- A. Unless otherwise expressly stated, detached accessory buildings and structures must be set back at least 3 feet from any interior side lot line, as measured from the closest point of the structure[.]
- B. (Reserved)
- C. Attached accessory buildings are subject to the minimum side setback regulations that apply to the principal building.
- D. When located within 40 feet of the rear property line, windows or other openings greater than 12.5 feet above the top of the foundation or a vertical wall surface exceeding 12.5 feet in height may not be adjacent to any interior side lot line unless such windows, openings, or vertical wall surfaces are set back at least 20 feet from such interior side lot line.

5.3.6 Rear Setbacks. Non-garage accessory buildings and accessory structures must be setback at least 3 feet from the rear lot line.

5.3.7 Lot Coverage. The principal building, all accessory buildings and all other structures in excess of 30 inches above ground level may not cover more than 50% of that portion of the lot lying to the rear of the midpoint line of the lot.

5.3.8 Separation. Detached accessory buildings must be separated by a minimum distance of 6 feet from the principal building. This required separation area may not contain stairs.

### 5.3.9 Tennis Courts (Private).

- A. Private tennis courts are allowed only if approved in accordance with the specific use permit procedures of Section 9.4.
- B. A private tennis court may not cover more than 20% of the overall lot area.
- C. Private tennis court surfaces and all appurtenances other than fences or walls must be set back at least 3 feet from the rear property line and any easements.
- D. No portion of a tennis court surface, fence, wall or other related appurtenance may be located within the front yard.

### 5.3.10 Swimming Pools (Private).

- A. General.Swimming pools constructed on residential lots must be:
  - 1. Below-ground pools;
  - 2. Located behind the front building line of the associated principal building and screened from view of all streets by a fence, wall or building; and
  - 3. Constructed of concrete or other approved material that is inert, nontoxic, and impervious to vermin and decay.
- B. Side and Rear Setbacks.Swimming pools must set back at least 5 feet from all side and rear lot lines, measured from the inside walls of the swimming pool.
- C. Gates and Enclosures.
  - 1. Any gate allowing access to the swimming pool area from the outside through any accessory or detached building or structure other than the principal building may not exceed 48 inches in width and must also be equipped with self-latching mechanisms.
  - 2. See also Section 8.9 for regulations governing swimming pool enclosures.
- D. Lighting.Lights in the swimming pool area, except those within the swimming pool, may not be mounted at a height that exceeds the height of the fence surrounding the pool and must include full-cutoff type light fixtures to prevent light trespass and spillover onto adjacent properties.
- E. Drainage.
  - 1. Swimming pools must be equipped with proper filtration and water treatment equipment to ensure that the water will be sanitary at all times. Equipment must be connected by an underground conduit to the sanitary sewer adjacent to such property and a proper indirect waste connection must be made, as required by the plumbing ordinance.
  - 2. Deck drains or surface water may not be discharged into the sanitary sewer but must be diverted away from adjacent property into a storm drain either in the

street or an alley.

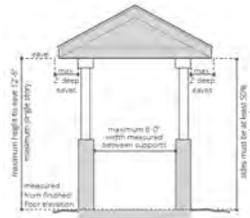
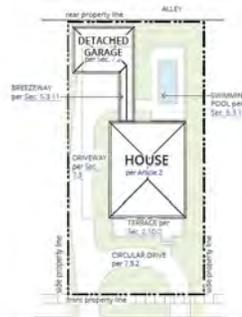
#### 5.3.11 Breezeways and Covered Walkways.

- A. A single-story breezeway or covered walkway may connect a principal building with a detached accessory structure, subject to compliance with the regulations of this subsection.
- B. The detached accessory building or structure to which the breezeway is attached must comply with all applicable accessory structure regulations (see Section 5.3.2).
- C. The breezeway or covered walkway must be at least 50% unenclosed and comply with the side setback regulations that apply to the principal building.
- D. The breezeway's or covered walkway's vertical walls may not exceed 12.5 feet in height, and the breezeway may not exceed 6 feet in width (measured between the structure's vertical supports).
- E. The eaves or roof overhang on a breezeway or covered walkway may not exceed 24 inches.

#### 5.3.12 Air Conditioner Condensing Units and other Mechanical Equipment.

Air conditioner condensing units, swimming pool pumps, power generators and similar mechanical equipment are subject to the following regulations:

- 1. Equipment adjacent to streets or lots occupied by residential uses must be screened by a solid or wood fence, a wall or landscaping. Equipment may not exceed the height of the screening.
- 2. In SFA zoning districts, equipment may be located in the rear yard along the common side property line of abutting SFA-zoned lots without screening if a party wall/mutual access agreement among abutting property owners is recorded.
- 3. No more than 5 pieces of mechanical equipment may be located in a single side yard. A minimum clearance of 2 feet must be maintained between equipment and the side property line,
- 4. At least one required side setback must be kept clear of all equipment.
- 5. Equipment must be set back at least 2 feet from rear property lines.
- 6. Placement of new equipment associated with the renovation, addition, and/or construction of a new residential structure must comply with the regulations of this section. Replacement of nonconforming mechanical equipment will be allowed to continue until the building site is redeveloped.
- 7. Roof-mounted air conditioner condensing units and similar mechanical equipment are prohibited on residential dwelling units.
- 8. Equipment may not exceed a height of 54 inches above the ground.

**Figure 5-1: Breezeway/Covered Walkway****Figure 5-2: Example Plan of Accessory Structures on Typical Lot**

### 5.3.13 Accessory Dwelling Units.

- A. Accessory dwelling units are allowed on lots occupied by single-family dwelling units, subject to compliance with the regulations of this subsection.
- B. Accessory dwelling units may be occupied only by immediate family members or by domestic workers who are full-time household employees of the owner/occupant of the subject property. In case of a live-in domestic worker family, all adult family members must be full-time household employees of the owner/occupant of the subject property.
- C. Accessory dwelling units may not be used for rental purposes or barter exchange.
- D. Kitchen, cooking, food preparation, bathroom and other plumbing facilities are allowed within an accessory dwelling unit.
- E. The accessory dwelling unit may not have separate utility meters.
- F. The community development director is authorized to issue a building permit to construct, remodel, or make addition to a residential accessory dwelling unit only if a deed restriction instrument limiting the use of the accessory dwelling unit to immediate family members or domestic workers who are full-time household employees of the owner/occupant of the subject property has been filed with the community development director in a form approved by the city attorney and sufficiently executed for recording in the Dallas County Deed Records.

### 5.3.14 Home Occupations.

- A. General. A home occupation is allowed as an accessory use to an allowed household living use, subject to the regulations of this subsection 5.3.14.
- B. Operator. The operator of a home occupation must be a full-time resident and member of the household occupying the dwelling unit. No other outside employees or assistants may be involved in the conduct of a home occupation.
- C. Sales. The home occupation may not involve the sale of goods or services delivered to the buyer on the subject property.
- D. Operation and Appearance.
  - 1. There may be no visible evidence of the conduct of a home occupation when viewed from the street or right-of-way or from an adjacent lot.
  - 2. There may be no change in the exterior appearance of the dwelling unit that houses a home occupation or site upon which it is conducted that will make the dwelling appear less residential in nature or function. Signs and other exterior advertisements are expressly prohibited.
  - 3. No outdoor storage of equipment or materials used in connection with the home occupation is allowed.
  - 4. No equipment or process may be used in a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the boundaries of the subject lot.
  - 5. Home occupations may not cause or create any nuisance, or cause or create any substantial or undue adverse impact on any adjacent property of the character of the area, or threaten the public health, safety or welfare.

(Ordinance 18/038 adopted 1/6/18; Ordinance 20-018 adopted 10/6/20)

To: **The Zoning and Planning Commission**  
 From: **Chris Guess, Planning and Zoning Administrator**  
 Date: **September 11, 2025**  
 Re: **Sculptures in front yards**

**Background Information:**

The City of West University Place has recently identified multiple sculptures in front yards. Our ordinance is silent about front yard sculptures.

**Applicable Regulations:**

- **Appendix A; Article 7A. – Residential District – Specific Regulations; Table 7A-7. Projection Schedule**

Table 7A-7. Projections Schedule		<i>General Rule:</i> This schedule describes certain structures which are allowed to "project" into yards (or setbacks). It also provides special rules for calculating open and pervious areas affected by such structures. See the "Yards (or 'setbacks')" and the "Open & Pervious Areas" tables.				
Type of Structure		Maximum Allowed Projection (In Inches), Measured From The Inside Edge Of The Yard				Special Rules For Calculating Open & Pervious Areas
		Front Yard	Rear Yard	Side Yard	SF Bufferyard	
Buildings and Attached Structures	Items above ground level: Eaves, cornices, roof extensions, "greenhouse" and bay windows (no floor space), windowsills, cantilevered building space, window boxes, belt courses, window air conditioners, and similar parts of buildings.	15"	15" See Note 12	24" except that no item below the eave may be closer than 36" to the SPL. See Note 12	15" See Note 12	The area does not count as open area.



	Items at and above ground level: Chimneys/fireplaces (with cross-sectional areas of 8 square feet or less) and similar parts of buildings.	15"	15" See Note 12	12" except that no item below the eave may be closer than 36" to the SPL. See Note 12	15" See Note 12	This area does not count as either open or pervious area.
	Porches/platforms/decks higher than 14 inches and similar structures attached to a building.	0, but see Note 1	0, see Note 12	0, see Note 12	0, see Note 12	The area does not count as either open or pervious area. The area beneath a deck may count as pervious area if rain is allowed to pass through the deck.
	Steps not higher than the first-floor level.	120"	0, see Note 12	0, see Note 12	0, see Note 12	The area does not count as either open or pervious area.
	Items near ground level: porches, platforms, and decks higher than six inches but not higher than 14 inches, and similar structures attached to buildings	120"	No limit	0, See Note 12	No limit	The area counts as an open area. The area beneath a deck may count as pervious area if rain is allowed to pass through the

09/11/2025 Presentation

						deck.
	Other parts of buildings and structures attached to buildings	0, but see Note 2.	0, but see Notes 3 and 4. See Note 12	0, but see Note 5. See Note 12	0, but see Note 3. See Note 12	The area does not count as either open or pervious area.
Ground-level and underground items	Sidewalks, patios, porches/platforms/decks, retaining walls, driveways, parking areas, and similar structures not higher than six inches; all underground structures. See also Table 7A-3 regarding pervious pavement.	There is no limit, except that decks may not project more than 120"	No limit	No limit	No limit	The area counts as an open area but not a pervious one unless the material is completely pervious to water. The area beneath a deck may count as a pervious area if rain is allowed to pass through the deck. See Table 7A-3.

Mechanical Equipment	Air conditioning equipment, pool equipment, and similar freestanding mechanical equipment	0	See Note 6.	See Note 6.	0	The area does not count as either open or pervious area.
	Utility meters and related apparatus	0	No limit	5"	12"	The area may count as both an open area and pervious area.
Certain Accessory Structures	Basketball goals	120"	No limit	No limit generally, but see Note 6.	No limit	The area may count as both open area and pervious area.
	Book Sharing Exchanges (1 per building site)	No limit generally, but see Note 13.	0	0	0	The area does not count as either open or pervious area.
	Playground equipment	0	No limit	0	No limit	The area may count as both open area and pervious area.
	Flagpoles	120"	0	0	0	The area may count as both open area and pervious area.
	Fences	0, but see Notes 8.1	No limit	No limit, but see Notes 8.1, 8.2 and	No limit	The area does not count as

		and 8.2		11.		either open or pervious area.
	Swimming pools	0	0, but see Note 9	0, but see Note 9.	No limit	The area counts as an open area. Only the water area counts as pervious area.
	Sport Courts (with associated screens)	0	0, but see Note 14	0	No limit	The area counts as open area but not pervious area (unless the area is made of grass, sand, or an equivalent pervious material).
	Practice Enclosures	0	0, but see Note 14	0	No limit	The area counts as open area but not pervious area (unless the area is made of grass, sand, or an equivalent pervious material).
	Lights and lampposts	No limit generally but see	No limit generally but see	No limit generally but see Note	No limit generally but see	The area may count as both

		Note 10.	Note 10.	10.	Note 10.	
						open area and pervious area.
	Gate closers	24"	No limit	No limit	No limit	The area may count as both open area and pervious area.
	Signs (see Code of Ordinances)	No limit	0	0	0	The area does not count as either open or pervious area.

**SWOT Analysis:**

**Strength:**

- A strict interpretation of the absence of “sculptures” deems them prohibited.

**Weakness:**

- Ambiguity can be left to interpretation and can result in public hearing on a case-by-case basis.

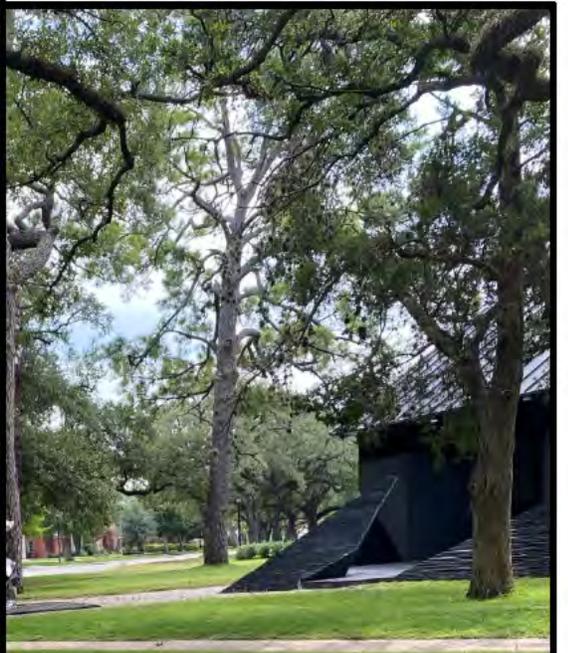
**Opportunities:**

- To add an additional type of structure to “Certain Accessory Structures” and regulate location and scale (or permit or prohibit).

**Threats:**

- A proliferation of art, which is by its own nature, subjective.
- A desire to regulate aesthetics (beyond the regulatory authority of the City and more in line with an HOA).

**Presentation:**

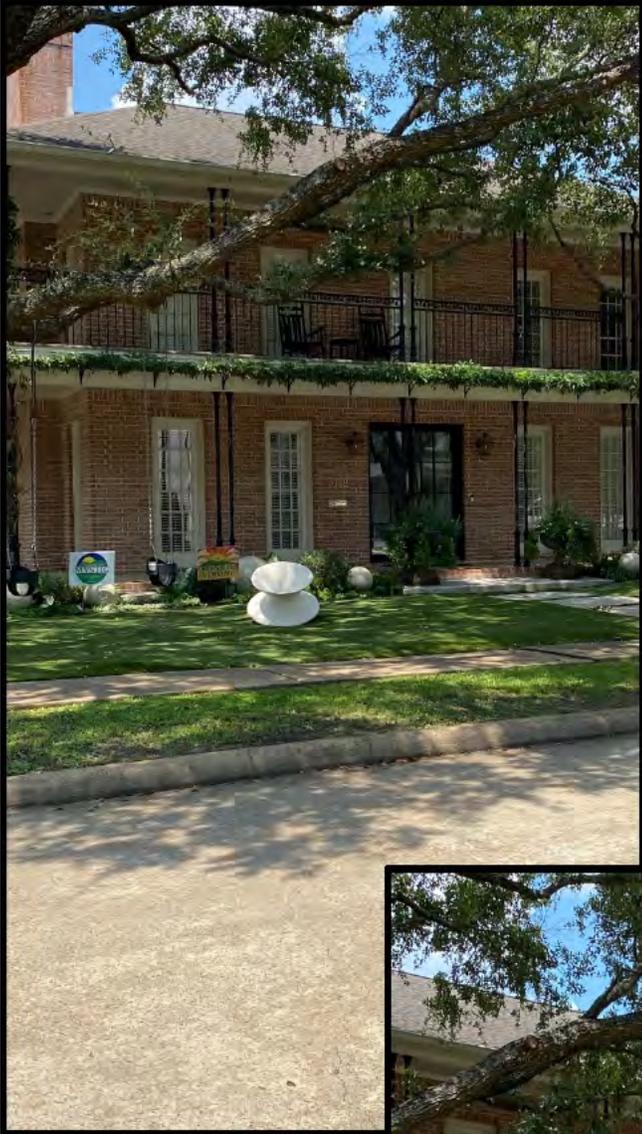


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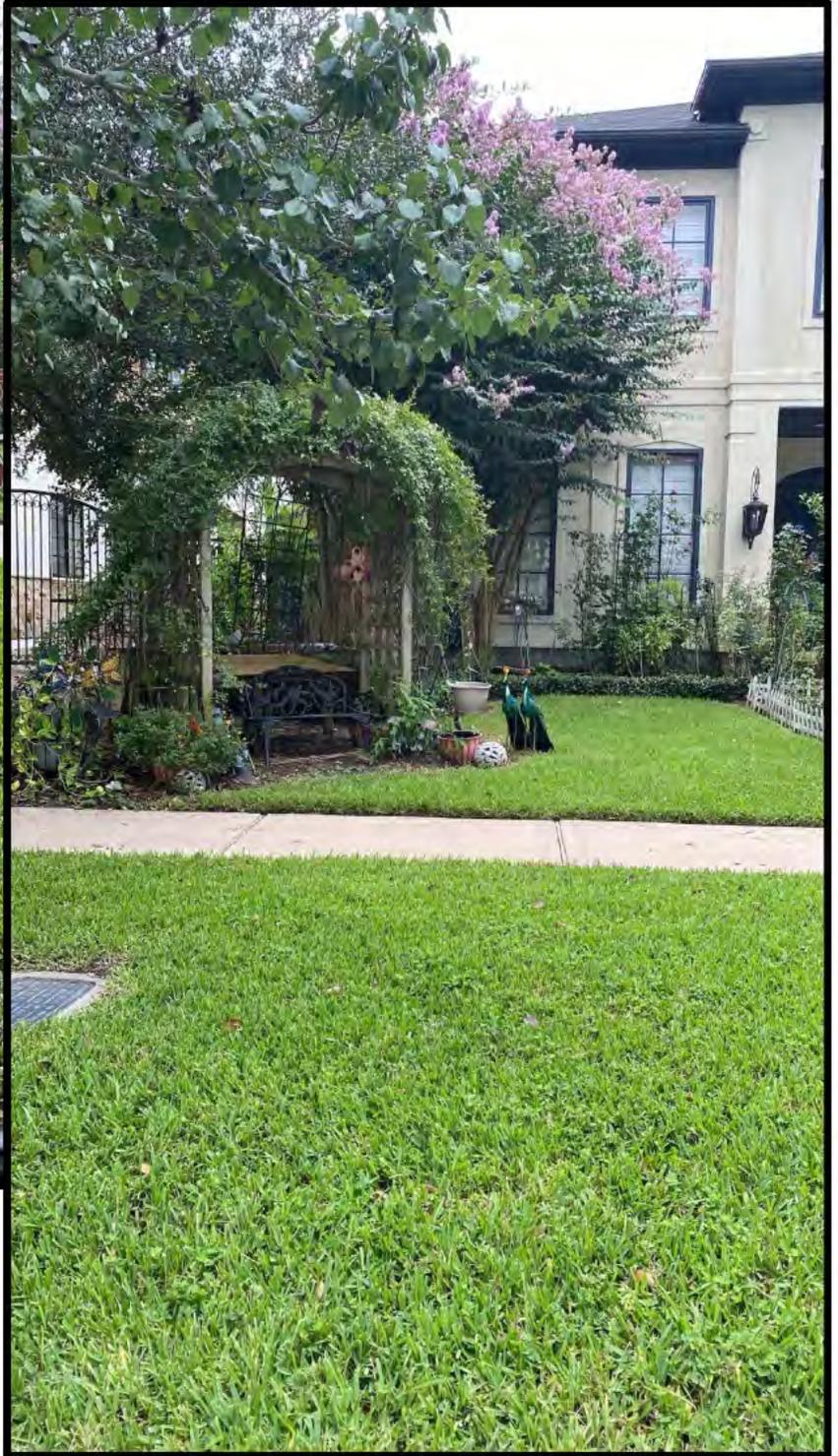
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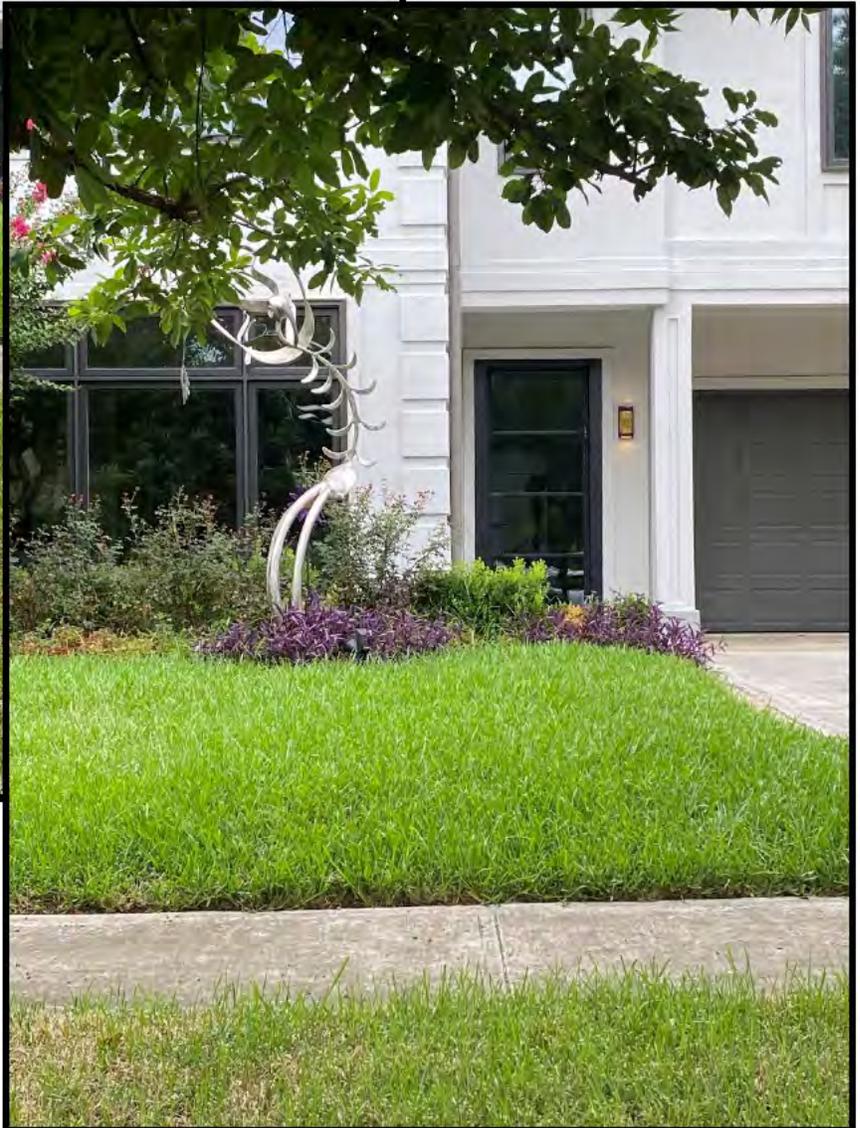
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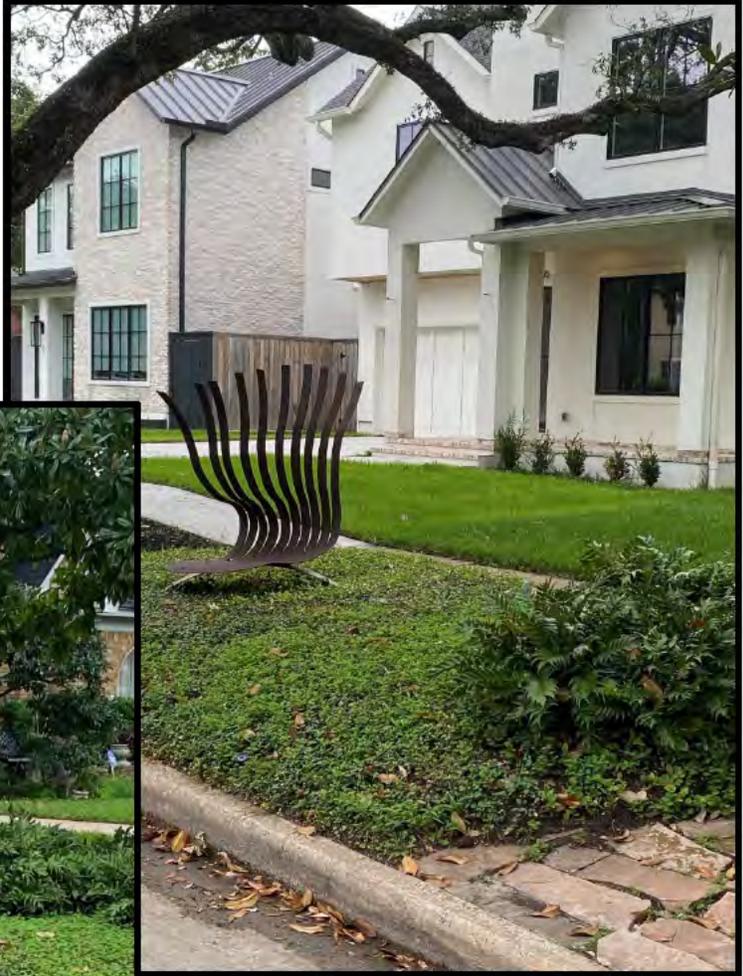
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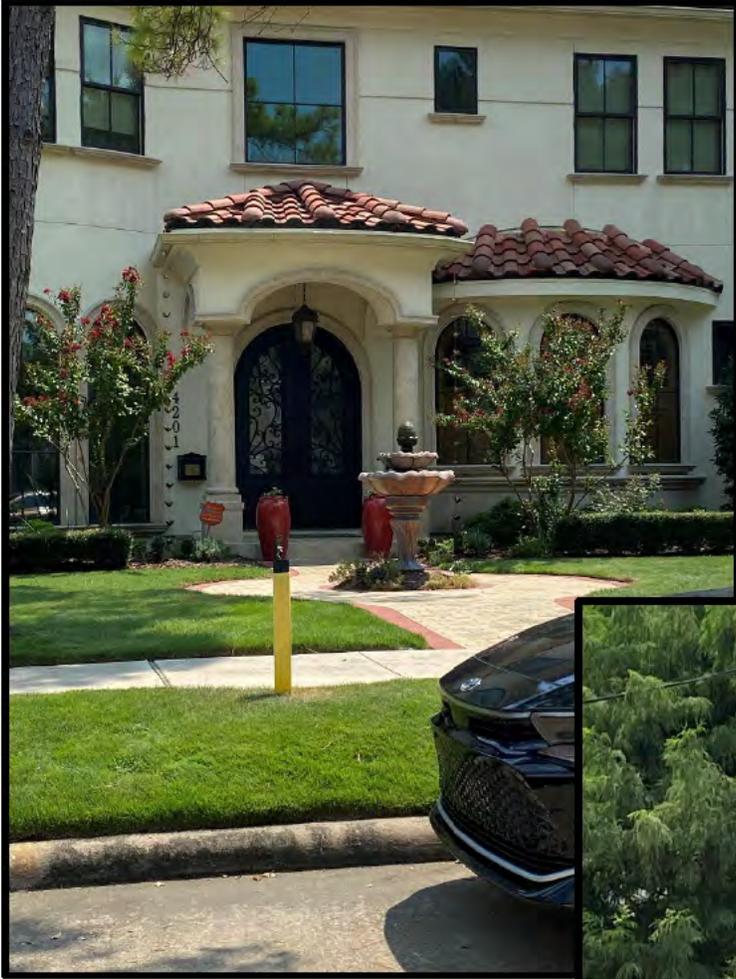
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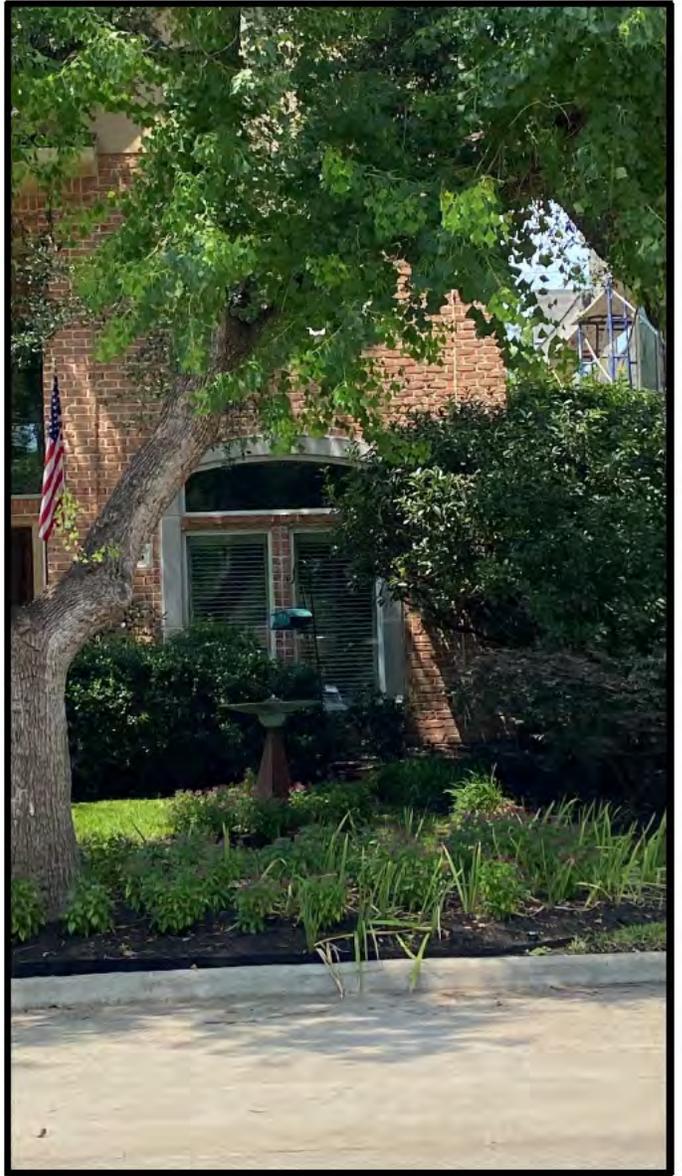
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To: **The Zoning and Planning Commission**  
From: **Chris Guess, Planning and Zoning Administrator**  
Date: **February 12, 2026**  
Re: **Lighting and seasonal decorations**

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**Background Information:**

At its meeting on December 8, 2025, the City Council of the City of West University Place directed the Zoning and Planning Commission (ZPC) to review the Outdoor Lighting Ordinance and to prepare a report evaluating potential amendments or additional regulatory measures.

Subsequently, at the City Council meeting held on January 8, 2026, several residents attended to express questions and concerns regarding the City Council's list of ordinances referred to the ZPC for review, with particular emphasis on regulations related to yard art and sculptures. As part of this discussion, residents also raised concerns regarding seasonal decorations, noting their similarities to yard art and sculptures, notwithstanding that seasonal decorations are generally intended to be temporary in nature.

In addition, staff noted that enforcement of existing regulations related to outdoor lighting and seasonal decorations has proven challenging. These challenges stem in part from ordinance language that appears to be primarily intended to address seasonal lighting, rather than inflatable or statuesque decorations, as well as from the use of ambiguous terms such as "glare."

Pursuant to the City Council's direction and in response to the concerns raised, the ZPC will review the applicable ordinances and return a report identifying potential land use-based regulatory tools that may be appropriate for further consideration.

**Applicable Regulations:**

- **Sec. 54-216. Definitions.**

“*Glare* means the sensation produced by luminances within the visual field, that are sufficiently greater than the luminance to which the eyes are adapted to caused annoyance, discomfort, or loss in visual performance or visibility.

- **Sec. 54-217. Violation declared.**

(a) It shall be unlawful for any person to cause or permit to be energized, on property owned or under his or her possession or control, any outdoor lighting which projects a glare directly upon any lot, tract, parcel of land or other private property other than that property upon which such outdoor lighting is situated.

### **Staff Report:**

Staff previously submitted a proposal to the Zoning and Planning Commission at its May 8, 2025 meeting and, at that time, returned a recommendation of **no action**. However, in response to concerns expressed by residents at the ZPC meeting held on January 8, 2026, staff subsequently conducted additional research focused on strengthening the City's seasonal decorations ordinance.

Residents have identified areas of concern related to the current regulatory framework, and staff acknowledges and shares these concerns.

### **Staff Recommendation:**

Staff recommends that the Zoning and Planning Commission submit a report to City Council recommending adoption of the attached ordinance. The purpose of the proposed ordinance is to classify seasonal decorations as signage and to limit their display to specified, permitted time periods. Any display maintained outside of the authorized dates would constitute a violation, thereby providing clearer standards and allowing for more direct and consistent enforcement.

### **Attachments**

- Staff report (05/08/2025 – ZPC) – Outdoor lighting
- West University Place – Code of Ordinances - Chapter 54. Article IX
- West University Place – Code of Ordinances - Chapter 6. Advertising and signs (PROPOSED)
- West University Place – Code of Ordinances - Chapter 6. Holiday decorations (PROPSOED)

To: **The Zoning and Planning Commission**  
From: **Chris Guess, Planning and Zoning Administrator**  
Date: **May 08, 2025**  
Re: **Discussion Item - Article IX. Outdoor Lighting Regulations**

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### **Background Information:**

The City of West University Place has revised the ordinance regulating outdoor lighting in December of 2020. Concerns about the application of the ordinance and its subjectiveness have persisted. The ordinance was discussed by the ZPC beginning in January and continuing through November of 2020.

The discussions ranged from very objective definitions of what constitutes a nuisance with quantifiable metrics of lumens to a more subjective regulatory tool that declares a violation based on the projection of “glare” directly upon any other residential property other than the one which the outdoor lighting is situated. The definition of “glare” and the usage of the phrase “directly” have made enforcement subjective.

January 9, 2020, ZPC agenda proposed an ordinance that had features and definitions that could be replicated based on quantifiable metrics. It defined lumens and luminaire, utilized metrics like 2.5 maximum footcandle of hardscape area, and required light-calming measures like motion sensors and shielding.

By February 13, 2020, the proposed ordinance had been reduced in intensity, scale, and regulatory ability. By May 14, 2020 the summary submitted on the topic of Outdoor Lighting Nuisance Ordinance was as follows:

“The proposed Outdoor Lighting Ordinance was amended based on the comments from the April 9, 2020, Planning and Zoning Commission Meeting. This Ordinance, if adopted, will allow enforcement of the nuisance provisions for glare, and light trespass, with the City, **without the utilization of a light meter**”

### **Applicable Regulations:**

- **Sec. 54-216. Definitions.**

“**Glare** means the sensation produced by luminances within the visual field, that are sufficiently greater than the luminance to which the eyes are adapted to caused annoyance, discomfort, or loss in visual performance or visibility.

- **Sec. 54-217. Violation declared.**

(a) It shall be unlawful for any person to cause or permit to be energized, on property owned or under his or her possession or control, any outdoor lighting which projects a glare directly upon any lot, tract, parcel of land or other private property other than that property upon which such outdoor lighting is situated.

**Staff Report:**

Application and enforcement of the current ordinance is challenging.

Staff encounters obvious nuisances, such as highly elevated floodlights angled towards a shared property line, but enforcement becomes more difficult when the example is switched to a security light angled down against the side of a white house. White reflects light and although the security light is angle down and potentially shielded, the reflection or glow off the wall illuminates a neighbor's backyard. Is the glare "directly" projecting to their neighbors' lot or is the illumination caused by a reflection of light from a bulb that is directed down, but a measurable amount of light still spills over a neighboring property line?

Also, what should be the expectations of our community members? West University Place is a dense urban environment. Is it reasonable to expect "some" light-spill or should we move towards a dark-sky?

Our current enforcement of the Outdoor Lighting Regulation is contingent upon our neighbors reaching a mutual, although sometimes begrudging, agreement on lighting and good-neighbor behavior.

**Benchmark city:**

Staff have reviewed the ordinances of similar and nearby cities as they pertain to regulating light spill on to residential properties. The benchmark cities in this example use "footcandles" as their replicable and quantitative measure for light spill:

- The City of Bellaire, TX
  - 0.2 footcandles (spot measurement)

**Staff Recommendation:**

Staff recommends the ZPC recommend to City Council a replicable and quantitative measure for light spill. Additionally, staff recommends the implementation of a light meter to definitively determine whether an amount of light is prohibited (or permitted). Lastly, staff recommends the ZPC consider the dense and urban nature of West University Place in consideration of a standard of permissible outdoor lighting.

**Attachments:**

1. Article IX. Outdoor Lighting Regulations (Current Ordinance)
2. (Proposed) Article IX. Outdoor Lighting Regulations

Discussion Item

## **ARTICLE IX. OUTDOOR LIGHTING REGULATIONS**

### **Sec. 54-215. Purpose.**

The purpose of this article is to provide regulations for outdoor lighting that will minimize adverse offsite impacts of outdoor lighting such as light glare.

(Ord. No. 2097, § 1(App. A), 7-27-2020)

### **Sec. 54-216. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the following meanings:

*Glare* means the sensation produced by luminances within the visual field, that are sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance or visibility.

*Outdoor lighting* means lighting equipment installed within the property line and outside the building envelope, whether attached to poles, building structures, the earth, or any other location, and any associated lighting control equipment.

(Ord. No. 2097, § 1(App. A), 7-27-2020)

### **Sec. 54-217. Violation declared.**

- (a) It shall be unlawful for any person to cause or permit to be energized, on property owned or under his or her possession or control, any outdoor lighting which projects a glare directly upon any lot, tract, parcel of land, or other private property other than that property upon which such outdoor lighting is situated.
- (b) The use of laser source light, searchlights, flashing and/or rotating lights or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited, unless as authorized by this article.

(Ord. No. 2097, § 1(App. A), 7-27-2020)

### **Sec. 54-218. Enforcement.**

Upon receipt of a complaint from any citizen, or upon the initiative of any employee of the City of West University Place, Texas, a compliance inspection shall be conducted by the city building official, code enforcement officers, peace officer, or other representatives designated by the city manager.

(Ord. No. 2097, § 1(App. A), 7-27-2020)

### **Sec. 54-219. Exceptions.**

- (a) The provisions of this article shall not apply to:

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- (1) Lighting operated for emergency lighting used by police, fire emergency, utility work personnel, or medical personnel, or at their direction.
  - (2) Any city-owned and operated lighting.
  - (3) Seasonal decorations using typical, unshielded, low-wattage, incandescent lamps or light-emitting diodes (LED) or holiday light projectors shall be permitted from November 10 through January 30.
  - (4) Lighting that illuminates the United States and State of Texas flags. All other outdoor lighted flags, such as, but not limited to, decorative and commercial flags shall conform to these provisions.
- (b) Residential security lighting, such as motion activated flood lights are permissible under the following condition: Lighting must be installed or shielded in a way that does not cause light glare onto other properties, in accordance with section 54-217.

(Ord. No. 2097, § 1(App. A), 7-27-2020)

### **Sec. 54-220. Penalty.**

Any person violating any provision of this article may be charged with a misdemeanor and if convicted, may be subject to a fine of not more than \$500.00. Each occurrence of any such violation of this article shall constitute a separate offense. Each day on which any such violation of this article occurs shall constitute a separate offense.

(Ord. No. 2097, § 1(App. A), 7-27-2020)

## Chapter 6 ADVERTISING AND SIGNS

### ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

### ARTICLE II. SIGNS

#### Sec. 6-19. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned* means a sign that had a permit but the permit has been expired for 30 or more consecutive days and/or does not identify or advertise a bona fide business, lessor, service, owner, product, event or activity, or pertains to a time, event or purpose which no longer applies.

*Balloon and other floating device* means a visible airtight or air flow-through apparatus commonly made of latex, Mylar or other similar material that extends by a cord, rope, string, wire or other similar material.

*Banner* means a non-fixed sign made of cloth or similar pliable material that is not a flag.

*Billboard* means a sign erected in the outdoor environment for the purpose of the display of commercial or noncommercial messages not pertinent to the use of products sold on, or the sale or lease of, the property on which it is displayed.

*Canopy* means an open-air structure (either free-standing or attached to a building) that affords shade or shelter for persons standing or walking beneath it.

*Display area* (or "DA") means the whole surface area of a sign. All faces of a sign are counted, except that only one side of an ordinary cloth flag is counted. The area of uprights, bracings and other structures supporting a sign are only counted to the extent:

- (1) They are used or designed to display a message;
- (2) They form a sign border; or
- (3) They are otherwise designed or used to attract the attention of the public to the supported sign.

If there is a border, all the area within the border (including any cutout area) is counted, plus any facings extending beyond the border. If sign symbols are painted onto (or affixed) directly to the surface of a wall, awning, window or other structure not otherwise erected or altered for sign purposes, and if there is no sign border, only the area of the symbols themselves is counted. Example: Letters and numbers are painted onto a load-bearing wall not otherwise altered for sign purposes. There is no sign border. In this example, only the area of the brush strokes forming the letters and numbers is counted as display area.

*Facade area* is measured using a simple elevation view of the building. Exception: For a building with separate retail units, the total facade area of each unit is the facade area bordering the unit's space.

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*Fixed* means a sign designed and affixed to be a permanent, nonmoveable sign. Exception: Neither a flagpole nor a flag is considered a "fixed" sign.

*Flag* means a non-fixed sign:

- (1) Made of cloth or similar pliable material;
- (2) Designed to be (and actually) attached along one side only and not otherwise braced or supported;
- (3) Having a longest dimension not greater than twice its shortest dimension; and
- (4) Otherwise allowed to move freely.

*Ground sign* means a sign affixed to the ground directly and independently of other structures.

*High clearance banner* means a banner meeting all of the following criteria:

- (1) It is displayed above a street area, but no part of it is lower than 15 feet; and
- (2) It is not attached to any pavement or facility owned by the city.

*Holiday decorations* mean temporary decorative items, displays, or ornaments that are:

- (i) Displayed in connection with a recognized holiday, season, or cultural observance, including but not limited to religious, national, or civic holidays
- (ii) Noncommercial in nature, and not intended to advertise a business, product, service, or event for profit
- (iii) Temporary, and displayed only for a limited period before, during, and after the applicable holiday or season
- (iv) Installed on private property, including buildings, yards, windows, or landscaping
- (v) Constructed of non-permanent materials, including but not limited to lights, garlands, wreaths, banners, inflatables, figures, or similar decorative elements.

Holiday decorations do not include:

- (i) Signs or displays that contain commercial messages
- (ii) Decorations that function as permanent structures
- (iii) Decorations that create a traffic hazard, public safety risk, or nuisance
- (iv) Decorations illuminated or displayed in violation of applicable lighting, electrical, noise, or safety regulations.

*Moving sign* means any sign, sign appendages or apparatus designed or made to move freely in the wind or designed or made to move by an electrical or mechanical device.

*Non-fixed* means that a sign is:

- (1) Made of nonrigid material (e.g., cloth, cardboard, paper, pliable plastic), in whole or in part;
- (2) Designed and attached so that it can be immediately picked-up and moved by a single person of ordinary strength, without using any tools.

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*Off-location or off-premises sign* means a sign that advertises, promotes or pertains to a business, person, organization, activity, event, place, service, product, etc., at a location other than where the business, person, organization, activity, event, place, service, product, etc., is located.

*Portable sign* means any sign designed or intended to be relocated from time to time, whether or not it is permanently attached to a building or structure or is located on the ground.

*Relevant facade area* means the area of a building's facade where the principal entrance is located.

*Residential impact site* means any given site, neither used for SFR purposes nor located on a major thoroughfare, but having a front street line along a street where 51 percent or more of the sites in the "impact area" are used for SFR purposes. The "impact area" includes all sites with front street lines along the same street (counting on both sides of the street) and located (in whole or in part) within 200 feet of a side property line of the given site.

*Retail unit* means a whole building or part of building which:

- (1) Is separately owned or leased;
- (2) Has a principal entrance visible from a street area with direct access from the street area (or through a common use area open to the public); and
- (3) Is primarily used to sell goods or services, in person, to members of the general public.

In a typical shopping center, for example, each ordinary store would probably be a separate "retail unit," but an ordinary business office would not be a separate "retail unit".

*Rigid materials* includes:

- (1) Materials which are always rigid; and
- (2) Other materials which appear to be taut or rigid when on display, even though they may be designed to bend, stretch or break under wind loads or other unusual stresses.

*Roof sign* means a sign mounted on and supported by the roof portion of a building or above the uppermost edge of a parapet wall of a building or structure.

*Searchlight* (or skylight) means any apparatus capable of projecting a beam or beams of light.

*Semi-fixed* means that a sign is:

- (1) Made entirely of rigid materials;
- (2) Designed and affixed so that it does not move while on display;
- (3) Capable of being immediately picked-up and moved by a single person of ordinary strength, without using any tools.

*SFR* means single-family residential.

*Sign* has the same meaning as in V.T.C.A., Transportation Code ch. 393 "In this chapter, 'sign' means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing that is designed, intended, or used to advertise or inform." The term includes any structure, vehicle or other object which has the principle purpose of supporting or displaying a sign. Each physically separate display is considered a separate sign unless:

- (1) It is solidly joined connected with another display (or a structure) to form a compact and contiguous sign unbroken by internal borders, frames or other divisions; or
- (2) It is enclosed within a frame or border designed to form a unified sign.

Signs on the outside surface of any wall, window or other structure are considered to be "outdoor."

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*Symbols* includes letters, numerals, pictures and other symbols used to communicate a message.

*Temporary.* A sign is temporary if, on the same premises, neither it nor any other non-fixed or semi-fixed sign is displayed more than:

- (1) Two times during any 365-day period;
- (2) One time during any 30-day period; or
- (3) 72 hours each time.

For this purpose, "premises" includes the entire building site, unless there are two or more retail units on the site, in which case each unit is considered separate "premises".

*Wind device* means any pennant, streamer, spinner, balloon, cloud-buster balloon, inflatable object or similar device made of cloth, canvas, plastic or any flexible material designed to float or designed to move, or move freely in the wind, with or without a frame or other supporting structure.

(Code 2003, § 3.201; Ord. No. 1990, § 1(app. A), 5-19-2014)

## **Sec. 6-20. General prohibitions, permits.**

(a) *Compliance required.* Within the city limits, it shall be unlawful for any person:

- (1) To erect, place or alter any sign which does not comply with this chapter or which exceeds any limit prescribed by this chapter; or
- (2) To use, own or control any place where a sign is located, if the sign does not comply with this chapter, or if it exceeds any limit prescribed by this chapter.
- (3) The construction, placement, existence, use of or advertisement on signs of the following nature is prohibited:
  - a. Abandoned signs.
  - b. Balloons and other floating devices.
  - c. Billboards.
  - d. Moving signs.
  - e. Off-location or off-premises signs.
  - f. Portable signs.
  - g. Roof signs.
  - h. Searchlight or skylight signs.
  - i. Wind devices.
  - j. Prohibited signs, such as, but not limited to:
    1. Any sign not referenced in or governed by this chapter;
    2. Any changeable electronic variable message sign (CEVMS) or light emitting diode (LED) billboards located, relocated, or upgraded along a regulated highway within the corporate limits or extraterritorial jurisdiction of the city;
    3. Any sign erected or installed in or over a public right-of-way or access easement, unless permitted within this chapter;

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4. Any sign that does not comply with this or other applicable municipal ordinances, or those which do not comply with federal or state laws;
  5. Any sign supported by a bench, tree, rock, bridge, public utility pole;
  6. Any sign supported by a fence not otherwise in compliance with this ordinance; or
  7. Any sign not allowed or defined by this chapter.
- (b) *Permits for fixed signs.* Within the city limits, except as authorized by a valid and unexpired permit issued pursuant to this section, it shall be unlawful for any person:
- (1) To erect, place or structurally alter a fixed sign; or
  - (2) To use, own or control any place where and when a fixed sign is erected, placed or structurally altered.
- (Code 2003, § 3.202; Ord. No. 1990, § 1(app. A), 5-19-2014)

### **Sec. 6-21. Procedures, defenses, etc.**

- (a) *Permit and license procedures.* The procedures prescribed by this Code for administering building permits (including issuance, revocation, suspension, transfer, etc.) shall also apply to permits under this chapter. The building official may modify forms, etc., to conform to this chapter. All actions of the building official under this chapter, and all applications for interpretations or variances, are subject to the authority of the BSC in the same manner as similar, building-related actions.
- (b) *Prior nonconformities.* In any proceeding to enforce this article, it is an affirmative defense that, at the time of the offense, the entire sign in question (or at least the aspect of the sign alleged to be in violation) had status as a prior nonconforming. Both the acquisition of PNC status and the loss of PNC status are determined by the principles and procedures set out in article 12 of the zoning ordinance, except that the BSC has the authority of the ZBA. In addition:
- (1) Changing only the face of a sign, or only the message, does not alter the PNC status of any sign, provided there is no structural alteration or other change.
  - (2) A nonconforming sign without current PNC status may not be moved, repaired, replaced, reconstructed or altered unless it is brought into full compliance with this chapter.
  - (3) On premises where there is a nonconforming sign without current PNC status, no other sign may be placed, constructed, improved or structurally altered.
  - (4) Upon application of the building official, and after providing both notice and an opportunity for a hearing to the owner of the premises, the BSC may order that a sign without current PNC status be removed, relocated or reconstructed. If compensation is required by state or federal law at the time that such action is required, the order shall be conditioned upon compensation being provided.
- (c) *Other defenses.* In any proceeding to enforce this chapter (but not in a proceeding to enforce state law such as, for example, a proceeding involving a sign on a public road), it shall be an affirmative defense that the sign in question:
- (1) Was not directed toward persons in motor vehicles within a street area, and no symbols on the sign were taller than 12 inches;
  - (2) Did not remain in one place for three hours or more;
  - (3) Was located more than 30 feet from the nearest street area and completely integrated into the design of a vending machine;
  - (4) Was required to be displayed by an applicable regulation; or

- 
- (5) Contains primarily a political message, is located on private real property, and does not have an effective area greater than 36 feet, is not more than eight feet high, is not illuminated, and does not have any moving elements.

It shall also be defense in any proceeding to enforce this chapter with respect to a sign that: (i) the proceeding, in effect, required the sign to be relocated, reconstructed or removed under circumstances (and at a time) when state law required compensation, and (ii) such required compensation was neither offered nor provided as required.

(Code 2003, § 3.203; Ord. No. 1896, § 1, 5-11-2009; Ord. No. 3024, § 1, 12-13-2021)

## **Sec. 6-22. Streets and city-controlled areas.**

- (a) *In general.* It shall be unlawful to erect, place, alter or maintain any sign in, on, or over any street area or other area owned or leased by the city, unless the sign is:
  - (1) An official sign in a street area authorized by the traffic control officer;
  - (2) An official sign in a nonstreet area authorized by the appropriate city official (see, e.g., chapter 66); or
  - (3) A sign specifically authorized by motion, resolution or ordinance adopted by the city council.
- (b) *Public roads.* As provided in V.T.C.A., Transportation Code ch. 393, signs not authorized by state law are prohibited on a public road right of way, and any permit issued for a sign in violation of said chapter 393 is not effective. For this purpose, a high-clearance banner has been determined not to be "on" a public road right of way within the meaning of chapter 393.
- (c) *Interference, etc.* It shall be unlawful for any person to interfere with or obstruct any sign authorized by the city in a street area or other area owned or leased by the city.
- (d) *Presumption of maintaining.* When a sign is:
  - (1) Located in, on or over a street area or other area owned or leased by the city;
  - (2) Has no obvious official purpose; and
  - (3) Has an obvious connection to a nearby or abutting site, it is presumed to be maintained by each person who controls that site.

(Code 2003, § 3.204)

## **Sec. 6-23. Limits on high-clearance banners.**

- (a) *Registration.* No high clearance banner may be displayed above a street area unless it is effectively registered in advance with the traffic control officer. The traffic control officer may prescribe forms and procedures for registration. Registrations take priority in the order made, but a registration is ineffective if made more than two years in advance.
- (b) *Annual, individual limits.* After 12 banners are registered for any given calendar year, no further registrations for that year are effective. No high-clearance banner may be registered for, or displayed, for more than 30 days (aggregate) in any calendar year. No more than two banners may be registered for display at any given time.
- (c) *Locations.* Banners may only be displayed above Buffalo Speedway, University Boulevard, Edloe Street, Auden Street, or Wesleyan Street.

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- (d) *No city involvement.* No city officer or employee may place or attach high-clearance banners. This shall be the responsibility of the person who registers the banner.

(Code 2003, § 3.205)

### **Sec. 6-24. Nuisance; removal of unlawful signs.**

Any sign which does not comply with the chapter, or which exceeds any limit imposed by this chapter, is declared a nuisance. The building official has the authority to have removed any such sign and dispose of it if the city has a right of access to the place where the sign is located. The cost of such removal and disposal shall be paid by the person owning the sign and any person who erected, placed or maintained the sign, jointly and severally.

(Code 2003, § 3.206; Ord. No. 2002, § 1(App. A), 2-23-2015)

### **Sec. 6-25. Sizes; numbers; spacing; design; etc.**

- (a) *Sizes, numbers, etc.* On each building site, limits on the maximum number and sizes of signs are prescribed in table 3-1 of section 6-28.
- (b) *Ground signs.* A ground sign may not:
- (1) Occupy the space from two feet in height to four feet in height, except for the supports for such sign which shall not occupy more than ten percent of such space. (Exception: This does not apply if the sign is located at least five feet from the nearest roadway, driveway or public sidewalk.);
  - (2) Be located within ten feet of a street area, unless it is a fixed sign meeting all other applicable regulations (e.g., permit, height, maximum area);
  - (3) Be located outside the center two-thirds of the building site, measured along each street line;
  - (4) Be located within 15 feet of any other building site;
  - (5) Be located within 100 feet of another ground sign on the same building site that is oriented toward a different street;
  - (6) Have more display area than 25 square feet per face if any part is located within ten feet of a street area (otherwise 75 square feet per face); or
  - (7) Have any unintegrated supports, sign elements, auxiliary projections or attachments (all must be completely integrated into the design of the sign, both structurally and visually).

This subsection does not apply to sites used for SFR purposes.

- (c) *Building-mounted signs.* A building-mounted sign may not:
- (1) Project more than two feet from the nearest face of the building;
  - (2) Be higher than the nearest part of the building;
  - (3) Exceed the aggregate size limits set out in table 3-2 of section 6-28; or
  - (4) Be mounted on a facade other than the one used to calculate the relevant facade area (RFA) for table 3-2 of section 6-28.

This subsection does not apply to sites used for SFR purposes or to canopy-mounted signs.

- (d) *Canopy-mounted signs.* A canopy-mounted sign may not:

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- (1) Be separate from the canopy, either structurally or visually (from all viewpoints within a street area or within a residential building it must appear to be part of the canopy itself, not attached or suspended);
  - (2) Exceed the aggregate size limits set out in table 3-2 of section 6-28; or
  - (3) Be mounted on a facade other than the one used to calculate the relevant facade area (RFA) for table 3-2 of section 6-28.

This subsection does not apply to sites used for SFR purposes.

- (e) *Maximum height.* No part of any sign may have a height greater than eight feet. Exception: signs painted on, or affixed directly to, the surface of a building wall or canopy may extend as high as the wall at the point of attachment, if the sign does not face any site within 200 feet used for SFR purposes.
- (f) *Coordinated design.* All signs related to a shopping center (or other premises with either a common owner or occupant) shall conform to a master sign plan for the whole premises. A master sign plan is not effective unless it is:
  - (1) Submitted by the owner(s) of the premises;
  - (2) Approved by the building official; and
  - (3) Recorded in the real property records of the county. To be approved by the building official, the plan must require that each sign, to the greatest degree practicable:
    - a. Have visible elements made of the same materials (Exception: this does not apply to allowed temporary signs); and
    - b. Use coordinated design features.

This subsection does not apply to sites used for SFR purposes.

(Code 2003, § 3.207)

## **Sec. 6-26. Location, construction.**

- (a) *Generally.* Signs may only be placed and constructed in such places and in such a manner that they will not create a traffic, storm, personal injury or fire hazard. Signs are subject to the zoning ordinance (which regulates, for example, height, placement in yards and orientation on certain corner sites) and all the other applicable regulations.
- (b) *Building sites.* No sign may be located outside a building site, except for signs duly authorized in street areas and other areas owned or leased by the city. Any sign advertising the name of any business or institution, or advertising anything for sale or lease, must be: (i) located on the same building site where the business or institution is located and operated, or the same building site where the thing is actually for sale or lease, as the case may be, and (ii) covered, blanked-out or concealed within 30 days following the day when the business or institution ceases to be located or operated on the site (or the day when the thing is no longer for sale or lease on the site, as the case may be).
- (c) *Screening.* The rear of each fixed sign shall be screened so that the supporting structural members are not readily visible by a person:
  - (1) Upon a street area;
  - (2) Upon any site used for SFR purposes; or
  - (3) Within any building used for SFR purposes.

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Lattice work, plantings, sign display area or another part of a structure may be used for such screening. Exception: The screening requirement does not apply to structural members that are completely integrated into the design of the sign, both structurally and visually.

- (d) *Condition and appearance.* Every sign, and its screening, shall be kept in good condition as to structure and appearance.
- (e) *Power lines.* No part of any sign may be located within ten feet of any power line.

(Code 2003, § 3.208; Ord. No. 1896, § 1, 5-11-2009)

### **Sec. 6-27. Illuminated, light emitting diode (LED), moving signs.**

- (a) No illuminated part of any sign in a residential impact area may face any site in the city used for residential purposes unless the site is more than 200 feet from the sign. Exception: this does not apply to signs illuminated only by reflected white lights which are shielded so that the source of the light cannot be seen by a person standing in a street area or on other premises. Illumination, if used, may not flash, blink or move. All parts of all signs must be stationary when in use. It shall be an affirmative defense that a non-fixed sign was caused to move only by the wind.
- (b) LED signs are prohibited on sites used for residential purposes and on residential impact sites. LED signs on all other sites are subject to current regulations.
- (c) All LED signs must comply with the following:
  - (1) No more than one LED sign per business shall be allowed.
  - (2) Messages shall not change more than once per 30 seconds and shall not flash, blink or move.
  - (3) Brightness shall not exceed 6,500 nits between sunrise and sunset, and 1,250 nits between sunset and sunrise. Each sign shall have a light-sensing device to automatically adjust the brightness. LED signs shall be certified as to compliance upon installation and continually maintained by the sign owner.

Note: Other restrictions on lighting may also apply; see, e.g., Article 2, Section 6 [sic], and in the zoning ordinance, Article 8, Section 8-107.

(Ord. No. 2003, § 1(App. A), 2-23-2015)

Editor's note(s)—Ord. No. 2003, § 1(App. A), adopted Feb. 23, 2015, amended § 6-27 in its entirety to read as set out herein. Former § 6-27 pertained to illuminated, moving signs and derived from the Code of 2003, § 3.209.

### **Sec. 6-28. Holiday decorations.**

All holiday decorations in districts zoned for single-family residential use are exempt from the following regulations. Nothing in this section shall be construed to prevent tree lights or seasonally themed Holiday decorations, clearly incidental and customary and commonly associated with any national, local, or religious holiday, provided such decorations shall be displayed November 10 to January 30 only. Additionally, the code enforcement officer may allow tree lights and Holiday decorations if such lights meet the following criteria:

- (1) Such lights and Holiday decorations shall be exempt when displayed from November 10 to January 30
- (2) Such lights and Holiday decorations shall not camouflage or divert attention from traffic signals or directional signals
- (3) Such lights and Holiday decorations shall neither encroach nor glare upon the street or adjacent property;

**Sec. 6-289. Obscenity prohibited.**

- (a) No sign shall in any way display any word, statement, character, or illustration of an obscene or indecent nature.
- (b) The terms "obscene" and "indecent," as used in this section, shall have the same meanings as in the Texas Penal Code, as interpreted by the federal and state courts. It shall be an affirmative defense, in any prosecution to enforce this section, that V.T.C.A., Penal Code § 43.22 or other state law, prohibits the same conduct as charged in the prosecution.

Table 3-1. Sign Sizes, Numbers		<i>General Rule:</i> On a site outside a street area, any sign exceeding any applicable regulation (prescribed below) is prohibited, and all non-specified types of signs are prohibited. Exceptions/Special Rules: (1) See special rules noted in table. (2) See remainder of this Chapter.		
Type of sign	Regulation	Applicable to sites used for SFR purposes	Applicable to residential impact sites	Applicable to all other sites
Fixed	Maximum number per site, all signs	Zero <sup>1</sup>	Two plus one per retail unit <sup>1</sup>	Three plus three per retail unit <sup>1</sup>
	Maximum number, ground signs	Zero <sup>1</sup>	One per principal building. <sup>1</sup>	One per principal building for each abutting street <sup>1</sup>
	Maximum DA, ground signs	Zero <sup>1</sup>	Depends upon location; see Section 6-25(b).	
	Maximum number and DA, canopy and building-mounted signs	Zero <sup>1</sup>	Depends upon the size of relevant facade area; see Table 3-2.	
	Maximum total DA, entire site	Zero <sup>1</sup>	1% of the site's area (total per site) <sup>1</sup>	3% of the site's area (total per site) <sup>1</sup>
Semi-Fixed	Maximum number per site	Two, if the site is unoccupied; otherwise no limit <sup>1</sup> 1	One <sup>1 2</sup>	One <sup>1 2</sup>
	Maximum DA	5 sq. ft. per face, 10 sq. ft. per sign, 32 sq. ft. total (all signs on the site)	6 sq. ft. per face, 12 sq. ft per site <sup>2</sup>	8 sq. ft. per face, 16 sq. ft per site <sup>2</sup>
Non-fixed	Maximum number per site	Zero, if the site is unoccupied,	One, if temporary. <sup>1 2 3</sup>	One, if temporary. <sup>1 2 3</sup>

		otherwise no limit <sup>13</sup>		
	Maximum DA	5 sq. ft. per face, 10 sq. ft. per sign, <sup>1</sup> 32 sq. ft. total (all signs on the site) <sup>3</sup>	12 sq. ft. per face, 1.5% of the site area (total, all faces) <sup>23</sup>	32 sq. ft. per face, 2.5% of the site area (total, all faces) <sup>23</sup>

*Notes:*

<sup>1</sup>Flags. On sites actually occupied and used for SFR purposes, an unlimited number of flags may be displayed. On other building sites, one flag may be displayed per 50 feet of street line, in addition to other signs allowed by this chapter.

<sup>2</sup>Festival Permit. During the term of a special festival permit issued by the building official, the maximum number of semi-fixed and non-fixed signs, together, is ten per acre of the festival site. The festival site may be one or more contiguous tracts aggregating at least 0.75 acre. The display area of festival signs is not limited. No more than one festival permit may be issued for any given place in any 365-day period, and the maximum term of a permit is 10 days.

<sup>3</sup>Banners. In addition to the signs allowed by this Table, banners may be displayed if they meet all the following restrictions:

- (1) The maximum number is two per site at any given time,
- (2) The maximum display area is 32 sq. ft. per site, for all banners, at any given time,
- (3) No individual banner may be displayed more than two times during any 365-day period nor more than 14 days at a time,
- (4) On any given site, a banner may be displayed no more than 14 days out of any 60 day period, and
- (5) No banners are allowed on unoccupied sites.

Table 3-2. Number and display area, building and canopy-mounted signs	<i>General Rule:</i> For each building, the maximum display area and number of all building-mounted and canopy-mounted signs is determined by the relevant facade area. Any sign exceeding such a limit is prohibited, and all non-specified types of signs are prohibited. Exceptions/Special Rules: (1) See special rules noted in table. (2) See remainder of this Chapter.	
Size of relevant facade area (RFA), per separate premises	Maximum display area of building mounted and canopy-mounted signs, per separate premises	Maximum number of building-mounted and canopy-mounted signs, per separate premises
Less than 100 sq. ft.	26 sq. ft.	Two
100 to 199 sq. ft.	26 sq. ft. plus 11% of RFA over 100 sq. ft.	
200 to 499 sq. ft.	38 sq. ft. plus 12% of RFA over 200 sq. ft.	
500-999 sq. ft.	75 sq. ft. plus 11% of RFA over 500 sq. ft.	

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1,000 to 1,499 sq. ft.	131 sq. ft. plus 7.5% of RFA over 1,000 sq. ft.	Three
1,500 to 2,999 sq. ft.	169 sq. ft. plus 2.5% of RFA over 1,500 sq. ft.	
3,000 sq. ft. or more	206 sq. ft. plus 1.5% of RFA over 3,000 sq. ft.	Four <sup>1</sup>

Notes:<sup>1</sup> Single-occupant premises with RFA's larger than 3,000 sq. ft., and having separate departments, each with a separate exterior entrance, may have one building-mounted sign or canopy-mounted sign per department.

(Code 2003, § 3.210)

## ***ARTICLE X. HOLIDAY DECORATIONS***

### **Sec. 54-222. Purpose.**

The purpose of this article is to provide regulations for outdoor holiday decorations.

### **Sec. 54-223. Definitions.**

*Holiday decorations* mean temporary decorative items, displays, or ornaments that are:

- (i) Displayed in connection with a recognized holiday, season, or cultural observance, including but not limited to religious, national, or civic holidays
- (ii) Noncommercial in nature, and not intended to advertise a business, product, service, or event for profit
- (iii) Temporary, and displayed only for a limited period before, during, and after the applicable holiday or season
- (iv) Installed on private property, including buildings, yards, windows, or landscaping
- (v) Constructed of non-permanent materials, including but not limited to lights, garlands, wreaths, banners, inflatables, figures, or similar decorative elements.

Holiday decorations do not include:

- (i) Signs or displays that contain commercial messages
- (ii) Decorations that function as permanent structures
- (iii) Decorations that create a traffic hazard, public safety risk, or nuisance
- (iv) Decorations illuminated or displayed in violation of applicable lighting, electrical, noise, or safety regulations.

### **Sec. 54-234. Violation declared.**

See Sec. 6-28. Holiday decorations.

### **Sec. 54-225. Enforcement.**

Upon receipt of a complaint from any citizen, or upon the initiative of any employee of the City of West University Place, Texas, a compliance inspection shall be conducted by the city building official, code enforcement officers, peace officer, or other representatives designated by the city manager.

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**Sec. 54-226. Penalty.**

Any person violating any provision of this article may be charged with a misdemeanor and if convicted, may be subject to a fine of not more than \$500.00. Each occurrence of any such violation of this article shall constitute a separate offense. Each day on which any such violation of this article occurs shall constitute a separate offense.

To: **The Zoning and Planning Commission**  
From: **Chris Guess, Planning and Zoning Administrator**  
Date: **February 12, 2026**  
Re: **Sexually Oriented Businesses – Follow-up**

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**Background Information:**

At its meeting on January 8, 2026, the Zoning and Planning Commission (ZPC) reviewed and considered potential amendments to the Code of Ordinances related to Sexually Oriented Businesses (SOBs). The ZPC discussed and recommended regulatory enhancements for consideration by the City Council, including strengthened spacing requirements and more detailed definitions intended to improve the City's existing regulatory framework.

**Applicable Regulations:**

- (1) Texas Local Government Code Chapter 243 authorizes municipalities and counties to regulate sexually oriented businesses to protect public health, safety, and welfare, based on legislative findings that unrestricted operation can contribute to neighborhood decline and criminal activity.

The chapter grants local governments wide discretion over where and how sexually oriented businesses may operate. This includes restricting locations to specific areas, imposing separation distances from schools, religious institutions, residential neighborhoods, and other incompatible land uses, and limiting the density of such businesses.

Chapter 243 also authorizes licensing and enforcement mechanisms. Cities and counties may require licenses or permits, charge cost-based fees, inspect businesses for compliance, and deny, suspend, or revoke licenses subject to judicial review.

(2) **West University Place's Code of Ordinance:**

- Chapter 54 – Offenses and Miscellaneous Provisions; Article III – Sexually Oriented Businesses, which regulates such uses outside of the zoning ordinance; and
- Appendix A – Zoning Ordinance; Article 8 – Additional Regulations, which includes limited land use controls applicable to sexually oriented businesses.

**Staff Report:**

Staff conducted a more detailed review of the City's existing ordinances regulating Sexually Oriented Businesses (SOBs). In addition to Appendix A of the Zoning Ordinance, Article 8 – Additional Regulations, Section 8-108, *Sexually Oriented Businesses*, which contains limited definitions but clearly established spacing requirements, staff also reviewed Chapter 54 – Offenses and Miscellaneous Provisions, including Article III – Sexually Oriented Businesses and Article IV – Adult Arcades.

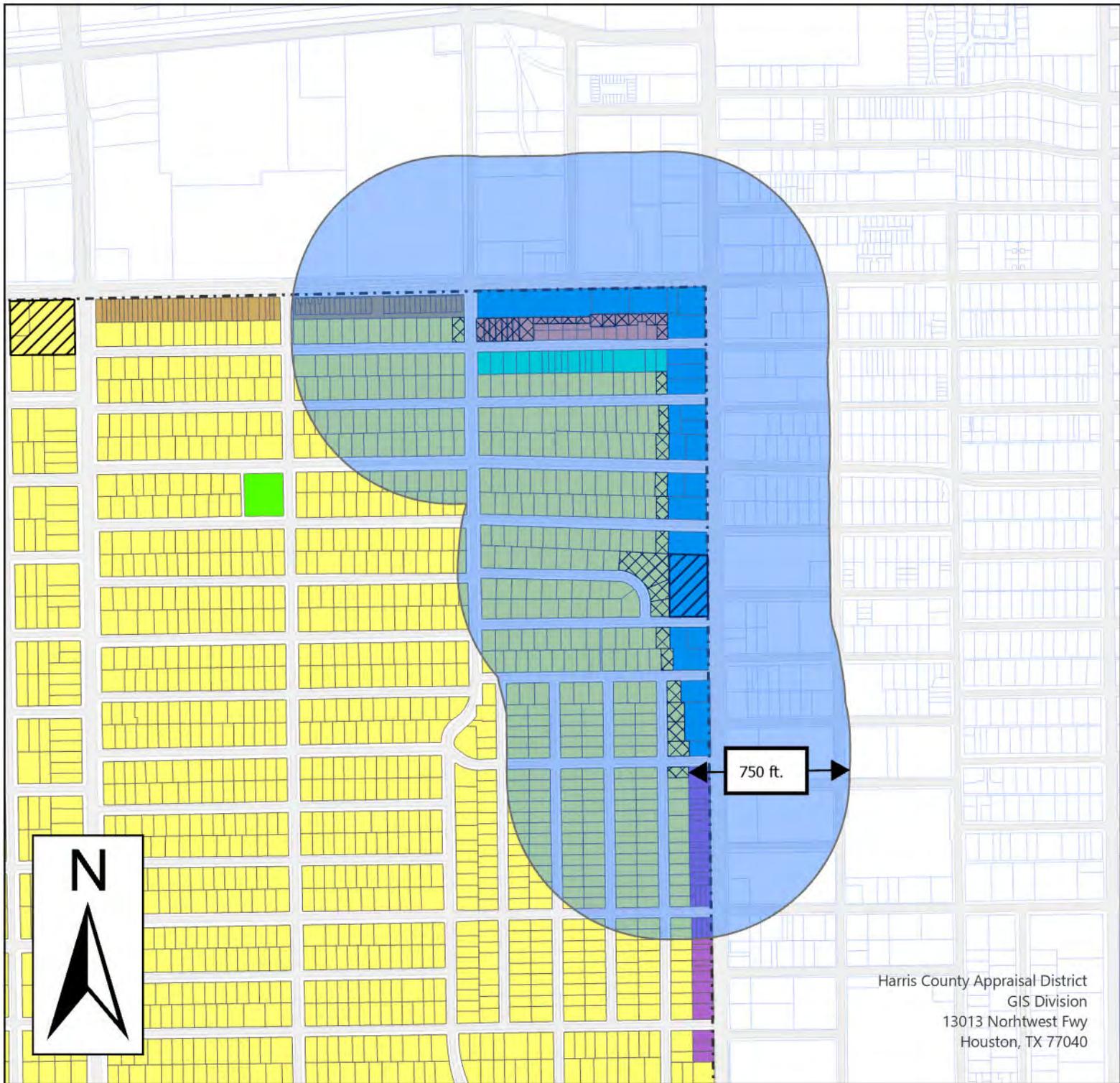
Upon reviewing the provisions and definitions contained in Chapter 54, staff determined that the relevant terminology and regulatory standards are already in place, and that amending other sections of the Code to restate these provisions would result in unnecessary duplication. Furthermore, based on the completion and analysis of a GIS map illustrating the spacing requirements established in Appendix A, Article 8, Section 8-108, staff finds that additional spacing regulations are unnecessary and would not serve a practical regulatory purpose.

### **Staff Recommendation:**

Staff recommends amending the spacing requirements in Appendix A of the Zoning Ordinance, Article 8 – Additional Regulations, Section 8-108, *Sexually Oriented Businesses*, to include municipal buildings and public parks as protected uses. This amendment would reflect the City's commitment to preserving the integrity and intended character of public spaces and municipal facilities by preventing incompatible land uses from locating in close proximity to these community assets.

### **Attachments**

- GIS Map – 750 ft. buffer – Northeastern portion of the city
- GIS Map – 750 ft. buffer – Southwestern portion of the city.
- Chapter 54 – Offenses and Miscellaneous Provisions; Article III – Sexually Oriented Businesses, Sec. 54-75. – Definitions. (EXISTING)
- Chapter 54 – Offenses and Miscellaneous Provisions; Article IV – Adult Arcades, Sec. 54-118. – Definitions. (EXISTING)
- Appendix A – Zoning Ordinance; Article 8 – Additional Regulations (PROPOSED)



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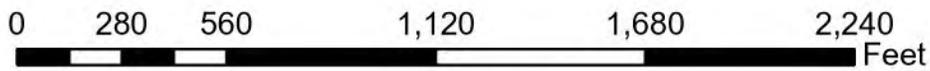
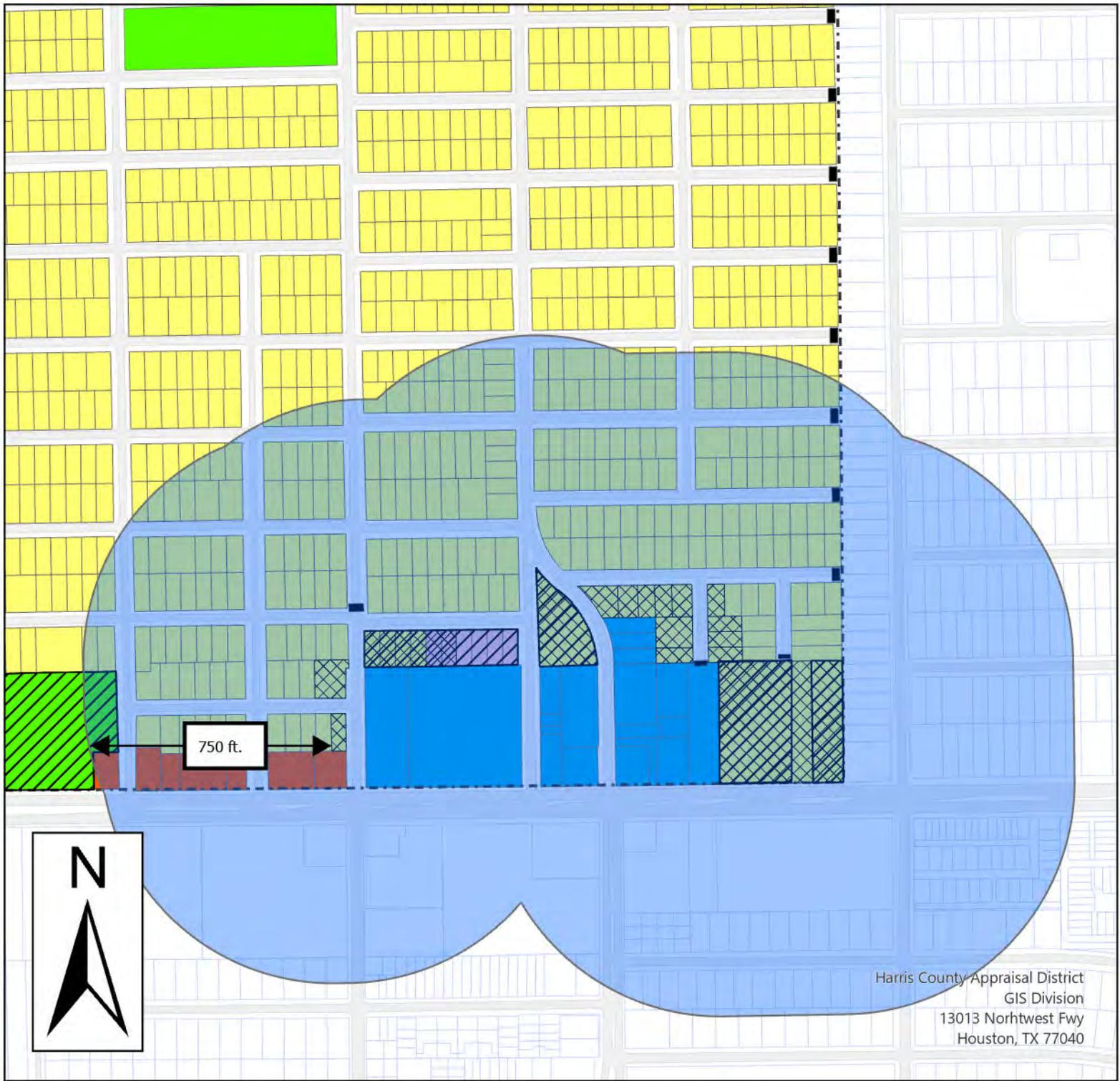
## Legend

City of West University Place  
Map Produced by: Chris Guess  
Date Produced: January 20, 2026

-  Selected Residential Parcels
-  750 ft. Buffer

**Disclaimer:**  
The City of West University Place has attempted to verify the accuracy of the information contained in the following map at the time of publication. The City of West University Place assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of how caused. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.





### Legend

City of West University Place  
Map Produced by: Chris Guess  
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-  Selected Residential Parcels
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## Sec. 54-75. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context clearly indicates another meaning:

*Achromatic* means anything that is colorless or lacking in saturation or hue. Without limitation, gray shall be included, but white and black shall be excluded from the definition of achromatic.

*Adult bookstore* means an establishment whose major business is the offering to customers of books, magazines, films or videotapes (whether for viewing off-premises or on-premises by use of motion picture machines or other image-producing devices), periodicals, or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification to such customers, and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

*Adult cabaret* means an establishment whose major business is the offering to customers of live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

*Adult encounter parlor* means an establishment whose major business is the provision of premises where customers either congregate, associate or consort with employees who engage in specified sexual activities with or in the presence of such customers, or who display specified anatomical areas in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.

*Adult lounge* means an adult cabaret, as defined above, which is a permitted or licensed premises, pursuant to the Texas Alcoholic Beverage Code, where alcoholic beverages may be served or sold.

*Adult modeling studio* means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

*Adult movie theater* means an establishment, containing a room with tiers or rows of seats facing a screen, or projection area, whose major business is the exhibition to customers of motion pictures which are intended to provide sexual stimulation or sexual gratification to such customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Applicant* means that the applicant for a permit shall be the intended operator of the enterprise.

*Commercial multi-unit center* means a building or structure (including a shopping mall or strip shopping center) containing three or more separate premises, each of which is offered by lease or otherwise for separate occupancy or control and each of which occupies an enclosed area having its own door or entranceway opening onto public property, a public way or a common area.

*Conduct any business in an enterprise* means that any person who does any one or more of the following shall be deemed to be conducting business in an enterprise:

- (1) Operates a cash register, cash drawer or other depository on the enterprise premises where cash funds or records of credit card or other credit transactions generated in any manner by the operation of the establishment or the activities conducted therein are kept;
- (2) Displays or takes orders from any customer for any merchandise, goods, entertainment or other services offered on the enterprise premises;

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- (3) Delivers or provides to any customer any merchandise, goods, entertainment or other services offered on the enterprise premises;
  - (4) Acts as a door attendant to regulate entry of customers or other persons into the enterprise premises; or
  - (5) Supervises or manages other persons in the performance of any of the foregoing activities on the enterprise premises.

*Customer* means any person who:

- (1) Is allowed to enter a regulated establishment in return for the payment of an admission fee or any other form of consideration or gratuity;
- (2) Enters a regulated establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
- (3) Is a member of and on the premises of a regulated establishment operating as a private club.

*Director* means the chief of police and such city employee(s) as he may designate to perform the duties of the director under this article.

*Display surface* means the entire surface of a sign, on one side, devoted to exhibiting advertising. The display surface shall not include the sign frame and incidental supports thereto.

*Employee* means any person who renders any service whatsoever to the customers of a regulated establishment or who works in or about a regulated establishment and who receives compensation for such service or work from the operator or owner of the regulated establishment or from the customers therein.

*Enterprise* means an adult cabaret, adult encounter parlor, adult lounge, adult modeling studio, or any establishment whose major business is the offering to customers of a product or service which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. The term "enterprise" shall not be construed to include:

- (1) Any adult bookstore or adult movie theater, as those terms are defined herein;
- (2) Any business operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the licenses held;
- (3) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts; or
- (4) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.

*Entertainment* means any act or performance, such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by employees, agents, contractors, or customers. The term "entertainment" shall also mean bartenders, waiters, waitresses, or other employees exposing specified anatomical areas or engaging in specified sexual activities in the presence of customers.

*Exterior portion* means any part of the physical structure of a regulated establishment, including a wall, veneer, door, fence, roof covering, or window, which is visible from any public way or public property.

*Operator* means the manager or other natural person principally in charge of a regulated establishment.

*Owner or owners* means the proprietor, if a sole proprietorship, all partners (general and limited) if a partnership, or all officers, directors and persons holding ten percent or more of the outstanding share of a corporation. The term "owner" shall not include any such person who has given to the operator a statement under

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oath that he does not desire to be listed on the permit application and that he waives any right to any notice that is required or permitted to be given under this article.

*Permit* means a current, valid permit issued by the director pursuant to the terms of this article to an operator for an enterprise.

*Regulated establishment* means any enterprise, adult bookstore or adult movie theater, as defined herein.

*Sign* means a display, design, pictorial or their representation, which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of a regulated establishment and that is used to seek the attraction of the public to any goods, services or merchandise available in or from such regulated establishment. The term "sign" shall also include such representations painted on or otherwise affixed to any exterior portion of a regulated establishment as well as such representations painted on or otherwise affixed to any part of the tract upon which such a regulated establishment is situated.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered: human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola; or any combination of the foregoing; or
- (2) Human male genitals in a discernible erect state, even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Human genitals in a discernible state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock, or female breast or breasts; or
- (4) Any combination of the foregoing.

*Tract* means a contiguous parcel of land under common ownership, whether situated within the city or not.

(Code 2003, § 15.041)

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## Sec. 54-118. Definitions.

As used in this article, the following words shall have the meanings herein ascribed, unless the context of their use clearly indicates another meaning:

*Adult arcade* means any premises to which members of the public or members of any club, group or association are admitted and permitted to use one or more arcade devices.

*Arcade device* means any coin- or slug-operated or electronically or mechanically controlled machine or device that dispenses or effectuates the dispensing of entertainment, that is intended for the viewing of five or fewer persons in exchange for any payment of any consideration.

*Entertainment* means any of the following in which specified sexual activities are depicted:

- (1) Any live exhibition, display or performance;
- (2) Any still picture(s) or movie picture(s), whether mechanically, electrically or electronically displayed; or
- (3) Any combination of the foregoing.

*Individual* means only a natural person.

*Operator* means the individual who is principally in charge of the management of the adult arcade.

*Owner* or *owners* means the proprietor if a sole proprietorship, all partners (general and limited) if a partnership, or all officers, directors and persons holding ten percent or more of the outstanding shares if a corporation. Provided, however, the term "owner" or "owners" shall not include any of the aforesaid persons who has given to the operator a statement under oath that the person does not desire to be listed on a permit application under this article and that the person waives any right to any notice that is required or permitted to be given by the city or any officer or agency thereof in connection with the application or permit for the adult arcade under this article.

*Permit* means a current, valid permit issued by the police chief under this article to an operator for an adult arcade.

*Police chief* means the chief of police and any employee(s) of the police department assigned by the chief to perform the chief's duties prescribed in this article.

*Premises* means a building; provided, that if a building has been physically divided into separate units that each have their own individual means of ingress and egress to the exterior of the building and which are offered by lease or otherwise for separate use and control, then it shall refer to each such separate unit.

*Specified sexual activities* has the same meaning given to it in article III of this chapter.

(Code 2003, § 15.061)

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## Section 8-108. Sexually oriented businesses.

- (a) *Spacing.* Notwithstanding any other provision of this ordinance to the contrary, a "regulated establishment" (as defined in the sections of the Code of Ordinances relating to sexually oriented businesses) may not be located:
- (1) within 750 feet of any school, church, youth athletic facility, park, municipal building or licensed day care center, within the City, which facilities are hereby found and determined to be inconsistent with the operation of a regulated establishment; or
  - (2) within 250 feet of any other such regulated establishment for which there is a permit.
- (b) *Measurement.* Measurements for the foregoing distance regulations shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the building site where the regulated establishment is located to the nearest point on the property line of the building site occupied by the other facility or establishment.
- (c) *Other Provisions.* The provisions of this Ordinance and the provisions of the Code of Ordinances relating to sexually oriented businesses shall both be applied to regulated establishments, and said provisions of the Code are adopted, confirmed and made a part of this Ordinance by this reference.

To: **The Zoning and Planning Commission**  
From: **Chris Guess, Planning and Zoning Administrator**  
Date: **February 12, 2026**  
Re: **Proposed Ordinance – Regulation of Various Enterprises**

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**Background Information:**

At its meeting on December 8, 2025, the City Council of the City of West University Place directed the Zoning and Planning Commission (ZPC) to review the City’s existing regulations applicable to certain commercial uses commonly regarded as having potential secondary impacts on surrounding areas. These uses include bail bond services, headshops, massage establishments, poker clubs, precious metal dealers, smoke shops, tattoo shops, and similar enterprises.

In response to this direction, the ZPC initiated a review of the City’s Code of Ordinances to evaluate whether existing regulatory tools adequately address locational compatibility, operational oversight, and potential overconcentration of these uses. The purpose of this review is to assist the ZPC in determining whether amendments to the Code are warranted and, if so, to recommend appropriate regulatory measures for City Council consideration.

**Applicable Regulations:**

**(1) State Law**

Texas municipalities are authorized under the Texas Local Government Code to regulate commercial land uses through zoning, permitting, and licensing provisions to protect the public health, safety, and welfare. This authority includes the ability to impose locational restrictions, separation distances, and operational requirements on certain commercial uses when such regulations are reasonably related to legitimate governmental interests.

In addition, specific business types—such as credit access businesses and massage establishments—are subject to state licensing requirements, which municipalities may supplement through local registration, inspection, and enforcement provisions, provided such regulations are not inconsistent with state law.

**(2) City of West University Place Code of Ordinances**

The City currently regulates certain commercial uses through a combination of zoning provisions and business regulations, including:

- **Chapter 54 – Offenses and Miscellaneous Provisions**, which contains licensing, permitting, and enforcement provisions applicable to various business activities; and
- **Appendix A – Zoning Ordinance**, which governs permitted uses and development standards by zoning district

Prior to this review, regulation of the identified uses was dispersed across multiple sections of the Code, with limited consolidation of definitions, permitting requirements, or spacing standards.

### **Staff Report:**

Staff conducted a comprehensive review of the City’s existing ordinances applicable to the commercial uses identified by City Council. This review included an evaluation of current definitions, permitting and registration requirements, inspection authority, enforcement mechanisms, and locational controls.

Based on this review, staff prepared a draft ordinance establishing **Article XI – Various Enterprises** within Chapter 54 of the Code of Ordinances. The proposed ordinance consolidates and clarifies regulatory provisions applicable to these uses by:

- Establishing clear and consistent definitions for each regulated enterprise;
- Requiring a city-issued permit or certificate of registration for each business location;
- Providing for annual permit renewal and nontransferability;
- Authorizing inspections by the city manager or designee to ensure compliance;
- Establishing spacing requirements to prevent overconcentration and to protect sensitive land uses, including public and private schools; and
- Preserving existing lawful businesses as legal nonconforming uses.

The proposed ordinance expressly excludes **credit access businesses** from the definition of “various enterprises,” as such businesses are already comprehensively regulated under **Chapter 54, Article VII – Credit Access Businesses**, thereby avoiding duplication and potential conflicts within the Code.

Staff finds that the proposed ordinance is clear, internally consistent, and enforceable, and that it provides the City with additional land use–based regulatory tools to address compatibility concerns while remaining consistent with state law.

### **Staff Recommendation:**

Staff recommends that the Zoning and Planning Commission review and discuss the proposed **Article XI – Various Enterprises** ordinance and forward its findings and any recommended modifications to the City Council for consideration and possible adoption.

**Attachments**

- (PROPOSED) Article XI. Various enterprises
- (PROPOSED) Article 8. Additional regulations

## **ARTICLE XI. VARIOUS ENTERPRISES**

### **Sec. 54-227. Definitions.**

As used in this article, the following words shall have the meanings herein ascribed, unless the context clearly indicates otherwise:

**Bail bond service** means an establishment that makes available to the public undertakings of bail in connection with judicial proceedings.

**Credit access business** shall have the meaning and be regulated pursuant to Chapter 54 – Offenses and Miscellaneous Provisions, Article VII – Credit Access Businesses.

**Headshop** means any retail establishment open to the public that presents, displays, or offers for sale paraphernalia, items, equipment, or products commonly used, intended to be used, or commonly known to be used, for the ingestion, inhalation, preparation, or injection of illegal substances. This includes any device fabricated, constructed, altered, adjusted, or marked for the smoking or ingestion of marijuana, hashish, cocaine, methamphetamine, any other controlled substance, synthetic controlled substance, or any substance that mimics the effect of THC, notwithstanding that the device may also be capable of lawful use for another purpose.

**Massage establishment** means a place of business in which massage therapy is practiced by a massage therapist licensed by the State of Texas. For purposes of this article, massage therapy means the manipulation of soft tissue for therapeutic purposes and includes, but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression vibration, friction, nerve strokes, and Swedish gymnastics, whether performed by hand or by mechanical or electrical apparatus. Massage therapy may include the use of oils, heat lamps, hot or cold packs, tub showers, or cabinet baths. The terms therapy and therapeutic do not include diagnosis, the treatment of illness or disease, or any service for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

**Poker club** means a private, for-profit business located in a building or place that provides facilities for live poker games conducted at one or more gaming tables.

**Poker club, operator** means an individual who operates a cash register, cash drawer, or other depository on the premises of a poker club, or who maintains financial records generated from the operation of a poker club.

**Poker club, owner** means a person who:

- (1) Has an ownership interest in or receives profits from a poker club;
- (2) Is a partner, director, or officer of a business entity that has an ownership interest in a poker club; or
- (3) Is a shareholder holding more than ten percent of the outstanding shares of a business entity that has an ownership interest in a poker club.

**Poker game** means a card game in which:

- (1) A member physically present places a wager based on the ranking of cards held;
- (2) Each participant has an opportunity to benefit from personal winnings; and
- (3) Except for skill or luck, the risks of losing and chances of winning are the same for all participants.

**Poker gaming table** means a recreational table at which members of a poker club participate in a live poker game. The term does not include video, electronic, mechanical, or online poker devices.

**Precious metal dealer** means a retail establishment that primarily purchases coins or secondhand items containing precious metals, including jewelry, watches, utensils, candlesticks, and religious or decorative objects. This use is commonly referred to as a gold exchange business.

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**Smoke shop** means a retail establishment that primarily sells tobacco-related products and accessories and does not meet the definition of a headshop. Examples include cigar shops and retail tobacco stores.

**Tattoo shop** means a business that places designs, letters, figures, symbols, or other marks upon or under the skin of a person using ink or other substances, resulting in permanent coloration by means of needles or similar instruments designed to puncture the skin.

**Various enterprise** means any bail bond service, headshop, massage establishment, poker club, precious metal dealer, smoke shop, or tattoo shop. Credit access businesses are excluded from this definition and are regulated separately pursuant to Chapter 54, Article VII.

**Operator** means the individual principally responsible for the day-to-day management of a various enterprise.

**Owner** means any person or entity holding a legal or equitable ownership interest in a various enterprise.

**Permit** means a current, valid permit or certificate of registration issued by the city pursuant to this article.

**Sec. 54-228. – Remedial and supplemental effect.**

(a) The provisions of this article are remedial and shall apply to all various enterprises now existing or hereafter established.

(b) The provisions of this article are supplemental and cumulative of all other applicable ordinances and state laws.

**Sec. 54-229. – Permit or registration required.**

(a) It shall be unlawful for any person to own, operate, manage, or conduct a various enterprise without first obtaining a valid permit or certificate of registration issued by the city.

(b) A separate permit or registration shall be required for each physically separate location.

(c) The permit or registration shall be conspicuously displayed on the premises at all times.

**Sec. 54-230. – Application requirements.**

(a) An applicant shall submit an application on a form provided by the city, which shall include at minimum:

1. Legal name, trade name, and contact information of the applicant;
2. Street address of the business location;
3. Names and addresses of all owners and operators;
4. Copies of all required state licenses or certifications;
5. A current, valid certificate of occupancy for the premises;
6. Payment of all applicable non-refundable fees.

(b) The applicant shall notify the city within 45 days of any material change to the application information.

**Sec. 54-231. – Issuance; term; nontransferability.**

(a) Upon receipt of a complete application and verification of compliance, the city shall issue the permit or registration.

(b) Each permit or registration shall expire one year from the date of issuance unless renewed.

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(c) Permits and registrations are nontransferable and valid only for the approved location and operator.

**Sec. 54-232. – Inspections.**

- (a) The city manager or designee may conduct inspections during regular business hours or at other reasonable times to ensure compliance with this article.
- (b) Refusal to permit inspection shall constitute grounds for suspension or revocation of the permit or registration.

**Sec. 54-233. – Location and spacing restrictions.**

- (a) No new various enterprise shall be located within **2,000 feet** of:
1. A public or private school; or
  2. An existing enterprise of the same type.
- (b) Distance shall be measured in a straight line from the nearest property line of each use.
- (c) Existing lawful enterprises shall be deemed legal nonconforming uses.

**Sec. 54-234. – Additional provisions for massage establishments.**

- (a) All massage therapists shall maintain a valid state license.
- (b) Permits for massage establishments are location-specific and nontransferable.
- (c) Any violation of city ordinances or state law may result in revocation by the city manager or designee.

**Sec. 54-235. – Suspension; revocation.**

The city may suspend or revoke a permit or registration upon finding that the operator or owner:

1. Violated any provision of this article;
2. Operated without a required state license;
3. Refused inspection; or
4. Provided false or misleading application information.

**Sec. 54-236. – Violations; penalty.**

- (a) A person who violates this article commits an offense.
- (b) Each day a violation occurs constitutes a separate offense.
- (c) An offense is punishable by a fine not to exceed **\$500.00**.
- (d) No culpable mental state is required.

**Sec. 54-237. – Appeals.**

Any person aggrieved by a decision under this article may appeal in accordance with procedures established by city ordinance.

## **ARTICLE 8. ADDITIONAL REGULATIONS**

### **Sec. 8-116. Various enterprises.**

- a) Purpose and intent. The purpose of this section is to regulate the location of various enterprises in order to protect the public health, safety, and general welfare, and to minimize adverse secondary impacts associated with the concentration and proximity of such uses. This section is intended to be applied in a content-neutral manner and is not adopted for the purpose of suppressing or restricting lawful business activities.
- b) Applicability. This section applies to all various enterprises, as defined in Chapter 54, Article XI, whether now existing or hereafter established.
- c) Location restrictions. No various enterprise shall be located within:
  - a. Two thousand (2,000) feet of a public or private school; or
  - b. Two thousand (2,000) feet of another various enterprise of the same type.
- d) Measurement of distance. For purposes of this section, distance shall be measured in a straight line, without regard to intervening structures, from the nearest property line of the lot on which the proposed various enterprise is located to the nearest property line of the lot on which the protected use or other various enterprise is located.
- e) Existing uses. Any various enterprise lawfully existing on the effective date of this section that does not conform to the location requirements herein shall be deemed a legal nonconforming use and may continue to operate, subject to all other applicable laws and regulations.
- f) Expansion or relocation. A nonconforming various enterprise shall not be expanded, enlarged, or relocated in a manner that increases its degree of nonconformity with this section.
- g) Separation from multiple uses. For purposes of this section, a various enterprise shall be required to comply independently with all spacing requirements, regardless of whether the protected uses or other various enterprises are located on the same tract or on separate tracts.
- h) No waiver by permit. Compliance with this section shall be required in addition to any permit or registration required under Chapter 54, Article XI, and no permit or registration shall be construed as waiving the location requirements of this section.

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**Zoning & Planning Commission  
MUNICIPAL BUILDING  
3800 UNIVERSITY BOULEVARD**

**MEETING MINUTES**

**September 11, 2025**

<b>Name</b>	<b>Role / Function</b>
John Cutrer	Chair (Zoning and Planning Commission)
John Howard	Commissioner (Voting Member)
Deb Rephlo	Commissioner (Voting Member)
Nikki Haley	Commissioner (Voting Member)
Miranda Takashima	Commissioner (Voting Member)
Bob Powell	Commissioner (Voting Member)
Christopher Guess	Planning and Zoning Administrator (City Staff)

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**I. Call to Order, Introductions, and Procedures**

- **Meeting Called to Order:**  
The meeting was called to order by the Chair.
- **Roll Call / Introductions:**  
Commissioners and City Staff introduced themselves. A quorum was present.
- **Procedural Review:**  
The Chair reviewed public comment procedures, including the three-minute time limit and relevance requirements.
- **Notice of Meeting:**  
**Christopher Guess** confirmed the meeting was properly posted in accordance with state and local requirements.

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**II. Public Hearing: Replat Request**

**Lots 16, 17, and 18, Block 9, Rice Court**

**Presenter:** Christopher Guess, Planning and Zoning Administrator

**Staff Presentation**

- Proposal to replat three lots into two lots, with **Lot 17 absorbed by adjacent Lots 16 and 18.**
- Notification provided by:
  - Mailed notice to property owners within 200 feet
  - Online posting
  - Newspaper publication
- Staff confirmed the replat meets applicable **subdivision regulations and city ordinances.**
- **Staff Recommendation:** Approval.

**Discussion**

- Commissioners asked questions regarding:
  - Resulting lot sizes and minimum requirements
  - A publication error stating the replat would create “1 lot” instead of “2 lots”
- Clarification provided:
  - Each resulting lot approximately **75 feet wide by 105 feet deep** (approximately 0.18 acres).
- **Publication Error:**  
Staff acknowledged the error and recommended conditional approval subject to corrected republication.
- The applicant, **Joyce Smith**, requested conditional approval to avoid project delays.

**Action Taken**

**MOTION:** Approve the replat of Lots 16, 17, and 18, Block 9, Rice Court, subject to correction of the publication notice.

- **Moved by:** Commissioner
- **Seconded by:** Commissioner
- **VOTE:** Unanimous approval

**Action Highlighted:** Conditional approval of replat request pending corrected publication.

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**III. Reference Material: Sculptures and Accessory Structures**

- **Christopher Guess** introduced draft reference materials related to the regulation of sculptures and accessory structures.
  - Purpose of materials:
    - Provide visual examples
    - Establish a framework for potential future ordinance development
    - Comparable to existing regulations for basketball goals and similar structures
  - **No action taken.**  
Materials were entered into the record for future discussion.
- 

**IV. Adjournment**

- The meeting was adjourned following completion of agenda items.

**Meeting Adjourned.**

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
John Cutrer, Chairman

ATTEST: \_\_\_\_\_

Ms. Josie M. Hayes, Administrative Coordinator

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**Zoning & Planning Commission  
MUNICIPAL BUILDING  
3800 UNIVERSITY BOULEVARD**

**MEETING MINUTES**

**December 11, 2025**

<b>Name</b>	<b>Role / Function</b>
John Cutrer	Chair (Zoning and Planning Commission)
John Howard	Commissioner (Voting Member)
Allen Elkowitz	Commissioner (Voting Member)
Dick Yehle	Commissioner (Voting Member)
Carolyn Galfione	Commissioner (Voting Member)
Doug Rephlo	Commissioner (Voting Member)
Christopher Guess	Planning and Zoning Administrator (City Staff)
Chuck Sandifer	Chief Building Official (City Staff)
Josie Hayes	Administrative Coordinator (City Staff)
Philip Boedeker	City Attorney (Olsen & Olsen)

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**I. Call to Order, Introductions, and Procedures**

- **Meeting Called to Order:** John Cutrer (Chair) called the meeting to order and confirmed the meeting had been properly posted in accordance with state and local requirements.
  - **Roll Call / Introductions:** Commissioners and City Staff introduced themselves. Newly appointed members provided brief background information.
  - **Public Comments (Non-Agenda Items):** No public comments were received.
  - **Oath of Office:**
    - **All Zoning and Planning Commission members present were formally sworn in.**
    - The required Oath of Office and Statement of Officer were administered and completed.
  - **Legal Training:**
    - Philip Boedeker (City Attorney) provided mandatory training on the Texas Open Meetings Act (TOMA), Texas Public Information Act (TPIA), and Conflicts of Interest.
    - Topics included quorum requirements, walking quorums, deliberations outside posted meetings, public comment procedures, use of personal electronic devices, public records retention, and disclosure/recusal requirements for conflicts of interest.
-

## **II. Discussion Item: City Council Requested Zoning and Ordinance Topics**

**Presenter:** Christopher Guess, Planning and Zoning Administrator

### **• Background:**

- Mr. Guess presented a staff overview of topics requested by City Council following the December City Council meeting and outlined expectations for future reports to Council.

### **• Topics Identified for ZPC Review:**

- Sexually Oriented Businesses
- Other Restricted Businesses
- Yard Art and Sculptures
- Accessory Dwelling Units (ADUs)
- Lighting Ordinance
- Kirby Drive Zoning and Land Use Review
- Exterior Beautification

### **• Staff Direction and Discussion:**

- Staff explained that some topics have prior ZPC history, while others involve new or evolving development pressures, including regional impacts from development along Kirby Drive and adjacent Houston properties.
- Commissioners discussed the complexity and historical significance of Kirby Drive land use and recommended prioritizing that topic early due to long-standing transition and buffering issues between commercial and residential areas.
- Staff outlined an anticipated sequencing approach, grouping related topics and addressing them over multiple meetings as needed.
- Sexually oriented business regulations were identified as a near-term priority due to upcoming City Council consideration of a related fee schedule.

### **• Consensus Direction:**

- The Commission provided consensus direction for staff to prioritize and structure future agendas around City Council's requested topics, with emphasis on:
  - Sexually Oriented Businesses (near-term)
  - Kirby Drive Zoning and Land Use Review (early and ongoing)

*No formal action or vote was taken on this discussion item.*

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## **III. Other Business**

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## Public Works Department

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- **Approval of Previous Minutes:**

- No prior meeting minutes were presented for review or approval.

- **Future Meetings:**

- Staff confirmed the next regular Zoning and Planning Commission meeting date consistent with the adopted meeting schedule.
- 

### IV. Adjournment

- **MOTION** to adjourn.
  - **Seconded.**
  - **VOTE:** Unanimously in favor.

### Meeting Adjourned.

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
John Cutrer, Chairman

ATTEST: \_\_\_\_\_  
Ms. Josie M. Hayes, Administrative Coordinator

Name	Role / Function
John Cutrer	Chair (Zoning and Planning Commission)
John Howard	Commissioner (Voting Member)
Allen Elkowitz	Commissioner (Voting Member) (Absent)
Dick Yehle	Commissioner (Voting Member)
Carolyn Galfione	Commissioner (Voting Member)
Doug Rephlo	Commissioner (Voting Member)
Christopher Guess	Planning and Zoning Administrator (City Staff)
Chuck Sandifer	Chief Building Official (City Staff) (Not Present)
Josie Hayes	Administrative Coordinator (City Staff)
Philip Boedeker	City Attorney (Olsen & Olsen)

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### I. Call to Order, Introductions, and Procedures

- **Meeting Called to Order: January 08, 2026**

Chair **John Cutrer** called the meeting to order at **6:15 PM** and confirmed the meeting was properly posted in accordance with state and local requirements.

- **Roll Call / Introductions:**

Commissioners, City Staff, and members of the public introduced themselves. A quorum was present.

- **Public Comments (Non-Agenda Items):**

Multiple members of the public provided comments primarily related to **yard art and outdoor sculptures**, including concerns regarding:

- Notification of property owners
- Safety and structural integrity
- Longstanding presence of yard art
- Artistic expression and First Amendment considerations

Chair Cutrer clarified that yard art was **not an action item** on the agenda and that comments would be noted for future consideration.

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### II. Discussion Item: City Council Requested Zoning and Ordinance Topics

**Presenter:** Christopher Guess, Planning and Zoning Administrator

#### Background

- Mr. Guess presented a staff overview of topics requested by City Council following the **December City Council meeting**.
- He explained that the Commission's role is to review existing ordinances, evaluate potential regulatory tools, and provide recommendations back to City Council.

#### Topics Identified for ZPC Review

- Sexually Oriented Businesses
  - Other Restricted Businesses (e.g., pawn shops, predatory lenders, head shops, tattoo studios)
  - Yard Art and Sculptures
  - Accessory Dwelling Units (ADUs)
-

- Lighting Ordinance
- Kirby Drive Zoning and Land Use Review
- Exterior Beautification

**Staff Direction and Discussion**

- Mr. Guess reviewed existing West University Place regulations and compared them with benchmark cities, including Bellaire, Hedwig Village, Hunters Creek Village, and Webster.
- Discussion focused on:
  - State limitations on prohibiting sexually oriented businesses
  - Use of location, distance, and buffering regulations as effective tools
  - Potential expansion of buffer distances from residential areas, schools, parks, and municipal facilities
  - Clarifying and strengthening ordinance definitions to align with state law
- Commissioners discussed prioritizing topics based on City Council direction and community interest.
- Yard art and sculpture discussions were acknowledged as generating significant public interest and were recommended to be formally agendaized for future meetings.

**Consensus Direction**

- The Commission provided **consensus directions** for staff to:
  - Prioritize review of **sexually oriented businesses** and **other restricted businesses**
  - Continuing early and ongoing review of **Kirby Drive zoning and land use**
  - Elevate **yard art and sculpture** discussions to a higher priority for future agendas
- Staff will return with **draft ordinances, GIS buffer analysis, and recommendations** for Commission review.

**No formal action or vote was taken.**

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**III. Other Business**

- **Approval of Previous Minutes:**  
No prior meeting minutes were presented for review or approval. Staff advised that pending minutes will be included on the next agenda.
  - **Future Meetings:**  
Staff confirmed the next regular Zoning and Planning Commission meeting will occur in accordance with the adopted meeting schedule.
- 

**IV. Adjournment**

- Motion to adjourn made by Carolyn Galfione
  - Seconded by John Howard
  - Vote: Unanimous
  - Noes: None
-



## *Public Works Department*

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### **Meeting Adjourned.**

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2026.

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John Cutrer, Chairman

ATTEST: *Josie M. Hayes*  
Administrative Coordinator