

## **ARTICLE X. - SPECIAL REGULATIONS**

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**Sec. 3-81. - Special front yard regulations.**

(1) Where the frontage on one (1) side of a street between two (2) street intersections is divided by two (2) or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire block.

(2) The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace or attached accessory building. Eaves and roof extensions may encroach into the required front yard for a distance not to exceed four (4) feet beyond the permitted porch or wall plane.

(3) Where a lot has double frontage, running through from one (1) street to another, the front yard requirements of this section shall apply to any yard of such double frontage lot that is directly across a street from the front property line of another lot.

(4) Gasoline service station pump islands shall be located not less than eighteen (18) feet from the front property line.

(5) Any property hereafter used for business purposes in the B Districts shall face and have its main entrance on Broadway or the Austin Highway according to which street provides the main access to such property.

(6) No fence, wall or other manmade, non-living barrier, other than the wall of a permitted structure, shall be erected or altered within the minimum required portion of a front yard in excess of three (3) feet in

height measured from the lower side of the fence, wall or other barrier, or in excess of six (6) feet in height within the remaining portion of a front yard measured from the lower side of such fence, wall or other barrier. When the grade of the land adjacent to the location of a fence, wall or other barrier has been altered from its natural condition, the director shall determine the permissible height of a fence, wall or other barrier from the director's projection of the natural grade of the land.

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-82. - Special side yard regulations.**

(1) There shall be a side yard on each side of a two-family dwelling and the total of both side yards shall not be less than twenty-five (25) percent of the average width of the lot, provided however, that in no case shall the total of the two (2) side yards be less than fifteen (15) feet and the total of such two (2) side yards need not exceed thirty (30) feet. No single side yard shall be less than five (5) feet in width.

(2) For multiple-family dwellings which are arranged with the long dimension of the building approximately parallel to the front lot line and where the building end adjacent and parallel to the side lot line does not exceed thirty-five (35) feet in width, a minimum side yard of fifteen (15) feet shall be provided.

(3) Where multiple-family dwellings are arranged on a lot with a building side having a length greater than thirty-five (35) feet and being approximately parallel to the side lot line, or where the side of such building is parallel to another building in a project, a side yard of fifteen (15) feet shall be provided on each side of each building. The effect of such side yard shall be that the walls of buildings arranged as parallel structures shall be a minimum average of thirty (30) feet apart and that no canopy or balcony shall extend into such side yard for a distance greater than five (5) feet.

(4) Schools, churches and other permitted public or semi-public buildings when located in the SF-A, SF-B, 2F-C, MF-D or P Districts, shall provide a minimum side yard of twenty-five (25) feet.

(5) Detached garages or other detached accessory buildings shall be located not less than four (4) feet from the main building and shall not be less than three (3) feet from the side property line.

(6) Every part of a required side yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, roofs and other architectural features projecting not to exceed two (4) feet into the required side yard but not less than four (4) feet from the property line..

(7) No fence, wall or other manmade, non-living barrier, other than the wall of a permitted structure, shall be erected or altered in any side yard in excess of six (6) feet in height measured from the lower side of such fence, wall or other barrier. When the grade of the land adjacent to the location of a fence, wall or other barrier has been altered from its natural condition, the city engineer shall determine the permissible height of a fence, wall or other barrier from the city engineer's projection of the natural grade of the land.

(8) Air-conditioning units and pool units are allowed to encroach into any required side yard setback. Such units shall be located as close to the structure as possible, and in no case shall they be located closer than three (3) feet to the property line or fence.

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-83. - Special rear yard regulations.**

(1) In the B Districts, a minimum twelve (12) foot rear yard is specified for hotel or motel and no rear yard is specified except that where a retail or commercial use backs upon a common district boundary line, a minimum rear yard twenty (20) feet shall be provided for retail or commercial use and such twenty (20) feet shall include an alley or service easement not less than fifteen (15) feet in width.

(2) Every part of a required rear yard shall be open and unobstructed except for permitted accessory buildings and ordinary projections of window sills, eaves, belt courses, cornices and other architectural features projecting not to exceed two (2) feet into the required rear yard.

(3) A detached garage or other permitted accessory building shall provide a minimum rear yard of three (3) feet.

(4) Schools, Churches and other permitted Public or Semi-Public Buildings when located in the SF-A, SF-B, 2F-C or MF-D Districts, shall provide a minimum rear yard of twenty (20) feet.

(5) No fence or wall, other than the walls of a permitted structure, shall be erected or altered in any rear yard to exceed a height of six (6) feet measured from the lower side of such fence, wall or other structure. When the grade of the land adjacent to the location of a fence, wall or other barrier has been altered from its natural condition, the city engineer shall determine the permissible height of a fence, wall or other barrier from the city engineer's projection of the natural grade of the land.

(6) Air-conditioning units and pool units are allowed to encroach into any required rear yard setback. Such units shall be located as close to the structure as possible, and in no case shall they be located closer than three (3) feet to the property line or fence.

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-84. - Special parking regulations.**

(1) Minimum off-street parking requirements for the hereafter specified non-residential uses are as follows:

(a) Bowling alley: Six (6) spaces for each lane or alley

(b) Churches, theatres or places of public assembly: One (1) space for each three (3) seats in the main sanctuary

(c) Hospitals: One (1) space for each patient bed provided

(d) Hotel or motel: One (1) space for each room or guest unit

(e) Offices, retail and business uses: One (1) space for each three hundred (300) square feet of gross floor area in the building

(f) Restaurant or cafeteria: One (1) space for each three (3) seats or customer service facilities provided

(g) Schools or colleges: Two (2) spaces for each classroom, plus one (1) space for each four (4) seats in any auditorium, gymnasium or other place of assembly

(2) A parking space shall be defined as an all-weather-surfaced area of not less than one hundred eighty (180) square feet measuring approximately nine (9) feet by twenty (20) feet not on a public street or

alley, together with an all-weather-surfaced driveway connecting the area with a street or alley and permitting free ingress and egress thereto. All-weather-surfaces includes asphalt, concrete, flagstone, brick pavers, concrete pavers and similar materials. Parking spaces for residential uses shall be covered (except as hereinafter specified). Parking spaces for non-residential uses may be covered or uncovered. Any parking adjacent to a public street wherein the maneuvering is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use.

(3) Whenever any lot is used for off-street parking purposes incidental to any lawful use of property, the parking area and all access drives shall be surfaced with asphalt or concrete, and the pavement surface shall be maintained in good repair and free of debris, trash or other similar material or dirt.

(4) Any light used to illuminate a parking area shall be so arranged as not to be directed into any adjacent residential uses or residential districts.

(5) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in a development.

(6) All retail and commercial structures shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or on the lot adjacent or from a public alley or private service drive. Such space shall consist of a minimum area of ten (10) feet by twenty-five (25) feet for each twenty thousand (20,000) square feet for floor space or fraction thereof in excess of three thousand (3,000) square feet in the building.

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-85. - Accessory structures.**

The following standards shall apply to all accessory buildings hereafter constructed or altered in any residential district:

(1) Required front yard setback. Attached accessory buildings shall have a required front yard the same as the main building. Detached accessory buildings shall be located to the rear of the main building.

(2) Required side yard setback. For any detached accessory building, there shall be a side yard not less than three (3) feet from any side lot line,

except at a corner lot where a detached garage is accessed from either a side street or an alley and would then be subject to vision clearance regulations (Sec. 16-71).

(3) Required rear yard setback. For any detached accessory building, there shall be a rear yard setback not less than three (3) feet from any lot line, alley line, or easement line. Garages or other detached accessory buildings located within the required rear yard shall not be located closer than four (4) feet to the main building nor nearer than three (3) feet to any side lot line.

(4) Garage facing street or alley line. Any garage or enclosed vehicle storage structure constructed in a residential district, detached or as an integral part of the main structure, shall be set back not less than twenty (20) feet from any side or rear property line from which such garage or storage structure may be entered.

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-86. - Special area and building location regulations.**

(1) Courts. Where an apartment building or buildings are erected so as to create inner courts, the faces of all opposite walls in such court shall be a minimum distance of thirty (30) feet apart and no balcony or canopy shall extend into such court area for a distance greater than five (5) feet.

(2) Location of dwellings and buildings. Only one (1) main building for one-family, two-family or multiple-family use with permitted accessory buildings may be located upon a single lot or tract of land. Every dwelling shall face or front upon a paved public street, other than an alley, which means of access shall have a minimum width of thirty (30) feet. Whenever two (2) or more main buildings, or portions thereof, are placed upon a single lot or tract and such buildings will not face upon a paved public street, the same may be permitted when the site plan for such development is approved by the city council after review and report by the city planning and zoning commission so as to comply with the normal requirements for platting. No parking area, storage area, or required open space for one (1) building shall be computed as being the open space, yard or area requirements for any other use.

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-87. - Specific use permits.**

The City Council of the City of Alamo Heights, Texas, after public hearing with proper notice to all parties affected, and after recommendation from the city planning and zoning commission, may authorize for specific areas the issuance of specific use permits for the following types of uses in only those districts specified for such use as follows:

(1) Multiple-family dwelling over two and one-half (2½) stories in height in the MF-D District.

(2) College, university or accredited private school in any residential district.

(3) Day nursery or kindergarten school in the 2F-C, MF-D, B Districts.

(4) Hospital in the 2F-C, MF-D, B Districts.

(5) Institutions of a religious or Philanthropic Nature in the 2F-C, MF-D, B Districts.

(6) Service center municipal in the 2F-C, MF-D, B Districts.

(7) Electrical substation in the SF-A, SF-B, 2F-C, MF-D and P Districts.

(8) Local transit station or off-street turn-around in any residential district.

(9) Radio, television or microwave tower in any district.

(10) Water reservoir, well or water pumping station in the SF-A, SF-B, or 2F-C Districts.

(11) Municipal offices or City Hall in the SF-A, SF-B, 2F-C or MF-D Districts.

(12) Off-street parking for property owned by institutions of a religious or philanthropic nature in SF-A, SF-B, 2F-C or MF-D Districts.

(13) Single-family detached homes in multiple-family dwelling (MF-D) districts which do not otherwise satisfy the requirements of this zoning code and section 17-27 of chapter 17 of the Code of Ordinances. Each of such projects shall be considered on its individual merits, with special attention to be given to the following features, among others which may be deemed important by the planning and zoning commission and the city

council, of proposed project: (a) location and design of ingress and egress to public streets; (b) interior traffic circulation patterns; (c) off-street parking; (d) sidewalks; (e) drainage; (f) lighting; (g) landscaping; (h) fencing and other screening; (i) emergency vehicle access; (j) lighting; (k) landscaping; (l) fencing and other screening; (m) emergency vehicle access; (n) density; (o) lot sizes; (p) setbacks; and (q) compatibility with the surrounding neighborhood.

(14) Office in MF-D not facing and having its main entrance on Broadway or the Austin Highway, provided such office (1) is compatible and harmonious with the surrounding neighborhood, (2) is to be located in a preexisting structure which contains no more than one thousand five hundred (1,500) square feet of enclosed area, (3) the property upon which the structure is located is contiguous to a property zoned B-1, B-2 or B-3, (4) some portion of the property across the street from the subject property must be zoned B-1, B-2 or B-3 if the property across the street from the subject property is in Alamo Heights, (5) the office is for a use authorized in the schedule of permitted uses for offices in section 3-8 of this Zoning Code, (6) the structure and property comply with the parking, landscape, setback and other requirements of the Zoning Code applicable to O-1, and (7) the specific use permit requested promotes the health, safety and general welfare of the residents of the city.

(15) Wireless communication systems antenna support structures and antennas in the P, O-1, B-1, B-2 and B-3 Districts only.

(a) Definitions. A monopole antenna support structure is a self-supporting pole type structure with no guy wire support which holds one (1) or more antennas and related equipment for wireless telecommunications transmission. A lattice antenna support structure is a metal lattice structure with or without guy wire support. An independent support structure means buildings or other structures such as water towers. An unmanned equipment building is an accessory building housing electronic communication equipment as an associated and permitted part of a wireless communication system.

(b) Antenna locations. Wireless communication system antennas may be attached to monopole antenna structures or independent support structures. Lattice antenna support structures may not be used to support wireless communication system antennas in the city. Monopole antenna support structures and wireless communication antennas must be constructed more than one hundred (100) feet from the nearest right-of-way boundary line of Broadway or Austin Highway and more than one hundred twenty (120) feet from any residential zoning district.



(c) Height limitations. A monopole antenna support structure may not exceed one hundred (100) feet in height.

(d) Visual impact of antenna support structures and wireless communication antennas. Antennas and their support structures shall be screened, camouflaged and visually pleasing to the fullest extent feasible, consistent with both national industry standards and Alamo Heights' aesthetic goals.

(e) Unmanned equipment buildings. An unmanned equipment building shall not have more than seven hundred fifty (750) square feet of gross floor area and shall not be more than twelve (12) feet in height.

(f) Landscaping. Compliance with the landscape requirements of this Code is required for antenna support structures and antennas.

(g) Certification of compliance. Prior to installation of antenna support structures or antennas, the city must be furnished certification by a structural or civil engineer registered by the State of Texas certifying that the proposed installation complies with the structural requirements of the City of Alamo Heights Building Code and with federal and state electromagnetic radiation standards and other requirements.

(h) Attachment to water towers. The city council may authorize the attachment of wireless communication antennas to city water towers without special use permits and without compliance with the other requirements of this Code.

(16) A permitted apartment building or hotel may be erected to a height exceeding the height limitations set out in this chapter upon issuance of a specific use permit for such apartment building or hotel.

(17) Permitted institutions such as schools and churches may be erected to a height exceeding the height limitations set out in this chapter in the SF-A, SF-B, 2F-C, MF-D, O-1 and P Districts. Permitted institutions shall mean the institutions categorized as special uses in the table of land uses in section 3-8 of the Zoning Code.

(18) Drive-through facilities as reflected in the permitted uses table in section 3-8 of the zoning code.

The following procedure applies to the approval of specific use permits:

(1) The city planning and zoning commission in considering and determining its recommendation, or the city council in considering any request for a specific use permit, may require from the applicant, plans, information, operating data and expert evaluation concerning the location, function and characteristics of any building or use proposed. The city council may, in the interest of the public welfare and to assure compliance with this ordinance establish special conditions of operation, location, arrangement and construction of any use for which a specific use permit is authorized.

(2) In authorizing the location of any of the uses listed as specific use permits, the city council may impose such development standards and safeguards as the conditions and location indicate [are] important to the welfare and protection of adjacent property and the community.

(3) Every specific use permit approved under the provisions of this ordinance shall be considered as an amendment to the ordinance as applicable to the property involved. The process of giving notice and holding public hearings on specific use permits shall be the same as that provided for amending the ordinance.

(4) Such conditions, safeguards and standards specified by the city council for compliance relative to any specific use permit shall not be construed as conditions precedent to the approval of the zoning amendment but shall be construed as conditions precedent to the granting of a building permit.

(Ord. No. 1750-C, § 2, 1-28-08; Ord. No. 1774, 6-9-08; Ord. No. 1776, 7-21-08; Ord. No. 1877, 8-23-10)

### **Sec. 3-88. - Landscaping regulations.**

(A) Application of this section.

(1) The landscaping section of this ordinance shall apply to all land located in the City of Alamo Heights, except as otherwise noted below. Such landscaping requirements shall become applicable as to each individual lot or tract of land at such time as an application for building permit on such lot or tract of land is made.

(2) A common development which includes more than one (1) lot shall be treated as one (1) lot for the purposes of satisfying the landscaping requirements of this section. Split ownership, planning in phases, construction in phases, and/or multiple building permits for a project shall

not prevent it from being a common development as referred to above. A project planned in phases must have each phase in compliance with the ordinance.

(3) The requirements of this section shall not apply to the following:

(a) Single-Family Dwelling District A (SF-A).

(b) Single-Family Dwelling District B (SF-B).

(c) Two-Family Dwelling District C (2F-C).

(d) Building permits for the substantial restoration within a period of twelve (12) months of a building which has been damaged by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

(e) Building permits for remodeling as long as the roof and front, side and rear exterior walls of the building remain in the same location.

(f) Site development plans approved before July 2, 1984, and granted a building permit by September 1, 1984.

(B) Procedures pertaining to this section.

(1) When an application is made for a building permit on any land where the landscaping requirements of this section are applicable, such building permit application shall be accompanied by a site plan(s) containing the information listed below:

(a) The date, scale, north arrow, title and name of owner.

(b) The location of property lines and dimensions of the tract.

(c) The location and size of existing and proposed streets and alleys.

(d) The location, size and type (tree, shrub, ground cover) of proposed landscape plant material, and the location of proposed landscape areas. The use of native plants is encouraged.

(e) The location, size and species of existing trees on the site having trunks six (6) inches or larger in diameter and the approximate size of their crowns.

(f) The location, size and type of landscape architectural components (drives, walks, curbs, fences, steps, ramps, planters, pools, parking areas, etc.) proposed.

(g) A separate grading plan showing proposed topography (at two (2) foot contour interval) may be required at the request of the building official.

(h) Indication if a landscape irrigation system is proposed.

(i) Sufficient details to clearly describe all features proposed to be located in the city right-of-way. A written statement shall be submitted holding the city harmless from liability and/or damages caused by features placed in the right-of-way. The city retains total jurisdiction over features in the right-of-way as necessary for installation and maintenance of utilities, improvements and protection of the public health, safety and welfare.

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

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

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

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

(3) The planning and development services office shall inspect each site no sooner than three (3) months nor later than twelve (12) months after

the building is ready for occupancy. The owner may call for earlier inspection if desired. If the proposed landscape construction is not completed at the time of the twelve (12) month inspection, the performance bond or letter of credit shall be forfeited and applied toward the implementation of the landscape plan. Any additional costs beyond those covered by the performance bond or letter of credit shall be affixed as a lien on the property.

(C) Landscaping requirements.

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

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-89. - Non-conforming uses or structures.**

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

(2) Any nonconforming use of land or buildings or any nonconforming structure may be continued for indefinite periods provided that the board of adjustment may prescribe definite periods of time for the discontinuance of a nonconforming use of land or building subject to such restrictions as the board of adjustment may require for the protection and preservation of adjoining property. A nonconforming use of land or building may be changed to another nonconforming use of the same or a more restrictive classification. If a change of a nonconforming use is made to a use in a more restrictive classification, the use shall not later be changed to a less restrictive classification and the less restrictive use shall be considered to have been abandoned.

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

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

(5) A building or structure in Business District One (B-1) used for a nonconforming use as defined in section 3-88 of the Zoning Code may be modified or expanded upon approval of a building permit therefore by the city council; provided that any such modification or expansion is for the same use which existed prior to the time of the request for the building permit.

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

(Ord. No. 1750-C, § 2, 1-28-08)

**Sec. 3-90. - Reserved.**