

## CHAPTER 19 - SPECIAL REGULATIONS APPLICABLE TO PARTICULAR USES

### 19.1 ACCESSORY BUILDINGS

#### A. General Requirements for Accessory Buildings and Accessory Dwellings.

1. No accessory building or dwelling is permitted on a lot or tract without the existence of a principal building except for the following instances:
  - a. Barns used for agricultural purposes on properties two (2) acres or more in size;
2. Accessory buildings shall not be located within an easement (drainage/utility, landscape, etc.)
3. Leasing or renting of any accessory building or portion thereof constitutes a violation of the Zoning Ordinance. The leasing or renting of space within a barn or stable for agricultural purposes is exempt.
4. The overall height of an accessory building or accessory dwelling unit is not to exceed one-story.
5. Accessory buildings attached to a principal building by a breezeway, covered walkway, or other similar structure whose roofline has not been made part of the principal building shall not be considered an extension of the principal building.
6. A building permit is required prior to construction of an accessory dwelling or building.

Amended by Ord. 13-02 on 1/28/2013; by Ord. No. 15-01 on 3/3/2015

#### B. Standards for Accessory Dwelling Units.

A dwelling unit to be occupied by family members or caretakers may be allowed as an accessory use to the principal dwelling unit under the following conditions and when approved as a conditional use pursuant to Chapter 24:

1. Except as provided in Subsection 19.1B.7, the accessory dwelling unit must be constructed to the rear of and separate from the principal dwelling unit.
2. No accessory dwelling unit may be constructed on a lot less than 2 acres in size.
3. The accessory dwelling unit may be constructed only with the issuance of a building permit and shall be constructed out of the same material as the principal structure.

4. The accessory dwelling unit may not be sold separately from sale of the entire property, including the principal dwelling unit, and shall not be leased or sublet.
5. The accessory dwelling shall not have a setback less than the primary structure from the front lot line, nor less than ten (10) feet from either side line, nor may it occupy more than ten (10) percent of the minimum required rear yard (i.e., building foot print).
6. When the accessory dwelling is directly attached to the principal dwelling, it shall be considered an integral part of the principal building and shall meet all requirements for the principal building.

Amended by Ord. No. 15-01 on 3/3/2015

**B. Standards for Accessory Buildings in Residential Districts.**

1. **Front Yard:** Accessory buildings shall be prohibited in front of the principal building and shall be placed in the rear or side yard.
2. **Side Yard:**
  - a. There shall be a side yard not less than five (5) feet from any side lot line, or alley line for any accessory building.
  - b. Accessory buildings adjacent to a side street shall have a side yard not less than that of the primary structure.
  - c. Accessory buildings located and arranged so as to be entered from the side yard shall have a minimum distance of twenty (20) feet from the side lot line, alley line, or easement line. Accessory buildings arranged to be entered from the side yard, facing a public street, shall have a minimum street side yard distance equal to the required front yard for the main building.
3. **Rear Yard:** There shall be a rear yard not less than five (5) feet from any lot line or alley line, or easement line.

Amended by Ord. No. 15-01 on 3/3/2015

**D. Standards for Accessory Buildings in All Districts.**

1. **Building Materials.**
  - a. **Residential Districts.**
    - (1) All accessory buildings larger than 400 square feet shall be constructed on the same exterior construction materials as that of the principal building and, at a minimum, the requirements shall meet or exceed the following:

- (a) The exterior walls, to include the front elevation and any other elevation facing a dedicated street, must consist of 90% brick or stone material.
  - (b) Fiber cement siding may be used to fulfill the masonry requirements for buildings accessory to an existing principal building constructed of wood or vinyl siding.
  - (c) Exceptions.
    - i. Barns, which may be constructed of metal, wood, hardiboard, or masonry.
    - ii. Greenhouses, which must be constructed of glass, glasslike or translucent material, cloth, or lath.
- (2) All accessory buildings less than or equal to 400 square feet shall be constructed of modular masonry, masonry, and/or Hardiboard, Hardiplank, wood, or deep ribbed metal panels of baked enamel finish with 30 year rating. Roofing for accessory buildings shall meet the requirements of Section 20.8 of this Ordinance.
- b. Non-Residential Districts.
  - (1) Commercial Districts. Building materials shall meet the requirements of Chapter 20.8(A)(2)(b) and (c) of the Zoning Ordinance.
  - (2) Industrial Districts. Building materials shall meet the requirements of Chapter 20.8(A)(2)(d) of the Zoning Ordinance.
2. In any zoning district, the maximum combined floor area, maximum wall height, and number of accessory buildings per lot/tract permitted of right shall be based on the lot/tract size. Such regulations shall be set forth in Chart 19.1. Any request for a building permit for an accessory building which does not meet the criteria of these sections shall only be authorized by approval of a conditional use permit using the procedures contained in Chapter 24 of the Zoning Ordinance.
3. The maximum building height shall not exceed that of the underlying zoning district. The roof pitch of any accessory building must be of similar style to the primary building, unless the structure is less than 400 square feet in size or is a barn.
4. If a property resides within the jurisdiction of an HOA, a letter of approval from the HOA, for the requested accessory building, shall be required with the application for a building permit.

5. Shipping containers used as accessory buildings are prohibited. No person shall place or cause to be placed or use any shipping container as an accessory building, storage building or living unit.
- a. Portable on-demand storage containers may be allowed for use as temporary on-site storage for a maximum 90 days only by approval from the Building Official.

Amended by Ord. No. 15-01 on 3/3/2015

**Chart 19.1**  
**Accessory Building Size, Number, and Setbacks<sup>1</sup>**

Lot Size (acres)	Maximum Number of Accessory Buildings Allowed	Combined Floor Area Allowed (All Accessory Buildings – sq. ft.)	Maximum Wall Height <sup>1</sup> (feet)	Setback from Adjacent Residence (feet)
<1/2	2	580	8	10
½ to < 1	2	960	8	20
1 to <2	3	2500	10	20
2 to <3	3	3000	15	25
3 to <4	4	3500	15	30
4 to <5	4	4000	15	35
5 to <10	5	4500	15	40
10+	5	No more than 3% of the lot/tract	15	45

1. Wall height shall be measured from the top of the building foundation to the top of the plate line supporting the roof.

Section 19.1 revised by Ordinance 473, October 22, 2007; Ord. No. 13-02 on 1/28/2013; Ord. No. 15-01 on 3/3/2015

## 19.2 CHILD-CARE FACILITIES

- A. The day-care center, group day-care home, or family home as defined in Chapter 2, shall be licensed or registered by the Department of Human Services, if such licensing or registration is required by the State pursuant to Tex. Human Resources Code Ann. 42.001 *et seq.*
- B. The day-care center, group day-care home, or family home shall meet all minimum standards promulgated by the Department of Human Services.
- C. The outdoor play areas of a day-care center, group day-care home, or family home shall be enclosed with a fence which shall be built and maintained with a minimum height of four (4) feet. A six (6) foot height solid fence shall be built and maintained along play areas that are adjacent to residential zoned property. No play areas will be permitted in the front yard.
- D. No outside employment of a care giver is allowed at a family home.

## 19.3 GROUP HOMES

- A. A group home shall not be located within one-half mile of any other group home. This distance requirement shall be measured by the straight-line distance rather than street distance. This spacing requirement shall not, however, apply to group homes for persons sixty (60) years of age or older. A waiver of this location regulation may be granted by the Town Council.
- B. A community home is a use by conditional use permit in any district zoned as residential. However, no community home may be established within one-half mile of an existing community home. This distance requirement shall be measured by the straight-line distance rather than street distance.
- C. The residents of a group home or community home may not keep for the use of the residents of the home, either on the premises of the home or on the public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.
- D. A group home or community home shall meet all applicable state licensing and minimum requirements as promulgated by the Department of Human Services.
- E. A group home shall conform, to the extent possible, to the type and outward appearance of the residences in the area in which it is located. This provision shall in no way restrict the installation of any ramp or other special features required to serve disabled residents.

## 19.4 PRIVATE SCHOOLS

Private schools, kindergartens and nurseries teaching the same subjects as public elementary and high schools building or buildings shall be set back from all required yard

lines in the district in which they are to be located two (2) feet for each foot of building height and provide off-street parking facilities. For schools and kindergartens, a minimum building area of thirty (30) square feet per pupil and minimum site area of two hundred (200) square feet per pupil shall be provided.

## 19.5 ACCESSORY STRUCTURES AND USES

### A. General Requirements.

1. No accessory use or structure is permitted on a lot or tract without the existence of a primary use or principal structures except for the following instances:
  - a. Fences
2. A building permit application is required prior to the placement and/or construction of all accessory structures.
3. If a property resides within an HOA, a letter of approval from the HOA for the requested structure is required.

### B. All livestock enclosures shall be located in accordance with the Standards for the Keeping of Farm Livestock, Art. 2.300 Of the Town Code of Ordinances.

Amended by Ord. No. 404 on 1/10/2005

### C. Private swimming pools.

1. Private swimming pools along with incidental installations such as pumps and filters, must be located in the side or rear yard and completely enclosed from adjoining lots by protective fence or screen enclosure of not less than four (4) feet in height.
2. Such pools shall be setback from all lot lines a distance of not less than three (3) feet.
3. Openings in the fence shall not permit the passage of a six inch (6") diameter sphere.
4. The fence or screen enclosure shall be equipped with self-latching gates.
5. Swimming pools may not be located within any drainage and utility easement.

### D. Private tennis courts or other outdoor paved games surfaces.

1. Such courts must not be constructed within twenty (20) feet of any adjoining property under other ownership.
2. Tennis court fences or walls shall not exceed twelve (12) feet in height and any lights for the tennis court shall be subject to a use permit and shall be placed so as not to direct or reflect light upon adjoining land.

3. The installation of tennis center, tennis courts, or other paved game surface must be approved through the permit process and such fees as provided for within the Town of Sunnyvale Fee Schedule must be paid.
4. Small facilities with no lighting and minor equipment are exempt from these provisions, providing a letter of approval is provided by the HOA.

E. Carports

1. General Requirements.
  - a. When a carport is attached to an accessory building or the principal building, it is considered part of the accessory building or principal building, respectively.
  - b. A carport is open on a minimum of 3 sides, is designed or used to shelter not more than three (3) vehicles, and not to exceed the width of the garage.
  - c. Carports may not overhang or intrude in any right-of-way or any type of public utility and drainage easement.
  - d. The structure shall not be more than ten (10) feet in height except when built into the roof line of the primary structure and must use the same roofing materials.
  - e. If a carport is constructed in a location that abuts a dedicated street, the requirements for a front or side facing carport must be met.
2. Rear Facing.
  - a. Carports must be a minimum of three (3) feet from the rear property line and must maintain the side yard setbacks for the zoning district.
3. Front and Side Facing.
  - a. The color and materials of supports for the carport shall match or replicate the principal building. Metal is a prohibited exterior material.
  - b. A carport shall have a pitched roof that matches the existing roof pitch and may be structurally integrated into the roof of the principal building. If the carport abuts a two-story wall of the home, the carport must be attached to the abutting wall.
  - c. The roofing materials shall substantially match the color and type of the principal building.
  - d. The roof height of the carport shall not exceed the height of the principal structure. The eve height of the carport shall not exceed that of the principal building. If the carport abuts a two-story wall of the home, the eve height of the carport shall not exceed half of the height of the abutting wall.
  - e. The carport shall cover an approved driveway surface.

F. Donation Boxes.

1. No person, owner or occupant shall cause, permit, or allow a donation box as defined herein or any bin, trailer, or receptacle without an attendant, on any lot, tract, or property within a residentially zoned district.
2. Special regulations. All donation boxes are subject to the following regulations:
  - a. A property owner must consent to the location of the donation box;
  - b. Maximum of one (1) donation box per lot or contiguous lots under common ownership or occupancy;
  - c. The donation box shall not be located within the designated fire lane or hinder the movement of emergency public service vehicles and/or equipment.
  - d. The donation box shall not be located within required parking spaces or within or immediately adjacent to designated handicapped parking areas;
  - e. Any person having placed of a donation box as defined herein shall maintain such structure in good and sufficient condition; and,
  - g. Items are to be placed within the donation box and may not be placed outside or around the perimeter of the box.

G. Fences.

1. It shall be unlawful for any person to construct a fence four (4) feet and greater in height on any lot without having first obtained a building permit.
2. No fence, guy wires, braces, or any part of such fence shall be constructed upon or cause to protrude over property owned by the Town.
3. Height restrictions. No fence shall be constructed at a height exceeding the following:
  - a. Rear yard. No fence shall be constructed at a height to exceed eight (8) feet along the rear yard of an alley line.
  - b. Front yard. No fence over four (4) feet in height shall be permitted from the front building line to the parkway or parallel with the street line. All stockade fences or other fences which do not have fifty (50) percent through vision are prohibited in the front yard.
  - c. Side yard. No fence shall be constructed at a height exceeding eight (8) feet on any side yard line up to the building line of the house proper, except that on all corner lots where the rear lot line directly abuts a side lot line of an adjoining lot, no fence exceeding four (4) feet in height shall be constructed on the street side yard line up to the building line of the house proper.
4. Barbed wire restrictions. Fences or walls having wire or mesh prongs or spikes, or cutting points or edges of any kind shall be prohibited except under the following circumstances and conditions:
  - a. Agricultural uses. In all areas, barbed fences may be constructed if:
    - (1) The property is used to pasture or control livestock;
    - (2) The tract to be fenced is a minimum one (1) acre in size;

- (3) The fenced pasture is a minimum of one hundred (100) feet from the nearest dwelling, excluding the dwelling of the owner of the tract to be fenced; and
  - (4) The fence shall not be closer than fifteen (15) feet to any adjacent property line, except that there may be a common fence where two (2) adjacent pastures adjoin.
- b. Security. In all areas zoned for industrial use and on public property which requires protection from vandalism, barbed wire fences as accessory to other fencing material with arms extending outward may be constructed. No such barbed wire arm shall extend, however, outward over the property lines. Fence arms with barbed wire shall not be allowed on fences less than six (6) feet in height.
5. Inspections required. When any such fence is completed, it must be inspected. The building inspector's office shall be notified upon completion of the fence. The fence must comply with the provisions of this Section or will be rejected. All fences shall remain and be maintained in an upright position at all times.
  6. Traffic visibility. No fence shall be erected and maintained which is higher than four (4) feet and/or has less than fifty (50) percent through vision or which otherwise interferes with traffic visibility across the corner.
  7. Nothing in this Section shall be construed as permitting the construction of a fence which would violate deed restrictions on the property.

Amended by Ord. No. 13-02 on 1/28/2013; Ord. No. 15-01 on 3/3/2015

## 19.6 HOME OCCUPATIONS

### A. Purpose and Intent.

The purpose of these regulations is to permit home occupations which will not change the character of the residential areas in the Town. The intent of these regulations is to promote aesthetic consideration, conserve property values, as well as protect the residential neighborhoods from excessive noise, excessive traffic generation, nuisances, health, and safety hazards as a result of home occupation conducted in the residential zones.

### B. Definition.

Any occupation or activity carried on principally by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main building; provided that no trading in merchandise or selling of goods or services is carried out on a regular basis and in connection with which there is no display of merchandise and no mechanical equipment is used, except such as is customary for purely domestic or household purposes and

does not create obnoxious noise or other conditions such as odor, increased traffic, smoke or electrical interference. A beauty or barber shop, tearoom or restaurant, rest home or clinic, child-care center, bed and breakfast facility, or cabinet, metal or auto repair shop are examples of uses that are not home occupations.

C. Performance Standards.

All home occupations must comply with the following performance standards:

1. The use of the dwelling unit as home occupation shall be clearly incidental and subordinate to its use for residential purposes.
2. No person(s) other than members of the immediate family residing on the premises shall be engaged in the activities of the home occupation.
3. There shall be no exterior displays, no exterior storage of equipment, including unlicensed equipment and materials, and no exterior indication of the home occupation which may change the outside appearance of the principal residence or change the residential character of the building.
4. No advertising for the home occupation on premise is allowed. No advertisement of the address of the property to attract customers, clients or the public to the premises is allowed. Window areas must not purposely or intentionally be used as display areas or offer merchandise for sale.
5. Home occupations shall not require internal or external structural alterations of the principal residence or install equipment or machinery not customary in a residential area.
6. No open lot storage as defined by the Zoning Ordinance shall be permitted in connection with a home occupation beyond the storage requirement permitted for a residential use.
7. No pedestrian or vehicular traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential area except for agricultural uses in the AR District.
8. No home occupation requiring any equipment or processing which creates noise, vibration, glare, fumes, smoke or dust which disturbs neighbors and alters the residential character of the premises shall be permitted.
9. No electric devices may be used in any home occupation which may cause electrical interference or create visual and audible interference in any radio or TV receivers causing fluctuations in the line voltage off the premises.
10. Delivery trucks shall not operate out of a residential area.

11. Offices for certain home occupations, professions, and business activities may be permitted as home occupations; provided, however, they adhere to the general provisions of this Ordinance and they do not violate any performance standard prescribed herein.
12. The office must not generate clients and customers to the permitted home occupation to transact business.

D. Prohibited Home Occupations.

The following occupations, professions, and business activities of similar nature are prohibited as home occupations, as defined in this Ordinance, but not limited thereto:

1. Clinics, hospitals;
2. Animal/veterinary clinics;
3. Restaurants;
4. Auto/truck/RV repair services;
5. Licensed day care center (group day care home or family home as conditional uses only)
6. Building contractor/construction activities;
7. Ambulance services;
8. Taxi services;
9. Beauty salons, barber shops;
10. Auto/car sales, part sales;
11. Appliance repairs.

#### 19.7 TEMPORARY USES

- A. Real estate sales offices may be opened temporarily during the development of residential subdivisions in which the office is located until eighty percent (80%) of the building permits of the platted lots in the subdivision are issued.
- B. Temporary Construction Buildings. Temporary buildings and temporary building material storage areas to be used for construction purposes, which shall not be occupied, may be permitted for a specific period of time in accordance with a permit issued by the Building Official and subject to periodic renewal by the Official for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices and buildings shall be removed at the satisfaction of the Building Official.
- C. Concrete batching plants shall be permitted on a temporary basis on the site of construction, and only during the time of construction. The temporary permit shall only be issued for a period of up to six (6) months. The permit may be renewed for up to an additional six (6) months. The permit shall be issued by the Town Administrator by written letter only if it is determined that the temporary

batching plant will not have a negative effect on any adjacent use while in operation.

- D. Temporary Event. Temporary event shall be allowed in non-residential zoning districts subject to application being approved by the building official. In the event food services are provided in conjunction with event each food provider shall be required to obtain a separate permit in compliance with the Texas food establishment rules (25 TAC 229.167-175). Permits shall be requested 10 days prior to the event Approved event not to exceed 72 hours.

Amended by Ord. No. 13-02 on 1/28/2013

## 19.8 PARK DEVELOPMENT STANDARDS

The following standards shall apply to approval of a site plan for park development:

- A. All soccer, baseball and similar playfields shall have at least 40 parking spaces per field.
- B. Lighted playfields shall have a maximum light intensity of fifty (50) foot candles.
- C. No light fixtures or poles with lights shall be located within 300 feet of any residential zoning district.
- D. All parking areas shall be screened from view from any adjacent residential use. Screening shall be opaque and be at least four (4) feet in height. Screening may be masonry or living materials.

## 19.9 ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES

- A. Definitions. For purposes of this section 19.9, the following definitions shall apply:
1. Alcoholic beverage means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted.
  2. Beer means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight, and does not include a beverage designated by label or otherwise by name other than beer.
  3. Child-care facility means a facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

4. Day-care center means a child-care facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.
5. Private school means a school that is not a public school, including a parochial school, that: (1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and (2) has more than 100 students enrolled and attending courses at a single location.
6. Residential district means an Agricultural Residential (AR) District; a Single Family 1 (SF-1) District; a Single-Family 2 (SF-2) District; a Single-Family 3 (SF-3) District; a Single Family 4 (SF-4) District; an Attached Housing (AH) District; an Attached Housing Commercial (AHC) District, or a Planned Residential Overlay (PRD) District.

B. Locational Limitations

1. The sale of beer is prohibited in every residential district.
2. The sale of alcoholic beverages is prohibited in a business that is located within:
  3. 300 feet of a church, a public school, or public hospital;
  4. 300 feet of a private school; provided that such limitation shall not apply to a private club that holds a food and beverage certificate issued pursuant to Tex. Alcoholic Bev. Code sections 32.23 and 69.19.
  5. 1000 feet of a private school, if the Town receives a request from the governing body of the private school to increase the distance to such measurement; provided that such limitation shall not apply if: (i) in the case of a private club, less than 50% of the gross receipts for the business are derived from sale or service of alcoholic beverages; or (ii) in the case of a business holding a retail-off premises consumption permit issued under Chapter 69 of the Texas Alcoholic Beverage Code, less than 50% of the gross receipts for the business excluding the sale of items subject to the motor fuels tax, are derived from the sale or service of alcoholic beverages.
6. 300 feet of a child-care facility or day care center; except such limitations shall not apply: (i) if the establishment holds a food and beverage certificate issued pursuant to Tex. Alcoholic Bev. Code sections 32.23 and 69.19; or (ii) the establishment selling alcoholic beverages and the child-care facility or day-care center are located on different stories of a multistory building; or (iii) if the establishment selling alcoholic beverages and the child care facility or day care center are located in separate buildings and one or the other is located on the second story or higher of a multistory building.

C. Measurement of Distances

The distance requirements of subsection B shall be measured in the following manner:

1. The measurement of the distance between a place of business where alcoholic beverages are sold and a church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.
2. The measurement of the distance between a place of business where alcoholic beverages are sold and the public or private school shall be in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections.

19.10 PRIVATE CLUBS

Private clubs which serve alcoholic beverages subject to the following limitations and restrictions:

- A. A private club is not permitted in a drive-through, fast food or take out restaurant, snack shop, coffee shop, or cafeteria.
- B. A private club is not permitted within three hundred (300) feet of any church, hospital, or school. The distance shall be measured as defined by state law.
- C. A private beverage club shall not be permitted in conjunction with a nonconforming use as defined in the zoning ordinance of the Town of Sunnyvale.
- D. A private club shall be operated only in a general restaurant, motel, hotel or a nationally recognized private nonprofit, tax exempt, social or fraternal organization.
- E. As a specific condition of the granting of a conditional use permit, a private club shall comply with all Town, county, state and federal laws.
- F. All persons consuming an alcoholic beverage in a club shall be a member of the club or a guest of a member.
- G. Any bar or lounge area shall be designed so that patrons can only enter from an area within the primary use of the premises, such as a lobby, waiting room or dining room.
- H. Outdoor advertising of alcoholic beverages is prohibited.
- I. Copies of tax returns required by the state pertaining to sales of alcoholic beverages shall be made available to the Town Secretary upon demand.

- J. A copy of any and all audits by the Texas Alcoholic Beverage Commission shall be mailed to the Town by certified mail upon completion of the audit.
- K. Noncompliance with applicable state and federal laws shall give the Town Council the right to call a public hearing to consider the revocation of any conditional use permit granted for the operation of a private club.

Amended by Ord. No. 497 on 9/28/2009

#### 19.11 MINI-WAREHOUSES

Mini-warehouse or self-storage buildings shall be designed such that the doors for each storage space are not visible from the public right-of-way or adjacent property, as viewed from the adjacent property line or right-of-way line, as the case may be, at the natural grade level.

#### 19.12 PERSONAL WIRELESS COMMUNICATION FACILITIES

Communications antennas and support structures/towers:

- A. In all residential zoning districts (AR, SF-1, SF-2, SF-3, SF-4, AH and PRO), commercial antennas and antenna support structures are prohibited, except as specified within this Section.
  - 1. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, utility/street light poles, elevated water storage tank, etc.), provided that the antenna does not extend more than ten feet (10=) above the height of the utility structure (see 19.11(C) below). The existing height of the utility structure may be increased by up to fifteen feet (15=), if necessary, by the commercial antenna owner only if granted permission by the owner of the utility structure.
  - 2. A commercial antenna may be placed wholly within any building permitted in the zoning district (see 19.11(C) below). A commercial antenna may be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and is not readily visible/identifiable as an antenna from public roadways or neighboring residential property.
  - 3. A commercial antenna may not be located on a single-family residential lot (either attached to a pole/structure or within a single-family home).
- B. In non-residential zoning districts (LR, GB, LC, HC, I and PC), commercial antennas and antenna support structures are allowed as follows:
  - 1. Commercial antenna support structures are allowed by right if they do not exceed the maximum building height allowed for the zoning district in which they are located. Structures in excess of the height allowed in the zoning district may be allowed by conditional use. In all non-residential

- zoning districts, antenna support structures must meet the setback requirements from residential districts (see subsection C below).
2. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.), provided that the antenna does not extend more than ten feet (10') above the height of the utility structure (see 19.11(C) below).
  3. A commercial antenna may be placed wholly within any building permitted in the zoning district (see 19.11(C) below). A commercial antenna may be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and is not readily visible/identifiable as an antenna from public roadways or neighboring residential properties.
- C. No commercial antenna support structure shall be closer to any residential district boundary line or residential dwelling than a distance equal to twice the height of the support structure. Such setback/distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of a residential district boundary line or residential dwelling. Setbacks from residentially zoned property do not apply to antennae attached to utility structures, or to antennae placed wholly within or mounted upon a building.
- D. No amateur or commercial antenna, antenna support structure, microwave reflector/antenna, or associated foundations or support wires or appurtenances shall be located within any required setback area for the front, side or rear yards.
- E. Antennae (amateur or commercial) shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC). In no manner shall the use of such equipment infringe upon adjoining property owners.
- F. Satellite dishes and other similar antennas shall be permitted on the roof of a building, as long as satellite dishes do not exceed three feet (3') in diameter and antennas do not extend over twelve feet (12') above the roof of the building. Any parabolic or satellite dish antenna over three feet (3') in diameter, but not exceeding twelve feet (12') in diameter, may be mounted on the roof if a letter stating its structural stability is written by a registered architect or engineer and submitted to the Town Planner, or his designee. Roof-mounted antennae that comply with the above do not require additional yard setbacks or setbacks from residential areas or dwellings.
- G. Only one (1) satellite dish shall be permitted per residential lot or primary structure, except that a maximum of two (2) dishes shall be allowed if both units are three feet (3') or less in diameter. Satellite dishes in any residential district that exceed twelve feet (12') in diameter are only permitted by conditional use.

- H. All commercial signs, flags, lights and attachments other than those required for communications operations, structural stability, or as required for flight visibility by the Federal Aviation Administration (FAA) and FCC shall be prohibited on any antenna or antenna support structure.
- I. All publicly owned antennae or antenna support structures shall be permitted in any district (e.g., public safety communications, etc.).

### 19.13 ADEQUATE PUBLIC FACILITIES STANDARDS

**Adequate Public Facilities Policy.** The land proposed for development must be served adequately by essential public facilities and services. Land shall not be approved for development unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities and transportation facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or offsite. This policy may be defined further and supplemented by other ordinances adopted by the Town.

- A. **Conformance to Plans.** Proposed public improvements shall conform to and be properly related to the Town's Water Distribution Master Plan, Master Sewer Plan, Transportation Element and applicable capital improvements plans.
- B. **Water.** All platted lots must be connected to a public water system which is capable of providing water for health and emergency purposes, including adequate fire protection.
- C. **Wastewater.** All platted lots must be served by an approved means of waste water collection and treatment. The Town may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity.
- D. **Streets.** Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation and shall be properly related to the Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development.
- E. **Drainage.** Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system. The Town may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impacts of the proposed development.
- F. **Other Facilities.** Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the Town's Comprehensive Plan shall be related to the character and uses of the surrounding properties in accordance with the intent, policies and provisions of this ordinance.

- G. Phasing. The Town may require the phasing of development or improvements in order to maintain current levels of service for existing public services and facilities or for other reasons based upon maintaining the health, safety and general welfare of the Town's inhabitants.
- H. Utility Mains. Utility mains shall not be installed in the Flood plain unless other routes are not feasible.
- I. Fire Control.
  - 1. Sprinkler systems shall be required in all homes greater than or equal to 5000 square feet in size, measured including porches, attached breezeways and garages. Sprinkler systems shall also be required in attached housing units including more than two units.
  - 2. Fire retardant materials shall be used for roofing in all districts. Composition shingles or tile are acceptable roofing materials. Wood shingles are prohibited.
  - 3. Knox box installation or similar device approved by the Fire Department shall be required for residential properties that utilize gates, gated communities, and commercial properties deemed necessary by the authority having jurisdiction.

Amended by Ord. No. 13-02 on 1/28/2013

#### 19.14 COMPATIBILITY STANDARDS

The following compatibility standards are applicable to establishment of and development within overlay zoning districts and to all rezoning requests and applications for approval of conditional uses.

- A. Non-residential uses shall be buffered and screened from residential uses according to the standards established in Section 20.5.
- B. The arrangement of all uses and improvements shall reflect the natural capabilities and limitations of the site as well as the characteristics and limitations of adjacent property.
- C. Development must be compatible with the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height; historical character; and disposition and orientation of buildings on the lot.
- D. Buildings, transportation improvements, and open space areas, must be arranged on the site so that activities are compatible with the neighborhood.
- E. Buildings, transportation improvements, open space, and landscaping, must be designed and arranged to produce an efficient, functionally organized, and cohesive development.

- F. Buildings, transportation improvements, open space and landscaping, must be in favorable relationship to the existing natural topography, natural water bodies and water courses, exposure to sunlight and wind, and long views.
- G. Buildings, transportation improvements, open space and landscaping, must be designed and arranged to maximize the opportunity for privacy by the residents of the project and surrounding areas.
- H. The proposed use must not be hazardous to existing or future neighboring uses.
- I. The proposed use must not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic noise, smoke, fumes, glare or odors.

#### 19.15 PARKING REGULATIONS

- A. All parking spaces and access thereto shall be constructed with a minimum of five (5) inches of reinforced concrete material, except that areas designated for fire lanes shall be constructed with a minimum of six (6) inches of reinforced concrete material, and providing a low maintenance surface on any and all parking areas. Parking spaces for single family dwellings may be constructed of four (4) inch reinforced concrete materials.
- B. Off-street parking space shall be provided on the lot to accommodate two (2) motor vehicles for each single family, duplex or townhouse dwelling unit; however, no supporting member of any garage, carport or other automobile storage structure shall be located within the required front yard or side yard. For single family dwelling units, the required parking spaces shall be located behind the front building line. Multiple family dwellings shall be provided visitor parking at a ratio of one space for each 3 dwelling units.
- C. All motor vehicles, or trailers, equipment or machinery, whether or not motorized, shall be parked either behind the front building line or on surfaces that meet the requirements for parking spaces, as described in this section.
- D. No motor vehicle or trailer may be parked in a public right-of-way for more than 24 hours. Parking in alleys is prohibited. Parking within 10 feet of a mailbox between the hours of 8:00 a.m. – 5:00 p.m. Monday through Saturday is prohibited.  
  
Amended by Ord. No. 13-02 on 1/28/2013
- E. In any single-family dwelling or attached housing district, the parking of trucks, trailers or buses for commercial purposes shall not be permitted. Head-in parking adjacent to public thoroughfare wherein the maneuvering is done on a public street, shall not be classified as off-street parking in computing the parking requirements for any use.

F. Parking Requirements for Non-residential Uses

1. Off-street parking spaces shall be provided according to Chart 19.1.

**Chart 19.1**  
**Off-street Parking Requirements**  
**Non-residential Uses**

<b>Use</b>	<b>Off-street Parking Requirements</b>
Bingo parlors or other similar establishments	1 space per 3 seats or 1 space per 100 sq. ft.
Bowling alleys	5 spaces per alley
Car Wash	1 space per 500 sq. ft. or one space per bay
Churches and other places of assembly	1 space per 3 seats with fixed seating or 1 space per 50 square feet of assembly area without fixed seating
Colleges and trade schools	1 space per day student
Commercial amusement	1 space per 3 persons design capacity or 1 space per 100 sq. ft.
Day-care center	1 space per 10 students plus a circular drive with 2 covered unloading spaces
Elementary School (Grades K-6)	1 parking space for each 15 students (design capacity)
Elementary School (Grades K-6)	1 parking space for each 15 students (design capacity)
Golf course	5 spaces per green
Group residential dwellings	1 space per 2 residents
High School (Grades 9-12)	1 parking space for each 3 students, faculty and staff (design capacity)
Hospitals	1 space per patient bed
Industrial or warehouse	1 space per 1,000 sq. ft. or one space per 2 employees
Libraries	1 space per 250 sq. ft.
Lodge or fraternal organization	1 space per 250 sq. ft.
Motels or hotels	1 space for each guest accommodation, plus 1 space per 3 seats for restaurant areas and meeting rooms.

Use	Off-street Parking Requirements
Motor vehicle repair	3 spaces per service bay plus 1 space per employee
Movie theaters	2 spaces per 5 seats
Museums	1 space per 250 sq. ft.
Nursing or convalescent home	1 space per 4 beds plus 1 space per employee
Office showroom	1 space per 500 sq. ft. of showroom plus 1 space per 200 sq. ft. of office
Office warehouse	1 space per 1,000 sq. ft. of warehouse plus 1 space per 300 sq. ft. of office
Office, general	1 space per 300 sq. ft.
Office, medical or dental clinic	1 space per 200 sq. ft.
Other motor vehicle uses	1 space per stored vehicle plus 1 space per employee
Queuing space for all drive thru facilities	6 spaces minimum
Restaurants and cafeterias	1 space per 100 sq. ft.
Retail and commercial uses other than those listed	1 space per 200 sq. ft.
Retail, office loading space	1 space per 10,000 sq. ft. Spaces shall be 10' x 25' minimum.
Secondary or Middle School (Grades 7-8)	1 parking space for each 12 students (design capacity)

Amended by Ord. No. 13-02 on 1/28/2013

- a. Where parking spaces are based on building area, the gross area of the building shall be used.
- b. Where parking spaces are based on the number of employees the maximum number of employees per shift shall be used.
- c. Where parking spaces are based on the number of students, the maximum number of daytime students shall be used.
- d. Where more than one criterion is listed to determine the number of spaces, the criteria that produces the greater number of spaces shall be used.
- e. Where the parking space calculation results in a fraction, the calculation shall be rounded to the next higher integer.

2. At least 10 spaces must be provided for each non-residential establishment.
3. Parking spaces for handicapped and disabled shall meet the requirements of the Americans with Disabilities Act (ADA) and the Texas Architectural Barriers Act.
4. Driveways used for ingress and egress shall be a minimum of 25 feet wide. Interior traffic aisles not adjacent to the rear of a parking space shall be not less than 20 feet wide.
5. Aisle widths between rows of parking spaces shall be according to Chart 19.2

**Chart 19.2**  
**Parking Lot Dimensional Standards**

Parking Angle	Aisle Traffic	Minimum Aisle Width
90 degree	Two way	24'0"
90 degree	One way	Not permitted
60 degree	Two way	20'0"
60 degree	One way	17'6"
45 degree	Two way	20'0"
45 degree	One way	12'0"

6. All parking spaces shall be provided and be striped with fire lanes clearly marked before a certificate of occupancy will be issued.
  7. The perimeter of all parking lots and interior landscaped areas shall be curbed with concrete. In industrial zoning districts, concrete wheel stops may be placed at the head of each perimeter parking space in lieu of curbs.
- G. When and where necessary for fire and safety purposes, specially designated traffic lanes may be required on certain sites. The designated area shall be kept clear of all parking, storage, etc. at all times.
- H. Large parking areas should be subdivided into smaller separated lots. In general, no more than 100 spaces should be included in a single area without significant landscape or building separation between connected lots.
- I. Each parking space shall be a minimum of nine (9) feet in width and 20 feet in length.

- J. Required fire lanes shall be a minimum of 24 feet in width and extend the length of the adjacent building or as may be required by the County Fire Marshall.

#### 19.16 SIGN REGULATIONS

All signs in any zoning district covered by this ordinance shall comply with the standards established in Chapter 29 of these zoning regulations.

#### 19.17 ADDITIONAL LOT DIMENSION STANDARDS

- A. Vision Clearance. On any corner lot on which the front and side yards are required, no wall, fence, structure, sign, tree, shrub or hedge may be maintained as to cause danger to traffic by obstructing the view, and when topography prevents a clear view, this bank shall be moved.
- B. Front Yard. The front yards heretofore required shall be adjusted in the following cases.
1. Where thirty-five (35) percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed, with variation of five (5) feet or less, a front yard greater or lesser in depth than herein required, new buildings shall not be erected closer to the street than the building line so established by the existing buildings. However, this regulation shall not be interpreted as requiring a building line of more than eighty (80) feet.
  2. Where the frontage between two intersecting streets is developed with buildings that have not observed a front yard as described in Section 19.16B.1 above, then:
    - a. Where a building is to be erected on a parcel of land and will not be more than two hundred (200) feet from existing buildings on either side, the building line shall be a line drawn between the two closest front corners of the adjacent buildings on the two sides.
    - b. Where a building is to be erected on a parcel of land that is within two hundred (200) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building. However, this regulation shall not be interpreted as requiring a building line of more than eighty (80) feet.
  3. Where a building line is shown on a plat recorded for record with the County Clerk prior to the passage of this Ordinance, and such building line provides a front yard of fifty (50) feet or more in depth and a side yard of ten (10) feet or more in depth and is part of a plan for the orderly development of a subdivision, either with a uniform or staggered building line, no building shall be erected closer to the street than the building line

or lines so shown. However, any building line established by ordinance shall take precedence over a building line shown on a recorded plat.

4. 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 or a porch without posts or columns may project into the required front yard for a distance not to exceed four (4) feet, and subsurface structures, platforms or slabs may not project into the front yard to a height greater than thirty (30) inches above the average grade of the yard.

C. Side and Rear Yards.

1. Every part of the required side or rear yard shall be open and unobstructed except for accessory buildings as permitted herein and the ordinary projection of window sills, belt courses, and other ornamental features projecting not to exceed twelve (12) inches. Eaves and awnings of main residential structures may project to within three (3) feet of a side or rear lot line.
2. Open or lattice enclosed fire escapes, fireproof outside stairways, balconies opening upon fire towers, and ordinary projections of chimneys and flues into rear yards may be permitted by the Building Official into the required rear yard for a distance not to exceed three and one-half (3 1/2) feet.
3. Terraces, uncovered porches, platforms and ornamental features which do not extend more than three (3) feet above the ground (first) floor level of the building may project into a required side yard provided such projection not be erected closer than two (2) feet from the side lot lines.

- D. Location of Dwellings and Buildings. Only one main building for single-family, two-family or multiple family uses with permitted accessory buildings may be located upon a lot or unplatted tract. Every dwelling shall face or front upon a street, other than an alley, which means of access shall have a minimum width of fifty (50) feet. Where a lot is used for retail, commercial, industrial or a combination of same, more than one (1) main building may be located upon the lot, but only when such buildings conform to all open space, parking, and other development and performance standards applicable to such uses or within the prescribed district, and when all such main buildings face upon a street or officially approved place, other than an alley. Non-residential subdivision standards may apply.

E. Flag Lots

Flag lots (panhandle lots) are permitted only for the rear of lots at an alley right-of-way line. For lots facing cul-de-sacs, the front lot width of any lot shall not be less than fifty (50%) percent of the lot width as measured the required building

front set back line (a line draw parallel to the front lot line at the distance from the front lot line that is equal to the front building line set back distance as specified in this ordinance). For all other lots, the front lot width shall not be less than seventy-five (75%) of the lot width as measured the required building front set back line. The front lot width as measured along the front lot line shall not be less than fifty feet. The rear lot line width at an alley may not be less than twelve feet.

#### 19.18 FLOOD PLAIN RECLAMATION

##### A. Purpose.

1. The purpose of this section is to specify standards and procedures for reclamation of flood plain land consistent with the Town's objectives to maintain quality development, preserve natural areas and trees, assure the safety and welfare of its residents with respect to flood hazards, and to implement in part the Town's Comprehensive Plan policies relating to environmental quality and open space.
2. It is the intent of the Town Council that the requirements of this section be consistent with requirements contained in Section 3.12 of the Town Code of Ordinances, Flood Damage Prevention Regulations, and with federal requirements pertaining to the Federal Emergency Management Agency's authority concerning flood hazards and the Corps of Engineer's jurisdiction over waters of the United States, including wetlands pursuant to Section 404 of the Clean Water Act.
3. It is the further intent of this section that development on flood plain land be integrated with the Town's standards for providing open space in planned residential and other developments.
4. Land located within the flood plain may be reclaimed for purposes of development only in accordance with the standards and procedures set forth in this section.

##### B. Applicability.

A person shall comply with the requirements of this section for flood plain areas before making substantial improvements to or increasing the outside dimensions of an existing structure or developing land within the design flood line of a creek or stream where:

1. The creek or stream has a contributing drainage area of one hundred (100) acres or more, or;
2. The contributing drainage area of the stream or creek is not wholly owned by the developer or person filling or modifying the stream or flood plain.

The provisions of this ordinance shall apply whether or not the land has been formally designated as a flood plain. Flood plain areas shall also include all areas

inundated by the design flood and shown as areas of special flood hazard on FEMA Flood Insurance Study maps.

The following activities constitute reclamation subject to this section:

1. New construction of a building or structure;
2. Improvements to existing homes or structures in a flood plain if the improvements result in the increase of the overall outside dimensions of the structures or homes;
3. Filling in a flood plain;
4. Channelization, impoundment, realignment, deepening, or other modification of a drainage way;
5. Construction of utilities or roads;
6. Removal of significant tree stands;
7. Site preparation, including grading or removal of topsoil.

C. Exemptions.

The following activities are exempt from the requirements of this section provided there is no adverse effect on adjacent property or any of the community resources listed in Section 19.17.F.3.e.i:

1. Subsequent development applications which are subject to and consistent with the following types of applications, which approved or conditionally approved prior to the effective date of these amendatory provisions, to the extent that the reclamation proposed in the subsequent application was shown on the prior approved application:
  - a. Concept Plan or Tentative Development Plan approved under Chapter 10 of this ordinance or predecessor ordinance;
  - b. Preliminary Plat or Final Plat under the Subdivision Ordinance, Chapter 9, Town Code of Ordinances.
2. Fills authorized by the Dallas-Kaufman County Levee District No. 8 or Kaufman County Levee Improvement District No. 6 within its current area of jurisdiction, provided that the fill is related to the repair, rehabilitation, or replacement of a structure that is authorized within the zoning district in which it is located or that is a lawful non-conforming use, and complies with any provisions of these zoning regulations related to repair, rehabilitation or replacement of such structure.

3. Fills that cover less than one-tenth acre. In order to qualify for this exemption, the area of fill must not be placed adjacent to previously placed fill, regardless of the date of placement.
4. Filling in drainage basins that (a) have an area of less than 100 acres and (2) the entire drainage basin is wholly owned by the applicant.
5. Fills placed for the sole purpose of constructing driveways to private residences.
6. Fill of temporary drainage control basins used as best management practices (BMPs) for control of sediment in runoff from construction activities, if the fill is placed so that the original contours of the disturbed site are restored and no fill is placed in jurisdictional waters of the U.S.

D. Definitions.

For purposes of this section, the following terms have the following meaning:

1. Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year.
2. Drainage Basin - That area of land upstream of a given point in a drainage system that contributes surface water runoff to the drainage way according to the following procedure:
  - a. Begin at the most downstream outward limit of the fill or modification.
  - b. From that point, proceed downhill perpendicular to the ground elevation contours until it intersects the main drainage channel or stream.
  - c. From this point, determine the area that contributes surface water runoff to this point in the drainage way. This area is the Adrainage basin@ as it applies to this ordinance.
3. Equal Conveyance Principle - An area of the cross-section of a stream, in its existing condition, carrying a percentage of the stream flow, will continue to carry the same percentage of the stream flow after filling of the flood plain occurs, without any rise in the 100-year flood plain elevation.
4. Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. the overflow of inland waters or

- b. the unusual and rapid accumulation or runoff of surface waters from any source.
5. Flood Fringe - That portion of the 100-year flood plain outside of the floodway (often referred to as "floodway fringe)."
6. Flood plain - An area of land lying below the 100-year water surface elevation. Flood plains include those areas designated on FEMA-FIA maps, town maps or any other area with a ground elevation below the one hundred year water surface elevation.
7. Floodway - The channel of a river or other watercourse and the adjacent land areas within the 100-year flood plain. that must be reserved in order to discharge the base flood without the cumulative increase in water surface elevation of more than one (1) foot, as set by the National Flood Insurance Program.
8. One Hundred (100) Year Water Surface Elevation (100-Yr NB El.) -That water surface elevation established by hydrologic/hydraulic analysis of a stream, river, creek, or tributary, using the 100-year fully developed watershed, based upon the 100-year rainfall event.

#### E. Staged Procedures

Authorization to reclaim flood plain land shall be made in two stages:

##### 1. Reclamation Concept Plan.

Approval of a reclamation concept plan by the Town Council, which authorizes the property owner to submit an application for a reclamation permit, subject to any approval required from federal agencies exercising jurisdiction over the proposed reclamation. A reclamation concept plan must be approved prior to rezoning land designated FP (flood plain district) and must be processed in conjunction with any request for PRO zoning involving flood plain land as defined in Chapter 10, hereof and with any request to develop flood plain land within a PRO district.

##### 2. Reclamation Permit.

Approval of a reclamation permit by the Town Engineer, which shall be consistent with the reclamation concept plan and which authorizes the property owner to commence alteration of the flood plain in accordance with the conditions of the reclamation permit. Prior to flood plain alteration, the property owner also shall obtain a development permit addressing flood protection criteria pursuant to section 3.12 of the Town Code of Ordinances, which may be approved simultaneous with approval of the reclamation permit.

#### F. Reclamation Concept Plan

1. Purpose.

The purpose of the reclamation concept plan is to provide an overview of the impacts of proposed flood plain development involving the alteration of the one hundred year flood plain, and to provide a basis for determining whether the Town should authorize all or a part of the proposed reclamation of the flood plain.

2. Application Requirements.

The application for approval of a reclamation concept plan shall be accompanied by the following:

- a. A general description of the development project of which the reclamation is a part, identifying proposed land uses in relation to the flood plain, and the density or intensity of such uses. An application for establishment of a PRO district or for approval of a tentative development plan or preliminary plat may be used to satisfy this requirement.
- b. The nature, location, extent, dimensions, and elevations of the project, including existing or proposed structures, in relation to mean sea level of the flood plain area to be reclaimed.
- c. The location of fill, storage of materials, or drainage facilities, and their elevations in relation to mean sea level.
- d. A general description of upstream and downstream conditions, including the extent of the development in the drainage basin and properties that may be affected by reclamation.
- e. Identification of any off-site facilities or conditions that may either affect on-site conditions or be affected by on-site conditions.
- f. A general description of the amount and nature of the materials to be removed or to be used as fill within the flood plain for the project.
- g. A proposed reclamation concept plan, prepared on a 24" x 36" sheet at a scale of between 1" = 20' and 1" = 200' that includes the following:
- h. General project description;
- i. Vicinity map;
  - (1) Area to be altered or reclaimed, clearly distinguishing flood fringe and floodway areas;

- (2) Tree stands and other natural features of the site, together with a plan of preservation prepared in accordance with section 20.5;
  - (3) Cultural or historic features;
  - (4) Proposed landscaping and vegetation plan for reclaimed and other affected areas. The plan should show the general nature and extent of existing vegetation on the tract, the location of trees 6-inch and larger in diameter, the areas which will be preserved, altered, or removed as a result of the proposed alterations. Locations and construction details should be provided, showing how trees will be preserved in areas which will be altered by filling or paving within the drip line of those trees. Applicant should also submit plans showing location, type, and size of new plant materials and other landscape features planned for altered flood plain areas. These requirements may be satisfied as part of an application for approval of a concept plan in a PRO district.
  - (5) Proposed mitigation plan. If a section 404 application has been submitted, the mitigation plan should reflect the contents of the section 404 mitigation plan.
- j. Professional certification of the status of any jurisdictional wetlands or other waters of the United States (U.S.), as defined by the U.S. Army Corps of Engineers pursuant to requirements of Section 404 of the Clean Water Act, for the flood plain areas to be reclaimed. If jurisdictional waters exist on the property to be reclaimed, the applicant shall provide the Town with a copy of all reports, studies, plans and other data that are submitted to the U.S. Army Corps of Engineers in conjunction with an application for approval of a Section 404 permit.
3. Procedures.
- a. Town Engineer Evaluation  

The Town Engineer shall evaluate the information and data submitted with the application for reclamation concept plan and shall make his recommendation to the Town Council concerning the application.
  - b. Public Notice and Hearing.  

Following receipt of the Town Engineer's recommendation concerning the reclamation concept plan, the Town Council shall

give notice and conduct a public hearing in accordance with sections 21.3. In addition, notice of the public hearing shall be given to all upstream and downstream property owners within the Town limits of Sunnyvale.

c. Flood Plain Zoning District Amendment.

If the land to be reclaimed is located wholly or partly within a Flood Plain (FP) zoning district, the applicant may apply to rezone such land to a different classification in order to have the rezoning application considered with the reclamation concept plan. In such event, notice and hearing on the zoning amendment shall be made in accordance with Chapter 23. The City Council in deciding the zoning amendment may impose such conditions on the rezoning application as to assure that the approved reclamation plan is implemented.

d. Town Council Decision.

Following public hearing on the application for a reclamation concept plan, the Town Council may approve, conditionally approve or disapprove the plan.

e. Approval Criteria.

In taking action on the reclamation concept plan, the Council shall consider the following criteria:

- (1) Whether the reclamation plan is consistent with the Town's Comprehensive Plan and any proposed zoning classifications for the subject property, including any proposed PRO districts of which the project is a part;
- (2) Whether the plan is compatible with zoning and use of adjacent property and particularly land downstream from the proposed reclamation;
- (3) Whether the proposal adversely affects the following community resources:
  - (a) Wetlands and/or waters of the United States;
  - (b) Vegetated buffer next to rivers, streams, lakes or other open waters;
  - (c) Critical wildlife habitat, particularly that for any endangered or threatened species and/or migratory birds;

- (d) Significant tree stands;
  - (e) Scenic corridors or vistas as viewed from arterial or collector thoroughfares or other viewpoints accessible to the public;
  - (f) Cultural resources, including prehistoric and historic archeological sites, and historic structures; and
  - (g) Public open space.
- (4) Whether any adverse effects have been appropriately mitigated.
- f. Coordination with Other Agencies.
- (1) If wetlands or waters of the United States protected under Section 404 of the Clean Water Act are determined to exist on the land to be reclaimed, the Town's action on the reclamation concept plan shall be deferred until such time as the applicant demonstrates proof of compliance with all federal regulations pertaining to the protection and mitigation of such areas.
- g. Conditions and Effect.
- (1) The Town Council may impose such conditions on the approval of a reclamation concept plan as are reasonably necessary to assure that reclamation of the flood plain is consistent with the goals of the Town's comprehensive plan and complies with these zoning regulations.
  - (2) The Council expressly may require as a condition of approval that adverse effects be offset through a mitigation plan and that such plan be incorporated within the reclamation concept plan. The mitigation plan may provide for restoration, creation, enhancement, or preservation of aquatic habitats to ensure that activities result in minimal adverse effects to the aquatic environment. The mitigation plan may but need not be the same as any mitigation plan required for obtaining a section 404 permit.
  - (3) Approval or conditional approval of a reclamation concept plan entitles the applicant to apply for a reclamation permit for the areas addressed in the reclamation concept plan, and to have finally considered by the Town Council any

proposed change in zoning classification from FP to another zoning district for the land affected.

## G. Reclamation Permit

### 1. Purpose.

The purpose of the reclamation permit is to assure that conditions of the reclamation concept plan are fulfilled and that standards in this ordinance are met prior to development on land in a flood plain subject to this section.

### 2. Application Requirements.

The application for approval of a reclamation permit shall be accompanied by the following reports and data. All mapped information shall be of suitable scale and topographic definition to provide reasonable accuracy.

#### a. Engineering Report. An engineering report shall be submitted consisting of at least:

- (1) Project description.
- (2) Description of the hydrologic and/or hydraulic analyses used, including method used to determine historic rainfall and stream data, soils reports used to determine erosive velocity values, and discharges and water surface elevations for both the design and base floods.
- (3) Vicinity map.
- (4) Evaluation of the floodway and flood plain limits for the design flood. Included are both the regulatory floodway and flood plain as established by FEMA but also any other flood plain or floodway as described in this ordinance.
- (5) If hydraulic analyses are being submitted, then a table of values for existing and proposed water surface elevations and velocities must be included.
- (6) Documentation that the principle of equal conveyance has been achieved.
- (7) Copies of computer input and output data for existing and proposed conditions for both the base flood and design flood discharges.
- (8) Evaluation of existing and proposed valley storage.

- (9) Engineering drawings consisting of water surface profile, including channel flow line, existing and proposed water surface elevations, recorded high water marks, and location and number designation of cross-sections.
- (10) Engineering drawings showing plan view on twenty-four-inch by thirty-six-inch paper, including:
  - (a) Scale and north arrow
  - (b) Title block.
  - (c) Boundary lines and nearest street intersections.
  - (d) Existing and proposed contours.
  - (e) Existing and proposed flood plain and floodway limits.
  - (f) Area to be removed from the flood plain or area to be altered.
  - (g) Top and toe of fill and/or side slopes and the numerical slope of the fill and/or side slopes labeled.
  - (h) Location of all other associated improvements or alterations to the creek and/or flood plain, such as check dams, swales, channel modifications, etc.
  - (i) Location of cross-sections
  - (j) Location of all existing and proposed easements and dedications.
  - (k) Site vicinity map.
  - (l) Plots of cross-sections, including:
    - (i) Scale
    - (ii) Title block.
    - (iii) Existing and proposed ground elevations.
    - (iv) Cut and/or fill areas labeled.
    - (v) Limits of and numerical values for existing and proposed "n" values.
    - (vi) Equal conveyance removed from both sides.
  - (m) Erosion control plan for cut and fill slopes; and
  - (n) Restoration plan for excavated areas

- b. Flood Hazard Information. Developments which impact designated Federal Emergency Management Agency (FEMA) flood plains in the Town of Sunnyvale will be required to submit the following additional data:
- (1) A written description of the scope of the proposed project and the methodology used to analyze the project's effects.
  - (2) Hydraulic backwater models of the 10-, 50-, 100-, and 500-year floods for the following:
  - (3) Existing conditions with drainage basin fully developed at maximum density allowed by Sunnyvale's zoning ordinance and the zoning ordinances of other cities within the drainage basin
  - (4) Proposed conditions with fully developed drainage basin.
  - (5) Existing conditions with drainage basin fully developed at maximum density allowed by Sunnyvale's zoning ordinance and the zoning ordinances of other cities within the drainage basin
  - (6) Proposed conditions with fully developed drainage basin.
  - (7) Certification that the project meets the requirements of the 44 CFR 60.3 (d) (2).
  - (8) If an existing non-residential structure is proposed for flood-proofing, then a certificate sealed by a licensed professional engineer in the State of Texas shall be submitted stating that all of the flood-proofing criteria listed in section 3.12 of the Town Code of Ordinances will be met.
  - (9) Proof that legal notices have been sent to all affected property owners when alterations in the regulatory floodway would cause any rise in the 100-year FIS water surface elevation, and that public notices have been published pursuant to FEMA rules.

3. Procedures.

Upon receiving a complete application for a reclamation permit, the Town Engineer shall evaluate whether the application should be approved. In evaluating hydraulic models submitted with the application, the Town Engineer shall apply the following conventions.

4. The hydraulic parameters, such as bridge loss coefficients, "n" values, etc., used in the effective FIS models may only be changed where obvious errors or changes have taken place and must be documented.
  - a. The computed water surface elevation profiles must converge with the existing profiles upstream and downstream of the project.
  - b. All items must be labeled for easy cross-referencing to the hydraulic model and summary data.

5. Approval Criteria and Decision.

The Town Engineer shall determine whether to approve, conditionally approve or deny the application based upon whether:

- a. The reclamation permit conforms to the applicable reclamation concept plan and any attached conditions; and
- b. The permit complies with the standards in this section.

6. Effect.

Approval of a reclamation permit entitles the applicant to commence alterations in the flood plain areas, as authorized in the permit.

H. Post Permit Procedures.

1. Upon completion of the proposed project, "as-built" plans, certified by a registered professional engineer, shall be submitted to the Town Engineer.
2. Permits may be revoked by Town if, upon periodic inspection, it is determined that the work is not progressing in accordance with specifications of the approved plan and permit.
3. Developers, owners, or builders adjacent to the design flood plain, other existing creeks, swales or ditches or other flood prone areas as designated by the flood plain administrator shall complete an elevation certificate prior to issuance of a certificate of occupancy by the Town.

I. Reclamation Standards.

1. Preservation of Natural Features.

No wetlands or other significant natural features shall be reclaimed within flood plain areas unless authorized under a mitigation plan approved under this section, and appropriate conditions shall be established to protect such

areas from adverse impact during and after reclamation and development of adjacent land.

2. Flood Plain Easements.

Appropriate drainage and flood maintenance easements shall be granted to the Town prior to approval of a reclamation permit on all flood plain land remaining following reclamation authorized under the approved Reclamation Concept Plan.

3. Buffers.

A vegetated buffer area at least 50 feet wide along each bank of a stream and 50 feet wide around the perimeter of a lake or other open water body shall be provided, unless otherwise approved in a mitigation plan. A vegetated buffer may be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to open waters. Grasses shall be selected from those set forth in section 19.17.H.4.

4. Water Surface Elevation

Alterations of the flood plain shall result in no increase in the 100-year water surface elevation on other properties measured under fully developed watershed conditions. No alteration of the flood plain will be permitted which could result in any degree of increased flooding to other properties, either adjacent, upstream, or downstream.

5. Stream Velocity

Alterations of the flood plain shall not create an erosive water velocity on- or off- site. The mean velocity of stream flow at the site after fill shall be no greater than the mean velocity of the stream flow under existing conditions. No alteration to the flood plain will be permitted which would increase velocities of flood waters to the extent that significant erosion of flood plain soils will occur either on the subject property or on other properties whether adjacent, upstream or downstream. Mean channel velocities that exceed six (6) f.p.s. are considered to be erosive.

6. Valley Storage

The storage capacity of creeks and drainage ways (Avalley storage@) by development in the flood fringe area shall not be reduced except as follows:

- a. There shall be no reduction in valley storage within any flood plain as shown on the FEMA flood insurance maps except for the stream designated 2 MI.

- b. For all other creeks and tributaries of the above described streams, reduction in valley storage will be allowed not to exceed the greater of:
  - (1) Fifteen percent (15%) or;
  - (2) Such greater amount as the Town Council, after consultation with the Town Engineer, may approve in a reclamation concept plan.
- c. Replacement of valley storage lost as a result of fill activities shall be provided by excavation of off-channel lakes, ponds, or wetland areas within the proposed development boundaries or immediate vicinity.

#### 7. Conveyance

Alterations of the flood plain shall be permitted only so as to achieve equal conveyance i.e., change in the capacity to carry a particular volume of water per unit of time, on both sides of the natural channel.

- a. Under equal conveyance, if the Town allows a change in the flood carrying capacity (capacity to carry a particular volume of water per unit of time) on one side of the creek due to a proposed alteration of the flood plain, it must also allow an equal change to the owner on the other side, unless the applicant owns both sides of the flood plain along the entire reach of the planned reclamation.
- b. The combined change in flood carrying capacity, due to the proposed alteration, plus corresponding alteration to the other side of the creek, may not cause either an increase in flood elevation or an erosive velocity, or violate the other criteria.
- c. Conveyance shall be mathematically expressed as  $KD = 1.486/(n) A (R)^{2/3}$ , where "n" is the Manning's friction factor; "A" is the cross sectional area; and "R" is the hydraulic radius.

#### 8. Toe of Fill Alignment

The toe of any fill slope shall parallel the natural channel to prevent an unbalancing of stream flow in the altered flood plain.

#### 9. Side Slopes

- a. To insure maximum accessibility to the flood plain for maintenance and other purposes, and to lessen the probability of slope erosion during periods of high water, maximum slopes of filled area shall not exceed 4 feet horizontal to 1 foot vertical.

- b. Retention blankets must be installed on all fill slopes.
- c. Rock gabion construction, decorative stone faced reinforced concrete rip-rap or an approved equal erosion protection measure is required on slopes steeper than 4:1.
- d. Vertical walls, terracing and other slope treatments will be considered only as (1) part of a landscaping plan submission, and (2) if no unbalancing of stream flow results.
- e. Grass cover is required for all cut and fill slopes 4:1 or flatter. Fill slopes shall be seeded with at least three herbaceous species including grasses, legumes, and wild flowers, selected from the following list. A minimum of three of the species from the list shall be used, one of which must be a flowering species.

**Chart 19.3**  
**List of Recommended Herbaceous Species**  
**Herbaceous Seed Mixture (for seeding slope areas)**

<u>Common Name</u>	<u>Scientific Name</u>	<u>Seeding Rate Pounds/Acre</u>
Buffalograss	<i>Buchloe dactyloides</i>	8
Blue grama	<i>Bouteloua gracilis</i>	5
Virginia Wildrye	<i>Elymus virginicus</i>	4
Inland Sea Oats	<i>Chasmanthium latifolium</i>	4
Big Bluestem	<i>Andropogon gerardii</i>	10
Eastern Gamagrass	<i>Tripsicum dactyliodes</i>	5
Switchgrass	<i>Panicum virgatum</i>	4
Indian Grass	<i>Sorghastrum nutans</i>	5
Maximillian Sunflower	<i>Helianthus maximillianii</i>	3
Illinois Bundleflower	<i>Desmanthus illinoiensis</i>	15
Engelmann Daisy	<i>Engelmannia pinnatifida</i>	15
Winter Vetch	<i>Vicia dasycarpa</i>	30
White Clover	<i>Trifolium repens</i>	4
Slender Lespedeza	<i>Lespedeza virginica</i>	35
Showy Partridgepea	<i>Chamaecrista fasciculata</i>	20

## 10. Erosion Control

Soil erosion and sedimentation from the area to be reclaimed shall be minimized during and after fill operations consistent with the approved erosion control plan. Soil areas exposed by grading, and length of time of exposure shall be minimized. Existing vegetation shall be retained and protected wherever feasible. Disturbed areas shall have vegetation re-established as quickly as possible. Erosion control structures (e. g., drop structures, sediment ponds, etc.) shall be utilized where necessary for effective erosion control, but shall also be designed to blend in with the natural appearance of the flood plain.

## 11. Topsoil Preservation

Topsoil shall be preserved in all flood plain areas that are reclaimed. Before any excavation or fill operation is begun, the topsoil (not less than 6 inches of the surface soils) from the area to be excavated or filled shall be stripped and stockpiled. Upon completion of the fill or excavation, at least six inches of top soil shall be placed on all surfaces of the fill or excavation.

### 19.19 CURBS, GUTTERS, SIDEWALKS AND ALLEYS

- A. Curbs and gutters shall be required for all types of arterial streets, collector streets and local residential and non-residential streets, except for country lanes or parkways.
- B. The design standards for curbs and gutters as established in the Sunnyvale Subdivision Regulations and the Sunnyvale Engineering Design Manual are incorporated by reference herein.
- C. Sidewalks shall be required on both sides of residential streets serving lots smaller than 35,000 square feet, unless an exception is granted by the Town for an alternative proposal to accommodate pedestrians. Sidewalks shall be at a minimum four feet wide and shall be paved with minimum of 4-inch thick reinforced concrete. Sidewalks shall meet the standards of the Americans with Disabilities Act (ADA) and the Texas Architectural Barriers Act.
- D. Where any lot in a block is smaller than 20,000 square feet in area, an alley shall be constructed at the rear of all lots in the block. The alley shall be constructed across the entire block and the alley shall terminate on both ends at an intersecting street or alley.
- E. Sidewalks shall be required on both sides of all streets in Local Retail and General Business zoning districts unless an exception is granted by the Town for an alternative proposal to accommodate pedestrians. Sidewalks shall be at a minimum five feet wide and shall be paved with minimum of 4-inch thick

reinforced concrete. Sidewalks shall meet the standards of the Americans with Disabilities Act (ADA) and the Texas Architectural Barriers Act.

#### 19.20 DENSITY COMPUTATION

Residential density shall be computed as follows:

$$\text{Dwelling Units per acre} = \frac{\text{Number of Dwelling Units}}{\text{Number of Usable Acres in Site}}$$

#### 19.21 STREETS, COUNTRY LANES AND PARKWAYS

- A. Where designated by the Comprehensive Plan, according to Exhibit VIII.2, country lanes and parkways shall be constructed in accordance with these regulations, the Subdivision Regulations and the Engineering Design Manual. In areas where country lanes or parkways are not designated by the Comprehensive Plan, they may be required as a condition of planned residential development approval or authorized by the Town Council upon request by a developer. In such instances, the standards in this section and in Chapter 20 concerning country lanes and parkways shall be followed.
- B. Right-of-Way.
  - 1. Parkways shall have a minimum right-of-way of one-hundred (100) feet.
  - 2. Country lanes shall have a minimum right-of-way of sixty (60) feet.
- C. Landscaping and buffering standards for developments abutting country lanes and parkways must comply with the standards contained in Chapter 20.
- D. Both country lanes and parkways shall be designed without curbs or gutters, and drainage shall be accommodated in swales.

#### 19.22 AUTOMOTIVE REPAIR FACILITIES

All types of automotive repair facilities in the Local Retail (LR) zoning district, or that are located adjacent to a residential district or neighborhood in any other zoning district shall be designed and operated in accordance with the following special standards:

- A. All automotive repair operations shall only be allowed in the rear portion of the property (i.e., either behind the main building, or only within the rear portion of the main building), and shall not be visible from public roadways or surrounding properties.
- B. All structures shall be 100% masonry construction (which shall not include any type of fiberboard or cementitious-fiber siding) on all sides of buildings, with a high degree of architectural articulation, including the top roof lines (e.g., gabled roofs, articulated parapets on all sides of a flat roof, etc.). Building elevations shall be approved along with the site plan, pursuant to Chapter 25.

- C. Attractive and effective perimeter screening/buffering shall be provided on all side and rear property boundaries, including minimum 8' tall masonry security wall (with Knox locks on any vehicular gates for emergency access) that matches the main structure, around all portions of repair operations and outdoor vehicle storage areas, and also including large perimeter evergreen trees to be located inside the screening wall for overstory mitigation of visibility, light and noise impacts on surrounding properties.
- D. The hours of operation and delivery/movement of towed vehicles on the site shall not occur prior to 7:00 a.m. and shall not occur later than 10:00 p.m., in accordance with the Town's noise ordinance, as amended.
- E. All repair operations shall be performed within a fully enclosed building, except that repair bay doors may be allowed to be open for air circulation but no higher than the height of the surrounding screening wall height.
- F. Drivers moving vehicles into and out of repair bays shall not honk horns during such movements.
- G. All exterior site lighting shall be with downward focused light fixtures to avoid light overspill onto surrounding properties.
- H. All areas of site that do not have to be paved shall be permeable landscaping (i.e., minimized impervious surface areas) with automatic underground irrigation system.

Section 0 added by Ordinance 427, May 22, 2006

### 19.23 LIMITATIONS ON RETAIL USES

- A. Minimum Size for Convenience Store. A convenience store selling pre-packaged food or beverages may not contain less than 1,000 square feet of retail space.
- B. Drive-through Facilities. A business may not sell or serve pre-packaged, sealed, un-opened beverages through drive-in, drive-up, drive-through, or walk-facilities; provided that the prohibitions in this section shall not apply to service of food or beverages to: (i) customers who must physically leave their vehicles and enter a building in order to purchase such food or beverages, or (ii) sale or service of food to a customer by a drive-through restaurant.
- C. Adding Pre-packaged Food or Beverage Sales. The addition of the sale of pre-packaged food and beverages to the operation of an existing retail establishment shall be considered a new use, and will only be allowed with the approval of a Conditional Use Permit pursuant to the procedures in Chapter 24.

Section 19.22 added by Ord. No. 497 on 9/28/2009

### 19.24 SMALL WIND ENERGY SYSTEMS/WIND TURBINES

A. Purpose. To promote the safe, effective and efficient use of wind energy systems installed for on-site production and consumption of electricity.

B. Definition

1. Wind Energy System or System shall mean a wind energy conversion system that converts wind energy into electricity through the use and consisting of a wind turbine, a tower, and associated control or conversion electronics, that has a rated capacity of not more than 20 kw for residential systems and not more than 100 kw for commercial systems and is intended for on-site production and consumption of electricity to serve the needs of the consumer.
2. Turbine shall mean the parts of a wind energy system including the blades, generator and tail.
3. Tower Height shall mean the height above grade of the fixed portion of the tower, including the wind turbine and blades.
4. Utility Grid Wind Energy System shall mean a wind energy system designed and built to provide electricity to the electric grid.
5. Decibel (db) means the unit of measure used to express the magnitude of sound pressure and sound intensity.

C. General Requirements

All types of small wind energy systems/wind turbines require a conditional use permit, in all zoning classifications, consistent with the procedures as stated in Chapter 24, *and* shall be designed and operated in accordance with the following special standards:

1. An operational plan shall be required with the conditional use permit application to include the following:
  - a. Site plan showing property lines and physical dimensions of the property.
  - b. Locations of existing structures on the property.
  - c. Location of the proposed wind tower.
  - d. Public right-of-way that is contiguous with property.
  - e. Overhead utility lines.
  - f. Wind system specifications, including manufacturer, model, tower height, tower type and rotor diameter.
  - g. Tower foundation blue prints or drawing.
  - h. Tower blueprint or drawing.
2. The following general regulations and requirements apply to all wind energy systems located within any district:
  - a. Utility grid wind energy systems shall not be allowed.

- b. Building permit required – a building permit must be obtained prior to the construction or installation of a wind energy system/accompanied document required for permit/a site plan of the proposed wind energy system at a scale 1" =30'. The site plan should be on a single 24"x36" sheet and include:
  - (1) A survey and legal description of property
  - (2) A plan view layout of the proposed wind energy system clearly showing
    - (a) The location of the system
    - (b) All components of the system
    - (c) Distance to property lines
    - (d) Required setbacks
    - (e) Adjacent land uses
    - (f) Existing structures on site
    - (g) Required screening of tower base
    - (h) Natural features such as water courses and trees
- c. Elevation drawings showing
- d. The design and height of the proposed wind energy system
- e. Detailed drawing of all system components
- f. A line drawing of the electrical components of the system in sufficient detail to determine the installation conforms to the national electric code.
- g. Standard installation drawing of the wind turbine structure including tower, base & footings. An engineering analysis of the tower showing compliance with the International Building Code & certified by a licensed professional engineer registered in the state of Texas shall be required.
- h. Evidence of approval by utility provider.
- i. Only to serve a single property or address (to include secondary structures).
- k. Construction standards – A wind energy system must be installed according to the manufacture's recommendations and under the seal of a professional engineer registered in the state of Texas. Additionally, all components of a wind energy system shall comply with applicable state and local building codes.
- l. Wind energy systems shall be a maximum of 20 kw.
- m. Wind energy systems shall require a minimum of 10 acres.
- n. Wind energy system shall not be allowed without existence of main structure. A wind energy system may be erected on a lot only after a primary structure has been constructed.

- o. Wind energy systems shall be placed behind the main structure
- p. One wind energy system shall be permitted for each address.
- q. Towers for the wind energy systems shall be mono pole construction. Guy & brace wires are prohibited
- r. Maximum height - the tower height shall not exceed (50) feet. No tower height shall exceed the tower height recommended by the manufacturer or the distributor of the wind energy system.
- s. Location & Setbacks – The tower structure of a wind energy system must be at least 50 feet from primary structure and shall have a setback distance equal to 2.0 times the tower height from all property lines and public right of ways.
- t. The minimum height of the lowest rotor shall be (30) feet above the highest structure or potential tree height within 300 ft.
- u. No tower shall be erected closer than 75 ft or a distance of five times the diameter of the larger rotor, whichever is greater distance, to another small wind energy tower.
- v. All wind energy systems shall be equipped with a redundant braking system.
- w. Climb prevention:
  - 1) All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized entry.
  - 2) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible for a minimum height of 12 feet from the ground.
  - 3) All access doors to small wind energy systems shall be locked to prevent entry by non-authorized persons.
- x. To ensure the structural integrity of a wind energy system, the owner of such system must ensure that it is maintained in compliance with all provisions of the Town of Sunnyvale building codes and zoning regulations.
- y. All electrical wires associated with, other than wires necessary to connect wind generator to tower wiring, the tower wiring to the disconnect and grounding wires shall be underground.
- z. Sound pressure levels shall not exceed 65 db as measured from the property line closest to the wind energy system.

- aa. Visual appearance:
    - 1) A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
    - 2) The wind tower and generator shall be painted or finished and shall be maintained. Color should not be obtrusive and should blend with existing skyline.
    - 3) All signs other than appropriate warning signs shall be prohibited.
  - bb. Wind energy systems shall be sited to prevent the impact of shadow flicker or blade glint upon any occupied structures, except for the owner's or town roadways.
  - cc. No portion of the wind energy system shall be placed in easements unless authorized by the easement holder.
  - dd. A wind energy system base shall be screened from view of adjoining properties and public rights of way by solid fencing or evergreen plants to a height of 6 feet.
  - ee. A wind energy system shall be maintained at all times including but not limited to paint, fencing, structural integrity and landscaping.
  - ff. Wind energy systems proposed to be installed within the 100 year floodplain shall also have approval of the town's engineer and, where applicable, the U.S. Army Corps of Engineers. Such sites shall take measures as required to protect the sites from damage from potential flooding.
3. Abandonment: A wind energy system that is out of service for a continuous 12 month period will be deemed abandoned and a notice of abandonment will be issued from the town of Sunnyvale to the owner. If the wind energy system is determined to be abandoned, the owner of the wind energy system shall remove the wind generator, tower structure and any associated apparatus, from the property at owner's sole expense. If the owner fails to do so the town of Sunnyvale may pursue legal action to have structure removed at owner's expense.
4. Insurance: Owners of any wind energy system must provide \$300,000.00 liability insurance that covers the wind turbine and all other wind energy system components, and shall be maintained at all times. Proof of such insurance must be provided to the town at the time application is made for a building permit.

5. All wind energy systems must meet or exceed current standards and regulations of the FAA and any other agency of the state or federal government with the authority to regulate wind energy systems.

Amended by Ord. No. 515 on 7/26/2010

#### 19.25 ALTERNATIVE FINANCIAL ESTABLISHMENTS

- A. No new alternative financial establishment may be located within one thousand feet (1,000) of another alternative financial establishment, as measured in a direct line from property line to property line, unless otherwise approved in the ordinance establishing a Conditional Use Permit (CUP) for such use.
- B. No new alternative financial establishment may be located in a building that is closer than five hundred (500) feet from the rights-of-way of State Highway 190/President George Bush Turnpike, US Hwy 80, Belt Line Road, TC Lupton/Clay Road, Collins Road or State Highway 352, unless otherwise approved in the ordinance establishing a Conditional Use Permit (CUP) for such use.
- C. A Conditional Use Permit (CUP) shall be required for any existing business that adds services constituting a check cashing business, payday advance or loan business, or a car title loan business.

Amended by Ord. No. 12-06 on 4/23/2012