

**NOTICE OF MEETING
CITY OF SOUTH PADRE ISLAND
PLANNING AND ZONING COMMISSION**

NOTE: One or more members of the City of South Padre Island City Council may attend this meeting; if so, this statement satisfies the requirements of the OPEN MEETINGS ACT.

NOTICE IS HEREBY GIVEN THAT THE PLANNING AND ZONING COMMISSION OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, WILL HOLD A REGULAR MEETING ON:

**THURSDAY, OCTOBER 15, 2015
3:00 P.M. AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS**

1. Call to Order.
2. Pledge of Allegiance.
3. Public Comments and Announcements.
4. Approval of the September 17, 2015 Regular Meeting Minutes.
5. Public Hearing regarding text amendments to Section 20-10 District "E" to add provisions of conformity clause.
6. Discussion and action regarding text amendments to Section 20-10 District "E" to add provisions of conformity clause.
7. Public Hearing regarding rezoning of Veranda Condominium from **District "E"** (Low Density Residential – Single Family and Townhouse Dwelling District) to **District "B"** (Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district).
8. Discussion and action regarding rezoning of Veranda Condominium from **District "E"** (Low Density Residential – Single Family and Townhouse Dwelling District) to **District "B"** (Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district).
9. Public hearing regarding parking regulations in Chapter 20 Zoning.
10. Discussion and action regarding parking regulations in Chapter 20 Zoning.
11. Adjournment.


DATED THIS THE 9TH DAY OF OCTOBER 2015





Susan Hill, City Secretary

THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFIED THAT THE ABOVE NOTICE OF MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CORRENT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **OCTOBER 9, 2015** AT/OR BEFORE **4:00 P.M.** AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.



Susan Hill, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL, JAY MITCHIM; ADA DESIGNATED RESPONSIBLE PARTY AT (956)761-8103

**PLANNING AND ZONING COMMISSION
MEETING MINUTES
SEPTEMBER 17, 2015**

1. Call to Order.

Patrick McNulty called the meeting to order at 3:00 p.m. in the City Council Chambers on the Second Floor of the Municipal Complex Building: 4601 Padre Boulevard and declared a quorum of members present. Commission members in attendance were: Gary Olle, Patrick McNulty, Beth Vance, and Chris Huffman. Members with an excused absence were Russell Judah, Robert Bujanos, and Kori Marra. Staff members present were City Manager William DiLibero, Development Director, and Marta Martinez.

2. Pledge of Allegiance.

Mr. McNulty led those present in the Pledge of Allegiance.

3. Public Comments and Announcements.

None

4. Approval of the August 20, 2015 Regular Meeting Minutes.

Mr. McNulty announced the item from the agenda and asked the Commission members if they had any corrections to the August 20, 2015 regular meeting minutes. Mr. Olle made a motion to approve as submitted. Mr. Huffman seconded the motion. The motion carried unanimously.

Commissioners moved to agenda items 11 and 12. All Commissioners were in favor.

5. Public Hearing regarding revision of the Section 20-8.1 Appendix "Z" Padre Boulevard and Entertainment District code to add "Northern Resort District Character Zone".

Mr. McNulty announced the item from the agenda and asked for a staff report. Dr. Kim gave a brief summary regarding this agenda item. Mr. McNulty then opened the public hearing at 3:54 p.m. and asked if anyone from the public wished to speak in favor and/or in opposition of this agenda item. Hearing none, Mr. McNulty closed the public hearing at 3:55 p.m.

6. Discussion and action regarding revision of the Section 20-8.1 Appendix "Z" Padre Boulevard and Entertainment District code to add "Northern Resort District Character Zone".

Mr. McNulty announced the item from the agenda and opened it up for discussion by the Commission. The Commissioners expressed their comments/concerns regarding this matter. After some discussion Mr. Olle made a motion to approve. Mr. Huffman seconded the motion. The motion carried unanimously.

7. Public Hearing regarding amendments to the Shores PDD.

Mr. McNulty announced the item from the agenda and asked for a staff report. Dr. Kim gave a brief summary regarding this agenda item. Mr. McNulty then opened the public hearing at 3:58 p.m. and asked if anyone from the public wished to speak in favor of this agenda item. Richard Frankie spoke in favor of this agenda item. Mr. McNulty then asked if anyone from the public wished to speak in opposition of this agenda item. Hearing none, Mr. McNulty closed the public hearing at 4:02 p.m.

8. Discussion and action regarding amendments to the Shores PDD.

Mr. McNulty announced the item from the agenda and opened it up for discussion by the Commission. The Commissioners expressed their comments/concerns regarding this matter. After some discussion Mr. Huffman made a motion to approve. Mr. Olle seconded the motion. The motion carried unanimously.

9. Public Hearing regarding parking regulations in Chapter 20 Zoning.

Mr. McNulty announced the item from the agenda and asked for a staff report. Dr. Kim gave a brief summary regarding this agenda item. Mr. McNulty then opened the public hearing at 4:05 p.m. and asked if anyone from the public wished to speak in favor and/or in opposition of this agenda item. Hearing none, Mr. McNulty closed the public hearing at 4:06 p.m.

10. Discussion and action regarding parking regulations in Chapter 20 Zoning.

Mr. McNulty announced the item from the agenda and opened it up for discussion by the Commission. The Commissioners expressed their comments/concerns regarding this matter. After much discussion Ms. Vance made a motion to table agenda item until next regular meeting to further review the Ordinance. Mr. Olle seconded the motion. The motion carried unanimously.

11. Public Hearing regarding rezoning of Veranda Condominium from District "E" (Low Density Residential – Single Family and Townhouse Dwelling District) to District "B" (Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district).

Mr. McNulty announced the item from the agenda and asked for a staff report. Dr. Kim gave a brief summary regarding this agenda item. Mr. McNulty then opened the public hearing at 3:09 p.m. Carlos Chacon, Abelardo (Able) Saenz, and Camille Felgner spoke in favor of this agenda item. Theresa Metty, Faith Ballesteros, Rick Meisel, and Dana Allison spoke in opposition of this agenda item. Mr. McNulty then closed the public hearing at 3:35 p.m.

12. Discussion and action regarding rezoning of Veranda Condominium from District "E" (Low Density Residential – Single Family and Townhouse Dwelling District) to District "B" (Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district).

Mr. McNulty announced the item from the agenda and opened it up for discussion by the Commission. Mr. McNulty then asked Camille Felgner, president of the Homeowners Association for the Veranda Condominiums for her request. Ms. Felgner stated that the Veranda Condos is requesting to become conforming. The Commissioners expressed their comments/concerns regarding this matter. After much discussion Mr. Huffman made a motion to table agenda item until next regular meeting to have City Attorney present for the meeting. Ms. Vance seconded the motion. The motion carried unanimously.

Commissioners then moved back to agenda items 5 and 6. All Commissioners were in favor.

13. Adjournment

Since the Commission had no further business to discuss, Mr. McNulty adjourned the meeting at 4:20 p.m.

**PLANNING & ZONING COMMISSION
AGENDA REQUEST FORM**

MEETING DATE: October 15, 2015

ITEM: 5 & 6

TO: Planning and Zoning Commission

FROM: Sungman Kim, Director of Development Services

ITEM DESCRIPTION:

Discussion and action regarding text amendments to Section 20-10 District "E" to add provisions of conformity clause

DISCUSSION:

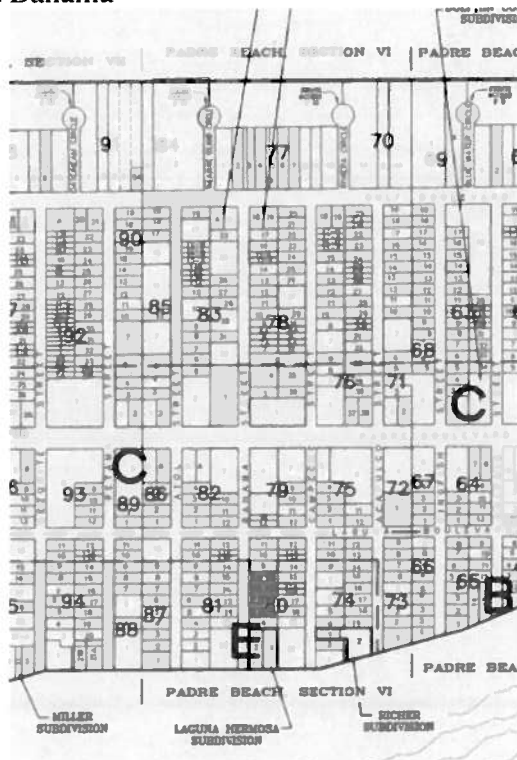
The Ownership

Multiple owners

Legal Description and the Location

Legal Description: PADRE BEACH SECTION VI, LOTS 5-8 BLOCK 80, DEC 15-887,
6/24/1982

The Location: 211 West Bahama



PLANNING & ZONING COMMISSION AGENDA REQUEST FORM

Current Zoning

Veranda Condominium, with 16 rental units, has been zoned under District “E” (Low Density Residential – Single Family and Townhouse Dwelling District) and currently nonconforming.



Technical Issues

1. Zoning Ordinance was adopted by Ordinance No. 77 and effective on November 9, **1979**;
2. The Veranda Condominium was built in **1982** and was under District “B” designation;
3. The condominium (lots 5-8) was then rezoned, by Ordinances No. 172 and 173, into District “E” along with other neighboring properties in **1994** without a reason (“extremely poor” planning performance);

Theoretical Issues

While complying with statutory zoning enabling act requirements, there are three basic requirements that a zoning ordinance must meet to withstand constitutional attack¹:

¹ Environment-Environmental Considerations: New Arguments for Large-Lot Zoning, 7 Urban Law Annual, 370 (1974), Available at: http://openscholarship.wustl.edu/law_urbanlaw/vol7/iss1/24

<p style="text-align: center;">PLANNING & ZONING COMMISSION AGENDA REQUEST FORM</p>
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1. It must bear a rational relationship to the health, safety, morals or general welfare of the community, so as to **comply with the due process requirements** of the fourteenth amendment²;
2. It must **not reduce the value of the land** so as to constitute a taking without compensation, in violation of the fifth amendment³; and
3. It must **not be so arbitrary and discriminatory** that its restrictions are a denial of the equal protection of the laws⁴.

A test of this item on constitutionality says that the case is vulnerable to the second (a taking without compensation) and the third (arbitrary and discriminatory) basic requirements.

The Proposed Text Amendments

Add the followings:

Sec.20-10(D)

(11) Any condominium building which existed on August 3, 1994 that does not conform to the height limitations of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.

(12) Any structure which exists on August 3, 1994 that does not conform to the standards of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.

(13) Any land use that exists on August 3, 1994 that does not conform to the standards of the District "E" shall be deemed a conforming use and may continue the use as it was on August 3, 1994.

Staff Recommendation

The owners of Veranda Condominium expressed at the September 17th Planning and Zoning Commission meeting that they want only to become conforming to the code rather than seeking the entire rights back.

Staff recommends the Planning and Zoning Commission approve the proposed text amendments to Section 20-10 District "E".

COMMISSION ACTION:

² Village of Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

³ Becker, the Police Power and Minimum Lot Size Zoning, 1969 Wash. U.L.Q. 263, 273.

⁴ Traditional racial and economic exclusionary zoning is often invalidated on equal protection grounds. A candid view of exclusionary motives in zoning is provided in Large Lot Zoning, supra note 2, at 1420.

From: Paul Y Cunningham Jr. <lawofficepyc@sbcglobal.net>
Sent: Wednesday, September 09, 2015 4:54 PM
To: Dr. Sungman Kim; William DiLibero
Cc: Troy Giles; Marta Martinez
Subject: Re: Veranda Condominium

Categories: Dark Orange

I understand your reasons and I have no good argument against the re-zoning. As I said in a prior email this issue could also be cured by using the same provisions that is in the B-2 district (Sec. 20-7.1(E)(F)(G)) that was added because it re-zoned existing property that could be argued was a taking under the constitution without those provisions.

Paul Y. Cunningham, Jr.
Paul Y. Cunningham, Jr., P.C.
P.O. Box 2729
South Padre Island, Texas 78597
Telephone:(956)761-6476
Facsimile:(956)761-7812

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From: Dr. Sungman Kim <SKim@MySPI.org>
To: Paul Cunningham <lawofficepyc@sbcglobal.net>; William DiLibero <WDiliber@MySPI.org>
Cc: Troy Giles <Troy@TroyGilesRealty.com>; Marta Martinez <MMartinez@MySPI.org>
Sent: Wednesday, September 9, 2015 4:44 PM
Subject: Veranda Condominium

Good Afternoon,

I had a discussion with Mr. Troy Giles who is representing couple of wealthy property owners (Dana R. Allison and Theresa Metty). Mr. Giles told me that they were making objections to the proposed rezoning of Veranda Condominium, which was built in 1982 under "B" designation, which was conforming at that time.

In 1994, this condominium was somehow downzoned into "E" and the 16 owners have been living there under non-conforming status since then.

Throughout the discussion, I made it clear that I would recommend the rezoning of the property due to a couple of potential unconstitutionality test: (1) you should not devalue, which happened in 1994, a property by zoning without a just compensation; and (2) you cannot discriminate property owners by preferring wealthy neighbors who are waiting to see this condominium destroyed and rebuilt with what is allowed under District "E".

Mr. Giles told me that there is a potential that the condominium could be changed into a hotel and that will raise a conflict with District "E". I told him that under his theory any properties under "B" have such potential and consequently our entire zoning (that District "B" surrounding District "E") should be then changed to mitigate such conflict. It

then is not an issue related to a couple of lots.

Mr. Giles told me that the City's parking ratio is wrong and the zoning change would create additional parking issue. I told him that it would be a parking ratio issue and the ratio may need to be changed, but it would not be about the current zoning system related to use schedule.

I do not see any possible reason to going against the rezoning so far.

Please let me know if you have any insights (for or against) on this case.

I believe that we all need to be in one page.

Thank you.

Sungman

Dr. Sungman Kim | Director of Development

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<<http://www.twitter.com/southpadretexas>>

[YouTube]<<https://www.youtube.com/visitspi>>

PhD, MBA, MLA, AICP, ASLA/PLA, GISP, SPHR , SHRM-SCP

City of South Padre Island

4601 Padre Blvd. South Padre Island, Texas 78597

Office: 956-761-8113 | Cell: 956-407-2003 | Fax: 956-761-3898

E-mail: SKim@MySPI.org<<mailto:SKim@MySPI.org>>

www.MySPI.org<<http://www.MySPI.org>>

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ORDINANCE NO. 15-

AN ORDINANCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, AMENDING CHAPTER 20 ZONING BY ADDING PROVISIONS OF CONFORMITY CLAUSE TO THE SECTION 20-10 DISTRICT "E"; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A PENALTY OF UP TO TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH VIOLATION; PROVIDING FOR THE EFFECTIVE DATE; AND AUTHORIZING PUBLICATION IN CAPTION FORM.

WHEREAS, the City of South Padre Island has heretofore adopted Chapter 20 (Zoning) of the Code of Ordinances and subsequently adopted Section 20-5 District Map to designate the "Zoning District Map";

WHEREAS, the City Council of South Padre Island found that the Veranda Condominium that was built in 1982 had been under non-conforming status since August 3, 1994 due to the rezoning by Ordinance No. 173;

WHEREAS, It is intent of the City Council of South Padre Island to remove any undue hardships that have been imposed to the owners; and

WHEREAS, The City has complied with the requirements of Sec. 20-18 of the Code of Ordinances (Zoning) to amend Chapter 20;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS:

Section 1. The provisions of conformity clause are hereby added to Section 20-10(D) of the Chapter 20 Zoning Ordinance and restated in its entirety to read as follows:

(11) Any condominium building which existed on August 3, 1994 that does not conform to the height limitations of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.

(12) Any structure which exists on August 3, 1994 that does not conform to the standards of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on August 3, 1994.

(13) Any land use that exists on August 3, 1994 that does not conform to the standards of the District "E" shall be deemed a conforming use and may continue the use as it was on August 3, 1994.

Section 2. This ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

Section 3. Any violation of the above mentioned section of Chapter 20 of the Code of Ordinances of the City of South Padre Island may be punished by a fine not to exceed two thousand Dollars (\$2000.00) for each offense of for each day such offense shall continue and the penalty provisions of Sections of Section 21-2 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

Section 4. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

Section 5. This Ordinance shall become effective when published in caption form.

PASSED, APPROVED AND ADOPTED on First Reading, the ____ day of ____ 2015.

PASSED, APPROVED AND ADOPTED on Second Reading, the ____ day of ____ 2015.

ATTEST:

CITY OF SOUTH PADRE ISLAND,
TEXAS

SUSAN HILL, CITY SECRETARY

BHARAT R. PATEL, MAYOR

**PLANNING & ZONING COMMISSION
AGENDA REQUEST FORM**

MEETING DATE: October 15, 2015

ITEM: 7 & 8

TO: Planning and Zoning Commission

FROM: Sungman Kim, Director of Development Services

ITEM DESCRIPTION:

Discussion and action regarding rezoning of Veranda Condominium from **District "E"** (Low Density Residential – Single Family and Townhouse Dwelling District) to **District "B"** (Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district).

DISCUSSION:

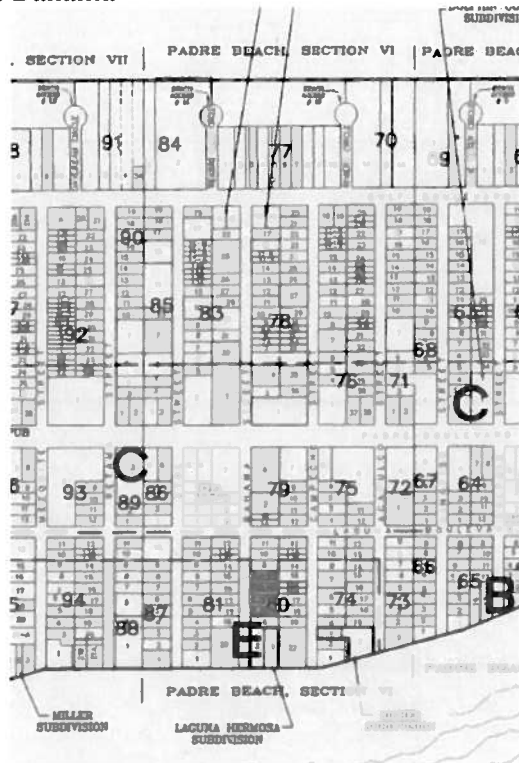
The Ownership

Multiple owners

Legal Description and the Location

Legal Description: PADRE BEACH SECTION VI, LOTS 5-8 BLOCK 80, DEC 15-887, 6/24/1982

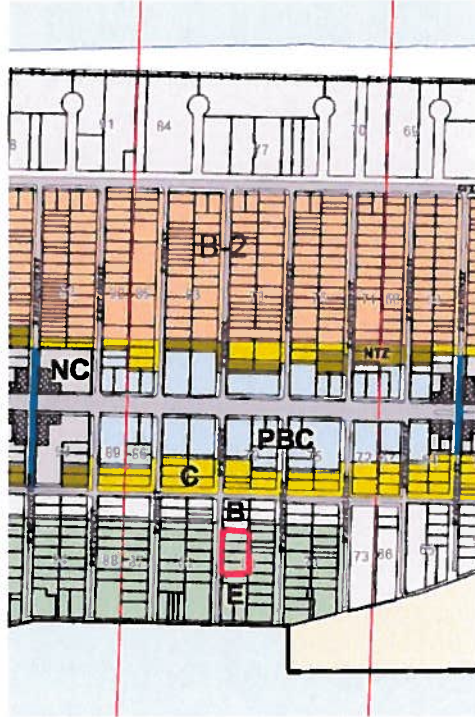
The Location: 211 West Bahama



PLANNING & ZONING COMMISSION AGENDA REQUEST FORM

Current Zoning

Veranda Condominium, with 16 rental units, has been zoned under District “E” (Low Density Residential – Single Family and Townhouse Dwelling District) and currently nonconforming.



Technical Issues

1. Zoning Ordinance was adopted by Ordinance No. 77 and effective on November 9, **1979**;
2. The Veranda Condominium was built in **1982** and was under District “B” designation;
3. The condominium (lots 5-8) was then rezoned, by Ordinance No. 172, into District “E” along with other neighboring properties in **1994** without a reason (“extremely poor” planning performance);
4. The lot 9, which was in between the Veranda Condominium and the District “B”, was rezoned back into District “B” in **1997**;
5. Staff found any reason that this condominium property should be categorized into a low density residential;
6. No compatibility issue arise due to this change; and
7. The change will not contribute to a spot zoning.

**PLANNING & ZONING COMMISSION
AGENDA REQUEST FORM**

Theoretical Issues

While complying with statutory zoning enabling act requirements, there are three basic requirements that a zoning ordinance must meet to withstand constitutional attack¹:

1. It must bear a rational relationship to the health, safety, morals or general welfare of the community, so as to **comply with the due process requirements** of the fourteenth amendment²;
2. It must **not reduce the value of the land** so as to constitute a taking without compensation, in violation of the fifth amendment³; and
3. It must **not be so arbitrary and discriminatory** that its restrictions are a denial of the equal protection of the laws⁴.

A test of this item on constitutionality says that the case is vulnerable to the second (a taking without compensation) and the third (arbitrary and discriminatory) basic requirements.

Staff Recommendation

Staff strongly recommends the Planning and Zoning Commission approve the proposed rezoning of the Veranda Condominium properties from District "E" to District "B" so that the properties can be under a conforming status and the owners can get their by-rights back.

COMMISSION ACTION:

MOTION:

BY: _____ **SECOND BY:** _____

McNulty	Huffman	Vance	Bujanos	Judah	Marra	Olle
Yes	Yes	Yes	Yes	Yes	Yes	Yes
No	No	No	No	No	No	No
Abstain	Abstain	Abstain	Abstain	Abstain	Abstain	Abstain

¹ Environment-Environmental Considerations: New Arguments for Large-Lot Zoning, 7 Urban Law Annual, 370 (1974), Available at: http://openscholarship.wustl.edu/law_urbanlaw/vol7/iss1/24

² Village of Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

³ Becker, the Police Power and Minimum Lot Size Zoning, 1969 Wash. U.L.Q. 263, 273.

⁴ Traditional racial and economic exclusionary zoning is often invalidated on equal protection grounds. A candid view of exclusionary motives in zoning is provided in Large Lot Zoning, supra note 2, at 1420.

ORDINANCE NO. 15-

AN ORDINANCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, AMENDING THE ZONING DISTRICT MAP OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, BY REZONING LOTS 5 THROUGH 8, BLOCK 80, PADRE BEACH SECTION VI (A.K.A. VERANDA CONDOMINIUM) FROM DISTRICT "E" (LOW DENSITY RESIDENTIAL) TO DISTRICT "B" (MULTI-FAMILY DWELLING, APARTMENT, MOTEL, HOTEL, CONDOMINIUM, TOWNHOUSE DISTRICT); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A PENALTY OF UP TO TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH VIOLATION; PROVIDING FOR THE EFFECTIVE DATE; AND AUTHORIZING PUBLICATION IN CAPTION FORM.

WHEREAS, the City of South Padre Island has heretofore adopted Chapter 20 (Zoning) of the Code of Ordinances and subsequently adopted Section 20-5 District Map to designate the "Zoning District Map";

WHEREAS, the City Council of South Padre Island found that the Veranda Condominium that was built in 1982 had been under non-conforming status;

WHEREAS, It is intent of the City Council of South Padre Island to remove any undue hardships that have been imposed to the owners; and

WHEREAS, The City has complied with the requirements of Sec. 20-18 of the Code of Ordinances (Zoning) to amend Chapter 20;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS:

Section 1. That the Zoning District Map of the City of South Padre Island, Texas, be and the same is hereby designated as follows:

PADRE BEACH SECTION VI, LOTS 5-8 BLOCK 80, DEC 15-887, 6/24/1982

Be and the same is hereby rezoned and assigned the zoning designation of District "B" (Multi-family dwelling, apartment, motel, hotel, condominium, townhouse district) as this allowed use is defined in the Chapter 20 (Zoning) of the Code of the City of South Padre Island, Texas.

Also identified on the Zoning District Map that is attached as Exhibit "A".

Section 2. This ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

Section 3. Any violation of the above mentioned section of Chapter 20 of the Code of Ordinances of the City of South Padre Island may be punished by a fine not to exceed two thousand Dollars (\$2000.00) for each offense of for each day such offense shall continue and the penalty provisions of Sections of Section 21-2 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

Section 4. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

Section 5. This Ordinance shall become effective when published in caption form.

PASSED, APPROVED AND ADOPTED on First Reading, the ____ day of ____ 2015.

PASSED, APPROVED AND ADOPTED on Second Reading, the ____ day of ____ 2015.

ATTEST:

CITY OF SOUTH PADRE ISLAND,
TEXAS

SUSAN HILL, CITY SECRETARY

BHARAT R. PATEL, MAYOR

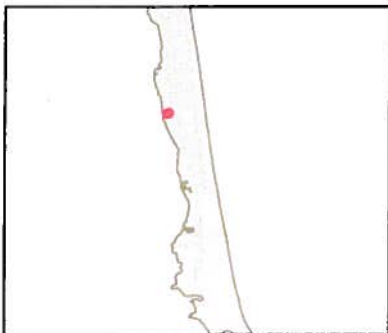
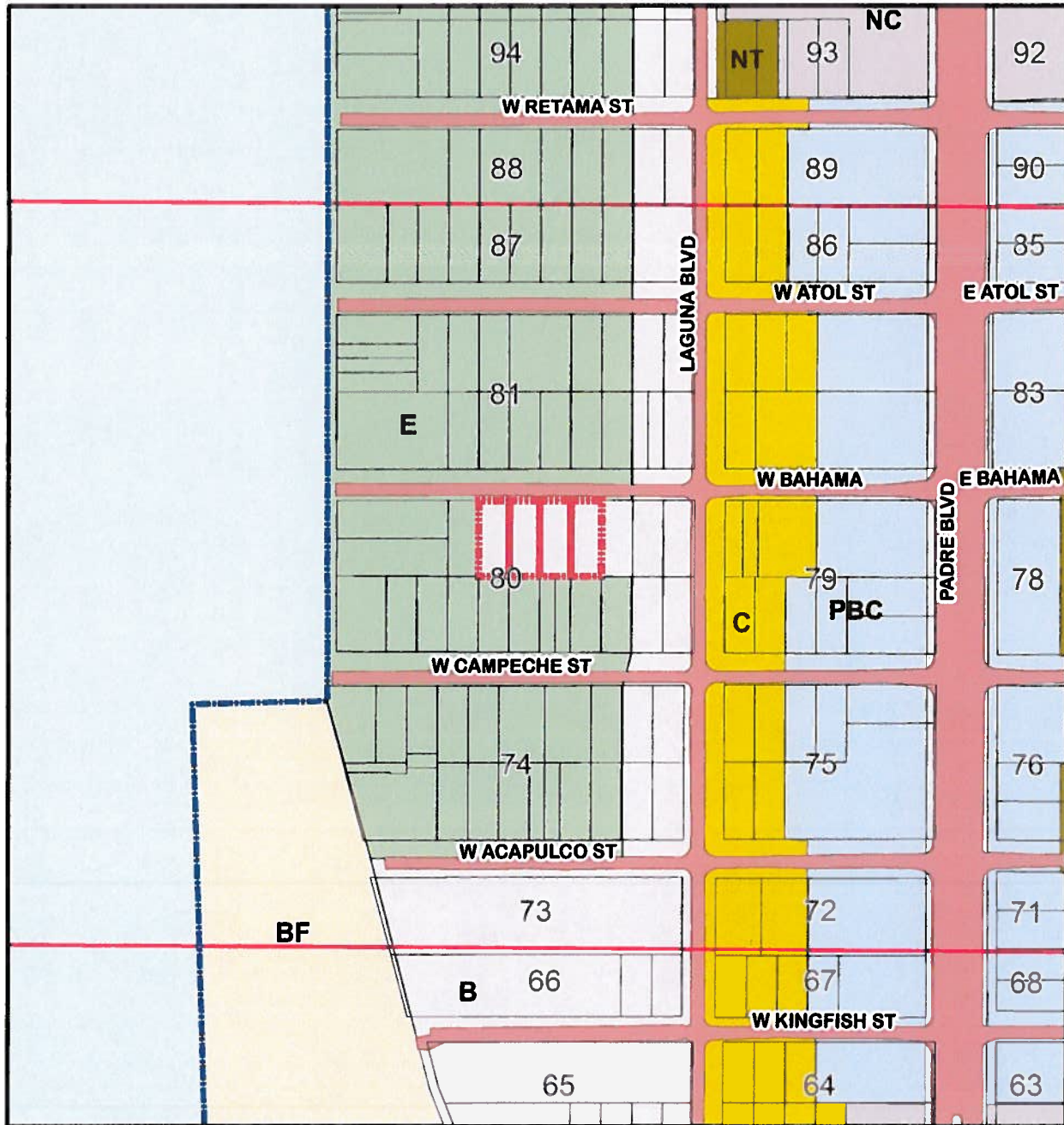


EXHIBIT "A" REZONING

From: District "E" (Low Density Residential
-Single Family and Townhouse Dwelling District)
To: District "B" (Multi-family Dwelling, Apartment,
Motel, Hotel, Condominium, Townhouse District)

September 3, 2015
Sungman Kim, PhD, GISP
Department of Development Services



0 100 200 400 Feet

ORDINANCE NO. 15-

AN ORDINANCE OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, AMENDING CHAPTER 20 ZONING BY CONSOLIDATING EXISTING PARKING REGULATIONS TO PROVIDE CLEAR AND EASY UNDERSTANDING; BY ADDING DEFINITION OF NON-RESIDENTIAL USES TO ESTABLISH SEPARATE PARKING STANDARDS FOR STORAGE/WAREHOUSING BUILDING AND OUTDOOR AMUSEMENT OR THEME PARK ESTABLISHMENTS; BY ADDING VALET PARKING SERVICE PROVISIONS TO ALLOW REMOTE PARKING LOTS FOR DEVELOPMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND AUTHORIZING PUBLICATION IN CAPTION FORM.

WHEREAS, the City of South Padre Island has heretofore adopted Chapter 20 (Zoning) of the Code of Ordinances; and

WHEREAS, the City Council finds that the parking regulations are looted into each zoning district, and yet the regulations cross-reference each other throughout the sections of entire zoning districts, creating confusions; and

WHEREAS, the City Council finds the needs for remote parking facilities throughout the City; and

WHEREAS, The City has complied with the requirements of Sec. 20-18 of the Code of Ordinances (Zoning) to amend Chapter 20;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH PADRE ISLAND, TEXAS:

Section 1. The Chapter 20 Zoning Ordinance is amended as described and attached hereto as Exhibit "A".

Section 2. This ordinance repeals all portions of any prior ordinances or parts of ordinances of the Code of Ordinances in conflict herewith.

Section 3. Any violation of the above mentioned section of Chapter 20 of the Code of Ordinances of the City of South Padre Island may be punished by a fine not to exceed two thousand Dollars (\$2000.00) for each offense of for each day such offense shall continue and the penalty provisions of Sections of Section 21-2 of the Code of Ordinances is hereby adopted and incorporated for all purposes.

Section 4. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

Section 5. This Ordinance shall become effective when published in caption form.

PASSED, APPROVED AND ADOPTED on First Reading, the ____ day of ____ 2015.

PASSED, APPROVED AND ADOPTED on Second Reading, the ____ day of ____ 2015.

ATTEST:

CITY OF SOUTH PADRE ISLAND,
TEXAS

SUSAN HILL, CITY SECRETARY

BHARAT R. PATEL, MAYOR

(C) Offsite Parking Design Standards

(1) Streetscape and Perimeter Landscaping

- (a) Provide a landscaped area at least 3 feet in width between surface parking and all property lines.
- (b) Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.
- (c) For parking lot edges adjacent to streets, parks or other public open space, provide the following:
 - at least one row of shade trees, spaced evenly at intervals appropriate to the selected species, for the length of the parking lot edge; and
 - screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.
- (d) Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.
- (e) Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.
- (f) Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.
- (g) Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8'.
- (h) Coordinate tree planting with the location of light standards and other utilities.

- (2) Legally Conforming Non-Conforming Off-Site Parking Lots – Off- site parking lots in existence, at the time of the enactment of this section, that do not conform to the streetscape and perimeter landscaping requirements established in this section shall be considered legally conforming off- site parking lots.

(D) Valet Parking

- (1) Conditional Use Permit. The conditional use permit application shall include a parking plan and program providing the following minimum information:
 - (a) The names, addresses, and telephone numbers of the applicant, the property owner, and/or the independent contractor, as applicable;
 - (b) The location, parking space layout, dimension of spaces, number of spaces, drive aisles, valet parking service stands and valet routes (This shall also include the placement of any traffic cones to be used; In determining the location, valet parking will be considered as a commercial parking);
 - (c) The proposed hours and days of operation of the valet parking service;
 - (d) A plan to minimize noise, loitering and trash within and adjacent to the off-site valet parking lot;
 - (e) The drop-off and pick-up areas must be safe from traffic hazards and be adequately posted;

- (f) Valet parking must be off-street;
- (g) A current title report or attorney's title opinion showing the ownership of the property: The applicant shall own properties that are related to the proposed developments including both the main development site and the off-street parking lot(s);
- (h) A signed agreement or other documentation showing that the applicant has a legal right to park vehicles at that off-street location: If the applicant is providing more than the parking spaces that is required by the code, the ownership of the subject off-street parking is not required;
- (i) A signed agreement or other documentation showing that a contract has been fully ~~performed~~executed between the owner and a valet parking service;
- (j) An authorization letter from the land owner(s), if the application is filed by an applicant's representative; and
- (k) Proof of insurance.

(2) Violations

- (a) It shall be an offense to operate a valet parking service within the city on a public right-of-way for maneuvering vehicles without a conditional use permit issued by the city.
- (b) It shall be an offense if, at a time other than the hours and days of operation authorized in a conditional use permit, anyone operates a valet parking service within the city on a public right-of-way.

(3) Denial or Revocation of a Conditional Use Permit; Temporary Suspension.

- (a) The conditional use permit shall become null and void if:
 - a. The property owner, and/or the independent contractor fails to comply with the requirements of this article or other applicable law;
 - b. The property owner, and/or the independent contractor makes a false statement of material fact or omission on an application for a conditional use permit; or
 - c. The City Council determines that the operation of the valet parking service would endanger the public health, safety and/or welfare.
- (b) The City Council, the City Manager, Public Works Director, Police Chief, Fire Chief or their designated representatives may temporarily suspend the operations of a valet parking service if the public right-of-way used by the valet parking service is needed for maintenance, emergency use and/or special events.

(4) Standards for Operation of a Valet Parking Services

- (a) The applicant shall:
 - a. Allow only employees and independent contractors who hold a valid state driver's license, and who are covered by the insurance required by this article, to operate any vehicle in connection with the valet parking service;
 - b. Not obstruct a pedestrian's use of a sidewalk;
 - c. Place no more than one valet parking service stand on the public right-of-way;
 - d. Not place nor allow the placement of a sign advertising the valet parking service in the public right-of-way, except as provided in this article; and,

- e. Not park a vehicle on the public right-of-way and shall only an off-street parking location to park a vehicle accepted for valet parking service.
- (b) Except for the authorized hours of operation of a valet parking services, spaces reserved by the valet parking service shall be available for use by the general public on a first-come, first served basis in accordance with posted signs and/or other traffic control devices, except where parking is restricted or prohibited.

(5) Valet Parking Service Stands

- (a) The applicant may place one valet parking service stand on the public right-of-way at a location approved. The valet parking service stand must be necessary to the general conduct of the valet parking service and shall be used for such purposes, including, but not limited to, the dispatch of valets and the storage of keys, umbrellas and other necessary items.
- (b) A valet parking service stand shall:
 - a. Not occupy an area of the public right-of-way exceeding four feet in width and four feet in depth;
 - b. Not be affixed to the public right-of-way in any manner;
 - c. Be removed from the public right-of-way when the valet parking service is not being operated; and
 - d. Not unreasonably interfere with pedestrian or vehicular traffic.
- (c) A name and/or logo may be placed on a valet parking service stand for the sole purpose of identifying the valet parking service. The identification of the valet parking service shall be limited to 12 sq. ft.

(6) Location of a Valet Parking Service

- (a) Spaces and stands for a valet parking service may not:
 - a. Be within ten (10) feet of a crosswalk;
 - b. Be within ten (10) feet of a fire hydrant, fire call box, police or other emergency facility;
 - c. Be within five (5) feet of a driveway;
 - d. Be within three (3) feet in front of or fifteen (15) feet behind a sign marking a designated bus stop;
 - e. Be within five (5) feet of a bus bench; or
 - f. Reduce the unobstructed space for the passage of pedestrians to less than four (4) feet.
- (b) The City Manager or his/her designee may require greater distances than those prescribed in this subsection (a) when warranted by special vehicular or pedestrian traffic conditions.

(7) Insurance. (Texas Transportation Code Sec. 686.004)

- (a) The minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility are:
 - a. \$100,000 for bodily injury to or death of one person in one accident;
 - b. \$300,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and
 - c. \$50,000 for damage to or destruction of property of others in one accident.

EXHIBIT "A"

Chapter 20

ZONING*

Sec.20.1 Short title.

These regulations shall be known and may be cited and referred to as the "City of South Padre Island Zoning Ordinance." *Editor's Note - Ordinance No. 77, the Zoning Ordinance, adopted and effective on November 9, 1979, is herein set forth as codified, supplemented and modified

Sec.20-2 Same--Zoning, adoption of statute.

The provisions of Chapter 283, of the acts of the regular session of the 40th Legislature of the State of Texas (Now codified as Chapter 211 of the Local Government Code), relating to zoning in cities and Citys in the State, are hereby adopted as the law governing the zoning of the territory lying within the incorporated limits of the City.

Sec.20-3 Definitions.

For the purpose of this Ordinance, the following words and terms as used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural number; the words in the plural number include the singular number; the word "building" includes the word "structure"; the word "lot" includes the word "plot"; the word "shall" is mandatory and not discretionary.

Accessory building or use: A subordinate building having a use customarily incident to and located on the lot occupied by the main building; or a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

Alley: A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Alteration: Any addition, removal, extension, or change in the location of any exterior wall of a main building or accessory building.

Amusement center: An amusement center is a business wherein there are located machines which require the deposit of money therein to be activated for an individual's entertainment, and from which said business establishment derives fifty percent (50%) or more of its gross income.

Amusement Redemption Machine: means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

Amusement Redemption Machine Premise or Amusement Redemption Machine Establishment: Any business location that has more than three (3) Amusement Redemption Machines is subject to their gross receipts being audited by the officials of the City to determine whether or not fifty percent (50%) or more of their income is derived from said machines, then said business shall be declared an Amusement Redemption Machine Establishment.

Amusement Redemption Machine Specific Use Permit: means a permit to operate an Amusement Redemption Machine Establishment.

Apartment: A room or a suite of rooms within an apartment house arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit.

Apartment house: A building or portion thereof arranged, intended or designed for three (3) or more families or housekeeping units living independently of each other.

Bar: means any commercial establishment that derives fifty-one percent (51%) or more of its annual gross sales receipts from the sale of alcoholic beverages as defined by the Texas Alcoholic Beverage Code and has a valid on-premise consumption license issued by the Texas Alcoholic Beverage Commission.

Building: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two (2) buildings connected by a breezeway shall be deemed as one building.

Coin operated laundries: A business establishment wherein there are washing and drying machines being used by the general public by the deposit of money therein and wherein they can cause wearing apparel and other personal items to be laundered. (Ord. No. 2D, 6-16-76)

Condominium: The separate ownership of single units or apartments in a multiple unit structure or structures with common elements. (as defined by the Texas Property Code)

Convenience storage facilities: A masonry structure which is partitioned into small sections for the purpose of renting individual storage rooms to individuals or corporations for the purpose of storing belongings but from which there will be no general storage business or warehousing business operated or any other type of business operation.

Customary home occupations: Occupations ordinarily carried on in a home that are not detrimental or injurious to adjoining property. These may include serving meals or renting rooms to not more than five (5) persons and not members of the household, dressmaking, millinery, washing and ironing. Customary home occupations shall not include barber shop, flower shops, carpenter shops, electrician, plumbers' shops, radio shops, tanners shops, transfer or moving van offices, auto repairing or sign painting.

Dental Clinics: a facility that is involved in the study, diagnosis, prevention, and treatment of diseases, disorders and conditions of the oral cavity, maxillofacial area and the adjacent and associated structures and their impact on the human body.

Depth of Lot: The mean horizontal distance between the front and the rear lot lines.

Depth of Rear Yard: The mean horizontal distance between the rear line of a building other than an accessory building and the center line of the alley where an alley exists, otherwise the rear lot line.

District: A section of the City for which the regulations governing the area, height and use of buildings are uniform.

Dwelling: A building or portion thereof, designed exclusively for residential occupancy, including one-family, two-family and multiple family structures, boarding and lodging houses, apartment houses, but not hotels, house trailers or mobile homes.

Dwelling, Multi-Family: A building intended or designed as a residence for more than one (1) family or housekeeping units living independently of each other. (Ord 07-10, 8-1-2007)

Dwelling, One-Family: A detached building arranged, intended or designed for occupancy by one (1) family.

Dwelling, Two-Family: A building arranged, intended or designed for occupancy by two (2) families.

Family: Any number of individuals living together as a single housekeeping unit; as distinguished from a group occupying a boarding house or hotel.

Food Establishment: means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside vendor. The words ‘food service establishment’ shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including retail restaurant, food store, , bars, night clubs, saloon, cantinas, taverns, pubs, bakeries, schools, day cares, continental breakfast (hotel/motel), catering establishments, commissary, delicatessen-type operations that prepares sandwiches intended for individual portion, group residence, bed and breakfast, or any operation that is conducted from a mobile unit. The term applies regardless of whether there is a charge for food. The term does not include private homes where food is prepared or served for individual family consumption, the location of food vending machines and supply vehicles.

Front-of-building area: That area located between the front property line and the building facade and extending from side property line to side property line.

Front Yard: A yard across the full width of the lot from the front line of the main building to the front line of the lot.

Garage: An accessory building principally for storage of motor vehicles.

Garbage, Garbage Container Locations, Garbage Container Requirements: All development over the occupancy of a four-plex and all commercial development must dedicate a space within its development plans to locate and maintain a garbage container. The space designated for the location of the garbage container cannot be located in the public right-of-way, cannot be located in the front-yard setback, and cannot diminish and/or occupy areas designated for parking. It is further required that all garbage containers and the area designated for its location must be enclosed and/or screened from the public's view.

General Hospital: The term “general hospital” means any establishment offering services, facilities, and beds for use for more than twenty-four (24) hours for two (2) or more unrelated individuals requiring diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy, and regularly maintains, at a minimum, clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.

Gross Floor Area: The gross floor area of a building shall be measured by taking outside dimensions of the building at each floor, excluding the floor area of basements or attics when not occupied as living quarters.

Height: The height of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher, to the highest point of the roof's surface if a flat surface; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for hip or gable roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, radio towers, ornamental cupolas, domes or spires, elevator penthouses, tanks, water towers and parapet walls not exceeding four (4) feet in height.

Hotels and Motels: A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than twelve (12) sleeping rooms, and no provisions for cooking in individual rooms.

Impound Lot: a garage, parking lot, or any other facility or area having the capacity to hold vehicles; which is owned or operated by any person other than a governmental entity; and the primary purpose of which is the involuntary storage of vehicles (i.e., towed vehicles).

Institution: A building occupied by a non-profit corporation or non-profit establishment for public use.

Landscaping/Landscaping Material: shall consist of live plant materials that achieve a minimum of 80% coverage of the required dedicated area within one year of planting.

Linen Cabinet: a stand-alone structure that allows for the storage of linens and as a drop-off location for service companies to replace soiled linens for clean, pressed linens.”

Lot: Land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this Ordinance, and having its principal frontage upon a public street or officially approved place.

Lot Front line: The line of an interior lot which is adjacent to the street. On corner lots, it is the prolongation of the front lot line of adjacent interior lots as originally platted.

Lot Lines: The lines bounding a lot as defined herein.

Lot Rear Line: The boundary line which is opposite and most distant from the front lot line.

Lot Corner: A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the building inspector.

Nightclub: Any business holding a mixed beverage permit from the Texas Alcoholic Beverage Commission or the appropriate State agency.

Non-Conforming Uses: A building or premises occupied by a use that does not conform to the regulations of the use in the district in which it is situated.

Non-Residential Uses: any uses other than a residential use. In calculating number of parking spaces, the category of non-residential uses does not include “storage/warehousing” that is freestanding and separate from other uses, and also not include “outdoor amusement or theme park” establishments.

Open Spaces: Area included in any side, rear or front yard of a lot other than the building space which is measured as the outside dimensions of the floor area of the building. Therefore, in determining the percent of coverage of buildings allowed on a lot, the projections of the buildings, such as eaves, cornices, porches, stairways, carports, etc., are considered as open spaces and not building space.

Parking, Parking Requirements, Off-Street Parking. All parking requirements of a building or premises must be provided on the same site/land for which the building permit is issued, and the same may not be located on any property that is not contiguous and joined to the building site, unless a permit for an off-premise parking lot has been approved in accordance with the requirements of ~~Section 20-7(D)(5)(n) or Section 20-8(F)(5)(h)~~14. All parking areas, and access thereto must be of a concrete or asphalt surface. All parking lot construction shall conform to Article 2, Section 2.18, Parking Lots, of the Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas.

Permitee: means a person in whose name a Specific Use Permit to operate a Amusement Redemption Machine Premise has been issued.

Persons: The word "person" shall, for the purpose of this ordinance, mean every person, firm, co-partnership, association, partnership, corporation or society; and the term "person" shall include both singular and plural and the masculine shall embrace the feminine gender.

Places of Worship: A facility principally used for people to gather together for public worship, religious training, or other religious activities. This use does not include home meetings or other religious activities conducted in a privately occupied residence.

Planned Development District: Any separate zoning district created pursuant to the provisions of Section 20-23 of the City of South Padre Island Zoning Ordinance.

Planned Unit Development: Any master-planned real estate development, encompassing one or more authorized land uses, which is created pursuant to Section 20-2 of this Chapter.

Permanent Makeup: coloring applied to the face, or to any other part of the body to improve the appearance of birthmarks, scars, burns, or other disfiguring conditions of the skin.

Primary Care physician's Office: is a facility which provides both the first contact for a person with an undiagnosed health concern as well as continuing care of varied medical conditions, not limited by cause, organ system, or diagnosis.

Public facility: means any property owned and/or operated by the City of South Padre Island or any governmental entity.

Public Service Facility : A building, structure, or group thereof, which is intended to be used as, or perform as, a public utility, is considered to be and is defined as a PUBLIC SERVICE FACILITY. Electrical power plants, electrical power distribution substations, any form of antennas or towers twelve (12) feet or greater in height, water and sewer treatment plants or pumping stations, sewage lift stations, and other similar public service structures are examples of PUBLIC SERVICE FACILITIES. A PUBLIC SERVICE FACILITY may be publicly or privately owned, and may be regulated by the state, municipality, or other governmental agency; the primary purpose of such a facility is to provide to the public electrical, gas, transport, communications, water, sewage, and other such services. The erection, construction, alteration, operation or maintenance of a PUBLIC SERVICE FACILITY is regulated by this Ordinance; however, all underground facilities and mains or minor above ground facilities such as electrical transformers, sewer cleanouts, cable T.V. connection boxes, antennas or towers less than twelve (12) feet in height, water meters, and the like are exempt from this definition.

Recreational Center: A building which is totally enclosed, both with ceilings and walls, within which there is located facilities for the conduct of sports and other related recreational activities and there may be located outdoor swimming pools directly adjacent to said enclosed facilities and which are an integral part of the main facility. Any recreational center may also have located within the sport facilities a pro shop wherein items are sold in connection with sports and recreational activities, a nursery to care for the children of the participants, and a beauty shop for the participants located therein. (Ord. No. 2H, 10-20-76)

Rear Yard: A yard between the rear lot line and the rear line of the main building and the side lot lines.

Side-of-building-area: For corner lots, that area located between the street side property line and the building façade extended from the front of building area to the rear property line.

Side Yard: A yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

Special Hospital: The term "special hospital" means any establishment offering services, facilities, and beds for use for more than twenty-four (24) hours for two (2) or more unrelated individuals who are regularly admitted, treated, and discharged and who require services more intensive than room, board, personal services, and general nursing care, and has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities, or other definitive medical treatment, has a medical staff in regular attendance, and maintains records of the clinical work performed for each patient.

Street: Any public thoroughfare dedicated to the public and not designated as an alley.

Story: That portion of a building between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above.

Structural Alterations: Any change in the supporting member of a building such as bearing walls, columns, beams or girders.

Substance Abuse Treatment Facility: may be any facility that offers treatment for persons with chemical dependency and conforms to license requirements of the Texas Health and Safety Code. This definition of Substance Abuse Treatment Facility shall include faith-based chemical dependency treatment programs that are exempt from licensure by the Texas Department of Health. This definition of Substance Abuse Treatment Facility does not include hospital narcotic drug detoxification treatment.

Tandem Parking: For single-family dwellings, two-family dwellings, Townhouses, and those multi-family developments of twelve (12) units or less which provide fully enclosed individual garages or carports or open uncovered parking for each dwelling unit, tandem parking spaces may be used as a design option in meeting the parking requirements of this Ordinance. The use of tandem parking shall meet the following requirements:

- (a) A tandem parking space shall be a minimum of nine (9) feet in width and thirty-six (36) feet in length, and shall count as the equivalent of two, regular parking spaces, with a minimum of nine (9) feet wide by eighteen (18) feet long per parking space.
- (b) Tandem parking spaces shall only be permitted for those multi-family projects of twelve (12) units or less in which individual fully enclosed garages or individual carports or individual open uncovered parking spaces are provided for each individual dwelling unit, and where each nine foot (9') by thirty-six foot (36') or larger tandem parking space whether covered or uncovered shall be dedicated to a specific dwelling unit by means of a restrictive covenant or condominium declaration, firmly binding the assignment of the clearly marked parking spaces to a specific dwelling unit in the project. A copy of the recorded document reflecting the book and page of the Cameron County Clerk's records where the document will be found shall be placed on file in the offices of the South Padre Island Planning and Building Department prior to the initiation of such tandem parking.
- (c) All tandem parking spaces shall be entirely located upon private property. No portion of any tandem parking space shall utilize the public right-of-way or other public property.
- (d) Tandem parking spaces shall be paved in either a concrete, asphalt, or paver block surface.

Townhouse: A Townhouse is a single-family dwelling unit constructed in a series or group of attached units with property lines separating such units. (Ord. No. 77B, 7-1-81)

Travel Trailer park: An area designed and used for the temporary occupation by automobile trailers and providing for one (1) or more of such quarters.

Tree: Palm trees 5 trunk feet or greater; and evergreen trees, canopy/shade trees, ornamental trees having a minimum trunk caliper of three inches or more at planting, or a height of seven feet or more at planting as measured from the ground to the point at which the lowest branches sprout from the tree.

Urgent Care Centers: provide walk-in, extended hour access for acute illness and injury care that is either beyond the scope or availability of the typical primary care practice or retail clinic.

Width of Side Yard: The horizontal distance between the side wall of a building which includes eaves, cornices, porches, stairways, carports or any projection of the building and the side line of the lot.

Yard: An open space of ground between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

Sec.20-4 Districts.

For the purpose of regulating and restricting the use of land and the erection, construction, reconstruction, alteration, moving or use of buildings, structures or land, all lands within the corporate limits of the City are hereby divided into districts with their respective classification as follows:

“A”	Single family dwelling district	“TCC”	Town Center Crossing Character Zone
“E”	Low Density Residential—Single Family and Townhouse Dwelling District	“PBN”	Padre Boulevard North Character Zone
“B”	Multiple family dwellings, apartments, motel, hotel, condominium, townhouse district.	“PBS”	Padre Boulevard South Character Zone
“B-2”	Residential and Multi-Family Dwelling District	“PBC”	Padre Boulevard Central Character Zone
“C”	Business District Fire Zone	“NT”	Neighborhood Transition Character Zone
Appendix “Z”	Padre Boulevard and Entertainment District Code	“NRD”	Northern Resort District Character Zone
“BF”	Bayfront Character Zone	“PDD”	Planned Development District
“EDC”	Entertainment District Core Character Zone	“D”	Resort area district
“NC”	Neighborhood Crossing Character Zone	“D-1”	Resort Area District
		“D-2”	Park District

No land shall be used for and no building shall be erected for or converted to, any use other than provided in the regulations prescribed for the District in which it is located, except as hereinafter provided. [Ord. 11-15]

Sect. 20-4.1 Determination of Allowed Uses within each Zoning District.

In such instances that a land use is not specifically noted in any of the lists of allowable uses within the text of this Zoning Ordinance, the Planning and Zoning Commission shall determine the zoning district(s) most appropriate for the proposed use, based upon a similar level of use listed within each District. Any person aggrieved by the decision of the Planning and Zoning Commission may, within ten (10) days of the decision, appeal that decision to the City Council and its decision will be final. [Ord 02-13]

Sec. 20-4.2 Staff Responsibility.

(A) Assistance to Citizen Committees. The Citizen Committees include the Planning and Zoning Commission, Board of Adjustment, Development Standards Review Task Force, and any other development-related committees created by the City Council. The staff shall provide technical assistance to and be responsible for scheduling meetings, providing agendas and public notice of meetings, reviewing and providing professional recommendations, and maintaining public records of the Citizen Committees’ findings and decisions.

(B) Collection of Information. To provide assistance necessary to carry out the functions of the citizen committees, the staff may request and obtain information from all parties, including applicant(s), service providers, and other related agencies.”

Sec.20-5 District map.

- (A) Boundaries of the districts, as enumerated in Section 20-4, are hereby established as shown on a map prepared for that purpose, which map is hereby designated as the "Zoning District Map"; and said map and all the notations, references and information shown thereon is hereby made as much a part of this ordinance as if the same were set forth in full herein. The City shall keep on file in its offices an authentic copy of said map, and all changes, amendments or additions thereto.

- (B) When definite distances in feet are not shown on the Zoning District Map, the district boundaries are intended to be along existing street, alley or platted lot lines, or extensions of the same, and if the exact location of such lines is not clear, it shall be determined by the City Council, due consideration being given to location as indicated by the scale of the Zoning District Map.
- (C) When streets or alleys on the ground differ from the streets or alleys as shown on the Zoning District Map, the Board may apply the district designations on the map to the streets or alleys on the ground in such a manner as to conform to the intent and purpose of this ordinance.
- (D) Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall be automatically extended to the center line of any such street or alley. Whenever a street or alley is dedicated, the zoning district within the area dedicated shall be void.

Sec.20-5.1 Initial Zoning for Annexed Lands

Property owners have the opportunity to negotiate with the City to determine appropriate zoning of annexed land prior to annexation through discussions with the Planning and Zoning Commission, which will provide its recommendation to the City Council. In such case, the property annexed into the City of South Padre Island shall be zoned as stated within the City's Annexation Plan for the designated area effective the date of annexation. However, if negotiations of zoning do not take place prior to annexation, property annexed into the City of South Padre Island shall be zoned "A" Residential, Single Family District effective concurrently with the date of official annexation. This temporary zoning classification shall remain in effect until a change therein is approved by the City Council. Within 180 days after the date of official annexation, the Planning and Zoning Commission shall review and provide specific zoning recommendations to the City Council as to the appropriate zoning for such annexed area.

Sec.20-6 District "A"- Single family dwelling district.

- (A) Use regulations:
 - (1) Dwellings, one family.
 - (2) Accessory buildings, including a private garage and bona fide servants' quarters, not for rent. When the accessory building is directly attached to the main building it shall be considered an integral part of the building. When the accessory building is attached to the main building by a breezeway, the breezeway may be considered a part of the accessory building. The floor area of all accessory buildings on the lot shall not exceed 50% of the floor area of the principal structure.
 - (3) Temporary buildings to be used for construction purposes only and which shall be removed upon completion or abandonment of construction work.
 - (4) Field offices for the sale of real estate for the specified development which shall be used for temporary offices only, to be removed after sales are closed, and to be used on the site only. A building permit is required for the installation of a field office and shall be valid for a one (1) year period, renewable upon expiration if sales are still active.
 - (5) Special Exceptions: Public Service Facility. (Ord 96-05. 10-2-96); Residential accessory uses in a vacant lot that is contiguous with a

residential single family lot having a principal building under common ownership.

- (6) Rentals of less than 30 days are prohibited. (Ord 00-10)
- (B) Height regulations: No building shall exceed forty-five (45) feet, when measured vertically from the center line of the street to the highest point of the building.
- (C) Area regulations:
 - (1) Front yards:
 - (a) There shall be a front yard having a minimum depth of twenty-five (25) feet except all lots facing the Gulf of Mexico on the East side of Gulf Boulevard may have a front yard depth of no less than ten feet (10') from the lot line.
 - (b) Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (2) Side yards:
 - (a) There shall be a side yard on each side of the lot having a clear width of not less than five (5) feet, including projections of the side of the building such as eaves, cornices, porches, stairways, carports, etc.
 - (b) In all cases where the side yard is adjacent to a side street, the side yard shall not be less than ten (10) feet.
 - (c) Where canals, bay front, beach front, and/or yacht basins occur at the side of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.
 - (3) Rear yards:
 - (a) There shall be a rear yard having a depth of not less than twenty (20) feet from the rear lot line
 - (b) Where canals, bayfront, beach front, and/or yacht basins occur at rear of lots, buildings may extend to the bulkhead.
 - (c) Where canals and yacht basins occur at rear of lots, boathouses may extend twenty feet (20') into the water provided that the structure is less than twelve feet (12') in height, is open construction, has no bathroom facilities and observes the sideyard set back as if the property lines were extended.
 - (4) Area of lot: the minimum area of a lot shall be 5,000 square feet, except no person may replat any lot within Padre Beach Subdivision, Section XII that is Single-Family Residential (District "A") to cause it to be smaller than it was platted in the original subdivision plat.
 - (5) Width of lot: The minimum width of a lot shall be fifty (50) feet.
 - (6) Depth of lot: The minimum depth of a lot shall be one hundred (100) feet.
 - (7) Area of building: The minimum area of a dwelling structure shall be 2,000 square feet in any lot in Block 192 and a minimum of 1,200 square feet in all other lots in the single family district. In the case of two or more stories, the area requirements shall apply to the ground floor.
 - ~~(8) Parking regulations: Off street parking space shall be provided on the lot to accommodate two (2) motor cars for each dwelling unit; however, no supporting member of any garage, carport or any garage structure shall be located within the required front yard.~~

- (98) Sanitation: There shall be no sewage disposal without water carriage. Chemical toilets may be erected on a temporary basis during construction only.
- (109) Type of construction-Padre Beach Section XII: All buildings erected on any portion of Padre Beach Section XII must be of masonry or reinforced concrete construction from the ground floor to the second floor living area. This, however, will not preclude the use of wood material for roof members, windows, doors and for decorative effects. For the purpose of this sub-section only, masonry may include the use of brick veneer.

Sec.20-7 District "B" -Multi-family dwelling, apartment, motel, hotel, condominium, Townhouse district.

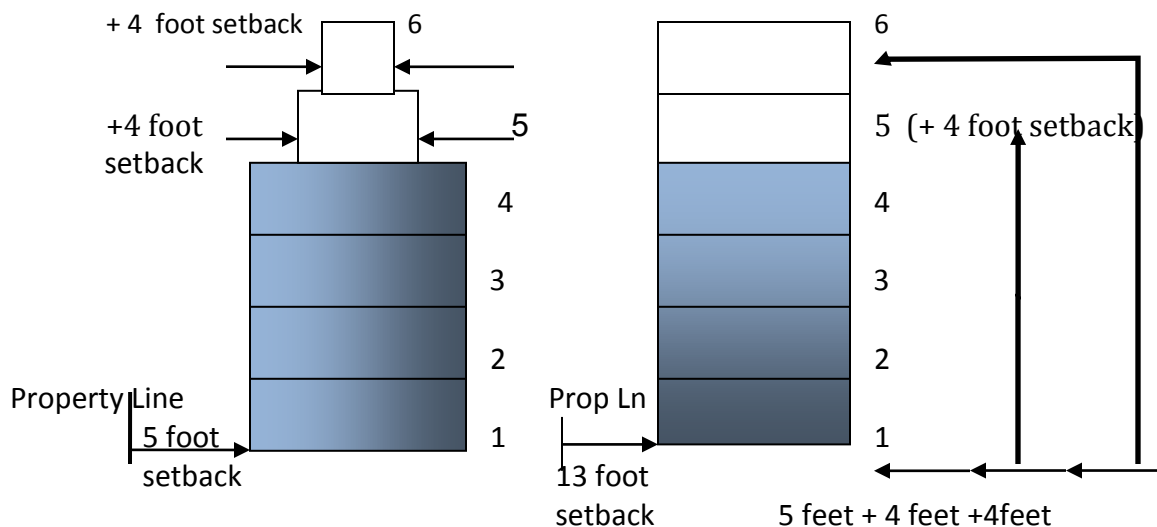
- (A) Area, width, and depth of lots, sanitation and temporary building provisions are the same as District "A", except Townhouse lots must have a minimum frontage of twenty five (25') feet; a minimum width of twenty-five (25') feet; a minimum depth of one-hundred feet (100'); and a minimum area of two thousand five hundred square feet (2,500 sq. ft.).
- (B) Use Regulations: In District "B", no land shall be used and no buildings shall be erected for or converted to any use other than:
 - (1) Single family dwellings, multi-family dwellings; apartment buildings, children's nurseries, hotels, motels, condominiums and Townhouses. Only condominiums, hotels and motels with more than twelve (12) units may have included within the premises such businesses as bars, food establishments, barber shops, beauty parlors and other similar businesses if such business is for the convenience of the occupants of the building and is definitely an integral part of the services of such hotel, condominium or motel.
 - (2) Private clubs, fraternities, sororities and lodges, that operate solely for the benefit of their members; a church; public school; a private or parochial school having a curriculum equivalent to a public elementary or high school.
 - (3) Townhouses.
 - (4) Incidental uses to any of the above specified uses include, but are not limited to, customary home occupations when engaged in by the private dwelling occupant. Examples are: a dressmaker, the office of a physician, surgeon or dentist, a musician or artist studio. Said incidental use, however, shall never be permitted as a principal use, but only as a secondary use when indispensably necessary to the enjoyment of the premises by the private dwelling occupant.
 - (5) Special Exceptions: Public Service Facility. (Ord. 96-05. 10-2-96; 98-04)
 - (6) Specific Use Permits: Substance Abuse Treatment Facilities, General Hospitals, Special Hospitals, Primary Care Physicians Office, Urgent Care Centers, Dental Clinics may be granted Specific Use Permits in accordance with Section 20-24 Specific Use Permits.

(C) Height regulations: Up to four (4) standard stories. [see Sec.20-7(D)(2) for additional floors authorized]

(D) Area regulations:

(1) Front yards: Same as District "A" (minimum of 25') except all lots facing the Gulf of Mexico on the east side and lots fronting the west side right-of-way line of Gulf Boulevard from Section I through Section XII, Padre Beach Subdivision, and all lots in Sunny Isle and Haas Subdivision, may have a front yard depth of not less than ten (10) feet from lot line on the west Gulf Boulevard right-of-way line. The minimum front yard shall be increased one (1) foot for each two (2) feet in height if a building exceeds six (6) standard stories.

(2) Side Yards: Additional Floors Authorized – Additional floors above four standard stories may be permitted if additional setbacks are provided as follows:



5 foot setback from property line for four standard stories. Add four feet to the setback requirement for each additional floor above four standard stories

5 foot setback from property line for four standard Stories. Add four Feet to the set back on all floors for each floor.

(3) Rear yards:

(a) Same as District "A" (minimum of 20'), except that the structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have such enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the 20 feet rear yard setback within 10 feet of the rear property line as provided for above, shall only be erected or placed in such a manner after a permit specifically therefor is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device

other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance. (Ord. No. 77E,)

(b) Minimum rear yard depth shall be increased one (1) foot for each two (2) feet in height if the building exceeds six (6) standard stories.

- (4) Size of structure: The minimum size of structure is six hundred (600) square feet, except within Padre Beach Section XII, which shall be twelve hundred (1,200) square feet except Blocks 178, 191, and 192 which shall be 2,000 square feet.

~~(5) — Parking regulations:~~

~~(a) — Single family and Townhouse uses shall provide off-street parking spaces on the lot to accommodate two (2) motor vehicles for each dwelling unit; no supporting member of any garage, carport or any garage structure shall be located within the required front yard. [amended by ordinance 07-19, 10-17-2008]~~

~~(b) — Private clubs and lodges shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area in the lodge or club.~~

~~(c) — Places of assembly shall provide off-street parking space on the lot sufficient to accommodate one (1) automobile for each five (5) seats.~~

~~(d) — Places of Worship shall provide one (1) off-street parking space for each five (5) fixed seats in the sanctuary or auditorium; OR one space for every 100 square feet of floor area within the sanctuary/auditorium, whichever is greater.~~

~~(e) — Schools shall provide one off-street parking space for each fifteen (15) students plus one (1) each for each teacher.~~

~~(f) — Hospitals shall provide off-street parking space on the lot sufficient to accommodate one (1) automobile for each five (5) beds, but in no case shall less than five (5) off-street parking spaces be provided.~~

~~(g) — Clinics shall provide off-street parking at a ratio of one (1) space for each two hundred and fifty (250) square feet of gross floor area within the structures but in no case shall less than five (5) off-street parking spaces be provided.~~

~~(h) — Hotels and motels shall provide one (1) off-street parking space for each guest bedroom in the building. For hotels and motels erected after August 1, 1994, the number of parking spaces required shall be one (1) off-street parking space for each guest bedroom in the building plus Fifty Percent (50%) of the off-street parking requirements from the various accessory uses operated upon the property, such as restaurant and retail space, computed in accordance with the requirements of Chapter 20 of the Code of Ordinances (Zoning), as if they were principal uses.~~

~~(i) — Rooming and lodging houses shall provide off-street parking space at the ratio of one (1) space for each two (2) guests for which accommodations are provided.~~

~~(j) — Multi-family dwellings shall provide two (2) off-street parking spaces per unit; or, may provide parking at a ration of 1.5 spaces per unit and comply with In-Lieu Parking Fee as an alternative to compliance with the parking standard established in this section.~~

~~(Ord No. 11-09)~~

~~(k) Townhouses. Each dwelling unit shall provide two (2) off-street parking spaces. (Ord. No. 77B, 7-1-81)~~

~~(l) No parking garage or structure shall be erected in a required front or side yard. (Ord. No. 77A, 7-1-81)~~

~~(m) The requirement for the provision of eight (8) stacking spaces for any use that will provide a drive-through sales facet to its operation to insure that traffic will not back-up onto the public right-of-way.~~

~~(n) Required parking for a non-residential use may be located off-site under the following circumstances:~~

~~(1) No more than Fifty (50) Percent of the required parking for the use may be located off-site.~~

~~(2) The off-site parking location must be either a contiguous property on the same side of the street as the property upon which the principal use to be served by the off-site parking is located, or a property directly across the street from the principal use, but no farther than Seventy-Six Feet (76') from the nearest property line of the principal use. Notwithstanding this provision, off-site parking locations shall not be permitted on the opposite side of Padre Boulevard from the location of the principal use to be served by the off-site parking.~~

~~(3) All off-site parking lots shall be located on property zoned within the same or similar zoning district.~~

~~(4) A written agreement, prepared by the applicant and drawn to the satisfaction of the City Attorney, shall be executed by all parties concerned and filed on record in the Office of the Cameron County Recorder as a covenant upon the property upon which the principal use is located, requiring the owners, heirs, or assigns to maintain the required number of off-street parking spaces.~~

~~(o) Compact Parking—5 % of the required parking may be compact parking. Compact Parking is defined as parking spaces that are laid out as eight (8) feet by sixteen (16) feet.~~

~~(p) Bike Rack In Lieu of Required Parking. For new development and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, if the property owner elects to install a four-unit bike rack. The bike racks shall meet the following conditions:~~

~~(1) Required bicycle parking spaces shall be at least 2 feet by 6 feet, and~~

~~(2) • An access aisle of at least 5 feet shall be provided in each bicycle parking facility • such space shall have a vertical clearance of at least 6 feet,~~

~~(3) Bicycle Rack Location on Site,~~

~~(4) Bicycle parking facilities shall be located in a clearly designated safe and convenient location,~~

~~(5) The design and location of such facility shall be harmonious with the surrounding environment,~~

~~(6) The facility location shall be at least as convenient as the majority of auto parking spaces provided,~~

- ~~(7) Where applicable, position racks at least three feet from curb ramps to not impede pedestrian movements, especially those with vision or mobility impairments,~~
- ~~(8) Do not position racks in loading zones,~~
- ~~(9) 20 inch minimum distance between rack and curb,~~
- ~~(10) Do not position racks within roadside bus stops,~~
- ~~(11) Ensure that a six foot long bicycle can utilize the rack without impeding pedestrians, and~~
- ~~(12) Only stainless steel or anodized aluminum bicycle parking racks may be used to satisfy the requirements of this section. Bike racks shall be maintained in a structurally sound and rust free state.~~

Sec.20-7.1 District "B-2" – Residential & Multi-family Dwelling District.

- (A) Area, width, and depth of lots, sanitation and temporary building provisions are the same as District "A", except townhouse lots must have a minimum frontage of twenty five (25') feet; a minimum width of twenty-five (25') feet; a minimum depth of one hundred feet (100'); and a minimum area of two thousand five hundred square feet (2,500 sq. ft.).
- (B) Use Regulations: In District "B-2", no land shall be used and no buildings shall be erected for or converted to any use other than:

(1) Single family dwellings, multi-family dwellings; apartment buildings, condominiums and Townhomes.

(2) Incidental uses to any of the above specified uses include, but are not limited to, customary home occupations when engaged in by the private dwelling occupant. Said incidental use, however, shall never be permitted as a principal use, but only as a secondary use when indispensably necessary to the enjoyment of the premises by the private dwelling occupant.

(3) Special Exceptions: Public Service Facility.

(4) Specific Use Permit: Off-site parking spaces in excess of required spaces from a different zoning district.

~~(5) Off Site Parking—Commercial parking lots prohibited. Required parking may be located off site under the following circumstances:~~

~~—(a) No more than 50% of the required parking may be located off site.~~

~~—(b) The off site parking lot shall be no further than ninety feet (90') from the nearest property line of the principal use.~~

~~—(c) The off site parking may be located on another street from the principal use. If the off site parking lot is located on another street from the principal use, and the principal use does not abut and have pedestrian access to the proposed off site parking lot, pedestrian access must be created between the principal use and the off site parking lot, by means of a private pedestrian easement agreement granted to the Property Owners Association and/or property owner of the principal use. The easement shall be recorded in Cameron County and filed with the City of South Padre Island. A public right of way shall not serve as the means for meeting the pedestrian access requirements to install an off site parking lot established in this section.~~

~~—(d) Offsite Parking Design Standards~~

1. Streetscape and Perimeter Landscaping

~~a. Provide a landscaped area at least 3 feet in width between surface parking and all property lines.~~

~~b. Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.~~

~~c. For parking lot edges adjacent to streets, parks or other public open space, provide the following:~~

~~• at least one row of shade trees, spaced evenly at 5' to 6' intervals (or as appropriate to the selected species) for the length of the parking lot edge~~

~~• screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.~~

~~d. Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.~~

~~e. Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.~~

~~f. Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.~~

~~g. Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8'.~~

~~h. Coordinate tree planting with the location of light standards and other utilities.~~

~~**2. Legally Conforming Non-Conforming Off-Site Parking Lots**
Off-site parking lots in existence, at the time of the enactment of this Sec. 20-7.1(B)(4)(d)(2), that do not conform to the streetscape and perimeter landscaping requirements established in this section shall be considered legally conforming off-site parking lots.~~

(C) Height regulations: No building shall exceed three stories. The height shall be restricted to fifty (50) feet above the FEMA Base Flood Elevation.

(D) Area regulations:

(1) Front yards: Same as District "A" (minimum of 25'), except that all lots fronting the west side right-of-way line of Gulf Boulevard may have a front yard setback of ten (10) feet from the property line abutting the west Gulf Boulevard right-of-way line.

(2) Side Yards: Same as District "A" (minimum of 5').

(3) Rear yards: Same as District "A" (minimum of 20'), except that the structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have such enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the 20 feet rear yard setback within 10 feet of the rear property line as provided for above, shall only

be erected or placed in such a manner after a permit specifically therefore is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance.

(4) Size of structure: The minimum size of structure is twelve hundred (1200) square feet.

~~(5) Parking regulations:~~

~~(a) Multi-family dwellings shall provide two (2) off-street parking spaces per unit; or, may provide parking at a ratio of 1.5 spaces per unit and comply with In-Lieu Parking Fee as an alternative to compliance with the parking standard established in this section.~~

~~(b) Townhouses. Each dwelling unit shall provide two (2) off-street parking spaces.~~

~~(c) No parking garage or structure shall be erected in a required front or side yard.~~

~~(d) For new and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, when the property owner elects to install a four-unit bike rack which meets the provisions established in District "B" Multi-Family dwelling, apartment, hotel, condominium, townhouse District, Section 20-7 (D) (5)(p).~~

- (E) Any condominium building which exists on Feb 1, 2010 that does not conform to the height limitations of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on Feb 1, 2010.
- (F) Any structure which exists on Feb 1, 2010 that does not conform to the standards of this District shall be deemed a conforming structure and may re-build to the same size and height that it was on Feb 1, 2010.
- (G) Any land use that exists on Feb 1, 2010 that does not conform to the standards of the B-2 District shall be deemed a conforming use and may continue the use as it was on Feb 1, 2010.

~~Sec. 20-7.2 In-Lieu Parking Fee.~~

~~Multi-Family Dwellings located in District "B" and "B-2" may reduce the required on-site parking by electing to use the In-Lieu Parking Fee Option established in this section.~~

~~A. Fee Collection process.~~

~~A fee may be paid for multi-family uses in lieu of complying with parking regulations established in the City of South Padre Island, Code of Ordinances, and Chapter 20 Zoning Ordinance. The collection process and the amount of fees for provision of public parking in the Parking System shall be as specified below.~~

~~B. Amount of Fee.~~

- ~~1. The amount of payment for each required parking space shall be fixed by resolution adopted from time to time by the City Council, but in no case shall exceed the estimated, normal, current cost to the City of providing required parking spaces to serve the contemplated use.~~

~~2. Fees paid in accordance with this article are collected to fund a general public parking program and are not intended for any specific improvement project. The fees paid shall be the most current fees as established by the City Council.~~

~~3. Any off-street parking requirement satisfied in this manner shall run with the land, and any subsequent change of use that requires more parking shall require subsequent action to satisfy the additional parking requirement.~~

~~**C. Time of Collection of Fees.** Fees for all development projects for which payment of fees in lieu of on-site parking is desired shall be paid prior to the issuance of building permits. Fees for development projects which do not require building permits shall be paid before any other applicable City approval is made final.~~

~~**D. Use of Fee.** The fees collected shall be used for the following purpose: to construct or provide new public parking spaces.~~

~~**E. Current Fee Schedule.** The City Secretary shall maintain the current fee schedule. The City Secretary shall make the current fee schedule available for public review upon request.~~

~~**F. Trust Fund.** An interest-bearing trust fund shall be maintained exclusively for the development of the City of South Padre Island Parking System. These trust funds and interest earned by these trust funds shall be used solely for the development of the City of South Padre Island Parking System. Upon receipt by the City of South Padre Island, fees collected shall be deposited in the appropriate Parking trust fund.~~

~~**G. Phasing.** If a project is phased, payment of fees pursuant to this article may be similarly phased as agreed upon between the applicant and the Director of Transit and Development.~~

~~**I. Termination.** If this fee program is terminated, any excess funds collected prior to dissolution of this fee program shall be used within City of South Padre Island Parking System.~~

Sec.20-8 District "C" - Business district -- Fire Zone.

- (A) Area, width and depth of lots, sanitation and temporary building provisions are the same as District "A".
- (B) **Allowed Uses:** The purpose and intent the "C" District is composed of those activities of the City whose principal use is and ought to be general business activities which provides basic and necessary goods and services for the community and its visitors and the following are the allowed uses in the district:
 - (1) Any use authorized in the "B" Zoning District.
 - (2) The following:
 - Dental Clinics, General and Special Hospitals, Primary Care Physician's Offices, Urgent Care Centers
 - Commercial Parking Facility – A vehicle parking facility that is operated as a business enterprise by charging a fee for parking which must provide Streetscape and Perimeter Landscaping for Commercial Parking Facilities (Not applicable to Temporary Commercial Parking Facilities) with the following requirements:

- a. Provide a landscaped area at least 3 feet in width between surface parking and all property lines.
- b. Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.
- c. For parking lot edges adjacent to streets, parks or other public open space, provide the following:
 - at least one row of shade trees, spaced evenly at 5' to 6' intervals (or as appropriate to the selected species) for the length of the parking lot edge
 - screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.
- d. Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.
- e. Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.
- f. Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.
- g. Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8'.
- h. Coordinate tree planting with the location of light standards and other utilities.

General Office Uses - a place of business that generally provides services instead of goods and entails, desks, files, paperwork, mail, computer, phones, etc. that would include most professional services (i.e. attorney offices; travel agencies; consultants, engineers, and architects; general building contractor and subcontractor services; title companies, banks, mortgage and other financial service companies; real estate businesses; drafting / graphic design businesses; art studios; post offices and other governmental buildings)

Retail stores - any place of business where the customer / general public can purchase goods, generally for off sight use and/or consumption. (i.e. antiques; arts and crafts & art galleries; apparel & accessories & alterations; books and curio shops; bicycle, vehicle, and water sport sales & rental; pharmacy, dry goods & general merchandise; liquor, cigarette, & cigar stores; newsstands; hardware stores; office supply & printing; photography development & supply; gasoline service stations, etc.)

Food & Beverage Service Providers - places of business where food and beverages can be purchased for on or off site consumption. (i.e. Grocery stores, restaurants, bars/nightclubs, cafés, specialty food shops / bakeries, & caterers.)

Personal Services - places of business where the general public can go to receive general body and grooming services. (i.e. Barber & beauty shops, nail grooming services; tanning, massage & spa facilities.) However, tattoo

and body piercing studios / facilities are specifically not allowed uses within this district.

Repair Services – business that provide small-scale repair services for items of the general public (i.e. watch, clock & jewelry repair; TV / VCR repair; shoe and apparel alteration facilities; bicycle and vehicle repair; household appliance & general electric repair; reupholstery & furniture repair; etc.)

Meeting Location Facilities – indoor facilities that provide opportunities for organized education, and / or the assembly of people (i.e. Primary, secondary, vocation/technical, and university level educational facilities; drivers education facilities; art, dance & music schools / studios; religious places of worship; civic, social, & fraternal organizations; etc.)

Miscellaneous –businesses that serve the City and its visitors, that generate moderate levels of car and pedestrian traffic but which do not provide extensive pollution, noise, light, or other negative impacts on the immediate area (i.e. Dry cleaners & coin-operated laundry facilities; car washes; indoor movie and stage theaters; convenience storage facilities; libraries; day care centers; etc.) and the following specific entertainment facilities: amusement centers, recreational centers, miniature golf, and tennis courts.

Temporary Commercial Parking Facility -- A temporary commercial parking facility that is operated as a business enterprise by charging a fee for parking and as permitted by City of South Padre Island Ordinance 10-23 (Sec.13-22.3 City of South Padre Island Code of Ordinances).

(3) Special Exceptions:

- a. Impound Lot, subject to compliance with the requirements of subsection 20-8(B)(4) of this Chapter (Ord. 02-06; 6-19-02);
- b. Permanent Makeup Application, but only when applied by an individual licensed by the Texas Department of Health or by the Texas State Board of Medical / Dental Examiners who performs such application within either an establishment which also provides “Personal Services”, or within a “Medical Facility”, as such terms are defined in subsection 20-8 (B)(2).
- c. Public Service Facility (Ord 96-05; 10-2-96)

- (4) No impound lot shall be approved nor continue to operate as a Special Exception unless, in addition to all other applicable requirements, or conditions as required by the Board of Adjustments and Appeals, such facility: 1) is enclosed by a solid wood (excluding plywood or scrap wood), masonry, block, or manufactured vinyl fence not less than seven (7') feet in height, which may not be located within the front yard setback area, and in no instance shall barbed wire or the like be used; 2) is paved to City standards for required parking; 3) prohibits the storage therein of any vehicle for more than thirty (30) consecutive days; 4) prohibits the performance therein of any mechanical work on stored vehicles; 5) is not located within 100 ft. of Padre Blvd.; 6) is not located within fifty (50') feet of Laguna Boulevard or the “A”, “B” , or “E” Zoning Districts; 7) shall provide a minimum of two (2) off-street customer parking spaces or such greater number as may be required by this code; and 8) shall be accessed by a paved access entrance no greater than eighteen ft. (18') in width.

- (5) Specific Use Permits: Substance Abuse Treatment Facilities may be granted Specific Use Permits in accordance with Section 20-24 Specific Use Permits.
- (C) Single family dwellings: If a single family dwelling is erected in the "C" District such structure shall conform to all minimum requirements of a single family dwelling in "A" District, unless the single family dwelling has been converted from previously built structure which has been used commercially, in which case the structure will not need to be modified to meet "A" District setback requirements.
- (D) Mixed Use Structure: If a residence is maintained in a structure part of which is also used for business purposes in the "C" District, such structure shall at a minimum meet the minimum front, side or rear yard setback requirements of the "C" District.
- (E) Height regulations: No building shall exceed six (6) standard stories in height, unless the setback from all street lines is one (1) foot for each two (2) feet of its height above such six (6) standard story limit. In no case shall the height of the building exceed the total of the street right-of-way width it faces, plus the depth of the front yard.
- (F) Area regulations:
- (1) Front yard: For off-street parking there shall be a front yard having a minimum depth of twenty-five (25) feet.
 - (a) Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (b) Minimum front yard shall be increased one (1) foot for each two (2) feet in height if building exceeds six (6) standard stories.
 - (2) Side yards: No side yard shall be required for a business use, except on a corner lot. In all cases where the side yard is adjacent to a street, the side yard shall be not less than ten (10) feet in depth. Any building exceeding three (3) standard stories shall have a side yard of four (4) feet for each additional story.
 - (3) Rear yard: No structure of any classification shall be erected any closer than ten (10) feet of the rear lot line. The minimum rear yard shall be increased one (1) foot for each two (2) feet in height if the building exceeds six (6) standard stories.
 - (4) Size of structure: The minimum size of structure shall be six hundred (600) square feet.
 - ~~(5) Parking regulations:~~
 - ~~(a) Parking regulations for all "B" District uses located in "C" District shall be the same as those outlined in "B" District.~~
 - ~~(b) Theaters shall provide off street parking space in a ratio of one (1) space for each five (5) seats.~~
 - ~~(c) Nightclubs shall provide off street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area. For nightclubs constructed or converted from other uses after August 1, 1994, off street parking spaces shall be provided in a ratio of one (1) space for every One Hundred Square feet (100 sq. ft.) of gross floor area.~~
 - ~~(d) Restaurants and cafes shall provide off street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area. For restaurants and cafes constructed or converted from~~

other uses after August 1, 1994, off-street parking spaces shall be provided in a ratio of one (1) space per One Hundred square feet (100 sq. ft.) of gross floor area.

~~(e) Retail stores and office buildings shall provide off-street parking space in a ratio of one (1) space for each two hundred fifty (250) square feet of gross floor area. (Ord. No. 77A, 7-1-81)~~

~~(f) Retail, office and service buildings shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods such that no part of the truck or trailer will be in a dedicated street, alley or easement during loading or unloading or parking.~~

~~(g) The requirement for the provision of eight (8) stacking spaces for any use that will provide a drive-through sales facet to its operation to insure that traffic will not back up onto the public right-of-way.~~

~~(h) Required parking for a non-residential use may be located off-site under the following circumstances:~~

~~(1) No more than Fifty (50) Percent of the required parking for the use may be located off-site.~~

~~(2) The off-site parking location must be either a contiguous property on the same side of the street as the property upon which the principal use to be served by the off-site parking is located, or a property directly across the street from the principal use, but no farther than Seventy Six Feet (76') from the nearest property line of the principal use. Notwithstanding this provision, off-site parking locations shall not be permitted on the opposite side of Padre Boulevard from the location of the principal use to be served by the off-site parking.~~

~~(3) All off-site parking lots shall be located on property zoned within the same or similar zoning district.~~

~~(4) A written agreement, prepared by the applicant and drawn to the satisfaction of the City Attorney, shall be executed by all parties concerned and filed on record in the Office of the Cameron County Recorder as a covenant upon the property upon which the principal use is located, requiring the owners, heirs, or assigns to maintain the required number of off-street parking spaces.~~

~~(i) Off-street parking facilities:~~

~~(1) Amusement parks and/or uses shall be determined by the Planning and Zoning Commission on an individual plan review basis.~~

~~(2) Amusement (centers) uses shall provide one (1) parking space for each 250 square feet of gross floor area.~~

~~(j) Mixed Use Developments:~~

~~(i) for the purposes of this section on parking, Mixed Use Developments must contain only: residential uses and retail, office and/or restaurant uses.~~

~~(ii) Parking for residential units will be consistent with the residential and multifamily parking requirements currently in existence; however, each residential unit shall be required to have at least one assigned parking space.~~

~~(iii) Retail and office space shall use a ratio of one (1) parking space for every 250 ft of gross floor area, including storage rooms and bathrooms.~~

~~(iv) A restaurant use will be required to provide one (1) parking space for every 225 ft of gross floor area; in no case shall the restaurant floor area equal more than 40% of the total commercial floor area of the development.~~

~~(v) Off Street parking for Mixed Use Developments (projects/developments that contain both residential and commercial uses within the same structure) that have uses other than those mentioned in (i) above shall be determined by the Planning and Zoning Commission on a case-by-case basis if the developers wish to propose a Shared Parking arrangement. The Commission may include conditions to these permits and should consider the mix of businesses and uses, the hours of operation, participation and use of the public transportation system, and the condition and use of pedestrian and other mobility infrastructure in the area.~~

~~(k) Compact Parking — 10 % of the required parking may be compact parking. Compact Parking is defined as parking spaces that are laid out as eight (8) feet by sixteen (16) feet.~~

~~(l) For new and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, when the property owner elects to install a four unit bike rack which meets the provisions established in District “B” Multi Family dwelling, apartment, hotel, condominium, townhouse District, Section 20-7 (D)-(5)(p).~~

(65) Amusement centers:

(a) No amusement center shall have any machine which projects photographic or film imagery.

(b) No amusement center, as that term is herein defined, shall serve alcoholic beverages of any nature, nor shall alcoholic beverages be consumed upon the premises.

(c) All amusement centers shall be required to locate their machines at least eighteen inches (18") apart and provide proper and adequate passageways, so that the public may pass behind the person using said machines without interfering with the person playing or utilizing said machine.

(d) Any business that has more than three (3) machines which require the deposit of money to be activated for an individual's entertainment, is subject to their gross receipts being audited by the officials of the City to determine whether or not fifty percent (50%) or more of their income is derived from said machines, then said business shall be declared an amusement center, as herein defined, and subject to all the rules and regulations of the City. (Ord. No. 2E, 7-21-76)

Sec. 20- 8.1 Appendix “Z” Padre Boulevard and Entertainment District Code.

(a) Authority – This Padre Boulevard and Entertainment District Code (hereinafter, “PBED Code”) is enacted as one of the instruments for implementing the public purposes and

objectives of the adopted City of South Padre Island 2008 Comprehensive Plan and the Padre Boulevard and Entertainment District Plan. This code is declared to be consistent with the 2008 Comprehensive Plan, and except as noted herein, supplants the application of all provisions of the City of South Padre Island City Code of Ordinances as it applies to land with the boundaries of the Padre Boulevard Corridor and Entertainment District, (hereinafter, “the corridor”) prior to the effective date of this PBED Code.

- (b) Purpose & Intent – The purpose of the PBED Code is to support economic development and reinvestment along this commercial corridor and within this dedicated entertainment district. Along Padre Boulevard, the PEDC implements specific development nodes with a pedestrian-oriented mix of uses with convenient access between area neighborhoods, beachfront, housing and neighborhood retail services. The intent is to revitalize Padre Boulevard to be an attractive, vibrant commercial corridor in the community, and to develop the Entertainment District into a walkable, mixed use regional destination. Therefore, the goals of the PBED Code are to promote and provide a more functional and attractive community through the use of recognized principals of urban design and allow property owners flexibility in land use, while prescribing a higher level of detail in building design and form.

Sections from 20-8.2 to 20-8.9 (Ordinance No. 11-15 was rescinded by Ordinance No. 15-08)

Sec. 20-8.10. Northern Resort District “NRD” Character Zone

Intent: The Northern Resort District “NRD” Character Zone building form and development standards are intended to provide for more flexible, market-based development vision that balances pedestrian orientation with auto oriented development. Development standards in this district are intended to focus on establishing specific criteria under which developers could propose alternative and unique standards to implement a more market-responsive project, which contributes to and enhances the general seaside resort character of the district.

Generally, this district may accommodate a wide range of commercial (retail, entertainment, restaurant and office), lodging, and residential uses. Given the availability of undeveloped land along this section, there is more flexibility within this Character Zone for applicants to propose alternative development options.

The code governing the development of projects within this zone is incorporated herein as Appendix “Z” Padre Boulevard and Entertainment District Code, heretofore adopted and hereby amended to add section 6.8 to Article VI. (A true and correct copy is hereby attached as Exhibit “A,” entitled Northern Resort District.)

Sec.20-9 District "D" - Resort area district.

- (A) Area, width and depth of lots, sanitation and temporary building provisions are the same as District "A". Front yard, rear yard, height and size of structure requirements are the same as District "C". Side yard requirements are the same as District "B".
- (B) Use regulations: In a "D" District, no land shall be used and no building shall be used and no building shall be erected or converted for any other use than:
 - (1) Any use permitted in "C" District (business).

- (2) Weekend cottages, yacht club, boat docks, marine repairs, trailer parks (travel trailers), indoor skating rinks, miniature golf, bowling alleys, retail bait stands, second-hand stores, beer taverns and dance halls, and Permanent Makeup Application, but only when applied by an individual licensed by the Texas Department of Health or by the Texas State Board of Medical / Dental Examiners who performs such application within either an establishment which also provides "Personal Services", or within a "Medical Facility", as such terms are defined in subsection 20-8 (B)(2).
- (3) Special Exceptions:
 - a. Permanent Makeup Application, but only when applied by an individual licensed by the Texas Department of Health or by the Texas State Board of Medical / Dental Examiners who performs such application within either an establishment which also provides "Personal Services", or within a "Medical Facility", as such terms are defined in subsection 20-8 (B)(2).
 - b. Public Service Facility (Ord 96-05; 10-2-96)
- (C) If a single family or multi-family dwelling is erected in "D" District, such structure shall conform to all minimum requirements of the "B" District.
- (D) If a residence is maintained in a structure that is also used for business or resort in "D" District, such structure shall conform to all minimum requirements of the "B" District.
- (E) Area regulations:
 - (1) Side yards adjacent to a street shall be not less than ten (10) feet.
 - (2) Rear yards: Same as District "C" except decks or balconies may extend within ten (10) feet of the rear lot line as in District "B".
 - ~~(3) Parking regulations:~~
 - ~~(a) Parking regulations for all uses permitted in "D" District are the same as those outlined in "C" District regulations.~~
 - ~~(b) Dwelling units shall provide one and one half (1 1/2) off street parking spaces for [Ord 07-19, 10-17-2007]~~
 - ~~(c) Bowling alleys shall provide off street parking space at a ratio of two (2) spaces for each alley.~~
 - ~~(d) Dance halls, commercial amusement establishments and skating rinks shall provide off street parking space at a ratio of one (1) space for each one hundred fifty (150) square feet of gross floor area.~~
 - ~~(e) For new and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, when the property owner elects to install a four unit bike rack which meets the provisions established in District "B" Multi Family dwelling, apartment, hotel, condominium, townhouse District, Section 20-7 (D)-(5)(p).~~
- ~~(43)~~ Travel Trailer parks: A recreational vehicles building permit is required prior to construction. The park area must encompass a minimum of two (2) acres, with density not to exceed fifteen (15) units per acre.
 - (a) Private streets: Private streets shall be provided and shall extend continuously from public street right-of-way. Minimum pavement

widths shall be eighteen (18) feet and streets shall have a base of at least six (6) inches of caliche and two (2) inches of asphalt.

- (b) Lots: Lots must have sanitary sewer, water and electric power and must be 75 feet long and 35 feet wide or 2,625 square feet. The front yard setback shall be 10 feet.
- (c) Parking: Parking space must be a minimum of one off-street space per lot, each space shall have a permanent all-weather surface, and shall have dimensions of not less than 8'6" x 18'0", or 300 square feet.
- (d) Accessory uses: All accessory uses shall be located a minimum of ten (10) feet from the lot line.
- (e) Lighting: The private streets, parking lots, walks and service areas shall be kept properly and adequately lighted at all times so that the park area will be safe for occupants and visitors. All entrances and exits shall be lighted and all lighting shall be at the expense of the park owner.

Sec.20-9.1 "D-1" RESORT AREA DISTRICT

(A) Purpose and Intent:

This district is composed of those areas of the City whose principal use is and ought to be a combination of residential and business uses in a resort setting. This district has been located within the City to permit the development of these residential and business activities, to protect adjacent areas against the encroachment of incompatible uses, and to lessen congestion on the public streets. To these ends, certain uses which would function more effectively in other districts and would interfere with the operation of these residential and business activities, and the purposes of this district, have been excluded.

(B) Use Regulations:

- (1) Permitted Uses: The following uses shall be permitted as-of-right within the "D-1" District:

Apartments
Condominiums
Hotels/Motels
Transportation/Communication
 radio broadcasting
 television broadcasting
 travel arrangement services
 transportation ticket services
Retail Trade

antiques
apparel and accessories
arts and crafts
bicycles -- sales and rental
books
cameras and photographic supplies
candy, nut, and confectionery

china, glassware, and metalware
cigars and cigarettes
convenience food stores
custom tailoring
florists
fruit and vegetables
furs and furriers

gasoline service stations
gifts, novelties, and souvenirs
ice cream and frozen deserts
jewelry
liquor store
meat, fish, and seafood
music supplies
newspapers and magazines

pharmacy/drug store
radios and televisions
restaurant, cafe, or delicatessen
specialty food shops/bakeries
sporting goods -- sales and rental
stationery
taverns, bars, nightclubs, saloons, or dance hall

Finance, Insurance, and Real Estate Services

bank
commercial credit institutions
commodity contracts brokers and dealers
services
credit unions
holding and investment services
insurance agents, brokers, and services
insurance carriers
real estate agents, brokers, and management services

real estate operators and lessors
real estate subdividing and developing services
savings and loan association
security brokers, dealers, and flotation services
security and commodity exchanges
security and commodity allied services
title abstracting services

Personal Services

apparel repair and alterations
artist's studio
beauty and barber shops
catering services
diaper services

dry cleaning pick-up station
laundry -- coin operated, self-service
linen supply
photographic services
shoe repair and shoe shining services

Business Services

adjustment and collection services
advertising services
business management consulting services
consumer and mercantile credit reporting services
detective and protective services
duplicating, mailing, and stenographic services

employment services
motion picture distribution services
news syndicate services
photofinishing services
printing and publishing services
research, development, and testing services

Repair Services

automobile wash services, bicycle repair
watch, clock, and jewelry repair

Professional Services

accounting, auditing, and bookkeeping services
chiropractor services
Dental Clinics
General and Special Hospitals
Primary Care Physician's Offices

Urgent Care Centers
educational and scientific research services
engineering and architectural services
legal services
licensed therapeutic massage

Governmental Services

governmental functions, facilities, and buildings
postal services

Educational Services

art and music school
dancing school

day care centers
nursery schools

Miscellaneous Services

civic, social, and fraternal organizations
professional membership organizations

Cultural, Entertainment, and Recreational

auditorium
art galleries
banquet hall
billiard hall
bingo parlor
boat ramp
botanical gardens and arboretums
bowling center
dinner theater
exhibition hall
gymnasium and health club
historic and monument sites
libraries
miniature golf
museums
planetaria
public parks
reception hall
recreational center
skating rink
theater -- stage play -- indoor
theater -- motion picture -- indoor

- (2) Special Exceptions: Within the "D-1" District, the following uses may be permitted as special exceptions upon review and approval by the Board of Adjustment. Any property located within the "D-1" District may be approved for any of the following listed uses, provided the Board of Adjustment shall first make a positive finding that any proposed use or change in use shall have no negative impact upon surrounding properties or upon the character of the District, as required by Section 20-16, to wit;

Transportation/Communications

heliport landing/take-off pads

Governmental Services

public service facility

Business Services

outdoor storage and long-term vehicle parking areas

Cultural, Entertainment, and Recreational

go-cart track, golf driving range

theater -- stage play -- outdoor

theater -- motion picture -- outdoor

- (3) Accessory Uses: Within the "D-1" District, any use that is clearly incidental and subordinate to the principal use of the property, is definitely an integral part of the services of such principal use, and is intended for the convenience of the customers of the principal use of the property may be permitted as an accessory use (unless otherwise listed as a special exception). Such accessory uses shall meet the following requirements:

- (a) The sum of all accessory uses shall not constitute a total area larger than twenty (20) percent of the total building area of the principal use.
- (b) No accessory use shall be constructed or used until the principal use is established on the same lot.
- (c) No accessory use shall continue after the termination of the principal use upon the lot.

The City Manager, or designee, shall determine if a proposed use qualifies as an accessory use under these regulations. In cases of doubt, or on specific questions raised, as to whether a proposed use qualifies as an accessory use under the requirements of this Ordinance, the matter may be appealed to the Board of Adjustment, in accordance with Section 20-16, and shall be decided by the Board as a question of fact.

- (C) Area Regulations: The following regulations shall apply in all "D-1" Districts:

- (1) Minimum Lot Area: The minimum lot area shall be five thousand (5,000) square feet.
- (2) Minimum Lot Width and Depth: The minimum lot width shall be fifty (50) feet. The minimum lot depth shall be one hundred (100) feet.

- (3) Maximum Lot Coverage: The maximum lot coverage shall be as dictated by the other area and performance standards, such as yard setbacks, landscaping, and parking.
- (4) Minimum Structure Size: The minimum size of a structure shall be six hundred (600) square feet.
- (5) Minimum Height: No building or structure shall exceed six (6) standard stories in height, unless the setback from all street lines is one (1) foot for each two (2) feet of its height above such six (6) standard story limit. In no case shall the height of any building or structure exceed the total of the street right-of-way width it faces, plus the depth of the front yard.
- (6) Yard and Setback Requirements:
 - (a) Front Yard: There shall be a front yard having a minimum depth of twenty-five (25) feet.
 - (1) Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (2) The minimum front yard shall be increased one (1) foot for each two (2) feet in height if a building exceeds six (6) standard stories.
 - (b) Side Yards: A minimum side yard of five (5) feet shall be provided on each side of the structure, **except** under the following circumstances:
 - (1) Where commercial buildings are constructed at the side property line with fire walls complying with the requirements of the Building Code for zero property line clearance, no sideyard will be required.
 - (2) Where a side line of a lot in this district abuts the side line of a lot in a residential district (Districts "A," "B," or "E"), a side yard shall be provided the same as required in the residential district it abuts.
 - (3) Where the side yard is adjacent to a street, the side yard shall be not less than ten (10) feet.
 - (4) Any building exceeding three (3) standard stories shall have a sideyard of four (4) feet for each additional story.
 - (c) Rear Yard: A minimum rear yard of ten (10) feet shall be provided. The minimum rear yard shall be increased one (1) foot for each two (2) feet in height if the building exceeds six (6) standard stories.

~~(7) — Parking Regulations:~~

- ~~(a) — Parking regulations for all "B" District uses located in the "D-1" District shall be the same as those outlined in Section 20-7(D)(5).~~
- ~~(b) — Parking regulations for all "C" District uses located in the "D-1" District shall be the same as those outlined in Section 20-8(F)(5).~~
- ~~(c) — Off Site parking facility is allowed (i) for uses that do not have specific parking requirements or (ii) when they have met all specific parking requirements at the site and plan to provide additional off-site parking and said off-site parking plan shall be reviewed and recommended by City staff and reviewed by the Planning and Zoning Commission on an individual plan basis and~~

~~said recommendations will be sent to the City Council for final approval.~~

~~(d) For new and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, when the property owner elects to install a four unit bike rack which meets the provisions established in District "B" Multi-Family dwelling, apartment, hotel, condominium, townhouse District, Section 20-7 (D) (5)(p).~~

~~(87)~~ Required Screening Device: Where off-street parking and/or loading areas within the "D-1" District are located adjacent to residentially-zoned property within Districts "A," "B," and/or "E," or lies directly across the street from such residentially-zoned property, there shall be located along all common property lines a screening device consisting of a continuous solid wooden fence, masonry wall, or landscaped earthen berm with a minimum height of six (6) feet, except that the height of such fence, wall, or earthen berm shall not exceed thirty (30) inches within any front yard setback area adjacent to a public or private street, when placed perpendicular to that street. In the instance of a masonry wall or wooden fence, the finished side of the wall or fence shall be to the adjacent property.

~~(98)~~ Exterior Lighting: The standards required for all exterior lighting in the "D-1" District shall be the same as those outlined in Section 20-8.1(C)(9).

~~(109)~~ Outside Storage: The standards required for all outside storage of materials, equipment, and the storage of fleet vehicles or the long-term storage vehicles for others shall be the same as those outlined in Section 20-8.1(C)(10).

SEC. 20-9.2 "D-2" PARK DISTRICT

(A) Purpose and intent: This "D-2" Park District is composed of property owned by a governmental entity.

(B) Use Regulations: Any use that the governmental entity may legally make of the property and any use permitted by the governmental entity to third parties pursuant to a concession/lease agreement.

(C) Height Regulations: Shall be that as provided by the concession/lease agreement.

(D) Area Regulations: Shall be that as provided by the concession/lease agreement except that no structure may be built within twenty-five (25) feet of any other zoning district within the City.

(E) Parking: Shall be that as provided by the concession/lease agreement.

(F) Signage: Shall be that as provided by the concession/lease agreement.

(G) Any third party will be required to file a copy of the concession/lease agreement with the City of South Padre Island, Public Works Department, which shall control that party's use of the property.

Sec. 20-10 District "E" - Low Density Residential--Single-Family and Townhouse Dwelling District.

(A) Purpose--This district is composed of those areas of the City whose principal use is and ought to be single-family dwellings and single-family attached Townhouse dwellings. This district is characterized by dwelling units with separate and distinct owners who own and reside within the dwelling units or rent these units.

This district is intended to create and preserve areas of essentially single-family residential character, and promote a single-family residential neighborhood environment.

(B) Use Regulations:

- (1) Dwellings, one family.
- (2) Townhouses.
- (3) Accessory buildings, including private garage and bona fide servants' quarters, not for rent. When the accessory building is directly attached to the main building it shall be considered an integral part of the main building. When the accessory building is attached to the main building by a breezeway, the breezeway may be considered a part of the accessory building. The floor area of all accessory buildings on the lot shall not exceed fifty percent (50%) of the gross floor area of the principal structure.
- (4) Temporary buildings to be used for construction purposes only, and which shall be removed upon the completion or abandonment of the construction work.
- (5) Field offices for the sale of real estate for the specified development which shall be used for temporary offices only, to be removed after sales are closed, and to be used on the site only. A building permit is required for the installation of a field office and shall be valid for a one (1) year period, renewable upon expiration if sales are still active.
- (6) Special Exceptions: Public Service Facility. (Ord 96-05. 10-2-96); Residential accessory uses in a vacant lot that is contiguous with a residential single family lot having a principal building under common ownership.

(C) Height Regulations: No building shall exceed forty-five (45) feet, when measured vertically from the center line of the street to the highest point of the building.

(D) Area Regulations:

- (1) Front yards:
 - (a) There shall be a frontyard having a depth of twenty-five (25) feet.
 - (b) Where lots have double frontage, running through from one street to another, the required front yard shall be provided upon both streets.
 - (c) Corner lots shall provide the minimum frontyard setback along both streets, with the exception of corner lots on Laguna and Gulf Boulevards. The frontyard setback for both the Laguna and Gulf Boulevard frontages or corner lots shall be ten (10) feet.
- (2) Side yards:
 - (a) There shall be a side yard on each side of the lot having a clear width of not less than five (5) feet, including projections of the side of the building such as eaves, cornices, porches, stairways, carports, etc.
 - (b) In all cases where the side yard is adjacent to a side street, the side yard shall not be less than ten (10) feet.
 - (c) Where canals, bay front, beach front, and/or yacht basins occur at the side of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.
- (3) Rear yards: Same as District "A" (minimum of 20'), except:

- (a) The structure may have decks and/or balconies extending within 10 feet of the rear property line, as long as said decks or balconies are not enclosed and shall only have enclosures thereabouts as may be required as a good building practice. Any open deck or patio that undertakes to extend beyond the twenty (20) feet rear yard setback within ten (10) feet of the rear property line as provided for herein, shall be erected or placed in such a manner after a permit specifically therefore is issued by the Building Inspector. The open deck allowed within said area may not in any manner be enclosed, and by way of illustration and not by limitation, such as awnings, shutters, walls or having fixtures or any other type of device other than that which is required as a safety measure under the Building Codes. Any subsequent enclosure on a lawfully extended deck hereunder shall be deemed a violation of this Ordinance.
- (b) Where canals, bay front, beach front, and/or yacht basins occur at the rear of lots, buildings may extend to the bulkhead abutting such canals, bay front, beach front, and/or yacht basins.
- (4) Area of lot:
 - (a) For a single-family dwellings the minimum area of a lot shall be 5,000 square feet, or as recorded in the County Courthouse as of November 7, 1979.
 - (b) For attached single-family Townhouse dwellings, the minimum area of a lot shall be 2,500 square feet per dwelling unit.
- (5) Width of lot:
 - (a) For a single-family dwelling, the minimum width of a lot shall be fifty (50) feet.
 - (b) For attached single-family Townhouse dwellings, the minimum width of a lot shall be twenty-five (25) feet.
- (6) Depth of lot: The minimum depth of a lot shall be one hundred (100) feet.
- ~~(7) Parking Regulations: Off street parking spaces shall be provided on the lot to accommodate two (2) vehicles for each dwelling unit; however, no supporting member of any garage structure shall be located within the required front yard.~~
- ~~(87)~~ Sanitation: There shall be no sewage disposal without water carriage. Chemical toilets may be erected on a temporary basis during construction only.
- ~~(98)~~ Special Area Requirements: In no instance shall more than four (4) single-family attached Townhouses be connected as a single unit.
- ~~(109)~~ Driveways: All driveways shall be limited to a maximum of twenty-six (26) lineal feet in width. No driveway shall extend beyond the required five (5) foot sideyard setback on either side of the residence. For Townhouse uses, an additional minimum open space area of one (1') foot on each Townhouse lot shall be required between the driveways of each adjoining Townhouse along the length of the common, interior property line for the length of the driveway.

Sec.20-11 Special area regulations.

- (A) Front, side and rear yard fences, walls, etc.

(1) Any fence, wall, or other structure higher than thirty inches (30") above walk grade and located within any front yard setback is hereby declared to be an obstruction; except that a fence, wall, or other structure higher than 30" may be erected within any front yard setback provided that it is not higher than six (6') feet in height as measured from walk grade, does not obstruct the right of way, and that the portion located above 30" has a 2 open : 1 obstructed ratio that can be seen through.

(2) On any lot on which a side or rear yard is required by this Chapter, no wall or fence shall be erected that exceeds seven (7) feet above grade. The facing and backing of solid or hollow masonry walls shall have the grouting "finished" in accordance with good construction practice. Surface improvements such as the application of stucco, surewall, or paint, etc. shall appear on both sides and top of the masonry wall.

(B) Drilling prohibited within 1,000 feet of structure. It shall be unlawful for any person, corporation or other legal entity to conduct any type of drilling operations within the City for the exploration and/or recovery of oil or gas or other minerals within one thousand (1,000) feet of any type or kind of building or structure that is at any time habitated or used by people.

(C) Recreational Vehicles/Mobile Equipment

(1) Recreational Vehicles - Definitions

(a) Motor Homes - A qualifying vehicle is a self-propelled completely self-contained vehicle which contains some or all of the conveniences of a home including cooking, sleeping, and/or permanent sanitary facilities, and in which the driver's seat is accessible in a walking position from the living quarters, and designed for temporary recreation, camping, or travel use.

(b) Travel Trailers, Camping Trailers, and Fifth Wheel Trailers - Vehicles designed as living quarters for temporary recreation, camping, or travel use, which do not have their own motor power, but are designed to be drawn by another vehicle.

(c) Truck Camper - Any unit primarily designed as temporary living quarters for recreation, camping, or travel use, which is capable of being occupied and designed to be temporarily attached to the bed or frame of a truck.

(d) Mobile or Manufactured Home - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code, and so designed and constructed as to permit its transport on wheels, temporarily or permanently attached to its own chassis, from the place of its manufacture to the location of which it is intended to be occupied, connected to utilities, for year-round occupancy, as a permanent dwelling unit. A mobile or manufactured home shall not be considered a recreational vehicle.

(2) Regulations for Recreational Vehicles within the City of South Padre Island, Texas.

- (a) Recreational Vehicles are prohibited from being used as rental properties or as permanent living quarters.
- (b) Recreational Vehicles, whether occupied or unoccupied, shall not be parked for more than ten (10) hours or overnight along any street right-of-way.
- (c) Recreational Vehicles, whether occupied or unoccupied, shall not be parked on any unimproved lot or upon any improved lot where the permanent residence is unoccupied. The only exception to this provision shall be after a major storm or other similar community-wide event in which a homeowner is using the recreational vehicle as temporary housing (upwards of 120 days – with a one-time 60 day permit extension available) while awaiting the completion of repairs to the residential property damaged in the event. As soon as electricity becomes available, it is expected that the recreational vehicle will be connected with the electricity of the residential property and not to generators.
- (d) Recreational Vehicles, shall be kept in good repair and in working condition, with a current license plate, unless stored in a parking garage or other permitted parking area.
- (e) The storage of recreational vehicles upon non-commercial property is permitted, provided all of the following conditions are met:
 - (i) The subject property shall be improved residential property with a permanent dwelling unit, not an unimproved, vacant property.
 - (ii) The stored Recreational Vehicle shall not, at any time, be used as living quarters upon the subject property.
 - (iii) Such vehicles shall be limited to those owned by the occupant of the permanent dwelling.
 - (iv) Recreational Vehicles shall not be stored where such parking or storing constitutes a vehicular traffic hazard or a threat to public health or safety.
 - (v) The stored Recreational Vehicle shall be maintained with monthly cleanup of weeds, tall grass, trash.
 - (vi) The Recreational Vehicle shall not be stored within the frontyard and sideyard setbacks.
 - (vii) Overnight parking of a recreational vehicle, belonging to the resident of the permanent dwelling unit, upon the driveway of the permanent dwelling unit, in preparation for a trip or the return from a trip, for a period not to exceed seven (7) days, shall not be considered "storage," and shall be permitted.
- (f) Commercial storage facilities for Recreational Vehicles shall:
 - (i) Be surfaced with a permanent, all-weather surfacing.
 - (ii) Be maintained with a monthly cleanup of weeds, tall grass and trash.
 - (iii) Be enclosed with a minimum of six (6) feet tall solid wood fence or masonry wall.
 - (iv) The overnight parking of a recreational vehicle upon private property and within the designated off-street parking area of a hotel or motel, by a guest of that hotel or motel, for the duration of the guest's stay, shall not be considered "storage," and shall be

permitted, provided that the recreational vehicle is simply parked, and is not occupied, or otherwise used for residential purposes.

- (g) Overnight visitor parking of a Recreational Vehicle on private property may be permitted under the following circumstances:
 - (i) The Recreational Vehicle must be parked upon an improved residential property.
 - (ii) The occupant of the permanent dwelling unit upon the property must be in residence at the time of the visit.
 - (iii) The visit shall be limited to a maximum duration of not more than seven (7) consecutive days.
 - (iv) The total number of visits to any individual property shall not exceed a maximum of six (6) visits per calendar year.
 - (v) A permit authorizing the visit has been issued by the City of South Padre Island. The permit application shall be filed by the occupant of the permanent dwelling unit, and shall contain the specific duration of the stay and a copy of the vehicle registration reflecting the ownership of the subject Recreational Vehicle. The issued permit shall be placed in a window of the visiting Recreational Vehicle such that it is visible at all times from the adjacent street.
 - (3) Mobile Equipment - Definition
 - (a) Livestock trailers, tractor trailers, dump trucks, trucks licensed for over one (1) ton, which are used for commercial or industrial purposes, and such other vehicles not defined as recreational vehicles.
 - (4) Regulations for Mobile Equipment within the City of South Padre Island.
 - (a) No one may reside in, or occupy overnight, any Mobile Equipment.
 - (b) No Mobile Equipment may be parked along any street right-of-way or front yard setback for more than ten (10) consecutive hours, or overnight. [Ord 09-04]
 - (5) Commercial sales activities shall be prohibited from Recreational Vehicles and/or Mobile Equipment. (added by Ord 02-01)
- (D) Temporary Structures: Notwithstanding the requirements of the City Code of Ordinances which regulates structures and their use on a year-round basis, the City Manager, or designee, may grant permits for temporary structures to be located in any zoning district except as outlined in paragraphs 2 & 3 below. To qualify for a permit, the proposed temporary structure must comply with the following requirements:
- (1) Temporary structure permits may be issued to the owner or tenant of the permanent business structure located upon the same property where the temporary structure is proposed. No permits will be issued to second parties who will operate a business activity from the temporary structure independent of that conducted in the permanent structure.
 - (2) Temporary structures are prohibited within one-hundred and fifty (150') feet of Padre Boulevard.
 - (3) Commercial sales activities of any kind are not allowed in temporary structures regardless of their location.
 - (4) Temporary structures shall not be deemed to include motorized vehicles such as, automobiles, trucks, buses, or recreational vehicles.

- (5) Depending upon the nature of the business to be conducted from the temporary structure, all other relevant City codes and ordinances shall be met; i.e., the Zoning Ordinance, the Sign Ordinance, Health Codes.
- (6) Generally, all unattended temporary structures shall be secured against high wind and intrusion. However, because the community can be subject to high winds and severe weather on a random basis, the City reserves the right to suspend all temporary structure permits at any time, and require the immediate removal of all such temporary structures.
- (7) The permit application materials for a temporary structure shall include:
 - (a) A statement of the proposed use of the temporary structure.
 - (b) A statement of the time period during which the temporary structure will be located upon the site. (Maximum of thirty (30) days in a calendar year, starting January 1 – December 31.)
 - (c) The name, address, telephone number, fax number (if applicable), and driver's license number or employer identification number of the applicant.
 - (d) A site plan reflecting the location of the proposed temporary structure upon the property, its distance from the permanent structure, the areas of ingress and egress from the permanent structure, the gross square footage of the permanent structure, location of any vehicle access points to the property, and the location and number of any parking spaces upon the property.
 - (e) Payment of a One Hundred Dollar (\$100.00) application fee.
- (8) Temporary structures shall not block or otherwise obstruct a fire exit or other form of safety ingress/egress..
- (9) City Exemption: Notwithstanding the requirements of this City Code of Ordinances relating to open display and the use of temporary structures, the City of South Padre Island shall be exempt from all provisions herein, and is expressly permitted to authorize the use of public property and the public right-of-way for the purposes of outdoor display and temporary structures for the purpose of publicly sponsored events, as well as recognized events sponsored by other agencies authorized by the City.(amended by Ord 02-01, 12-04)

Sec. 20-11.1 Outdoor displays--Regulations and Requirements. [Ord No. 01-03]

It shall be unlawful for any person to set up outdoor display facilities for merchandise upon any property within the City of South Padre Island, unless the same owner, operator or concessionaire is also the owner, lessee, or tenant of a permanent structure located on the same property and in full compliance with the Zoning and Building Codes of the City. Any person desiring to set up outdoor display facilities shall comply with the following:

- (A) No displays of merchandise on top or side of buildings or in any manner hanging on or from the building with the exception of windsocks and spinners;
- (B) No storage of merchandise or inventory in vehicle(s), trailers or outside of the building;
- (C) All outdoor display facilities or fixtures must be secured and/or anchored so that they will not become detached in winds up to 75 miles per hour and must be

- removed daily at the close of business and brought into the place of business or placed in a fenced-in area on the property that is secure and windproof;
- (D) All outdoor display(s) shall only be permitted during the hours the business is open and staffed of each day;
 - (E) All outdoor display facilities, except for windsocks and spinners, must be located within an area not to exceed Five (5) feet from the front wall of the main structure. The total maximum area may not exceed one hundred (100) square feet and may include two (2) displays, but no single display area can exceed fifty (50) square feet;
 - (F) Windsocks and spinners will be allowed to display outside up to a maximum of Fifteen (15) items and these must be attached to the front structure of the business;
 - (G) No outdoor display may eliminate any existing parking, block sidewalks in any way, and may not cause patrons to park or encroach on the City's right of way;
 - (H) Up to a maximum of six (6) periods (dates) per calendar year as designated by the City Manager merchants will be allowed to display merchandise normally sold by the merchant. No tents will be allowed in any outdoor display facility;
 - (I) Kite stores may continue to display pursuant to (F) above which has no limitation for time period except for (D) above.
 - (J) Beach floats only can be displayed outside for the summer months beginning the weekend before Memorial Day and ending the weekend after Labor Day as specified in (E) above.

Sec.20-12 Certain non-conforming uses.

- (A) Uses existing prior to passage of ordinance deemed conforming or non-conforming. Any lawful use of property existing prior to zoning or re-zoning of said property that does not conform to the regulations of Chapter 20 of the Code of Ordinances shall be deemed a non-conforming use; except that any duplex or apartment use existing prior to November 9, 1979 shall be thereafter deemed a conforming use.
- (B) Future non-conforming uses prohibited. The lawful use of land existing prior to zoning or re-zoning of said property, although such does not conform to the provisions hereof, may be continued, but if such non-conforming use is discontinued for six (6) months, any future use of said premises shall be in conformity with the provisions of this ordinance. If a building occupied by a non-conforming use is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform with the provisions of this ordinance.
- (C) Reverter of non-conforming use to lower classification prohibited. The lawful use of a building existing prior to zoning or re-zoning of said property may be continued, although such does not conform to the provisions hereof, and such use may be extended throughout the building, provided no structural alteration, except those required by law or ordinance is made therein. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification; provided, however, that in the event a non-conforming use of a building is once changed to a non-conforming use of a higher or more restricted classification, it shall not later revert to the former or less restricted classification.

- (D) Continuance of non-conforming use subject to regulations. The right of any non-conforming use to continue shall be subject to such regulations as to maintenance of the premises and conditions of operation as may, in the judgment of the Board of Adjustments, be reasonably required for the protection of adjacent property.
- (E) Restoration of damaged building permitted. Nothing in this order shall be taken to prevent restoration of a building destroyed to the extent of not more than fifty-one percent (51%) of its reasonable value by fire, explosion or other casualty or act of God or public enemy, nor the continued occupancy or use of such building, or part thereof, which existed at the time of such partial destruction.
- (F) Improvements and additions to existing non-conforming uses. The Board of Adjustment may grant the right to improve or make additions to existing non-conforming uses, after a public hearing, and subject to the following limitations and requirements, to wit:
 - (1) Additions or improvements shall only be considered for the same non-conforming use.
 - (2) Any additions or improvements shall not increase the original non - conforming use (being the size of the structure(s) at the time it became a non-conforming use) by more than 100%.
 - (3) All property owners within 200 feet of any application to expand a non-conforming use shall be notified of the hearing before the Board of Adjustment at least 15 days prior to the date of the hearing.
 - (4) Before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in the City's official newspaper.
 - (5) The Applicant hereunder shall be responsible for all costs incurred for the hearing and permit process along with a \$100 fee.
 - (6) The Applicant must demonstrate to the Board of Adjustment that the proposed addition or improvements will have no or minimal negative impact upon surrounding properties or upon the character of the neighborhood or the application will be denied."

Sec.20-13 Setback area -- Special regulations and uses.

- (A) Setbacks--Area Not To Be Used. No vertical structures or manufacture of any kind, temporary or permanent, or any types of goods, wares or merchandise of any kind, nor other property of any kind, will be placed within the setback requirements required by this code, except for fences, signs, trash pads, walks, linen cabinets as detailed in Section 20-13(E) below and retaining walls and the sideyard setback may have placed in it swimming pool equipment, trash pads, walks, shower pads and air conditioning equipment not to exceed first floor level. The setback area shall be that portion of the property between a public right-of-way or lot line and the permissible building line for that piece of property. [Ord 98-03; Jan 1998]
- (B) Determining Setback Requirements. When determining the setback requirements for this Chapter, the setback lines for a structure will vary for different portions of that structure as it increases in height, thereby allowing stair stepping in determining the setback requirements. Each time a building reaches a height that requires an additional setback, only that portion of the building at that height must meet the additional setback, and the lower portions must only comply with the setback as applied to it.

~~(C)~~—[Repealed Ord 09-12, Nov 2009]

- (D) Beach Lots--Rear Yard. All buildings located East of Gulf Blvd. are not required to maintain a rear yard regardless of any provision in this Chapter to the contrary and may build the rear of their structure to the building line as established by the Attorney General of the State of Texas.
- (E) Linen Cabinets: Linen cabinets may be placed in the side and rear-yard setback areas with an approved Building Permit for such installation, under the following conditions:
- Only within the “C”, “C-2”, “D” and “D-1” zoning districts.
 - A minimum of a five (5’) foot separation must exist between the linen cabinet and any structure, excluding fences.
 - The receptacle must be anchored at or above the six (6’) foot elevation and must be built and anchored to meet FEMA and windstorm standards for permanent structures.”

Sec.20-14 Parking Regulations.

(A) General Requirements:

- (1) No parking garage or structure shall be erected in a required front or side yard. (Ord. No. 77A, 7-1-81)
- (2) The requirement for the provision of eight (8) stacking spaces for any use that will provide a drive through sales facet to its operation to insure that traffic will not back-up onto the public right-of-way.
- (3) Parking lot shall be landscaped in accordance with Sec.20-21 Required Landscaping.
- (4) Compact Parking – 10 % of the required parking may be compact parking. Compact Parking is defined as parking spaces that are laid out as eight (8) feet by sixteen (16) feet.
- (5) Commercial parking lots are prohibited within Districts “A”, “B-2” and “E”.
- (6) Required parking for a non-residential use may be located off-site under the following circumstances:
 - (a) No more than Fifty (50) Percent of the required parking for the use may be located off-site.
 - (b) The off-site parking location must be ① a contiguous property on the same side of the street as the property upon which the principal use to be served by the off-site parking is located; ② a property directly across the street from the principal use, but no farther than Ninety Feet (90') from the nearest property line of the principal use; or ③ a remote property when valet parking is utilized.
 - (c) If the off-site parking lot is located on another street, within Ninety Feet (90'), from the principal use, and the principal use does not abut and have pedestrian access to the proposed off-site parking lot, pedestrian access must be created between the principal use and the off-site parking lot, by means of a private pedestrian easement agreement granted to the Property Owners Association and/or property owner of the principal use. The easement shall be recorded in Cameron County and filed with the City of South Padre Island. A public right-of-way shall not serve as the means for meeting the pedestrian access requirements to install an off-site parking lot established in this section.
 - (d) A written agreement, prepared by the applicant and drawn to the satisfaction of the City Attorney, shall be executed by all parties concerned and filed on record

in the Office of the Cameron County Recorder as a covenant upon the property upon which the principal use is located, requiring the owners, heirs, or assigns to maintain the required number of off-street parking spaces.

- (e) As a conditional use permit application, said off-site parking plan shall be reviewed and recommended by City staff and reviewed by the Planning and Zoning Commission on an individual plan basis and said recommendations will be sent to the City Council for final approval.

(B) Number of Parking Required:

(1) Amusement uses:

(a) Amusement parks and/or uses (especially, outdoor entertainment and recreation facilities) shall be determined by the Planning and Zoning Commission on an individual plan review basis.

(b) Amusement (centers, especially indoor facilities) uses shall provide one (1) parking space for each 250 square feet of gross floor area.

(2) Bowling alleys shall provide off-street parking space at a ratio of two (2) spaces for each alley.

(3) Clinics shall provide off-street parking at a ratio of one (1) space for each two hundred and fifty (250) square feet of gross floor area within the structures but in no case shall less than five (5) off-street parking spaces be provided.

(4) Dance halls, commercial amusement establishments and skating rinks shall provide off-street parking space at a ratio of one (1) space for each one hundred fifty (150) square feet of gross floor area.

(5) Hospitals shall provide off-street parking space on the lot sufficient to accommodate one (1) automobile for each five (5) beds, but in no case shall less than five (5) off-street parking spaces be provided.

(6) Hotels and motels shall provide one (1) off-street parking space for each guest bedroom in the building. For hotels and motels erected after August 1, 1994, the number of parking spaces required shall be one (1) off-street parking space for each guest bedroom in the building plus Fifty Percent (50%) of the off-street parking requirements from the various accessory uses operated upon the property, such as restaurant and retail space, computed in accordance with the requirements of Chapter 20 of the Code of Ordinances (Zoning), as if they were principal uses.

(7) Multi-family dwellings shall provide two (2) off-street parking spaces per unit; or, may provide parking at a ratio of 1.5 spaces per unit and comply with In-Lieu Parking Fee as an alternative to compliance with the parking standard established in this section. (Ord No. 11-09)

(8) Nightclubs shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area. For nightclubs constructed or converted from other uses after August 1, 1994, off-street parking spaces shall be provided in a ratio of one (1) space for every One Hundred Square feet (100 sq. ft.) of gross floor area.

(9) Mixed Use Developments:

(a) For the purposes of this section on parking, Mixed Use Developments must contain only: residential uses and retail, office and/or restaurant uses.

(b) Parking for residential units will be consistent with the residential and multifamily parking requirements currently in existence; however, each residential unit shall be required to have at least one assigned parking space.

- (c) Retail and office space shall use a ratio of one (1) parking space for every 250 ft of gross floor area, including storage rooms and bathrooms.
- (d) A restaurant use will be required to provide one (1) parking space for every 225 ft of gross floor area; in no case shall the restaurant floor area equal more than 40% of the total commercial floor area of the development.
- (e) Off-Street parking for Mixed Use Developments (projects/developments that contain both residential and commercial uses within the same structure) that have uses other than those mentioned in (a) above shall be determined by the Planning and Zoning Commission on a case-by-case basis if the developers wish to propose a Shared Parking arrangement. The Commission may include conditions to these permits and should consider the mix of businesses and uses, the hours of operation, participation and use of the public transportation system, and the condition and use of pedestrian and other mobility infrastructure in the area.
- (10) Places of assembly shall provide off-street parking space on the lot sufficient to accommodate one (1) automobile for each five (5) seats.
- (11) Places of Worship shall provide one (1) off-street parking space for each five (5) fixed seats in the sanctuary or auditorium; OR one space for every 100 square feet of floor area within the sanctuary/auditorium, whichever is greater.
- (12) Private clubs and lodges shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area in the lodge or club.
- (13) Restaurants and cafes shall provide off-street parking space in a ratio of one (1) space for each one hundred and fifty (150) square feet of gross floor area. For restaurants and cafes constructed or converted from other uses after August 1, 1994, off-street parking spaces shall be provided in a ratio of one (1) space per One Hundred square feet (100 sq. ft.) of gross floor area.
- (14) Retail stores and office buildings shall provide off-street parking space in a ratio of one (1) space for each two hundred fifty (250) square feet of gross floor area. (Ord. No. 77A, 7-1-81)
- (15) Retail, office and service buildings shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods such that no part of the truck or trailer will be in a dedicated street, alley or easement during loading or unloading or parking.
- (16) Rooming and lodging houses shall provide off-street parking space at the ratio of one (1) space for each two (2) guests for which accommodations are provided.
- (17) Schools shall provide one off-street parking space for each fifteen (15) students plus one (1) each for each teacher.
- (18) Single family and Townhouse uses shall provide off-street parking spaces on the lot to accommodate two (2) motor vehicles for each dwelling unit; no supporting member of any garage, carport or any garage structure shall be located within the required front yard. [Amended by ordinance 07-19, 10-17-2008]
- (19) Storage or warehousing units that are freestanding and separate from other uses (buildings) shall provide minimum 0.32 parking spaces per 1,000 square feet of gross floor area. (ITE Trip Generation Manual, 9th Edition)
- (20) Theaters shall provide off-street parking space in a ratio of one (1) space for each five (5) seats.

(C) Offsite Parking Design Standards

(1) Streetscape and Perimeter Landscaping

- (a) Provide a landscaped area at least 3 feet in width between surface parking and all property lines.
- (b) Edge treatments along streets and other public spaces should visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security.
- (c) For parking lot edges adjacent to streets, parks or other public open space, provide the following:
 - at least one row of shade trees, spaced evenly at intervals appropriate to the selected species, for the length of the parking lot edge; and
 - screening, consisting of continuous planting, alone or in combination with a low decorative fence/wall or a landscaped berm. Typically, keep shrubs, fences or walls to a maximum height of thirty inches.
- (d) Set back screening at least 1' from the edge of public street right-of-way. Screening should not encroach into the public street right-of-way.
- (e) Install a permanent irrigation system in all landscaped areas. Where possible, collect rainwater from rooftops and other surfaces for plant irrigation. Identify hose bibs, sprinkler outlets, storage reservoirs, and other applicable irrigation elements on the Building Permit. Locate valves and other maintenance controls in discrete, yet accessible areas.
- (f) Where landscaping might impact motorist pedestrian sight distance, keep shrubs below 24" in height and prune trees so that the lowest branches will be at least 6' above ground level.
- (g) Ensure overhanging branches of trees or shrubs adjacent to pedestrian pathways maintain a clear headspace of at least 8'.
- (h) Coordinate tree planting with the location of light standards and other utilities.

(2) Legally Conforming Non-Conforming Off-Site Parking Lots – Off- site parking lots in existence, at the time of the enactment of this section, that do not conform to the streetscape and perimeter landscaping requirements established in this section shall be considered legally conforming off- site parking lots.

(D) Valet Parking

(1) Conditional Use Permit. The conditional use permit application shall include a parking plan and program providing the following minimum information:

- (a) The names, addresses, and telephone numbers of the applicant, the property owner, and/or the independent contractor, as applicable;
- (b) The location, parking space layout, dimension of spaces, number of spaces, drive aisles, valet parking service stands and valet routes (This shall also include the placement of any traffic cones to be used);
- (c) The proposed hours and days of operation of the valet parking service;
- (d) A plan to minimize noise, loitering and trash within and adjacent to the off-site valet parking lot;
- (e) The drop-off and pick-up areas must be safe from traffic hazards and be adequately posted;
- (f) Valet parking must be off-street.

- (g) A current title report or attorney's title opinion showing the ownership of the property: The applicant shall own properties that are related to the proposed developments including both the main development site and the off-street parking lot(s);
- (h) A signed agreement or other documentation showing that the applicant has a legal right to park vehicles at that off-street location: If the applicant is providing more than the parking spaces that is required by the code, the ownership of the subject off-street parking is not required;
- (i) A signed agreement or other documentation showing that a contract has been fully performed between the owner and a valet parking service;
- (j) An authorization letter from the land owner(s), if the application is filed by an applicant's representative; and
- (k) Proof of insurance.

(2) Violations

- (a) It shall be an offense to operate a valet parking service within the city on a public right-of-way for maneuvering vehicles without a conditional use permit issued by the city.
- (b) It shall be an offense if, at a time other than the hours and days of operation authorized in a conditional use permit, anyone operates a valet parking service within the city on a public right-of-way.

(3) Denial or Revocation of a Conditional Use Permit; Temporary Suspension.

- (a) The conditional use permit shall become null and void if:
 - a. The property owner, and/or the independent contractor fails to comply with the requirements of this article or other applicable law;
 - b. The property owner, and/or the independent contractor makes a false statement of material fact or omission on an application for a conditional use permit; or
 - c. The City Council determines that the operation of the valet parking service would endanger the public health, safety and/or welfare.
- (b) The City Council, the City Manager, Public Works Director, Police Chief, Fire Chief or their designated representatives may temporarily suspend the operations of a valet parking service if the public right-of-way used by the valet parking service is needed for maintenance, emergency use and/or special events.

(4) Standards for Operation of a Valet Parking Services

- (a) The applicant shall:
 - a. Allow only employees and independent contractors who hold a valid state driver's license, and who are covered by the insurance required by this article, to operate any vehicle in connection with the valet parking service;
 - b. Not obstruct a pedestrian's use of a sidewalk;
 - c. Place no more than one valet parking service stand on the public right-of-way;
 - d. Not place nor allow the placement of a sign advertising the valet parking service in the public right-of-way, except as provided in this article; and,
 - e. Not park a vehicle on the public right-of-way and shall only an off-street parking location to park a vehicle accepted for valet parking service.

- (b) Except for the authorized hours of operation of a valet parking services, spaces reserved by the valet parking service shall be available for use by the general public on a first-come, first served basis in accordance with posted signs and/or other traffic control devices, except where parking is restricted or prohibited.

(5) Valet Parking Service Stands

- (a) The applicant may place one valet parking service stand on the public right-of-way at a location approved. The valet parking service stand must be necessary to the general conduct of the valet parking service and shall be used for such purposes, including, but not limited to, the dispatch of valets and the storage of keys, umbrellas and other necessary items.
- (b) A valet parking service stand shall:
 - a. Not occupy an area of the public right-of-way exceeding four feet in width and four feet in depth;
 - b. Not be affixed to the public right-of-way in any manner;
 - c. Be removed from the public right-of-way when the valet parking service is not being operated; and
 - d. Not unreasonably interfere with pedestrian or vehicular traffic.
- (c) A name and/or logo may be placed on a valet parking service stand for the sole purpose of identifying the valet parking service. The identification of the valet parking service shall be limited to 12 sq. ft.

(6) Location of a Valet Parking Service

- (a) Spaces and stands for a valet parking service may not:
 - a. Be within ten (10) feet of a crosswalk;
 - b. Be within ten (10) feet of a fire hydrant, fire call box, police or other emergency facility;
 - c. Be within five (5) feet of a driveway;
 - d. Be within three (3) feet in front of or fifteen (15) feet behind a sign marking a designated bus stop;
 - e. Be within five (5) feet of a bus bench; or
 - f. Reduce the unobstructed space for the passage of pedestrians to less than four (4) feet.
- (b) The City Manager or his/her designee may require greater distances than those prescribed in this subsection (a) when warranted by special vehicular or pedestrian traffic conditions.

(7) Insurance. (Texas Transportation Code Sec. 686.004)

- (a) The minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility are:
 - a. \$100,000 for bodily injury to or death of one person in one accident;
 - b. \$300,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and
 - c. \$50,000 for damage to or destruction of property of others in one accident.
- (b) The comprehensive general liability insurance must be on a broad form and provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit or the equivalent.

(c) The garage insurance must provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit, or the equivalent, and must provide the following coverages:

- a. Comprehensive and collision coverage for physical damage;
- b. Coverage for vehicle storage; and
- c. Coverage for a vehicle driven by or at the direction of the valet parking service.

(8) Indemnification and Hold Harmless

The applicant, and any independent contractor used by the applicant must execute a written agreement to indemnify and hold harmless the City and its officers and employees against all claims or injury or damage to persona or property arising out of the operation of the valet parking service.

(9) Sign and Markings

The City Manager and/or his/her designee is authorized to place city signs or curb markings at a location permitted for a valet parking service pursuant to this article. The signs and markings shall:

- (a) Indicate that the location is restricted for use by a valet parking service;
- (b) State the days and hours of operation of the valet parking service; and
- (c) Include a tow away sign.

(E) In-Lieu of Required Parking

(1) Bike Rack In-Lieu of Required Parking. For new development and existing uses and development, On-site Required Parking may be reduced by 1 (One) space, if the property owner elects to install a four unit bike rack. The bike racks shall meet the following conditions:

- (a) Required bicycle parking spaces shall be at least 2 feet by 6 feet, and an access aisle of at least 5 feet shall be provided in each bicycle parking facility. Such space shall have a vertical clearance of at least 6 feet;
- (b) Bicycle parking facilities shall be located in a clearly designated safe and convenient location on site;
- (c) The design and location of such facility shall be harmonious with the surrounding environment;
- (d) The facility location shall be at least as convenient as the majority of auto parking spaces provided;
- (e) Where applicable, position racks at least three feet from curb ramps to not impede pedestrian movements, especially those with vision or mobility impairments;
- (f) Do not position racks in loading zones;
- (g) 20 inch minimum distance between rack and curb;
- (h) Do not position racks within roadside bus stops;
- (i) Ensure that a six foot long bicycle can utilize the rack without impeding pedestrians; and
- (j) Only stainless steel or anodized aluminum bicycle parking racks may be used to satisfy the requirements of this section. Bike racks shall be maintained in a structurally sound and rust free state.

(2) In-Lieu Parking Fee. Multi-Family Dwellings located in District “B” and “B-2” may reduce the required on-site parking by electing to use the In-Lieu Parking Fee Option established in this section.

- (a) Fee Collection process. A fee may be paid for multi-family uses in lieu of complying with parking regulations established in the City of South Padre Island, Code of Ordinances, and Chapter 20 Zoning Ordinance. The collection process and the amount of fees for provision of public parking in the Parking System shall be as specified below.
- (b) Amount of Fee.
 - (i) The amount of payment for each required parking space shall be fixed by resolution adopted from time to time by the City Council, but in no case shall exceed the estimated, normal, current cost to the City of providing required parking spaces to serve the contemplated use.
 - (ii) Fees paid in accordance with this article are collected to fund a general public parking program and are not intended for any specific improvement project. The fees paid shall be the most current fees as established by the City Council.
 - (iii) Any off-street parking requirement satisfied in this manner shall run with the land, and any subsequent change of use that requires more parking shall require subsequent action to satisfy the additional parking requirement.
- (c) Time of Collection of Fees. Fees for all development projects for which payment of fees in lieu of on-site parking is desired shall be paid prior to the issuance of building permits. Fees for development projects which do not require building permits shall be paid before any other applicable City approval is made final.
- (d) Use of Fee. The fees collected shall be used for the following purpose: to construct or provide new public parking spaces.
- (e) Current Fee Schedule. The City Secretary shall maintain the current fee schedule. The City Secretary shall make the current fee schedule available for public review upon request.
- (f) Trust Fund. An interest-bearing trust fund shall be maintained exclusively for the development of the City of South Padre Island Parking System. These trust funds and interest earned by these trust funds shall be used solely for the development of the City of South Padre Island Parking System. Upon receipt by the City of South Padre Island, fees collected shall be deposited in the appropriate Parking trust fund.
- (g) Phasing. If a project is phased, payment of fees pursuant to this article may be similarly phased as agreed upon between the applicant and the Director of Transit and Development.
- (h) Termination. If this fee program is terminated, any excess funds collected prior to dissolution of this fee program shall be used within City of South Padre Island Parking System.

(F) Uses Affecting Parking Areas.

- (a) Parking areas--diminishing by commercial display, etc. prohibited. No person, party or entity may display any wares or merchandise or make any other use of the parking area located upon their property, if said display or use will cause the

number of parking spaces to be less than those currently required. In no event may any person make use of the parking area which would effectively cause said property to have less than the minimum legally required parking spaces for the particular property use as is currently required by other ordinances and codes of the City. (Ord. No. 92, 9-2-81)

(b) No conversion of use unless parking requirements met. No person, party or entity shall convert or change the use of property without also meeting the current required parking requirements for that particular use. (Ord. No. 92, 9-2-81)

(c) No expansion unless parking requirements met. No person, party or entity may expand, convert or add to any existing use of property without the same meeting the current requirements of parking spaces for the property. (Ord. No. 92, 9-2-81)

(G) Reduction of Required Parking.

Commercial use properties for which a Building Permit has been granted prior to August 26, 2003, may substitute up to twenty percent (20%) of their required parking spaces for landscaping.

Sec.20-15 Certificate of occupancy and compliance.

- (A) Building permit required for change in use. No building erected or structurally altered shall be used, occupied or changed in use until a building permit shall have been issued by the Building Inspector stating that the building or proposed use of a building or premises complies with the building laws and the provisions of this ordinance.
- (B) Certificate of occupancy and compliance required. Certificates of occupancy and compliance shall be applied for coincident with the application for building permit and shall be issued within ten (10) days after the erection and structural alterations of such buildings shall have been completed in conformity with the provisions of this ordinance. A record of all certificates shall be kept on file in the office of the City and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.
- (C) Excavation prohibited without permit. No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.
- (D) Architect or engineer to be legally registered. Before a permit shall issue for a building of three (3) stories or more in height or 5,000 square feet in area, except one and two-family dwellings, the designer of such building shall be an architect or engineer legally registered under the laws of this State and he shall affix his official seal to the drawings and specifications for the building.

Sec.20-16 Board of adjustment; Appeals.

(a) **Creation of Board of Adjustment.** There is hereby created a board of adjustment consisting of five (5) members and three (3) alternate members to be appointed by the City

Council. All members, including alternates, must be residents of the City of South Padre Island. Said board shall have all powers vested by the Texas Local Government Code Ch. 211.

(b) **Terms, Removal of Members.** All members of the board shall be appointed for two year terms and shall serve until their successors are appointed and qualified and shall be removable for cause by the City Council upon written charges and after public hearing.

(c) **Vacancies.** Vacancies in the regular membership of the board of adjustment shall be filled by the city council. Vacancies of the alternate board of adjustment member(s) shall be appointed at large by the city council, and determined by majority vote, for the unexpired term of vacancy. The alternate members serve for the same period and are subject to removal the same as regular members.

(d) **Minimum of four (4) Members at Hearings.** The alternate members of the board of adjustment shall serve in the absence of one (1) or more regular members when requested by the Mayor or City Manager so that all cases heard by the board of adjustment will always be heard by a minimum of four (4) members, in conformity with state law requiring that seventy-five (75) percent of the members of the board hear each case. Alternates may participate in meetings on a rotating basis subject to availability.

(e) **Minutes/Records.** The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be immediately filed in the office of the City Secretary and shall be a public record.

(f) **Meetings and Rules.** The board shall have monthly meetings or at the call of the chairman or in his absence the acting chairman, and at such other times as the board may determine. All board meetings shall be open to the public. The board may adopt rules consistent with this chapter or state law to govern its proceedings.

(g) **Powers of Board.** The board of adjustment shall have the following powers and duties which must be exercised in accordance with this chapter and state law:

- To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance.
- To authorize upon appeal in specific cases, and subject to appropriate conditions and safeguards, such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of the chapter shall be observed and substantial justice done. A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons. In exercising its authority, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official. The concurrent vote of seventy-five (75) percent of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official; decide in favor of an applicant on a matter on which the board is required to pass under the zoning ordinance; or authorize a variation from the terms of a zoning ordinance.

(h) **Compensation of Members.** None

(i) **Notice of Hearings.** Public notice of hearings before the board of adjustment shall be given for each separate appeal thereby by publication one (1) time in a paper of general circulation in the city, stating the time and place of such hearing which shall not be earlier than ten (10) days from the first date of such publication, and in addition thereto, the board of adjustment shall mail notice of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation, or exception, is desired and to all other persons deemed by the board of adjustment to be affected thereby. Such owners and persons shall be determined according to the current tax rolls of the city.

Sec. 20-16.1 VARIANCES AND APPEALS, SPECIAL EXCEPTIONS

Sec. 20-16.1. Generally.

(a) **Notice of Hearings.** Public notice of hearings before the board of adjustment shall be given for each separate appeal thereby by mailing notice of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation, or exception, is desired and to all other persons deemed by the board of adjustment to be affected thereby. Such owners and persons shall be determined according to the current tax rolls of the city.

(b) **Powers Strictly Construed.** Nothing herein contained shall be construed to empower the board of adjustment to change the terms of the Zoning Ordinance, to effect changes in the official map or to add to the specific uses permitted in any district.

(c) **Findings of Fact.** Every decision of the board of adjustment shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to exist on any matter upon which the board is required to pass under this article or to affect any variance in this chapter shall be construed as limitations on the power of the board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific facts shall not be deemed findings of fact and shall not be deemed in compliance with this article.

(d) **Recommendation From Other Public Agencies.** The board of adjustment shall receive and consider recommendations from public and semipublic agencies before rendering a decision in any case before the board. To this end, the board shall, in addition to the other requirements of this chapter, notify all agencies deemed to have an interest in the case.

(e) **Postponement of a Case.**

(1) Prior to the city publishing the board of adjustment case in the newspaper, an applicant may request in writing for the city to postpone the case. In such cases, the applicant shall have six (6) months from the date of the written request for postponement to reactivate the case. After expiration of the six-month period the fees paid shall be non-refundable and the applicant will have to submit a new application with new fees for further consideration of the request.

(2) If a written request for postponement is submitted by the applicant after the city has published the case in the newspaper, the fees paid shall be non-refundable and the hearing will not be rescheduled until the postponement fee has been paid by the applicant. In such cases, the applicant shall have six (6) months from the date of the written request for postponement to reactivate the case; after expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of the request.

(3) If a written request for postponement is submitted by the applicant after the agenda has been posted (seventy-two (72) hours prior to the public hearing), the postponement will be considered by the board of adjustment. If approved by the board, the fees paid shall be non-refundable and the hearing will not be rescheduled until the postponement fee has been paid by the applicant. In such cases, the applicant shall have six (6) months from the date of the board's decision to grant the postponement, to reactivate the case; after expiration of the six-month period, the applicant will have to submit a new application with new fees for further consideration of the request.

Sec. 20-16.2. Appeals to Board of Adjustment.

(a) Applicability.

(1) Generally. Any of the following persons may appeal to the board of adjustment a decision made by an administrative official: A person aggrieved by the decision; or Any officer, department, board, or bureau of the city affected by the decision.

(b) Initiation.

(1) Application. Such appeal shall be taken by filing with the Planning Department and with the board of adjustment, within the time provided by this chapter, a notice of appeal specifying the particular grounds upon which the appeal is taken and the payment of the fee. Upon receipt of a notice of appeal, the Planning Department shall transmit to the board of adjustment all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed from was based.

(2) Automatic Stay. An appeal from an order of the Public Works Director or Planning Director to the board of adjustment shall stay all proceedings unless the City Planner certifies that, by reason of the facts stated in the certificate, a stay in his opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted by the board of adjustment or a court of proper jurisdiction.

(3) Time Limit for Appeal. The board of adjustment shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. Appeals to the zoning board of adjustment from any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter shall be made within thirty (30) days after such order, requirement, decision or determination by filing with the director of the department of development services and with the board of adjustment a notice of appeal.

(c) Completeness Review. The Planning Director shall review the notice of appeal for completeness within five (5) working days. The appellate agency for purposes of completeness shall be the board of adjustment.

(d) Decision.

(1) Appearance. A party may appear at the appeal hearing in person or by agent or attorney.

(2) Hearing. The board of adjustment shall consider the appeal at a quasi-judicial public hearing pursuant to Texas Local Government Code § 211.009(b), the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the

correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official Pursuant to Texas Local Government Code § 211.009(b), the concurring vote of seventy-five (75) percent of the members of the board is necessary to reverse an order, requirement, decision, or determination of an administrative official.

(3) **Time Limit for Decision.** The board shall decide the appeal within a reasonable time.

(e) **Appeal from Board of Adjustment.** An appeal from a board of adjustment decision shall be filed pursuant to Texas Local Government Code § 211.011(b) with the District Court or County Court at Law.

Sec. 20-16.3. Special Exceptions

(A) Purpose and Intent.

A special exception is a permitted land use that is allowed in a zoning district if listed as a special exception use, subject to specific conditions that may be imposed by the Board of Adjustment.

(B) Procedure.

(1) The application shall first be reviewed by City staff for compliance with City codes, regulations, and policies.

(2) After reviewing any foreseeable impacts and/or concerns raised at the hearing on the application, the Board of Adjustment may:

1) Grant the application without conditions. In this case, the Board of Adjustment shall determine and state that there is no negative impact on public health, safety and general welfare on the applicable zoning district;

2) Accept the application with conditions; or

3) Deny the application. In this case, the Board of Adjustment shall determine and state that there are negative impacts on public health, safety and general welfare on the applicable zoning district, and those negative impacts cannot be resolved by any conditions.”

Sec.20-17 Penalty for violation to apply to owner, architect, builder, etc.

The owner or owners of any building or premises or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, and/or any architect, builder, contractor, agent, person and corporation, employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense.

Sec.20-18 Changes and amendments.

(A) City Council may change district boundaries. The City Council may from time to time amend, supplement or change by order the boundaries of the Districts or the regulations herein established.

(B) Submission of changes to the Development Standards Review Task Force. Any proposed changes/revisions/amendments to the Form Based Code (Padre Boulevard and Entertainment District Code) shall be reviewed by the Development Standards Review Task Force prior to being submitted to the

Planning and Zoning Commission. The Development Standards Review Task Force shall make recommendations to the Planning and Zoning Commission.

- (C) Submission of changes to Planning and Zoning Commission. Before taking action on any proposed amendment, supplement or change, the City Council shall submit same to the Planning and Zoning Commission for its recommendation and report in the event there is a Planning and Zoning Commission, and if there is no Planning and Zoning Commission then the City Council may amend this ordinance as provided by law.
- (D) Public hearing required. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be published at least once fifteen (15) days prior to the hearing in the newspaper, stating the time and place of such hearing.

Sec.20-19 Variances.

No variance of the provisions of this Chapter may be granted by any official of the City, and may be only granted by the Board of Adjustment, and if there be no Board of Adjustment, by the City Council. (Ord. No. 2A, 8-7-74)

Sec.20-20 Designation of Public Parks, Beaches, etc.

Notwithstanding any provision to the contrary contained within this Zoning Ordinance, the City Council may designate public parks, beach areas, rest areas and other public facilities within any zone in the City.

Sec. 20-21 Required Landscaping.

- (A) Applicability:
 - (1) All properties for which a Building Permit is granted after the effective date of this Section 20-21 shall be required to comply with these regulations.
 - (2) Properties for which a Building Permit dated prior to the effective date of this Section 20-21 (August 26, 2003) has been issued will be required to comply with these landscaping regulations if/when:
 - a) additions or renovations of the property change the square footage of the property by 50% or more; and/or
 - b) the Certificate of Occupancy is modified.
 - (3) Under no circumstance may an owner of any property reduce the amount of landscaping to less than the amount required by this section regardless of the time they were issued a building permit or certificate of occupancy.
- (B) Maintenance:
 - (1) All landscaping required by these ordinances shall be maintained in a neat and healthy condition. Such maintenance shall be an ongoing obligation of the owner of the property and prompt replacement shall be made of diseased or dead plant materials. The owner shall also be responsible for containing mulch, soil, bark, aggregate, etc. on his or her own property and preventing this debris from washing out of the planting bed and onto the public or private right-of-way.

- (2) City's right to trim and remove. City reserves the right to prune and remove trees, plants and shrubs within the rights of way of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary for construction, to ensure public safety, or to protect utility facilities thereon.
 - (3) Dangerous trees and unsafe conditions. City may remove, or cause or order to remove, any tree, shrub or other vegetation or part thereof which is in an unsafe condition or which by reason of its nature is injurious to or threatens to injure sewers, electric power lines, gas lines, water lines, or other public improvements, or is infected with any injurious fungus, insect or other pest.
- (C) Minimum Area, and Location of Landscaping: Except as and to the extent otherwise provided herein, all required landscaping shall be placed within the front-of-building area, except that for corner lots such landscaping shall also be placed within the side-of-building-area as well, and shall be distributed fairly equally within such area. For the purpose of calculating the minimum required landscaping area, parking garages, private streets/roads, swimming pools, and those areas enclosed by a visually impenetrable fence/wall having a height of six feet (6') or greater as measured from walking grade will be excluded if located within the front-of-building area or required setback area. In no case shall a property have less than twenty-five (25) square feet of landscaping planted visible from the street.
- (1) Single Family Use: The area of required landscaping shall not be less than 30% of the minimum front yard setback area in accordance with the requirements of this Section 20-21.
 - (2) Townhouse Use: The area of required landscaping shall not be less than 15% of the minimum front yard setback area in accordance with the requirements of this Section 20-21.
 - (3) Commercial / Multifamily Uses (Hotel, Motel, Condominium, Duplex, etc.): The area of required landscaping shall not be less than 20% of the front-of-building area in accordance with the requirements of this Section 20-21. Commercial properties may substitute up to 20% of their required parking spaces only for additional landscaped areas (above and beyond these minimum requirements) if the owner can reasonably justify that the parking is not needed for the business.
 - (4) Corner Lots: An additional 10% of the side-of-building-area shall be landscaped in accordance with the requirements of this Section 20-21.
 - (5) For those developed properties that have no building by which to determine "front-of-building area" (e.g. parking lots), the area of required landscaping shall not be less than 10% of the entire lot in accordance with the requirements of this Section 20-21, also distributed fairly equally within the lot.
 - (6) Other materials such as planters, bark mulch, brick, stone, natural forms, water forms, and aggregate (but not concrete or asphalt) may be used provided the 80% coverage of live plant materials will be achieved. Plant material will be measured at a point no higher than 3 feet above grade.

- (D) Tree Requirements: For the purposes of this section, trees shall be planted within the required landscaped area at a ratio of one tree per 300 square feet of required landscaped area; provided, however, that no less than one (1) tree shall be planted on each lot.
- (E) Lines of Sight: To minimize traffic hazards at street or driveway intersections, all landscape installations must provide unobstructed views in accordance with sight triangle requirements as denoted within Article 2.22 of the *Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island, Texas*.
- (F) Trees in Public Easements:
- (1) Existing trees shall be maintained wherever possible.
 - (2) Tree planting shall be avoided within public easements.
 - (3) When planting is required by the City Ordinance or landscaping plan, no trees other than shrubs (not listed in the table) and those species listed in the table below may be planted under or within fifteen (15) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground public utility line.
 - (4) The table below should be used in selecting tree species. When specific tree species cannot be found from the table, Director of Development Services or his/her designee shall decide those appropriateness.

Scientific Name	Common Name	Secondary Name	Leaf Type	Texas Native	Firewise	Height (ft)
<i>Vitex agnus-castus</i>	Lilac Chastetree	Vitex	Deciduous	No	Yes	15
<i>Cephalanthus occidentalis</i>	Common Buttonbush		Deciduous	Yes	Yes	18
<i>Acacia farnesiana</i>	Huisache	Sweet Acacia	Semi-evergreen	Yes	Yes	20
<i>Acer palmatum</i>	Japanese Maple		Deciduous	No	Yes	20
<i>Aesculus pavia</i> var. <i>pavia</i>	Red Buckeye		Deciduous	Yes	Yes	20
<i>Cercis canadensis</i> var. <i>mexicana</i>	Mexican Redbud		Deciduous	Yes	Yes	20
<i>Cordia boissieri</i>	Wild Olive	Maxican-Olive	Evergreen	Yes	Yes	20
<i>Crataegus</i> spp.	Hawthorn		Deciduous	Yes	Yes	20
<i>Frangula caroliniana</i>	Carolina Buckthorn	Indian Cherry	Deciduous	Yes	Yes	20
<i>Hamamelis virginiana</i>	American Witchhazel	Witch Hazel	Deciduous	Yes	Yes	20
<i>Helietta parvifolia</i>	Baretta		Evergreen	Yes	Yes	20
<i>Ilex decidua</i>	Deciduous Holly	Possumhaw	Deciduous	Yes	Yes	20
<i>Lagerstromia indica</i>	Crapemyrtle	Crape Myrtle	Deciduous	No	Yes	20
<i>Morella cerifera</i>	Southern Bayberry	Waxmyrtle	Evergreen	Yes	Yes	20
<i>Pyrus calleryana</i>	Callery Pear	Ornamental Pear	Deciduous	No	Yes	20
<i>Rhus copallinum</i>	Shining Sumac	Winged Sumac	Deciduous	Yes	Yes	20
<i>Rhus lanceolata</i>	Prairie Sumac	Flameleaf Sumac	Deciduous	Yes	Yes	20
<i>Sophora affinis</i>	Eve's Necklace	Texas Sophora	Deciduous	Yes	Yes	20
<i>Sophora secundiflora</i>	Mescalbean	Texas Mountain Laurel	Evergreen	Yes	Yes	20
<i>Ungnadia spexiosa</i>	Mexican Buckeye		Deciduous	Yes	Yes	20
<i>Viburnum rufidulum</i>	Rusty Blackhaw	Rusty Blackhaw Viburnum	Deciduous	Yes	Yes	20
<i>Zanthoxylum fagara</i>	Colima	Lime Pickly Ash	Evergreen	Yes	Yes	20
<i>Chilopsis linearis</i>	Desert Willow		Deciduous	Yes	Yes	25

Chionanthus virginicus	White Fringetree	Grancy Graybeard	Deciduous	Yes	Yes	25
Condalia hookeri	Brazilian Bluewood	Brasil	Evergreen	Yes	Yes	25
Ilex vomitoria	Yaupon Holly	Yaupon	Evergreen	Yes	No	25
Prosopis pubescens	Screwbean Mesquite	Tornillo	Deciduous	Yes	Yes	25
Prunus mexicana	Mexican Plum		Deciduous	Yes	Yes	25
Quercus incana	Bluejack Oak	Sandjack Oak	Deciduous	Yes	Yes	25

- (G) Landscape Plan submission and validity:
- (1) The location and square footage of all landscaping required by this ordinance shall be shown on a site plan submitted with any application for a building permit. Square footages of all landscaping areas and number and location of trees shall be shown on the site plan. A Certificate of Occupancy will not be issued until the applicant has installed all required landscaping.
 - (2) The Building Inspector may at his/her discretion issue a temporary Certificate of Occupancy, not to exceed 60 days, in the event of inclement weather, natural disasters, or for other good cause shown.
 - (3) Approved landscaping plans shall be valid as long as the building permit for the project is valid.
- (H) Enforcement: Should any person fail to comply with the requirements of this chapter, such failure shall constitute a violation as set forth in Section 20-17 and 21-2 of these City Ordinances.

Sec. 20-22 (Reserved) Reduction of Required Parking.

~~Commercial use properties for which a Building Permit has been granted prior to the effective date of Section 20-21 above (August 26, 2003), may substitute up to twenty percent (20%) of their required parking spaces for landscaping.~~

Sec. 20-23. PLANNED DEVELOPMENT DISTRICTS (PDD DISTRICT).

(A) Purpose and Intent.

The purpose of each and every Planned Development District is and shall be to:

- 1) Provide flexibility in planning for the development of medium and large tracts of land (and, in appropriate circumstances as set forth herein below, small tracts of land) incorporating one or more types of residential or commercial development and related uses which are planned and developed as a unit;
- 2) Establish a procedure for the development of one or more tracts of land under unified control in order to reduce or eliminate the inflexibility that would otherwise result from strict application of land use standards and procedures which are designed primarily for individual lots;
- 3) Ensure orderly and thorough planning and review procedures that will result in quality design and the creation and improvement of common open space and pedestrian circulation;
- 4) Encourage mixed uses and avoid monotony in large developments by allowing greater freedom and flexibility in selecting the means to provide access, light, open space, and amenities; and

- 5) Provide for flexibility in the strict application of certain land use regulations, development regulations, and design standards as set forth elsewhere in the City of South Padre Island Zoning Ordinance.
- (B) Creation of Planned Development District. The City Council of the City of South Padre Island, after public hearing and proper notice to the public generally (via publication) and to all landowners individually whose property (or any portion thereof) lies within two hundred feet (200') of any portion of the proposed planned development district (via certified mail), may authorize a Planned Development District upon and in accordance with the provisions of the Section 20-23.
- (C) Authorized Land Uses. Land located within any authorized Planned Development District may be used:
- 1) for any residential or commercial use which is permitted in any other district authorized by the City of South Padre Island Zoning Ordinance, and/or
 - 2) for any combination of one or more of such authorized uses.
- (D) Minimum District Size.
- 1) General Rule. Except as otherwise authorized by this Section 20-23, no Planned Development District shall be authorized, created or permitted which is less than five (5) acres in gross area. Notwithstanding anything contained in the City of South Padre Island Zoning Ordinance or otherwise to the contrary, the perimeter boundaries of the proposed district (without any deduction whatsoever of or for any areas within the proposed district) shall be used in determining the gross area of any proposed planned development district. No such district may surround, encompass or incorporate any land which is not a part of such district.
 - 2) Exception. Notwithstanding the general rule set forth in Section 20-23 (D)(1) above, the City Council may (but are not required to) authorize the creation of a planned development district encompassing one or more discrete parcels of land which are under unified control, but which total less than five (5) acres in gross area, if the Board finds:
 - i. That specific, identifiable circumstances [e.g., geographic or other features which adequately differentiate such parcels(s) from adjoining properties] make application of the purposes of planned development districts to such parcels(s) appropriate;
 - ii. That the land uses proposed to be incorporated within such sub-sized district are not incompatible with the existing land uses surrounding such proposed district; and
 - iii. That the creation of such sub-sized districts will not result in an instance of "spot zoning".

All other requirements and provisions of this Section 20-23(D)(2) to the contrary, no special development district shall be authorized, created or permitted which does not include all of the land located within any block within which any part of the proposed district exists.

- (E) Requirements; Procedures. Any person or entity who desires to develop property located within the jurisdiction of this ordinance and who desires to have such property approved as a PDD (the “applicant” shall comply with the following:
- 1) The applicant shall first submit to the Planning and Zoning Commission of the City of South Padre Island (the “Commission”) a written request for the approval of such property as a PDD, on such form as may be prescribed for such purpose by the City’s Director of Public Works. Such application shall be accompanied by a full legal description of the property together with a title report, power of attorney, or other satisfactory evidence confirming that the property proposed for inclusion in the PDD is under the unified control of the applicant.
 - 2) Prior to any consideration of such application by the Commission, the applicant shall first submit to the Commission a comprehensive site plan of the proposed development (provided, however, that an applicant may submit a “concept plan” containing less than the full information required hereunder, as a means for obtaining Commission reaction and input to the applicant’s project). Such site plan shall show building footprints, locations uses, height limitation, public or private streets, drives or other means of ingress and egress, sidewalks, utilities, on-site drainage, parking spaces, lot coverage, yards and open spaces, common areas, landscaping, screening walls and/or fences, and any other development and protective requirements considered necessary to create a reasonable transition onto, as well as adequate protection for, adjacent property. The site plan shall be accompanied by a statement from the applicant specifying the unique characteristics of the proposed project, special design standards, if any (including a schedule of proposed building materials, and physical samples thereof if desired by the applicant or required by the Commission), special features, and the applicant’s vision for the project. If the contemplated development is intended to proceed in separate phases, the separate phases shall be identified and a projected schedule of the order in which the phases will be completed shall also be included.
 - 3) The Commission shall consider the application, the comprehensive site plan, and related statements submitted by the applicant. In so doing, the Commission shall provide guidance to the applicant as to those features of the submissions, if any, which the Commission deems unacceptable or inadvisable, and shall afford the applicant reasonable opportunity to modify or amend its submissions so as to address any such unacceptable or inappropriate items. At such time thereafter as the applicant requests, or when the Commission determines that further modification of the submissions is not forthcoming, the Commission shall vote to approve or disapprove the proposed district. In approving any PDD, the Commission may also recommend imposing specifically. Variation from City requirements may be allowed in order to create the character and nature of the project, but except as and to the extent otherwise expressly approved by the Commission, City standards for subdivision and construction shall apply.
 - 4) If the Commission votes to approve the proposed district, such approval shall be deemed an affirmative recommendation to the City Council, and such approval, including any recommended conditions and any approved variations from City standards, together with the application, the site plans as approved

by the Commission, and any related statements of the applicant, shall be forwarded to the City Council for approval or disapproval. If the Commission votes to disapprove the proposed district, such disapproval shall be deemed a negative recommendation to the City Council, and the reasons for the Commission's disapproval shall be set forth in the minutes of the Commission's proceedings and furnished to the City Council (together with the application, the site plan, as dis-approved by the Commission, and any related statements of the applicant). The applicant may appeal any such disapproval to the City Council upon giving the Commission notice of such intent within fifteen (15) days after the date of the Commission's vote of disapproval.

- 5) Upon receipt of an affirmative recommendation from the Commission, or upon any appeal by an applicant of a negative recommendation from the Commission, the City Council shall approve or disapprove the creation of the proposed PDD. In approving any such PDD, the City Council may impose such conditions relative to the standard of development generally, or relative to particular aspects of the plan specifically, as the Board deems in the best interests of the City of South Padre Island. Such conditions shall not be construed as conditions precedent to approval of the zoning amendment, but shall be construed solely as conditions precedent to the granting of a Certificate of Occupancy for any building, other structure or improvement located within such district.
- 6) Upon approval of any proposed PDD by the City Council, the final site plan as approved, together with any standards, conditions or requirements imposed in connection therewith, shall be automatically incorporated within, and shall thereafter comprise a part of the City of South Padre Island Zoning Ordinance, and shall be applicable within the boundaries of such approved PDD.

Editors Note: The Shores Subdivision depicted on the City zoning map is the only Planned Development District approved by the City with an extensive set of standards and specification that are on file in the Planning Department of the City.

Sec. 20-24 Specific Use Permits, as follows:

(A) Purpose and Intent

(1) The City Council of the City of South Padre Island, Texas, after a public hearing and proper notice to all parties affected and after recommendations by the Planning & Zoning Commission may authorize the issuance of Specific Use Permits.

(2) The purpose and intent of a Specific Use Permit is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of a Specific Use Permit application.

(B) Procedure

(1) The Planning & Zoning Commission in considering and determining its recommendations to the City Council on any request for a Specific Use Permit may require from the applicant plans, information, operating data, and expert evaluation concerning the location, function, and design characteristics of any building or use proposed.

(2) The City Council may, in the interest of the public welfare and to insure compliance with this ordinance, establish conditions of operation, location, arrangement, and type and manner of construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as specific use permits, the City Council may impose such development standards and safeguards as the conditions and locations indicate important to the welfare and protection of adjacent property from noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view, traffic, or other undesirable or hazardous conditions.

(3) All Specific Use Permits approved in accordance with the provisions of this ordinance in its original form or as hereafter amended shall be referenced on the Zoning Map.

(C) Supplementary Regulations for Amusement Redemption Machine Establishments

(1) Prior to formally requesting a Amusement Redemption Machine Establishment Specific Use Permit application the applicant(s) and owners shall secure a criminal background check from the City's Police Department and submit the report as an attachment to the application for the Special Use Permit.

(2) Applicant's, an applicant's spouse, or an employee convicted of any of the following offenses as described in Chapter 43 of the Texas Penal Code within a period of five years preceding the application, are ineligible to submit a Specific Use Permit. An applicant, an applicant's spouse or an employee has been convicted of a felony as defined in section 1.07 of the Texas Penal Code within a period of five years preceding the application; an applicant, an applicant's spouse or an employee has been convicted any of the gambling offenses as described in Chapter 47 of the Texas Penal Code within a period of five years preceding the application; an applicant, an applicant's spouse or an employee has been convicted any of the following offenses as described in Chapter 21 of the Texas Penal Code within a period of five years preceding the application:

a. public lewdness; b. indecent exposure; or c. indecency with a child.

(3) Amusement Redemption Machine Establishment shall be prohibited within 300 feet of the following: a. church; b. school; or c.. hospital

(4) The sale, distribution and possession of alcoholic beverages are prohibited in an Amusement Redemption Machine Establishment Uses.

(5) PERSONS UNDER 18 PROHIBITED; SIGN TO BE DISPLAYED

a. No person under the age of 18 years shall be permitted on the premises of any Amusement Redemption Machine establishment unless accompanied by a parent or adult guardian.

b. Any person holding a Specific Use Permit to operate an Amusement Redemption Machine permit shall prominently display on the premises a sign reading as follows:

"PLAY BY MINORS UNDER EIGHTEEN YEARS OF AGE NOT ALLOWED UNLESS ACCOMPANIED BY PARENT OR ADULT GUARDIAN".

(6) A person who operates Amusement Redemption Machine establishment commits an offense if he knowingly permits a person under 18 years of age to enter or remain on the premises unless accompanied by a parent or adult guardian.

(7) Doors to access the Amusement Redemption Machine Establishment shall be limited to the front of the building.

(8) The City Council shall establish a fee required to capture the cost of administering the Specific Use Permit.

(9) No Specific Use Permits shall be issued to operate Amusement Redemption Machine Establishments in the "A", "E", "B" and "B-2" Zoning District. Specific Use Permits may be granted for Amusement Redemption Machine Establishments in "C", "C-2" "D", "D-1" and "D-2".

Sec. 20-25 Urban Design Model Projects.

a) Purpose. The purpose and intent of Urban Design Model Project is to allow the City to authorize the implementation of model projects which through urban design enhance the City's built environment by improving safety and mobility for vehicles, pedestrians, and bicyclist.

The City Council may approve "Urban Design Model Project" which through urban design, public-private partnerships, and multi-modal transportation alternatives results in a superior urban form than realized through our current development regulations. Demonstration projects must clearly contribute to greater safety through design for pedestrians, bicyclist and motorist.

Approval of Urban Design Model Projects shall authorize the applicant to develop a project with:

- 1) Alternate front, side, rear yard setback
- 2) Reduced parking requirements
- 3) Encroachments in pedestrian easements for building awnings and tables
- 4) Outdoor dining
- 5) Alternate Floor heights
- 6) Alternative signage requirements
- 7) Alternative parking layouts

b) Procedure: An applicant for an Urban Design Model Project must submit an application to be placed on the agenda for the Planning and Zoning Commission for review and recommendation of the proposed project. The Planning and Zoning Commission shall prepare a report for the City Council prior to the City Council considering the request for designation of an Urban Design Model Project. The application must describe the proposed project including, variations from Zoning Regulations and enhanced elements of urban design achieved through the proposed Urban Design Model Project. [Ord 09-16, 11/18/09]

Editors NoteThe following eight pages have Appendix A of the Padre Boulevard and Entertainment District Code that was adopted as Appendix "Z". The entire Appendix "Z" is on file with the City Planner