

AN ORDINANCE 2008-04-03-0267

AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY ADOPTING VARIOUS PROVISIONS FOR CLARIFICATION AND ADMINISTRATION; AND PROVIDING FOR PENALTIES AND PUBLICATION.

* * * * *

WHEREAS, the San Antonio City Council adopted the revised Unified Development Code (UDC) on May 3, 2001 and reenacted the Unified Development Code, 2005 Edition on September 22, 2005; and

WHEREAS, the CSMA has recommended approval of the amendments; and

WHEREAS, the Zoning Commission has recommended approval the amendments; and

WHEREAS, the Planning Commission has recommended approval of the amendments;
NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35 of the City Code of San Antonio, Texas is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

Chapter 35, Article I, Section 35-105 is amended as follows:

35-105 Consistency with Master Plan

The master plan policies were adopted by the planning commission as Resolution Number 97-05-01 on May 14, 1997, and by the city council as Ordinance Number 86100 on May 29, 1997. The master plan policies are intended to provide guidance in the evaluation of future decisions relevant to city planning. The master plan policies do not constitute a substantive change in existing ordinances of the city neither does it supersede nor replace the Unified Development Code or any regulatory ordinance adopted prior to the adoption of the master plan policies. Any amendment to the Unified Development Code or other regulatory ordinances made necessary in order for said regulations to be consistent with the master plan policies shall be implemented pursuant to the process prescribed in the master plan policies, in lieu of any provision of this Code in apparent contradiction.

Pursuant to Tex. Local Gov't code § 211.004, this code is intended to implement the goals, objectives and policies of the *Master Plan* and is hereby deemed to be consistent and in accordance with the *Master Plan*. Any amendments to this chapter, including any rezoning approved pursuant to § 35-421 of this chapter, shall be consistent with following:

- (a) The adopted *Master Plan*, as it may be amended from time to time, in effect at the time of such request for amendment; and
- (b) Any neighborhood, community, or perimeter plan adopted pursuant to § 35-420 of this chapter.

An amendment to the text of the ordinance is consistent with and in accordance with the *Master Plan* if it complies with the goals and policies stated in the *Master Plan*, as it may be amended from time to time.

Master plan elements are authorized under Article IX of the City Charter, Section 121. The Master Plan: "The commission may adopt the master plan as a whole or in parts, and may adopt any amendments thereto." Currently adopted master plan elements include those listed below as such elements may be amended from time to time.

(1) Transportation Plan/Major Thoroughfare Plan.

The Transportation Plan/Major Thoroughfare Plan was adopted by Resolution Number 78-07-02 of the planning commission on July 12, 1978 and adopted as Ordinance Number 49818 by the city council on September 21, 1978. It contains the city's transportation policies and the area wide transportation planning process and how it relates to that of the city.

(2) Land Use Plan.

~~The Land Use Plan was adopted by planning commission Resolution Number 83-05-04 on May 25, 1983 and by the city council on December 8, 1983, Ordinance Number 83-58-102. The Land Use Plan includes land use objectives and policies for six major components: natural resources; utility infrastructure; transportation corridors; urban form; regulatory measures; and annexation, public facilities and services.~~

(3) Neighborhood Planning Process.

~~The Neighborhood Planning Process was adopted by the planning commission as Resolution Number 82-10-01 on October 20, 1982 and by city council Ordinance Number 57068 on June 2, 1983, for the purpose of providing a vehicle whereby neighborhood residents and property owners could organize to develop a neighborhood plan suitable for official recognition by the planning commission and the city council. Neighborhood planning teams can use this process to "... identify issues that will affect their neighborhood's future and select actions for solving (or ameliorating) problems."~~

(2) (4) Parks & Recreation Department Strategic Systems Plan Parks Plan.

Adopted by city council Ordinance Number ~~54605~~ 2006-05-18-0605 on ~~November 24, 1981~~ May 18, 2006. the Parks Plan was prepared as a joint effort between the department of parks and recreation and the department of planning. ~~The Parks Plan is summarized by a single goal: "Every citizen of San Antonio should have the opportunity to avail themselves of quality parks and recreation facilities and services."~~

(3) (5) ~~City Water Board~~ Water Master Plan.

The waterworks master plan is the "~~Report on Master Plan for Water Works Improvements~~" dated ~~September 1981~~ "Securing Our Water Future Together" adopted by the City Council on November 5, 1998 and subsequent revisions thereof. This adopted plan is implemented through the "~~Regulations for Water Service~~" adopted ~~November 20, 1984~~ "Utility Service Regulations" adopted ~~February 18, 2003~~ by the Board of Trustees, ~~on June 12, 1985 by the city planning commission, and by Ordinance Number 60959 on June 27, 1985 by the city council.~~

(4) (6) ~~Wastewater Facilities~~ Infrastructure Plan.

The Wastewater ~~Facilities~~ Infrastructure Plan consists of sets of wastewater service policies and sewer extension policies. The SAWPAC report included policies which have been implemented; many have been written in the subdivision regulations.

(5) (7) Drainage master plans.

As the city continues to define and adopt drainage master plans for specific watersheds contained in whole or in part within the city limits and it's ETJ, development will be required to conform to the elements of the plan for each particular watershed. The preservation of the inherent characteristics of natural drainage features and of the natural floodplain where practical is an adopted goal of each watershed drainage plan. The guidance for the drainage master plans was provided by the drainage regulation review committee in February 1996. The first two (2) goals stated in the report are to "Ensure that stormwater management considers and provides reasonable safety from flood hazards for people and property" and to "Integrate stormwater management with natural resource enhancement and protection, compliance with environmental regulations and with creating appropriate development." The drainage master plans developed by the city for each watershed provide long-range guidance for managing the stormwater from existing and future land uses in the most efficient ways possible, with consideration for continued development, reduced flooding potential, adequate stormwater conveyance, increased aquifer recharge, water quality, habitat protection, and increased recreational opportunities.

(6) Library Facilities Plan
Adopted December 17, 1998

(7) HUD Five Year Consolidated Plan
Adopted September 15, 2005 by ordinance no. 101384.

- (8) Bicycle Master Plan
Adopted April 21, 2005 by ordinance no. 100741.

(c) **Requirements for conformity with the master plan.**

This section coordinates the various citations within the Unified Code of Development Regulations that refer to the master plan. It is anticipated that with additional reference to the city's master plan and requirements for conformity, the city will see a genuine effort toward implementation of the plan and its elements.

- (1) Master Development Plans (MDP) Preliminary overall area development plans (POADP) shall conform to the master plan.
- (2) Subdivisions shall conform to the master plan and the parts thereof.
- (3) The zoning regulations and districts as established in this chapter have been made in accordance with a comprehensive plan.
- (d) The zoning commission, in those instances wherein special approval of city council is required, shall consider each such proposed use and make its recommendations to the city council with reference thereto including its recommendation, among other things, as to proper location with respect to the master plan.

Chapter 35, Article III, Section 35-310.15 is amended as follows:

35-310.15 "UD" Urban Development District

(a) **"UD" Uses and Conditions**

Applicability. Flex district development applications (MDP, plat and building plans) shall be accompanied by a site plan that shows the following information:

(1) **Single-Family Project Over Five (5) Acres Residential Uses.**

B. Parking (whether provided by a parking court, carport or garage) for at least seventy percent (70%) of the residential lots in a subdivision or MDP shall meet the following setback requirements: for all residential units, including garages, accessed by driveways from the front of the house shall meet the following setback requirements:

1. Parking (whether provided by a parking court, carport or garage) less than fifteen (15) feet wide shall be set back at least fifteen (15) feet behind the adjacent front facade. ~~Garages~~

2. Parking (whether provided by a parking court, carport or garage) greater than fifteen (15) feet or wider shall be set back at least twenty (20) feet behind the adjacent front facade. -Garages
3. For the remainder of the lots (maximum 30% of the lots), parking areas (whether provided by a parking court, carport or garage) shall be set back at least thirteen (13) feet behind the adjacent front façade.
4. For lots with an area 6,000 square feet or less and/or a street frontage 50 feet or less 50% shall meet the requirements of B1, 2 & 3 above.

C. Residential Driveways

1. In the UD zoning district, residential driveway aprons shall be no wider than 15 feet and driveways shall be no wider than 12 feet until they are five feet past the adjacent front building face.
2. For residential projects built under the Universal Design ordinance in the UD zoning district, residential driveways and aprons shall be permitted a minimum of 36 inches of additional width up to a maximum of 20 feet of driveway width until they are five feet past the adjacent front building face.
3. If a front porch exists and is attached to the main structure, then the front building face shall be measured the front edge of the support column of the front porch.
4. All driveways shall be constructed in accordance with the *City of San Antonio Sidewalk and Driveway Design and Construction Guidelines*

D ~~C~~. All dwelling units shall have a front entrance articulated by a covered front entry at the front of the house.

~~E~~. ~~D~~. At least 70% of the single-family housing units along a single block face shall front the street and have front porches of at least eight feet in depth along at least 50% of the entire front façade of the house, including the garage width.

~~E~~. ~~E~~ ⁽¹⁾ The front building set back for single family residential uses shall be located in a "build-to zone" located with a minimum front setback of fifteen (15) feet from the right-of-way and a maximum of twenty (20) feet from the right-of-way

(1) Exceptions to F above may be allowed on up to 5 % of the lots if site physical constraints cannot be overcome.

(b) "UD" Blocks, Lots, Streets, Sidewalks, Parking and Loading Design

(3) Streets

~~(E) Residential driveway aprons shall be no wider than fifteen (15) feet and driveways shall be no wider than twelve (12) feet until they are five (5) feet past the adjacent front building face.~~

Chapter 35, Article III, Section 35-311 is amended as follows:

35-311 Use Regulations

TABLE 311-2 NON-RESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
		Housing	Housing – Hotel taller than 35 feet when unable to achieve additional height pursuant to § 35-517(d) Setbacks for Height Increases						S	P			

Chapter 35, Article IV, Section 35-421 is amended as follows:

35-421 Zoning Amendments

(c) Completeness Review

For all applications for rezoning, the director development services, with planning department consultation and based on the information provided by the applicant, shall provide an analysis regarding consistency with the policies contained in the Master Plan of the city or if applicable the land use element of a neighborhood, community, or perimeter plan adopted pursuant to §35-420 of this chapter within five (5) working days. If the zoning commission makes a determination that the requested rezoning is inconsistent with the Master Plan policies or the land use element of the applicable neighborhood, community or perimeter plan, then the application for rezoning shall not be deemed complete until a completed application for a Master Plan amendment is filed with the department of development services, provided however, the zoning commission may make a recommendation on the application for rezoning subject to submission of an application for a Master Plan amendment. If the zoning commission determines that the requested change is consistent with the Master Plan policies or the land use element of the applicable neighborhood, community or perimeter plan, then the zoning case may be deemed complete without an amendment to the Master Plan of the city. Consistency with the master plan policies or the land use element of the applicable neighborhood, community or perimeter plan of an application for a conditional zoning district shall be determined by the base zoning.

(d) **Decision**

(3) **City Council**

An affirmative vote of at least three-fourths of all members of the city council is required to approve a proposed change to a regulation or boundary if the change is protested. The protest must be written and signed by the owners of at least twenty (20) percent of either the area of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet there from. In computing the percentage of land area, the area of streets and alleys shall be included in the computation. Written protests must be received by the director at the Development Services Department offices no later than 4:00 P.M. of the previous business day prior to the posted date and time for the zoning hearing on the City Council's agenda. If the written protests appear to be at least 20% of either the area of the lots or land covered by the proposed change or the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet there from the applicant shall be entitled to, but is not required to request an automatic continuance if all members of the City Council are not present.

Chapter 35, Article IV, Section 35-481 is amended as follows:

35-481 Appeals to Board of Adjustment

(b) **Initiation**

(1) **Application.**

~~(2) — Special Exceptions~~

~~Special exceptions may be granted for the following uses subject to the conditions specified. The granting of the special exceptions may be revoked if the conditions specified for each special exception are not maintained at all times:~~

~~A. **Noncommercial parking lots.** Surface parking lots for nonresidential uses may be permitted in residential zoning districts subject to the conditions listed below:~~

- ~~1. The parking lot shall be used only for the noncommercial parking of private motor vehicles of customers and employees. All other uses, including but not limited to the following, are prohibited: The sale, display, storage, repair, servicing, or dismantling of any vehicles, equipment, or merchandise.~~

- ~~2. The parking of vehicles awaiting repair or service.~~
- ~~3. The parking of trucks over three-fourths (3/4) ton capacity).~~
- ~~B. The property on which the proposed parking lot is to be located shall be platted in accordance with Article IV of this chapter~~
- ~~C. The parking lot shall be properly graded for drainage; surfaced with concrete, asphaltic concrete, or asphalt; and maintained in good condition. The parking lot shall be kept free of weeds, litter, and debris.~~
- ~~D. Individual parking spaces shall meet the minimum size requirements of Division 6, 35-526 of this article.~~
- ~~E. No advertising signs shall be permitted on the lot other than signs indicating the owner or lessee of the lot and providing parking instructions. Sign lettering shall be limited to a maximum height of six (6) inches.~~
- ~~F. The parking lot shall not encroach within the front yard setback and shall maintain a minimum setback of ten (10) feet along all other perimeters adjacent to public streets or residential zones. The board of adjustment may vary the setbacks as necessary to protect the residential neighborhood. Barriers shall be installed to prevent parking within the required setback areas.~~
- ~~G. Parking lot driveways shall be located to minimize interference with residential traffic. If a parking lot abuts two streets of different classifications (e.g., collector versus local street), access shall be restricted to the street with the higher classification.~~
- ~~H. Unless specifically authorized by the board of adjustment, the parking lot shall not be used between seven o'clock p.m. and seven o'clock a.m. If authorized to be used at night, the lot shall be properly and adequately lighted. The standards to which the lights are affixed shall not exceed fifteen (15) feet in height and the lighting shall be confined within the boundary lines of the parking lot. The parking lot shall be provided with a gate or other sufficient barrier against vehicle entry during the hours the facility served is closed.~~
- ~~I. Landscaping.
 - ~~i. All required front, side, and rear setback areas shall be landscaped and attractively maintained. The minimum plant requirements per one hundred (100) linear feet of setback area shall include two (2) canopy trees, four (4) understory trees, and twenty (20) shrubs. In addition the setback areas shall be planted with lawn or evergreen ground cover. Plant requirements shall be applied proportionally to setback areas of less than one hundred (100) feet in length. Existing plants which meet the plant criteria may be counted toward satisfying the landscape requirement.~~~~

- ii. In addition to the setback areas, an additional ten (10) square feet of landscaped area shall be provided and maintained for each parking space over twenty-five (25) spaces. This additional landscaped area shall be distributed in islands and medians throughout the interior of the parking lot and shall be protected with barriers to prevent damage from vehicles.
 - iii. Required landscaped areas shall be provided with either an underground irrigation system or a water connection within one hundred fifty (150) feet of all landscaping.
- J. The lot shall be provided with a masonry wall or other adequate screening not less than three (3) feet nor more than six (6) feet in height at all lot lines fronting upon or adjoining a residential district. However, the board of adjustment may require such masonry wall or other adequate screening at points other than the property line if it determines such location provides more protection to the neighborhood. The screening or masonry wall shall in all cases surround the parking lot. On a corner lot, the wall or screening shall be erected back of the area designated by this chapter for corner visibility. Wheel guards shall be installed and maintained above ground at all such walls or screening to prevent vehicles from making contact with the walls or screening.
- K. Application for a noncommercial parking lot shall be filed by the owner, lessee, or authorized agent with the department of development services. The application shall be accompanied by a site plan drawn to scale depicting the parking lot layout, proposed driveways, and all landscaping.
- L. Granting of a special exception for a noncommercial parking lot shall be for a definite period of time not to exceed four (4) years, and only after notice and a public hearing as provided in this article for appeals to the board of adjustment. In granting a special exception, the board of adjustment may require the noncommercial parking lot to conform to such other conditions as the board may deem necessary to protect the character of the zoning district in which the lot is located.
- M. Prior to actual use of a noncommercial parking lot, the owner or lessee shall obtain a certificate of occupancy from the department of development services to verify compliance with the conditions of the special exception. If a certificate of occupancy is not secured within six (6) months of the date of approval, the special exception shall be null and void and have no force or effect.
- N. Noncommercial parking lots located in a historic district or landmark site shall conform to the regulations of Article VI Historic Preservation and Urban Design of this code and shall require approval of the parking lot plan from the board of review for historic districts and landmarks prior to construction.

~~O. Noncommercial parking lots authorized prior to April 1, 1989 shall comply with the conditions imposed at the time of their approval; however, their certificates of occupancy shall expire on the date of their approval in 1993. The director of the department of development services shall notify the owner/lessee of these previously authorized lots and advise them that their special exception must be renewed as required by subsection (2)M. above.~~

~~(3) Relocation of any buildings and structures, subject to the following conditions:~~

- ~~A. Each house must be comparable in size, in quality of construction and in condition to the average of other houses in the area.~~
- ~~B. The applicant will comply with Chapter 6, Article VII of this Code and with other applicable codes and ordinances.~~
- ~~C. The use will conform to such other conditions as the board may deem proper in harmony with section 35-3043 hereof.~~
- ~~D. Permits may be granted under this subsection for buildings which the city's fine arts commission has found to have historic and/or architectural significance and where said commission has made a favorable recommendation as to the relocation site. Such exceptions shall contain appropriate conditions as to repairs to be made. Provisions of other codes of the city or of other chapters of this Code shall not be waived.~~

~~(4) Beauty shops and barber shops may be permitted in all residential zones established by this chapter subject to the following limitations, conditions and restrictions:~~

- ~~A. A site plan shall be submitted indicating the size and location of all structures on the property. In addition, photographs of the structure in which the beauty shop or barbershop is to be located shall be submitted.~~
- ~~B. The residential architectural appearance of the structure shall not be changed to that of commercial, although a separate entry for the beauty shop or barbershop shall be permitted.~~
- ~~C. Signs advertising the beauty shop or barbershop are not permitted, but a nameplate not exceeding one (1) square foot is permitted when attached flat to the main structure.~~
- ~~D. The beauty shop or barbershop shall be located within the main structure on the lot and shall not utilize more than twenty-five (25) percent of the gross floor area of the first floor. In the case of a beauty shop in a duplex, the twenty-five (25) percent gross floor area shall be calculated on one (1) living unit of the duplex. In the case of a beauty shop in an apartment unit the board shall determine the area to be used for said operation.~~
- ~~E. The beauty shop or barbershop shall be limited to a one (1) operator shop.~~

~~F. No person not residing on the premises may be employed in the operation of the beauty shop or barbershop.~~

~~G. Hours of operation shall be regulated by the board and shall be specified in the minutes of the case.~~

~~H. That such use will not be contrary to the public interest.~~

~~I. Granting of the permit for a beauty shop or barbershop in conjunction with a residential use is to be for a definite period of time not to exceed two (2) years, and only after notice and hearings as provided in this chapter for appeals to the board of adjustment.~~

(5) Radio and television antennas. In any residential zoning district, antenna locations and heights other than those authorized by section 35-388 may be permitted subject to the following criteria:

~~A. The applicant must demonstrate that compliance with section 35-388 of this chapter would preclude effective communication and furthermore, such ineffective communication involves factors beyond the control of the applicant.~~

~~B. The applicant must comply with all of the requirements of section 35-388.~~

~~C. In determining the location or height to be permitted, the board of adjustment shall consider the mass of the antenna, the nature of the materials and design of the antenna, the location of the antenna in relation to setback lines, adjacent properties and power lines, the presence of screening structures or landscaping, and the visual impact of the antenna on adjacent properties and public rights-of-way.~~

(2) (6) Automatic Stay.

An appeal from an order of the director of development services to the board of adjustment shall stay all proceedings unless the director of development services 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) (7) 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.

Chapter 35, Article V, Section 35-514 is amended as follows:

35-514 Fences and Walls

(a) General

- (1) No fence may be constructed or expanded within the city limits without first obtaining a building permit for such work.
- (2) All fences constructed within the city limits or ETJ shall comply with the clear vision area provisions in Section 35-506, Transportation and Street Design, (d) Cross-Section and Construction Standards, 5. Intersection Sight Distance.
- (3) Freestanding walls, not an integral load bearing portion of a structure, whether constructed of masonry or wood framing, shall be considered fencing.
- (4) All solid screen fences allowed to be constructed in excess of 6 feet in height shall require certification by a licensed engineer or architect that the foundation and support structure are designed to sustain wind loads up to 50 miles per hour.
- (5) If the subject property is within a Historic District, Corridor Overlay or a Neighborhood Conservation District the Director of Planning must make a finding of compliance and compatibility with the provisions of the Historic, Corridor and/or Neighborhood Conservation District prior to issuance of a building permit for any fence.

(b) Fencing Alternatives

- (1) **Sport court fencing:** Fencing, screening and/or back stops for sport courts such as basketball, tennis, batters cages etc. shall be constructed only in the rear yard and shall be located no closer than twenty (20) feet to a side or rear property line of an adjacent single family use or residential zoning district and/or a public or private street.
- (2) **Large lot fencing:** Open fencing at a maximum height of 6 feet may be permitted in the front yard of lots within "RE" and "R-20" single family zoning districts by right and on all other single family zoned lots by special exception. Whether permitted by right or special exception each of the following conditions must be met to construct a six foot fence in the front yard:
 - A. the lot is equal to or greater than twenty thousand (20,000) square feet in size:
 - B. the primary building is located at least forty (40) feet from the front property line and
 - C. the lot has at least one hundred (100) feet of street frontage.

An open fence not exceeding a height of six (6) feet in the front yard may be constructed on a vacant lot. However at such time that a house or structure is constructed on the lot that portion of the fence constructed in the front yard of the house or structure shall be

removed or reduced in height to a maximum of three (3) foot in height for a solid fence and four (4) foot in height for an open fence unless said lot and fence meet the criteria of (2) A, B & C above.

(3) Ornamental-Iron Fences: Ornamental fencing in front yards (see 35-399.04).

(c) Fence Design

(1) (a)—No such fence or wall, or portion thereof, shall exceed one hundred (100) horizontal feet in length unless one (1) of the following architectural features visible from the paved surface of the street is provided as part of the fence:

A. A column or pillar; or

B. (2) articulation of the surface plane wall by incorporating plane projections or recesses having a depth of at least one (1) foot and extending a horizontal distance not less than three (3) or more than twenty (20) feet.

(2) (b)—The provisions of Subsection (1) (a) above shall not apply to a fence or wall constructed of brick, masonry, or iron fencing which consists of at least fifty percent (50%) open voids. The square footage of the fence shall be measured by taking the total square footage of an area defined by the length of the fence and its average height. The percent of open voids shall then be derived by dividing the total square footage of the open voids by the total square footage of the area calculated above, and multiplying this figure by one-hundred (100). The fence's framing (the vertical posts supporting the fence from the ground and no more than three (3) horizontal cross bars between the posts, or brick or stone pillars) shall not be included in the calculation of the total square footage, provided the framing posts and cross bars do not exceed a four (4) inch width and the posts are spaced at least eight (8) feet apart.

(d) (e) Height Limitation

(1) Except for the provisions above no fence constructed shall exceed the following Table of Heights. The height shall be the vertical distance measured from the lowest adjacent ground level (either inside or outside the fence) to the top of the tallest element of the fence material, excluding decorative features affixed to the top of any column, pillar or post. The height of any existing retaining walls, either an integral part of a fence or upon which a fence may be erected, shall be calculated in the height of the fence, except in the following instances:

A. the retaining wall is necessary for structural soundness/integrity of building construction on the lot; or

B. the retaining wall is abutting a drainage easement or drainage infrastructure.

TABLE OF HEIGHTS
Maximum Permitted Fence Heights³

<u>Use or Base Zoning District</u>	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
<u>Single-Family Use</u> Or <u>Residential Zoning Districts (except multi-family)</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>Multi-Family Use</u> Or <u>Multi-Family Zoning Districts</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>Commercial & Office Use</u> Or <u>Commercial & Office Zoning Districts</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>Industrial Use</u> ^{1,2} Or <u>Industrial Zoning Districts</u>	<u>8'0"</u> ^{1,2}	<u>8'0"</u> ^{1,2}	<u>8'0"</u> ^{1,2}
<u>Base Zoning & Flex Districts</u> <u>Churches,</u> <u>Schools</u> <u>& Parks</u>	<u>6'0"</u>	<u>6'0"</u>	<u>6'0"</u>
<u>UD Single-Family</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>UD Multi-Family 15 & 33</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>UD Commercial</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>RD Single Family</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>RD Commercial</u>	<u>3'0" solid fence</u> <u>4'0" open fence</u>	<u>6'0"</u>	<u>6'0"</u>
<u>FR Single-Family</u>	<u>6'0"</u>	<u>6'0"</u>	<u>6'0"</u>
<u>FR AG-Commercial</u>	<u>6'0"</u>	<u>6'0"</u>	<u>6'0"</u>
<u>MI -1 & 2</u> ^{1,2}	<u>8'0"</u> ^{1,2}	<u>8'0"</u> ^{1,2}	<u>8'0"</u> ^{1,2}
<u>MI -1 Village Center</u>	<u>Allowed only by</u> <u>Specific use permit.</u>	<u>6'0"</u>	<u>6'0"</u>
<u>MI -2 Village Center</u>	<u>Allowed only by</u> <u>Specific use permit.</u>	<u>6'0"</u>	<u>6'0"</u>

¹ This subsection shall not apply to fences erected as required by Chapter 16, Article VII of the Code (Salvage Yards and Auto Dismantlers), or in § 35-510 of this chapter.

- ² In L, I-I, I-2, MI-1 & MI-2 industrial districts, fronting or adjacent to commercial uses and/or zoning districts, the maximum permitted fence height shall not exceed that of the permitted fence height in the adjacent non-industrial zoning district or use.
- ³ Shall not apply to perimeter fencing of a subdivision.

~~(1) No fence or wall, other than the wall of a permitted structure, shall be erected or altered in any front yard (that area which lies between the front lot line and that of the nearest principal structure) to exceed a height of four (4) feet with the fence or wall to be so constructed that vision will not be obscured above a height of three (3) feet. Except as provided in subsection (2), below, no fence or wall, other than the wall of a permitted structure, shall be erected or altered in any side or rear yard to exceed a height of six (6) feet. This subsection shall not apply to fences erected as required by Chapter 16, Article VII of this Code (Salvage Yards and Auto Dismantlers), or in § 35-510 of this chapter.~~

(2) Notwithstanding the provisions of Subsection (d) (1), above, a fence may be erected or altered up to a height of eight (8) feet where:

- A. The fence adjoins a perimeter street of the subdivision; or
- B. The ground floor elevation within twenty (20) feet or less of the principal dwelling on an adjoining either one of the two adjoining lots is at least four (4) feet higher than the elevation at the adjoining lot line; or
- C. The fence abuts a side or rear lot line which adjoins a collector street or an arterial street (in which case streetscape planting shall be provided in accordance with § 35-512 of this Code) or
- D. The fence is a sound barrier wall or fence required by TXDOT; or
- E. The additional fence height is permitted by the city council pursuant to a rezoning or specific use permit; or
- F. The fence is located on a residential lot which abuts a "C-3" or more intensive use that does not require a buffer yard ~~bufferyard~~.

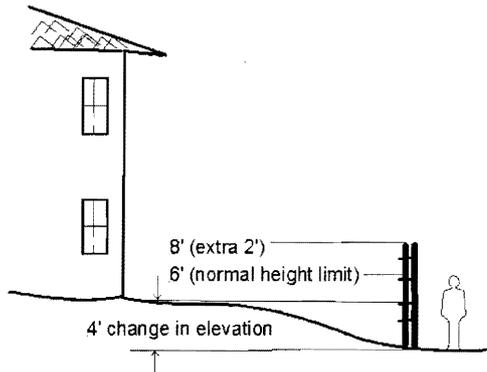


Figure 1: Additional height where home on adjacent lot is 4' higher (subsection (a)(2)B)

(d) **Industrial Districts**

~~In "L", "I-I" and "I-2" districts, not fronting residential or commercial districts, and not located to adversely affect site distance at street and/or alley intersections, there shall be no limitation as to fence height.~~

(e) Uses Adjoining Certain Residential Zoning Districts

- (1) All property zoned for nonresidential or multi-family residential uses ~~after April 1, 1989~~, excluding property located within the Mixed Use District "MXD" or Infill development Zone "IDZ", shall erect and maintain solid screen (opaque) fencing along the property boundaries adjacent to an existing single-family residential use or a more restrictive single-family residential zoning districts. ~~However, the fencing shall be required only when the adjacent property is actually being used for residential purposes.~~
- (2) As a minimum, the fencing shall consist of wood materials and shall be six (6) feet in height except where a lower height is required by subsection (d) ~~(e)~~ above. The fencing shall be required to be constructed and finished prior to obtaining the first certificate of occupancy for the newly zoned property.
- (3) With the zoning applicant's consent, the city council may modify or exempt the residential protection fencing requirement or approve alternative screening measures, such as landscaped buffer yards ~~bufferyards~~, when considering a change in zoning.
- (4) The ~~residential protection~~ fencing requirements of Section 35-514 shall ~~not~~ apply in zoning cases initiated by the city of San Antonio unless specifically so stated in a statement specifically exempting the property from the fence provisions is included in the ordinance approving the zoning.

(f) Apartments

Apartment complexes of twenty-five (25) or more units may erect fences higher than permitted in subsection (d) ~~(a)~~ within the front yard ~~setback~~ in accordance with the following criteria:

- (1) Fencing shall be limited to a maximum height of six (6) feet and shall be constructed of wrought iron or similar material with a minimum spacing of three (3) inches between vertical bars.
- (2) Solid screen fencing ~~or walls~~ may be erected within the front yard ~~setback~~ along side property lines if a three (3) foot landscape area is provided and maintained outside the fence ~~or wall~~ if it abuts a more restrictive zoning district. The landscape area shall contain a minimum of five (5) shrubs per twenty-five (25) linear feet and shall include ground cover.
- (3) All requests for fencing in accordance with this subsection shall be reviewed by the fire and public works departments for accessibility of fire equipment and maintenance of clear vision areas.

(g) Residential Subdivision ~~Subdivisions~~ Perimeter Fencing

(1) Legislative Findings and Purpose.

The city council finds that it is necessary for the public welfare to impose standards to improve and preserve the quality of a subdivision's perimeter fences

in residential neighborhoods in order to avoid blighting influences on neighborhoods and public safety problems.

(2) Applicability.

The requirements of this subsection ~~(e)~~ apply only to fences located along the perimeter of a tract, ~~or~~ parcel or subdivision subject to an application for subdivision plat approval which adjoins and adjoining a collector or arterial street.

(3) Standards.

A. A fence may be constructed of permanent material, such as wood, chain link, stone, rock, concrete block, masonry brick, brick, decorative wrought iron or other material which are similar in durability.

B. The following materials shall not be used for fencing subject to this subsection:

1. Cast-off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence.
2. Plywood less than five-eighths inches thick, plywood not of a grade approved by the code enforcement manager, particle board, paper, and visqueen plastic, plastic tarp, or similar material.
3. Barbed wire, razor wire, and other similar fencing materials capable of inflicting significant physical injury.
4. Sheet, roll or corrugated metal.

C. A fence constructed of wooden boards shall include at least one of the following architectural or landscaping elements for every fifty (50) lineal feet:

1. An offset ~~A wall~~ or column extending at least twelve (12) inches vertically and six (6) inches horizontally from the remainder of the fence; or
2. The fence shall be articulated by means of a recess or a projection extending not less than twelve (12) inches horizontally from the remainder of the fence; or
3. Climbing vines, shrubs or trees shall be planted along the base of that portion of the ~~wall or~~ fence that fronts a public street. The remaining setback area between the fence and property line shall be landscaped with grass or other low ground cover. All plants shall be irrigated and maintained consistent with the provisions of § 35-511 of this article. Only living vegetation may be used to meet these landscaping requirements.

D. All fences shall be maintained by a homeowners association established consistent with the requirements of § 35-503(f)(2), above, so as not to create a hazard, public nuisance or blight in the surrounding neighborhood.

Chapter 35, Article V, Section 35-515 is amended as follows:

35-515 Lot Layout Regulations

(a) Buildings to be on a Lot

(2) Building on or Near Common Property Line (single-family use only).

The current adopted International Building Code and International Residential Code do not provide for building over common property lines without appropriate fire rated walls, projections, openings and penetrations (for the purpose of this section a "common property line" shall refer to any property line between multiple platted lots under the same ownership as indicated in the property records of Bexar County, Texas). The strict interpretation of such a provision adversely impacts the single-family housing market and specifically inner-city areas which were developed with lots as narrow as 25 feet in width. Therefore the cost of rectifying common property lines by an amending plat unfairly impacts housing cost, especially on inner-city lots

A. A single family structure, addition, or accessory structure (excluding accessory dwellings) may be built over a common property line if each and all of the following conditions are met:

1. All of the subject lots shall be under ownership of a single person, partnership, corporation or other recognized legal entity.
2. The building, addition, or accessory structure to be constructed is for single family use and no other use.
3. The lots must be platted unless the property is located in the original 36-square mile area of San Antonio, and the boundaries of the lots were recorded in the Deed and Property Records of Bexar County prior to June 14, 1927. It shall be the obligation of the applicant to provide documentation of the lots' platting or recording prior to June 14, 1927.
4. The side and rear setbacks of the structure in question shall be no less than that required in Section 35-310 Table 310-1.
5. All of the lots in question are within one of the following single family zoning districts: FR, RP, RE, RD, R-20, NP-15, NP-10, NP-8, R-6, R-5, R-4 or R-3.
6. Prior to receiving a building permit the owner shall obtain a certificate of determination from the Department of Development Services that the above five (5) conditions have been met. In addition if the subject property is in a Historic District and/or Neighborhood Conservation District the Director of Planning must make a finding of compliance and compatibility with the provisions of the applicable Historic and/or Neighborhood Conservation District prior to issuance of a building permit.

B. A building may not be built over a common lot line under any of the following conditions:

1. A structure built over a common property line may not be built and/or converted for other than single family use and
2. Under no conditions shall a duplex, tri-plex, four plex or any other multi-family dwellings be permitted without rezoning and platting.

C. An owner may remove a common property line by filing an amending plat per the regulations of Section 35-441.

Chapter 35, Article V, Section 35-516 is amended as follows:

Sec. 35-516. Setback and Frontage Regulations.

(g) Garages and Carports. There shall be a minimum of twenty (20) feet between the back of a sidewalk or the property line and a front entry garage or carport. Carports may be erected behind the minimum front setback required in the applicable zoning district, so long as twenty (20) feet of total parking area depth is maintained within the lot.

Chapter 35, Appendix A is amended as follows:

Fence: A tangible enclosure or barrier, constructed of any material allowable by this Chapter, but not including hedges, shrubs, trees, or other natural growth, erected for the purpose of providing a boundary, separation of areas, means of protection, to prevent uncontrolled access, decorative purposes, or concealment.

Fence (open): A fence constructed so that its surface area, calculated as the square of its heights and applicable length, is constructed with 70% of its surface area as open voids to permit circulation of air and visibility through the fence.

Fence (Solid): A fence constructed so that its surface area, calculated as the square of its heights and applicable length, is constructed with less than 70% of its surface area as open voids.

Fence (Combined): A fence with at least 18" of the lower portion of the fence measured from the ground up is of a solid material (wood, stone and/or masonry) with the upper portion of the fencing being constructed with openings equal to 50% of the total area of the open portion of the fence calculated by the length times the height of the open section of the fence.

Fence (Screen/ing): A fence constructed without any surface voids for the purpose of blocking a person's visual view from a public street.

Wall: An upright structure of building material forming an inner partition or exterior surface of a building or structure (Excludes fences as defined by this Chapter).

SECTION 3. All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

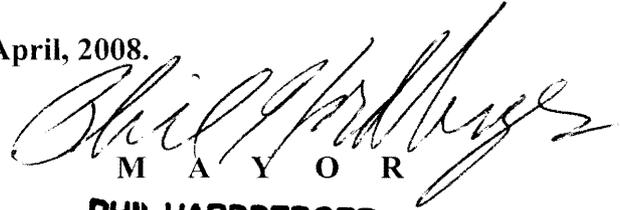
SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. Notice of these changes to the Unified Development Code shall not require the publication in an official newspaper of general circulation in accordance with Chapter 35, Article IV, Division 1, Table 403-1.

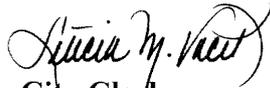
SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 7. This ordinance shall become effective the 13th day of April, 2008

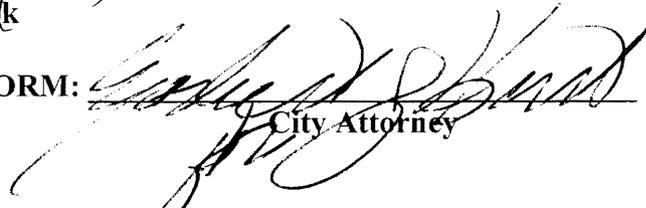
PASSED AND APPROVED this the 3rd day of April, 2008.


M A Y O R
PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

Affidavit of Publisher

AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY ADOPTING VARIOUS PROVISIONS FOR CLARIFICATION AND ADMINISTRATION; AND PROVIDING FOR PENALTIES AND PUBLICATION.

PASSED AND APPROVED this 3rd day of April, 2008.

/S/ PHIL HARDBERGER
MAYOR

ATTEST: LETICIA VACEK
CITY CLERK
4/10

STATE OF TEXAS
COUNTY OF BEXAR
S.A. - CITY CLERK

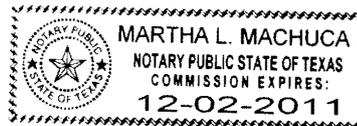
Before me, the undersigned authority, on this day personally appeared Helen I. Lutz, who being by me duly sworn, says on oath that she is Publisher of the Commercial Recorder, a newspaper of general circulation in the City of San Antonio, in the State and County aforesaid, and that the An Ordinance 2008-04-03-0267 here to attached has been published in every issue of said newspaper on the following days, to wit:

04/10/2008.

Helen I. Lutz

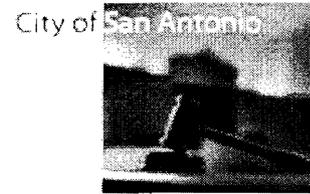
Sworn to and subscribed before me this 10th day of of April, 2008.

Martha L. Machuca





Request for
COUNCIL
ACTION



Agenda Voting Results - 31

Name:	6, 10, 13, 14, 17, 18, 20, 22, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38A, 38B, 38C						
Date:	04/03/2008						
Time:	10:06:43 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance amending Chapter 35, Unified Development Code, of the City Code of San Antonio, Texas, by adopting various provisions for clarification and administration; and providing for penalties and publication. [Roderick Sanchez, Director, Development Services]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				x
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5	x					
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x			x	
John G. Clamp	District 10		x				