

# Zoning Code



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# Article 23-4A: Introduction

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# Division 23-4A-1: Purpose

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### 23-4A-1010 Intent

In adopting this Chapter, it is the intent of the City to protect and promote the public health, safety, convenience, and general welfare of the citizens of the City by exercising all powers related to the regulation and use of land and structures within the City that are authorized by the City Charter and the applicable laws of the State of Texas.

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### 23-4A-1020 Applicability

This Chapter applies to all property, land uses, and development within the City, except as may be specifically exempted within this Title.

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# Division 23-4A-2: Establishment of Zones

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### 23-4A-2010 Intent

The incorporated areas of the City of Austin, Texas, are divided into Residential House-Scale, Residential Multi-Unit, Mixed-Use, Main Street, Regional Center, Commercial and Industrial, and Other base zones. Overlay zones provide standards that apply regardless of the base zone. The zones implement the City’s Comprehensive Plan by providing a mix of intensity of development and a mix of uses that are compatible with the character of the City’s many neighborhoods, districts and corridors.

### 23-4A-2020 Zones

(A) The City of Austin is divided into eight broad categories of zones as listed in Table 23-4A-2020(A) (Zones):

Table 23-4A-2020(A) Zones	
Residential House-Scale Zones	
RR	Rural Residential
LA	Lake Austin
R1A	Residential 1A
R1B	Residential 1B
R1C	Residential 1C
R2A	Residential 2A
R2B	Residential 2B
R2C	Residential 2C
R2D	Residential 2D
R2E	Residential 2E
R3A	Residential 3A
R3B	Residential 3B
R3C	Residential 3C
R3D	Residential 3D
R4A	Residential 4A
R4B	Residential 4B
R4C	Residential 4C

<b>Residential Multi-Unit Zones</b>	
RM1A	Residential Multi-Unit 1A
RM1B	Residential Multi-Unit 1B
RM2A	Residential Multi-Unit 2B
RM2B	Residential Multi-Unit 2A
RM3A	Residential Multi-Unit 3A
RM4A	Residential Multi-Unit 4A
RM5A	Residential Multi-Unit 5A
MHP	Manufactured Home Park
<b>Mixed-Use Zones</b>	
MU1A	Mixed-Use 1A
MU1B	Mixed-Use 1B
MU1C	Mixed-Use 1C
MU1D	Mixed-Use 1D
MU2A	Mixed-Use 2A
MU2B	Mixed-Use 2B
MU3A	Mixed-Use 3A
MU4A	Mixed-Use 4A
MU4B	Mixed-Use 4B
MU5A	Mixed-Use 5A
<b>Main Street Zones</b>	
MS1A	Main Street 1A
MS1B	Main Street 1B
MS2A	Main Street 2A
MS2B	Main Street 2B
MS2C	Main Street 2C
MS3A	Main Street 3A
MS3B	Main Street 3B
<b>Regional Center Zones</b>	
UC	Urban Center
CC	Commercial Center
DC	Downtown Core
<b>Commercial and Industrial Zones</b>	
CR	Commercial Recreation
CW	Commercial Warehouse
IF	Industrial Flex
IG	Industrial General
IH	Industrial Heavy
R&D	Research & Development

<b>Other Zones</b>	
AG	Agricultural
AV	Aviation Services
CL	Conservation Lands
DR	Development Reserve
P	Public
PR	Parks
PUD	Planned Unit Development
<b>Overlay Zones</b>	
BS	Barton Springs
CD	Capitol Dominance
CVC	Capitol View Corridor
DCS	Downtown Civic Spaces
DP	Downtown Plan
HCR	Hill Country Roadway
H and HD	Historic Landmark and Historic District
LA	Lake Austin
UNO	University Neighborhood
WO	Waterfront

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# Division 23-4A-3: Zoning Map

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### 23-4A-3010 Intent

The Zoning Map, which divides the City of Austin into zones, together with all explanatory notes provided on the Zoning Map, is adopted by reference and declared to be a part of this Chapter.

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### 23-4A-3020 Applicability

The zones identified in Table 23-4A-2020(A) (Zones) are mapped on the Zoning Map.

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### 23-4A-3030 Zone Boundary or Classification Changes

If, in compliance with the provisions of this Title, changes are made to zone boundaries, zone classifications, or other matters set forth on the Zoning Map, such changes shall be entered on the Zoning Map within 30 days following the effective date of the ordinance adopting the change.

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### 23-4A-3040 Maintenance of Zoning Map

The Zoning Map shall be kept on file in the office of the Planning Director and shall be maintained in electronic format as authorized by the Director.

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# Division 23-4A-4: How to Use the Zoning Code

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## 23-4A-4010 Intent

The following text is advisory only and is intended to give a brief overview of the overall Zoning Code

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## 23-4A-4020 Organization

- (A) Chapter 23-4 (Zoning) is a separate chapter of Title 23 (Land Development Code) for the City of Austin. It must be used together in conjunction with other related chapters of the Land Development Code. This Chapter is organized as follows:
  - (1) **Article 23-4A: Introduction**
    - (a) Establishes the purpose and intent of the Zoning Code and introduces how the zones applied in the City are organized and mapped.
  - (2) **Article 23-4B: Zoning Administration and Procedures**
    - (a) Provides the procedures for land use approvals (e.g. Conditional Use Permits or Minor Use Permits), land use determinations, zoning map amendments, and variances and special exceptions.
  - (3) **Article 23-4C: General to Large Sites**
    - (a) Provides the general requirements for large sites, including internal connectivity and open space.
  - (4) **Article 23-4D: Specific to Zones**
    - (a) Contains regulations for all zones, including allowed uses and permit requirements, development standards, and parking requirements.
  - (5) **Article 23-4E: Supplemental to Zones**
    - (a) Establishes development standards for code topics such as private frontages; outdoor lighting; parking and loading; landscaping and screening; docks, bulkheads and shorelines; supplemental standards for specific uses, building standards, and some additional generally applicable standards.

- (B) Other chapters of Title 23 (Land Development Code) that are cross-referenced from Chapter 23-4 (Zoning Code) include:
- (1) **Chapter 23-1: Purpose and Applicability**
    - (a) Establishes the legal foundation for the Code and includes an overview of its purpose, authority, jurisdiction, rules of interpretation, and consistency with the City of Austin’s Comprehensive Plan.
  - (2) **Chapter 23-2: Administration and Procedures**
    - (a) Establishes the detailed procedures for the submittal of applications, provision of notice, public hearings, text amendments, quasi-judicial or administrative relief, and definitions of all terms, land uses, and measurements used in the Land Development Code.
  - (3) **Chapter 23-3: General Planning Requirements General to All**
    - (a) Provides the general requirements for parkland dedication, tree and natural area protection, water quality, and affordable housing bonuses across all zones and for property in the **downtown**.
  - (4) **Chapter 23-5: Subdivision**
    - (a) Establishes the processes and requirements for the subdivision of land.
  - (5) **Chapter 23-6: Site Plan**
    - (a) Establishes the processes and requirements for the preparation and submittal of a site plan for new development.
  - (6) **Chapter 23-7: Building, Demolition and Relocation Permits: Special Requirements for Historic Structures**
    - (a) Provides the requirements for Building and Demolition Permits, Relocation Permits, and special requirements for historic structures.
  - (7) **Chapter 23-8: Signage**
    - (a) Establishes the permitting requirements and standards for permanent and temporary signs.
  - (8) **Chapter 23-9: Transportation**
    - (a) Contains the procedures and standards for right-of-way and transportation improvements; traffic impact analyses; street design; standards for the construction of driveways, sidewalks and trails; transportation design management; access and connectivity; and road utility districts.
  - (9) **Chapter 23-10: Infrastructure**
    - (a) Contains the procedures and standards for utility service; water districts; water and wastewater capital recovery fees; and reclaimed water.
  - (10) **Chapter 23-11: Technical Codes**
    - (a) Contains all the technical codes adopted by the City, including for example, the Building Code, Electrical Code, Mechanical Code, Plumbing Code, Fire Code, and Energy Code.



# Article 23-4B: Zoning Administration and Procedures

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# Division 23-4B-1: Land Use Approvals

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## 23-4B-1010 Purpose and Applicability

- (A) This Division establishes procedures for land use permits authorized under this Title. Approval of a land use permit allows greater consideration of the overall context for development than other kinds of administrative applications and may include site-specific conditions to ensure compatibility with surrounding uses.
- (B) Uses that may be allowed in compliance with this Division are generally in keeping with the nature and scale of development allowed in a zone and do not require a rezone or other legislative approval.

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## 23-4B-1020 Conditional Use Permit

- (A) **Purpose and Applicability**
  - (1) A Conditional Use Permit approved by the Land Use Commission is required in compliance with this Section to initiate a use classified as conditional in compliance with Article 23-4D (Specific to Zones).
  - (2) The purpose of requiring a Conditional Use Permit is to ensure that approval of uses which may significantly impact surrounding areas takes into account the context of a proposed development in relation to the public realm and allows for site-specific conditions to mitigate impacts on surrounding areas.
- (B) **Application Requirements**
  - (1) **Planning Element**
    - (a) In addition to information required in compliance with Division 23-2B-1 (Application Requirements), an application for a Conditional Use Permit must include a Planning Element submitted on a form approved by the Development Services Director.
    - (b) The Planning Element must include any information required by the Development Services Director to evaluate whether a proposed use meets the standards for approval in compliance with Subsection (E), but need not include construction-level detail required for an Construction Element or Building Permit application.

- (2) **Concurrent Applications.** The following additional applications may be submitted with a Conditional Use Permit application in compliance with Section 23-2A-2020 (Concurrent Applications):
  - (a) Construction Element. An applicant may submit an application for a construction-level approval, including, but not limited to, a Construction Element or Building Permit, to be reviewed concurrent with the Planning Element Site Plan; and
  - (b) Application for Special Exception. An applicant may submit an application for a Special Exception to the Board of Adjustment requesting a reduction in one or more site development standards applicable to the conditional use, as authorized in compliance with Section 23-4B-4030 (Special Exception-Level 1).
- (C) **Administrative Review Process**
  - (1) **Notice of Application.** The Development Services Director shall provide notice of an application for a Conditional Use Permit in compliance with Section 23-2C-5010 (Notice of Application) and allow parties to submit comments on the application within the time frame established by the Director by administrative rule.
  - (2) **Development Services Director's Report.** Following the comment period, the Director shall provide the applicant with a report including:
    - (a) The Director's preliminary recommendation as to whether the Planning Element Site Plan is sufficient to satisfy the approval criteria in Subsection (E); and
    - (b) If applicable, a description of updates required in compliance with Section 23-2B-1040 (Update and Expiration) for any concurrent applications filed in compliance with Subsection (B)(2).
  - (3) **Applicant's Response.** Following receipt of the Development Services Director's report, and before the application expires, in compliance with Section 23-2B-1040 (Update and Expiration), an applicant may:
    - (a) Request that the application be scheduled for public hearing before the Land Use Commission;
    - (b) Provide revisions to the Planning Element Site Plan or other information required to address issues identified in the Director's report; or
    - (c) Withdraw the application.
- (D) **Public Hearing and Notification.** The Development Services Director shall schedule a public hearing before the Land Use Commission on a Conditional Use Permit application at the request of an applicant in compliance with Subsection (C)(3) once all substantive comments have been cleared, and shall provide notice of the public hearing in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice).
- (E) **Action by Land Use Commission on Application.** After conducting a public hearing on the application, and considering the Development Services Director's recommendation, the Land Use Commission shall approve, conditionally approve, or deny a Conditional Use Permit in accordance with this Subsection.

- (1) **Findings for Approval.** In order to approve or conditionally approve an application for a Conditional Use Permit, the Land Use Commission must find that the proposed use is:
  - (a) Consistent with the applicable goals and policies of the Comprehensive Plan and the purpose of the zone in which the site is located;
  - (b) Not detrimental to public health, safety, and welfare; and
  - (c) Reasonably compatible with existing or approved uses in the surrounding area.
- (2) **Review Criteria.** In determining whether an application meets the findings required for approval in compliance with Subsection (E)(1), the Land Use Commission shall consider the extent to which the proposed use:
  - (a) Is generally compatible in scale, intensity, and character with adjacent developments and neighborhoods;
  - (b) Includes improvements, either onsite or within the public right-of-way, to mitigate adverse impacts related to traffic, noise, odors, visual nuisances, no adverse flooding, and similar adverse effects to adjacent developments and neighborhoods;
  - (c) Can safely accommodate anticipated vehicular and pedestrian traffic consistent with existing and anticipated traffic in surrounding area;
  - (d) Incorporates thoroughfare adjustments, traffic control devices, and access restrictions to control or divert vehicular traffic flow as may be needed to mitigate vehicle traffic on adjacent thoroughfares;
  - (e) Incorporates screening, buffers, and other features to minimize adverse visual or noise impacts of the proposed use on adjacent properties;
  - (f) Adequately mitigates likely impacts of the proposed use on water quality, drainage, and detention; and
  - (g) Meets the site development standards of the zone in which the proposed use is located or, if a Special Exception from one or more standards is requested in compliance with Section 23-4B-4030 (Special Exception-Level 1), the exception will enhance the quality of the use and increase its compatibility with adjoining developments and neighborhoods.

**(F) Conditions of Approval**

- (1) **General Conditions.** In approving a Conditional Use Permit, the Land Use Commission may impose conditions that are reasonably related to the findings required in compliance with Subsection (E). These conditions may include:
  - (a) Limitations on building size, including floor area ratio (FAR), height, or gross floor area;
  - (b) Limitations on impervious cover;
  - (c) Placement or orientation of buildings and entryways;
  - (d) Enhanced setbacks, open space, or buffer standards;
  - (e) A fence, wall, or screen;
  - (f) Additional landscaping or erosion controls;
  - (g) Thoroughfare improvements or dedications;

- (h) Vehicular access and enhanced parking or loading standards;
  - (i) Hours of operation; and
  - (j) Other measures that the Land Use Commission determines are required for compatibility with surrounding uses and for the preservation of public health, safety, and welfare.
- (2) **Late Hours Permit**
- (a) If the Land Use Commission approves a Conditional Use Permit for a bar, nightclub, or restaurant with a late-hours permit, the parking area associated with the use must be a minimum of 200 feet from a Residential House-Scale Zone, unless the use is located within an enclosed shopping center.
  - (b) The Land Use Commission may waive the 200-foot restriction if it finds that the impacts of a parking area are sufficiently mitigated based on the criteria in Subsection (E).
- (G) **Appeal of Decision on Conditional Permit.** The Land Use Commission's decision on a Conditional Use Permit application may be appealed to the Council under Article 23-2I (Appeals).

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## 23-4B-1030 Minor Use Permit

- (A) **Purpose and Applicability**
- (1) A Minor Use Permit may be approved in compliance with this Section for a use classified as a minor use in Article 23-4D (Specific to Zones).
  - (2) The procedures established in this Section authorize the Development Services Director to consider compatibility with surrounding uses and impose appropriate conditions administratively.
- (B) **Application Requirements.** In addition to information required in compliance with Division 23-2B-1 (Application Requirements), an application for a Minor Use Permit must:
- (1) Include a Planning Element Site Plan containing information required by the Development Services Director to determine whether the application meets the criteria established in Subsection (C); and
  - (2) Be filed concurrently with an application for an Construction Element or Building Permit required to construct the use.
- (C) **Administrative Review Process**
- (1) **Notice of Application.** The Development Services Director shall provide notice of an application for a Minor Use Permit in compliance with Section 23-2C-5010 (Notice of Application) and allow parties to submit comments on the application within the time frame established by the Director by administrative rule.

- (2) **Development Services Director's Action on Application.** After the comment period on the application has closed, the Director shall:
  - (a) Approve the application;
  - (b) Approve the application with conditions; or
  - (c) Disapprove the application, in which case the applicant may submit an update in compliance with Section 23-2B-1040 (Update and Expiration).
- (D) **Standard for Approval.** The Development Services Director shall approve or conditionally approve a Minor Use Permit in compliance with this Section if the Director finds that the application satisfies the findings and criteria for approval of a Conditional Use Permit in compliance with Subsection 23-4B-1020(E) (Conditional Use Permit).
- (E) **Conditions of Approval.** The Development Services Director shall impose conditions on the approval of a Minor Use Permit in compliance with the same requirements that apply to the Land Use Commission's approval of a Conditional Use Permit in compliance with Subsection 23-4B-1020(F) (Conditional Use Permit).
- (F) **Appeal.** An interested party may appeal the Development Services Director's decision on a Minor Use Permit to the Planning Commission in compliance with Article 23-2I (Appeals).

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## 23-4B-1040 Effect of Land Use Permit

- (A) **Purpose and Applicability.** This Section establishes the legal effect of Conditional Use Permits and Minor Use Permits approved in compliance with this Article and specifies rules applicable to construction, expiration, and enforcement. For purposes of this Section, the term "land use permit" refers to both Conditional Use Permits and Minor Use Permits.
- (B) **Permit Limited to Approved Use.** Approval of a land use permit:
  - (1) Authorizes development of the property consistent with the approved permit and any conditions imposed on the permit; and
  - (2) Applies only to the specific use and development site for which the permit was issued.
- (C) **Additional Approvals Required.** Initiation or development of a use approved by a land use permit may not occur until an applicant has obtained all administrative approvals required to commence or construct the use.
- (D) **Restrictions on Enlargement of Use.** A use allowed by a land use permit shall not be enlarged, extended, or increased in intensity unless an application for a new Conditional Use Permit or Minor Use Permit is approved in compliance with this Article.
- (E) **Expiration of Land Use Permit.** A land use permit expires in compliance with Chapter 23-6 (Site Plan) unless the applicant obtains all approvals required to construct or commence the use within one year from the date of approval.
- (F) **Suspension or Revocation of Permit.** If construction occurs in violation of a land use permit, or a condition imposed in compliance with a land use permit, the Development Services Director or Building Official may suspend or revoke the permit under Article 23-2J (Enforcement).
- (G) **Prohibition on New Applications.** If a land use permit is denied or revoked, the Development Services Director may not accept a new application for the same or substantially the same use for 365 days from the date of the denial or revocation.

## 23-4B-1050 Temporary Use Permit

- (A) **Purpose and Applicability.** This Section authorizes the Development Services Director to issue a Temporary Use Permit for short-term land uses that are not otherwise allowed within the applicable zone, provided that the use does not interfere with surrounding uses or pose a threat to public health, safety, and welfare.
- (B) **Application Requirements.** An application for a Temporary Use Permit:
- (1) May not be submitted later than 16 days before the date that the temporary use is proposed to begin; and
  - (2) Must include all information required in compliance with Division 23-2B-1 (Application Requirements), in addition other information required by the Development Services Director based on the nature of the proposed temporary use.
- (C) **Temporary Uses Allowed.** The Development Services Director shall approve a Temporary Use Permit for the uses specified in Table 23-4B-1050 (A) (Temporary Uses Allowed), subject to the criteria, conditions, and time limitations established in Subsections (D)-(F).

**Table 23-4B-1050 (A) Temporary Uses Allowed**

### Temporary Uses

#### Recreation Uses and Events

A circus, carnival, rodeo, fair, or similar activity.

An outdoor art, craft show, or exhibit.

An outdoor public, religious, patriotic, or historic assembly or exhibit, including a festival, benefit, fund raising event, or similar use that typically attracts a large audience.

#### Real Estate Sales and Services

Model homes or apartments and related real estate services, if the use is located within the residential development to which the use pertains.

An on-site construction field office, if the use is located in a portable structure and conducted for not more than 180 days.

A sales office for a new subdivision may be allowed as a temporary use in compliance with this Division if the sales office is located within the subdivision and at least 200 feet from existing dwellings outside the subdivision.

A single dwelling located in a mobile structure on a construction site.

#### Retail and Seasonal Sales

Christmas tree, pumpkin, or other similar seasonal event sales.

Seasonal retail sale of agricultural or horticultural products, if the use is located at least 200 feet from a dwelling.

An outdoor special sale, including a swap meet, flea market, parking lot sale, or similar activity.

Retail use that does not provide personal services, food preparation or the sale or consumption of alcoholic beverages; a portable toilet serving the retail use, whether located inside or outside of the use; or the storage of hazardous materials as defined by Division 23-11B-7 (Fire Code).

An advertising or promotional event involving the use of a hot air balloon is allowed in all commercial, industrial, and special purpose base zones.



**(D) Permit Duration, Renewal, and Revocation**

- (1) **Permit Duration.** The Development Services Director shall grant a Temporary Use Permit in compliance with this Section for no more than 180 days.
- (2) **Extension.** At the request of an applicant, the Director may renew or extend a Temporary Use Permit by no more than an additional 180 days.
- (3) **Revocation.** The Director may revoke a Temporary Use Permit at any time, if the use no longer satisfies the criteria required in compliance with Subsection (D) or poses a threat to public health, safety, and welfare. The revocation is subject the procedures established in Article 23-2J (Enforcement), except that suspension is not required prior to revocation.

**(E) Restoration and Cleanup.** A person engaging in a temporary use allowed in compliance with this Section must remove all debris, litter, and other evidence of the use from the site upon termination of the use.**(F) Approval Criteria.** The Development Services Director may approve a Temporary Use Permit for a use listed in Table 23-4B-1050 (A) (Temporary Uses Allowed) if the Director determines that the use is compatible with nearby uses and will not:

- (1) Impair the normal, safe, and effective operation of a permanent use on the same site;
- (2) Adversely affect public health, safety, or convenience;
- (3) Create a traffic hazard or congestion; or
- (4) Interfere with the normal conduct of uses and activities in the vicinity.

**(G) Conditions of Approval.** The Development Services Director may issue condition approval of a Temporary Use Permit as needed to make the determinations required in compliance with Subsection (D), and to minimize adverse effects on nearby uses, including standards for hours of operation, frequency of use, parking, traffic circulation, screening, enclosure, site restoration, and clean-up.

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# Division 23-4B-2: Code Interpretations and Use Determinations

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## 23-4B-2010 Code Interpretations

- (A) **Purpose and Applicability.** This Section authorizes the Planning Director to issue administrative decisions regarding the proper interpretation, meaning, or intent of a site development standard in compliance with Chapter 23-4 (Zoning) or a separately adopted zoning ordinance. Statements of policy or procedural requirements are not subject to this Section.
- (B) **Project-Level Interpretation.** A code interpretation requested in connection with a development application is a “project interpretation” and is subject to the standards of this Subsection.
  - (1) **Request for Interpretation.** During the application period for a Site Plan or Building Permit, an applicant may request that the Planning Director issue a project interpretation regarding whether the application complies with site development standards applicable under this Title or a separately adopted zoning ordinance. An application for a project interpretation tolls the review period required in compliance with Section 23-2B-1050 (Tolling of Expiration Period).
  - (2) **Notice and Decision.** The Director shall:
    - (a) Provide notice of an application for a project interpretation in compliance with Section 23-2C-5010 (Notice of Application); and
    - (b) Within a review period the Director establishes by administrative rule, issue an interpretation in compliance with Subsection (D), and provide notice of the interpretation in compliance with Section 23-2C-5020 (Notice of Administrative Decision).
  - (3) **Effect of Interpretation.** A project interpretation is binding on subsequent stages of review for the project, unless overturned by the Board of Adjustment on appeal in compliance with Section 23-4B-2030 (Administrative Appeal). An interpretation that is not appealed, or is upheld on appeal, may not be subsequently challenged through appeal of a Site Plan or Building Permit approval.
- (C) **Non-Project Interpretation.** A code interpretation that is not associated with a development application is a “non-project interpretation”, and is subject to the standards of this Subsection.
  - (1) **Request for Interpretation.** A non-project interpretation may be requested by any person, at any time, or initiated by the Planning Director.
  - (2) **Notice and Decision.** The Director shall provide notice of a non-project interpretation and application in the same manner required for project interpretations in compliance with Subsection (B)(2).

- (D) **Content of Interpretation.** In making a code interpretation in compliance with this Section, the Planning Director shall provide a written explanation as to the general meaning of the referenced Code Sections and:
  - (1) For a project interpretation, explain how the Code Sections apply to the project for which the interpretation was requested; and
  - (2) For a non-project interpretation, provide common examples as to how the Code Sections apply to particular categories of development.
- (E) **Posting of Interpretations.** The Planning Director shall post code interpretations that are likely to be of general interest.

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## 23-4B-2020 Use Determinations

- (A) **Purposes and Applicability.** This Section establishes procedures for obtaining a determination by the Planning Director regarding:
  - (1) The appropriate classification of an existing or proposed land use or activity in compliance with Article 23-4D (Specific to Zones); or
  - (2) Whether an existing use or structure is non-conforming in compliance with Article 23-2G (Nonconformity).
- (B) **Application, Notification, and Decision Procedures**
  - (1) A use determination may be requested in the same manner as a code interpretation in compliance with Section 23-4B-2010 (Code Interpretations), and is subject to the same notice requirements in compliance with Section 23-2C-5010 (Notice of Application) and Section 23-2C-5020 (Notice of Administrative Decision).
  - (2) In making a use determination, the Planning Director shall explain how an existing or proposed use is appropriately classified in compliance with Article 23-4D (Specific to Zones) or, if applicable, whether an existing use or structure is legally nonconforming in compliance with Article 23-2G (Nonconformity).

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## 23-4B-2030 Administrative Appeal

- (A) A project code interpretation or use determination issued under this Division for a particular development application may be appealed to the Board of Adjustment in compliance with Article 23-2I (Appeals). If the code interpretation or use determination is not appealed, or is upheld by the Board on appeal, a subsequent decision by the Planning Director to approve or disapprove a development application associated with the interpretation or determination may not be appealed under this Section.
- (B) Except as provided in Subsection (A), a person who alleges that the Director's decision to approve or disapprove a development application is inconsistent with a zoning standard adopted under this Title may appeal the Director's decision to the Board of Adjustment subject to the requirements of Article 23-2I (Appeals).

# Division 23-4B-3: Zoning Map Designations and Amendments

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## 23-4B-3010 Zoning Map Designation

### (A) Land Within Zoning Jurisdiction

- (1) All land within the zoning jurisdiction shall be designated as a named zone in compliance with the procedures of State law and this Division.
- (2) Different portions of a site may be designated as different zones, but only one zone designation may apply to any portion of a site.

### (B) Annexed Property

- (1) Annexed property will be zoned in compliance with the procedures required by State law and this Division.
- (2) From the date of annexation until a property is zoned, annexed property will be designated as an interim Rural Residential (RR) Zone, except as described below:
  - (a) Property that is subject to a Planned Development Area Agreement will be designated as an interim **Industrial Flex (IF) Zone** and will be regulated by the Planned Development Area agreement.
  - (b) Property that is included in an approved preliminary plan or final plat for a Planned Unit Development subdivision will be designated as an interim Planned Unit Development (PUD) Zone regulated by the approved plan.
  - (c) Property included in a final plat or an unexpired preliminary plan for a small lot subdivision that was approved in compliance with Article 23-5B (Subdivision Procedures) or Chapter 30-2 (Subdivision Requirements) will be designated as an interim **Residential 2D (R2D) or Residential 2E (R2E) Zone**.

- (d) A lot is designated as an interim **Residential 1B (R1B)** or **Residential 1C (R1C)** Zone if the lot:
  - (i) Is smaller than one acre;
  - (ii) Is included in a final plat or unexpired preliminary plan approved in compliance with Article 23-5B (Subdivision Procedures) or Chapter 30-2 (Subdivision Requirements); and
  - (iii) Does not meet the criteria in Subsections (B)(1)-(B)(2)(c).
- (e) Any unzoned state or federally owned land within the city which is transferred to private interest shall assume an interim classification in compliance with this subsection.
- (f) The Planning Director shall not collect a base zoning application fee between the date of approval of an annexation ordinance and a date one year following the effective date of annexation for property formerly in the extraterritorial jurisdiction, and within the annexed area that has an existing use or planned use as defined by Texas Local Government Code Section 43.002(a) that is not allowed by the interim zoning designated for the property in compliance with this Section, and is smaller than 25 acres in size.

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### **23-4B-3020 Proposed Zoning Boundaries**

The boundaries of zones in a Zoning Map Amendment must be contiguous, unless the amendment is initiated by the Land Use Commission or Council.

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### **23-4B-3030 Zoning Map Amendment Initiation**

- (A) A Zoning Map Amendment may be initiated by the applicant or the applicant’s authorized agent, the Land Use Commission, or the Council.
- (B) **Historic Landmark Overlay Zone.** A Zoning Map Amendment regarding a Historic Landmark Overlay Zone may be initiated by the Historic Landmark Commission, the Council, the applicant, or the applicant’s authorized agent.
- (C) **Historic District Overlay Zone**
  - (1) A Zoning Map Amendment regarding an Historic District Overlay Zone may be initiated by:
    - (a) The Historic Landmark Commission;
    - (b) A petition of the applicants of at least 51 percent of the land, measured by land area, in the proposed zone or at least 51 percent of the applicants of individual properties in the proposed zone; or
    - (c) The Council.

- (2) Property owned by the City or other governmental entities shall be fully excluded from the area subject to petition of the applicants, except such property may be included in support if it contains structures or features that contribute to the historic character of the zone, as determined by the Historic Landmark Commission. The amount of such property to be calculated as supporting shall not exceed one-third of the 51 percent of the land in the proposed zone.

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## 23-4B-3040 Zoning Map Amendment Application

- (A) **Application Requirements.** An application for a Zoning Map Amendment must be filed in compliance with Division 23-2B-1 (Application Requirements), and must include any additional information required by the Planning Director to make a recommendation in compliance with this Section. It is the responsibility of the applicant to provide evidence in support of the findings required by Subsection (F).
- (B) **Notice of Application.** The Planning Director shall give notice of a Zoning Map Amendment application in compliance with Section 23-2C-5010 (Notice of Application) and Section 23-2C-3040 (Notification Signs), if the application is initiated by the applicant or the applicant's authorized agent.
- (C) **Expiration of Application.** A Zoning Map Amendment application expires if any of the following occur:
  - (1) The Planning Director does not schedule the application for a public hearing with the Land Use Commission within 180 days after the date of filing or with the Land Use Commission or Council within 180 days after the date on which the Land Use Commission or Council grants an indefinite postponement of a scheduled public hearing.
  - (2) The Council does not adopt an ordinance within one year after the Council's public hearing on the application is closed.
- (D) **Extension of Expiration Date.** An applicant may request that the Planning Director or Council extend an application that will expire in compliance with Subsection (C)(2). The request for extension must be in writing, not exceed 180 days, must state good cause for the extension, and may not be for more than 180 days.
- (E) **New Application Restrictions**
  - (1) An applicant may not file a Zoning Map Amendment request that is the same or less restrictive for the same property for 540 days from the date a Zoning Map Amendment application is withdrawn or the Council denies a Zoning Map Amendment application, if the application that is withdrawn or denied:
    - (a) Is not recommended by the Land Use Commission and is withdrawn by the applicant before the Council votes on the application;

- (b) Is not recommended by the Land Use Commission and is denied by the Council;
  - (c) Is amended by the applicant before the Land Use Commission makes a recommendation on the application and is withdrawn by the applicant before the Council votes on the application; or
  - (d) Is amended by the applicant before the Land Use Commission makes a recommendation on the application and is denied by the Council.
- (2) An applicant may not file a Zoning Map Amendment request that is the same or less restrictive for the same property for 360 days from the date a Zoning Map Amendment application is withdrawn or the Council denies a Zoning Map Amendment application, if the application that is withdrawn or denied:
- (a) Is not recommended by the Land Use Commission and is withdrawn by the applicant before the Planning Director forwards the application to the Council;
  - (b) Is recommended by the Land Use Commission and is withdrawn by the applicant before the Council votes on the application; or
  - (c) Is recommended by the Land Use Commission and is denied by the Council.
- (F) Findings for Reviewing Proposed Zoning Map Amendments**
- (1) An amendment to the Zoning Map may be approved only if all of the following findings are made:
- (a) The proposed amendment is consistent with applicable goals and policies of the Comprehensive Plan; and
  - (b) The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City, and will add to the public good as described in the Comprehensive Plan.

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### **23-4B-3050 Planning Director's Report**

- (A) The Planning Director shall prepare a report that includes a recommendation on each Zoning Map Amendment application for the Land Use Commission and for the Council.
- (B) The Planning Director's report shall include a recommendation from the City Attorney and a recommendation on the Zoning Map Amendment application.
- (C) The Planning Director's report shall be filed with the Land Use Commission not later than 28 days after the applicable deadline for submittal of a Zoning Map Amendment application.

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### **23-4B-3060 Scheduling of Public Hearings**

The Planning Director may not schedule a Zoning Map Amendment for public hearings before both the Land Use Commission and the Council in the same week, unless the Planning Director receives written support of the application from the staff, neighborhood organizations, and the Zoning Subcommittee of the Land Use Commission.



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**23-4B-3070 Land Use Commission Hearing, Notice, and Recommendations****(A) Hearing and Notice**

- (1) The Land Use Commission shall hold a public hearing on a Zoning Map Amendment application not later than 61 days after the date the application is filed.
- (2) **Developments that Qualify for Type 1 Public Hearing Notice.** The Planning Director shall provide notice of the hearing in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice) and post signs on the subject property in compliance with Section 23-2C-3040 (Notification Signs).
- (3) **Developments that Qualify for Type 2 Public Hearing Notice.** The Planning Director shall provide notice of the hearing in compliance with Section 23-2C-4040 (Type 2 Public Hearing Notice). This Title does not require posting signs for Type 2 Public Hearing Notice in compliance with Section 23-2C-4040 (Type 2 Public Hearing Notice).

**(B) Applications in the Waterfront Overlay (WO) Zone.** If the application includes property located within the Waterfront Overlay (WO) Zone:

- (1) The Planning Director shall request a recommendation from the Small Area Planning Joint Committee to be considered by the Land Use Commission at the public hearing.
- (2) If these Commissions fail to make a recommendation the Land Use Commission or review authority may act on the application without this recommendation.

**(C) Land Use Commission's Recommendation**

- (1) The Land Use Commission must make a recommendation to the Council on a Zoning Map Amendment application no later than 14 days after the Land Use Commission closes the public hearing on the application. If the Land Use Commission does not adopt a recommendation on an application, the Planning Director shall forward the application to Council without the Land Use Commission's recommendation.
- (2) The Land Use Commission may recommend that the Council:
  - (a) Approve the application as proposed subject to conditions;
  - (b) Approve in a modified form; or
  - (c) Deny the application.
- (3) The Planning Director shall report the Land Use Commission's recommendation on the Zoning Map Amendment application to the Council.

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## 23-4B-3080 Council Hearing, Notice, and Decision

### (A) Hearing and Notice

- (1) The Council must hold a public hearing on a Zoning Map Amendment not later than 60 days after the date of the Land Use Commission's recommendation.
- (2) **Developments that Qualify for Type 1 Public Hearing Notice.** The Planning Director shall provide notice of the hearing in compliance with Section 23-2C-4020 (Type 1 Public Hearing Notice) and post signs on the subject property in compliance with Section 23-2C-3040 (Notification Signs).
- (3) **Developments that Qualify for Type 2 Public Hearing Notice.** The Planning Director shall provide notice of the hearing in compliance with Section 23-2C-4040 (Type 2 Public Hearing Notice). This Title does not require posting signs for Type 2 Public Hearing Notice in compliance with Section 23-2C-4040 (Type 2 Public Hearing Notice).

### (B) Postponement of Hearing

- (1) A postponement request specifying the reasons for the postponement must be written and submitted in writing to the Planning Director not later than seven days before the scheduled public hearing. The Planning Director shall provide a recommendation on the validity of the postponement request.
- (2) The City Clerk shall enter an automatic postponement in the minutes with a notation of the identity of the party requesting the postponement.
- (3) An interested party is limited to one postponement for a period of not more than 60 days from the date of the scheduled public hearing, unless otherwise approved by the Council.
- (4) The Council shall set the time and date of the new hearing at the time a postponement is granted.

### (C) Council's Decision

- (1) The Council may approve the Zoning Map Amendment if it is determined of property if the Council determines that Zoning Map Amendment is consistent with the Comprehensive Plan and the purposes of this Title.
- (2) After a public hearing on a Zoning Map Amendment application, the Council may:
  - (a) Approve the Zoning Map Amendment application as requested subject to conditions;
  - (b) Approve in a modified form; or
  - (c) Deny the proposed Zoning Map Amendment.

- (D) Unless authorized by a resolution of the Council, the Planning Director may not schedule a Zoning Map Amendment ordinance for third reading by the Council until:
- (1) The City Attorney has determined that the standards of the City Code have been met and that all required documents protect the interests of the City and have been executed. The City Attorney shall make a determination regarding the documents not later than 14 days after the documents are submitted; and
  - (2) For an application to rezone a property within the Manufactured Home (MH) Zone designation that contains an existing manufactured home park, no earlier than 270 days after all tenants entitled to notice in compliance with Section 23-3E-3020 (Tenant Notification Required) have received the required notification.

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### 23-4B-3090 Requirement for Approval by Three-Fourths of the Council

- (A) An affirmative vote of three-fourths of the members of Council is required to approve:
- (1) Rezoning property to a Planned Unit Development if the Land Use Commission recommends denial of the application;
  - (2) The assignment of a Planned Unit Development zoning designation to previously unzoned property if the Land Use Commission recommends denial of the application by a vote of at least three-fourths of the members of the Land Use Commission; or
  - (3) A proposed rezoning that is protested in writing by the applicants of not less than 20 percent of the area of land included in the proposed change or immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.
- (B) The area of thoroughfares and alleys must be included in the computation of land area defined in Subsection (A)(3).
- (C) The Planning Director shall include the land subject to a condominium regime in a protest in compliance with Subsection (A)(3) if:
- (1) The protest is signed by the authorized officer of the condominium on behalf of the governing body of the condominium and the protest states that the governing body has authorized the protest petition in compliance with procedures required by its bylaws; or
  - (2) The protest is signed by the applicant of an individual condominium unit and the documents governing the condominium establish the right of an individual applicant to act with respect to the applicant's undivided interest in the common elements of the condominium.
- (D) The Planning Director shall include land owned by more than one person in a protest in compliance with Subsection (A)(3) if a written protest is filed by one of the applicants, except as otherwise provided in Subsection (C).

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# Division 23-4B-4: Criteria for Variances and Special Exceptions

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## 23-4B-4010 Purpose and Applicability

- (A) This Division establishes review criteria for zoning Variances and Special Exceptions considered by the Board of Adjustment, consistent with the standards of this Title and Chapter 211 (Municipal Zoning Authority) of the Texas Local Government Code.
  - (B) An application for a Variance or Special Exception authorized under this Division is subject to the application, notification, and other standards established in compliance with Division 23-2F-1 (Variances and Special Exceptions).
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## 23-4B-4020 Variances

### (A) Purposes and Applicability

- (1) This Section establishes findings that the Board of Adjustment is required to make in order to grant a Variance from zoning standards adopted in compliance with this Chapter.
- (2) Consistent with the requirements of state law, the general purpose of a Variance is to provide relief necessary to address hardships unique to a property which deprive the owner of reasonable use. A Variance may not grant special privileges that are inconsistent with limitations on other properties in the area or in the zone in which the property is located.

### (B) General Findings

- (1) The Board of Adjustment may grant a Variance from a site development standard adopted in compliance with this Chapter if the Board determines that:
  - (a) The requirement does not allow for a reasonable use of property;
  - (b) The hardship for which the Variance is requested is unique to the property and is not generally characteristic of the area in which the property is located; and
  - (c) Development in compliance with the Variance does not:
    - (i) Alter the character of the area adjacent to the property;
    - (ii) Impair the use of adjacent property that is developed in compliance with the City requirements; or
    - (iii) Impair the purposes of the standards of the zone in which the property is located.

- (C) **Findings for Parking and Loading Variances.** The Board of Adjustment may grant a Variance from an off-street parking or loading facility requirement if, in addition to the findings required by Subsection (B), the Board finds that:
  - (1) Current or anticipated traffic volume generated by the use of the property or a nearby property does not reasonably require strict compliance with and enforcement of the requirement from which a Variance is requested;
  - (2) Development in compliance with the Variance does not result in parking or loading on public thoroughfares that interferes with the free flow of traffic on thoroughfares; and
  - (3) Development in compliance with the Variance does not create a safety hazard or any other condition that is inconsistent with the objectives of the Code.
- (D) **Bicycle Parking.** A Variance may not be granted in compliance with this Section for a bicycle parking standard. An applicant may seek an administrative waiver of a bicycle standard pursuant to Section 23-4E-3080 (Bicycle Parking).

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### 23-4B-4030 Special Exception-Level 1

- (A) **Purposes and Applicability.** This Section authorizes the Board of Adjustment to approve a Special Exception from a zoning standard applicable to a development application approved by the Land Use Commission in compliance with Section 23-4B-1020 (Conditional Use Permit). The purpose of this Section is to facilitate context-sensitive development by providing flexibility in permitting a Conditional Use Permit.
- (B) **Requirements for Approval.** The Appeals Panel may, on behalf of the Board, grant a Special Exception in compliance with this Section if:
  - (1) The Land Use Commission approved a Conditional Use Permit for the proposed use in compliance with Section 23-4B-1020 (Conditional Use Permit); and
  - (2) The Board:
    - (a) Concurs with the Commission's findings in compliance with Section 23-4B-1020 (Conditional Use Permit); and
    - (b) Finds that granting the exception will enhance the quality of the proposed use and increase its compatibility with adjoining developments and neighborhoods.

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### 23-4B-4040 Special Exception-Level 2

- (A) **Purposes and Applicability.** This Section authorizes the Board of Adjustment to approve a Special Exception to provide relief for residential properties with longstanding code violations that are minimal in degree and have little to no impact on surrounding areas.
- (B) **Restrictions and Limitations.** A Special Exception approved in compliance with this Section:
  - (1) May be used to adjust height, building coverage, or setback required by this Chapter;
  - (2) May not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and
  - (3) May not authorize a remodel or addition to the existing structure, except to the extent required by the Building Official to meet minimum life and safety requirements.

- (C) **Required Findings.** The Board of Adjustment may approve a Special Exception in compliance with this Section if the Board finds that:
- (1) The residential use for which the Special Exception is sought is allowed in a **Residential House-Scale Zone**;
  - (2) The violation does not pose a hazard to life, health, or public safety, as determined by the Building Official based on an inspection;
  - (3) The violation has existed for at least 10 years.
  - (4) The use is a permitted use or a nonconforming use;
  - (5) The structure does not share a lot with more than one other primary residence; and
  - (6) Granting a Special Exception would not:
    - (a) Alter the character of the area;
    - (b) Impair the use of adjacent property that is developed in compliance with city code; or
    - (c) Grant a special privilege that is inconsistent with other properties in the area or in the zone in which the property is located.

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### 23-4B-4050 Special Exception-Level 3

- (A) **Purposes and Applicability.** This Section authorizes the Board of Adjustment to approve a Special Exception for a structure or improvement for a permitted use that was approved by the City in error, without deceit or bad faith on the part of the applicant or owner who obtained the permit.
- (B) **Required Findings.** The Board may approve a Special Exception in compliance with this Section if the Board finds that:
- (1) The structure for which the exception is requested was allowed by the City in error and violates one or more standards of this Chapter;
  - (2) Construction under the approved permit was completed or begun before the permittee or landowner were made aware of the violation;
  - (3) No fraud, deceit, or misrepresentation was practiced to obtain approval of the permit;
  - (4) At the time the permit was issued, no appeal or other proceeding regarding the property was pending before any body or tribunal;
  - (5) The applicant acted in good faith, expending funds or incurring obligations in reliance on the permit; and
  - (6) Approval of the Special Exception will not pose a threat to the public health, safety, and welfare.

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# Article 23-4C: General to All Development

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# Division 23-4C-1: General to Large Sites

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## 23-4C-1010 Applicability

- (A) **Connectivity.** Sites three acres or larger must comply with requirements of Section 23-4C-1040 (Internal Circulation), except:
  - (1) Sites that are subdivided into design sites less than 3 acres in size are exempt from this section. For applicable standards, see Chapter 23-5 (Subdivision) and Article 23-9H (Connectivity).
- (B) **Open Space.**
  - (1) **Common.** Sites two acres or larger must comply with the Common Open Space requirements of Section 23-4C-1050 (Common Open Space); and
  - (2) **Civic.** Sites four acres or larger must comply with Civic Open Space requirements of Section 23-4C-1060 (Civic Open Space).

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## 23-4C-1020 Internal Circulation

- (A) **Applicability.** The standards of this Section apply to development on a site three acres or larger.
  - (1) **Exemptions.**
    - (a) Developments on parcels zoned Residential House Form or Residential Multi-Unit; and
    - (b) Parcels that are subdivided into design sites under three acres in size; and
    - (c) A 100 percent residential project outside the Urban Core is exempt from this Section if the following conditions are met:
      - (i) Sidewalks or pedestrian paths connect all buildings and all amenities; and
      - (ii) No internal block exceeds a perimeter measurement of 2,700 linear feet; and
      - (iii) Internal circulation for vehicular connectivity is provided.

- (B) **Shade and Shelter.** Projects subject to this section shall meet the following shade and shelter requirements:
- (1) A shaded sidewalk must be provided alongside at least 50 percent of the Internal Circulation Route where building frontage is provided under the requirements of this Subchapter.
  - (2) Along an Internal Circulation Route where building frontage is provided, a shaded sidewalk shall comply with the applicable sidewalk standards for that roadway type. If not otherwise required, the shaded sidewalk shall provide trees planted no more than 30 feet on center or a 4' awning.
- (C) **Internal Circulation Route.** An Internal Circulation Route that establishes blocks and forms an interconnected, grid-like transportation system must be provided for development subject to this Division. An Internal Circulation Route must comply with the standards of this Section.
- (D) **Project Circulation Plan**
- (1) A Project Circulation Plan demonstrating the Internal Circulation Route must be submitted with a Site Plan application for projects subject to this Subsection.
  - (2) The Project Circulation Plan must demonstrate that the project:
    - (a) Meets the applicable standards of this Subsection;
    - (b) Integrates with existing and planned streets, bicycle and pedestrian facilities, and trails in the surrounding area; and
    - (c) Is consistent with area mobility goals, as contained in the Transportation Plan or an approved collector plan.
  - (3) **Review and Approval**
    - (a) A Project Circulation Plan must be reviewed and approved by the Transportation Director under the standards of this Subsection.
    - (b) The Transportation Director may approve a Project Circulation Plan containing blocks bounded by railroad right-of-way, subdivision boundary lines, or natural features if no reasonable alternatives are available.
    - (c) Revisions to the Project Circulation Plan may be approved by the Transportation Director after considering the circulation characteristics of a proposed development plan, the need for access to adjoining properties, and the compatibility of surrounding development.
    - (d) The Transportation Director may waive the standard for a Project Circulation Plan if the Transportation Director finds that a plan is not necessary due to the nature of the proposed development on the site, the existence of surrounding incompatible development, or other factors unique to the property which make strict compliance infeasible.
- (E) **Internal Sidewalk Network**

- (1) Sidewalks must be provided along both sides of all Internal Circulation Routes (whether built as public streets or as private drives) unless no buildable area exists on one side.
- (2) Where required, sidewalks must comply with the applicable standards for public sidewalks in Article 23-9E (Driveway, Sidewalk, Urban Trail, and Right-of-Way Construction).

**(F) Building Placement**

- (1) Buildings must be oriented along an Internal Circulation Route or the adjacent public roadway and must meet the placement standards as provided in the zone standards in Article 23-4D (Specific to Zones).

**(G) Off-Street Parking.** Off-street parking is prohibited between the Internal Circulation Route and the corresponding street-facing facade line.

**(H) On-Street Parking.** On-street parallel, head-in angle, and reverse angle parking are allowed on an Internal Circulation Route, subject to compliance with fire access standards, and, if the Internal Circulation Route is a public street, subject to approval of the Transportation Director based on adopted administrative criteria. If the Internal Circulation Route is intended to accommodate bicycles, head-in and angle parking is not permitted.

**(I) Vehicular and Pedestrian Connections Between Sites**

- (1) **Requirements.** All sites or developments subject to this Subsection must:
  - (a) Provide private drive or public street connections to existing private drives or public streets on adjacent sites, or stub-outs if connections are not feasible; and
  - (b) Where a public street is adjacent to the property line, provide direct pedestrian and bicycle access from that street to a customer entrance. The pedestrian and bicycle access points must be fully accessible during operating hours.
- (2) **Additional Measures to Improve Connectivity.** All sites or developments subject to this Section must be developed in compliance with at least two of the options in Table 23-4C-1020(A). However, if surface parking amounts to more than 125 percent of the parking required by the zone standards applicable to the parcel, compliance with at least three of the options in Table 23-4C-1020(A) is required.

Table 23-4C-1020(A) Additional Measures to Improve Connectivity	
Option	Description/Comments
<b>Pedestrian and Bicycle Access and Facilities</b>	
Provide connection to adjacent residential development.	Provide connection to the property line, and to an existing pathway if one is present on the adjacent site. Compliance with this option also may include providing a sidewalk that connects the project site to an adjacent residential development and that runs along a public roadway where no sidewalk currently exists or where the existing sidewalk does not meet the width standards in this Subchapter.
Provide connections from adjacent parkland.	Provide connection and access from the trail or walkway system on adjacent parkland to the building entrance. The access points must be fully accessible during operating hours and must meet City standards for pedestrian and bike ways.
Provide easement for Multi-Use Trail.	Provide a public access easement for the construction of a multi-use trail connecting to or proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan or Bicycle Path. Requires approval of the Public Works Director.
Provide shower and locker facilities for employees and increase required bicycle parking by 10%.	Enhance physical fitness opportunities and multi-modal connectivity.
Provide secure indoor bicycle storage in building or parking structure.	
Construct a sidewalk along a public street frontage.	Exceed applicable sidewalk standards (this should be a requirement for any project, applicable sidewalk standards should be changes to reflect what is wanted).
Limit curb cuts.	
<b>Heat Island Effect Reduction</b>	
Provide shaded sidewalks along 100% of all publicly visible building facades.	
Provide solar power shading devices in parking lots.	
Provide at least 10% of parking underground or within a parking structure.	
<b>Other</b>	
Incorporate a transit stop into the project.	
Locate internal utility lines in drive aisles or Internal Circulation Routes, rather than under parking areas.	

### 23-4C-1030 Common Open Space

- (A) **Purpose.** Open air and semi-enclosed public gathering spaces act as central organizing elements in a large development. They also help to shape the relationship between different land uses and provide focal points and anchors for pedestrian activity. Goals and standards for common open space and pedestrian amenities complement this Title’s standards for Civic Open Space and Parkland Dedication, and serve similar purposes.
- (B) **Amenity Required.** When required, common open space must meet the standards as provided in Table 23-4C-1030(A). Civic Open Space provided in compliance with Division 23-4C-2 (Civic Open Space) can satisfy, in whole or in part, the requirements of this Section.

**Table 23-4C-1030(A) Open Space and Amenities**

Amenity Type	Minimum Depth	Minimum Width	Total Area (min.)	Additional Requirements
Natural and undeveloped common open space	—	—	—	For use by residents, employees, and/or visitors for either active or passive recreation.
Landscape area	20 ft	20 ft	650 sf	Landscape area must be other than one required by Division 23-4E-4 (Landscape); Must include pedestrian amenities.
Patio or plaza with outdoor seating areas	20 ft	20 ft	650 sf	Must include fully or partially shaded spaces with seating. Must be patio, plaza, or seating other than as required to comply with Subsection (C)(3).
Play area suitable for children under 9	20 ft	20 ft	650 sf	Must comply with Consumer Product Safety Commission guidelines for playgrounds, ASTM International standards, impediments (e.g., fencing, landscaping) between vehicular drives and activity areas.
Spaces that provide educational, historic, or cultural features, such as culinary, therapeutic or sculptural gardens; soundscapes, and interactive water features	—	—	—	—
Swimming pools, wading pools, or splash pads	—	—	—	—
Water quality and storm water detention ponds	—	—	—	Must be designed as an amenity and approved by the Watershed Director.

Multi-use trail	—	—	—	Must be or proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Plan, or other trail connections as approved by the Parks Director.
Basketball, tennis, volleyball, or other sport courts or playing fields	—	—	—	—
A transit plaza, on private property, that is.	—	—	—	Must be adjacent to a Capital Metro MetroRapid stop or station
A combination of the above-listed amenities	—	—	—	—

**(C) Location Criteria**

- (1) To the maximum extent feasible, the applicant shall give priority to the preservation of significant natural and scenic resources as **common open space**. The Development Services Director will use all applicable plans, maps, and reports to determine whether significant resources exist on a proposed site that should be protected, with priority being given to the following areas (listed in no particular order):
  - (a) Wetlands;
  - (b) Flood hazard areas;
  - (c) Lakes, rivers, and stream riparian corridors;
  - (d) Tree preservation areas;
  - (e) Karst areas;
  - (f) Cultural or historically significant structures, landscapes, features, and/or places; and
  - (g) Agricultural lands used for cultivation of local produce.
- (2) Where **common open space** areas, trails, parks, or other public spaces exist or are proposed in the City of Austin Trails Master Plan, Austin Parks and Recreation Long-Range Plan, Sidewalk Master Plan, or Bicycle Plan within or adjacent to the tract to be subdivided or developed, the **common open space** or pedestrian amenity must be located to adjoin, extend, and enlarge the existing or proposed trail, park, or other open area. Public access easements may be required to guarantee public access to these facilities.
- (3) Where there is a BRT station adjacent to the tract to be developed, a portion of the **common open space** must, to the maximum extent feasible, be located to adjoin, extend, and enlarge the existing or permitted station. For sites greater than one acre, the **common open space** must be a minimum of 150 square feet, plus an additional 100 square feet per acre over one, not to exceed 1,000 square feet. This will apply only outside the Downtown Core (DC) and Commercial Core (CC) Zones.

**(D) Areas Not Credited.** Land within the following areas shall not be counted towards **common open space** required by this Section:



- (1) Areas within a required street setback;
  - (2) Public or private streets or rights of way;
  - (3) Off-street parking, loading areas, driveways, and service areas; and
  - (4) Water quality and storm water detention ponds, unless designed as a publicly available amenity and approved by the Parks Director.
- (E) **Design Criteria.** Land set aside for **common open space** in compliance with this Section must meet the following design criteria:
- (1) **Common open space** areas shall be located to be readily accessible and usable, unless the land includes sensitive natural resources.
  - (2) Open space areas shall be compact and contiguous unless the **common open space** is used as a continuation of an existing trail, or specific or unique topographic features that are adjacent or adjoining require a different configuration.
  - (3) The surface of a required **common open space** must be suitable for outdoor activities, such as lawn or asphalt for designated recreation areas.
  - (4) Not more than 30 percent of the required **common open space** may be located on a roof, balcony, or other area above ground level, except as provided in this Section. Required **common open space** cannot include areas occupied by mechanical equipment or structures not associated with designated recreation areas.
  - (5) Maximum 50 percent of the required **common open space** may be located on a roof, balcony, or other area above ground level, only if minimum 50 percent of the above-ground **common open space** is designed as a vegetated or green roof.
  - (6) **Common open space** on a roof, balcony, or other area above ground level must be screened from the view of adjacent property that is in a Residential House Form Zone, in compliance with the standards in Division 23-4E-4 (Landscape).
  - (7) Not more than 50 percent of ground level **common open space** may be covered by a fixed manmade obstruction, including a roof, balcony, or building projection. Above-ground **common open space** that is accessible to the public is not to be considered manmade obstructions.
  - (8) **Common open space** above ground level may be covered, but must have at least one exterior side open and unobstructed, except for railings or balustrades.
- (F) **Maintenance.** All **common open space** areas must be permanently maintained by the property owners of the development.
- (G) **Fee In Lieu**
- (1) Instead of providing **common open space** as required in this Section, the applicant may request approval to deposit with the City a nonrefundable cash payment to be used for the acquisition or improvement of open space that will serve residents of the development.
  - (2) The criteria for approving payment of a fee and the formula for calculating the fee amount shall be adopted by the Council, with a recommendation from the Parks Director.
  - (3) The Parks Director shall review a request for payment of a fee based on the adopted criteria and accept or deny the request no later than 15 days following its receipt.

## 23-4C-1040 Civic Open Space

### (A) General

- (1) Site plan submittals and subdivision applications shall designate civic open space in compliance with the requirements of Division 23-4C-2 (Civic Open Space).
- (2) The design of civic open space shall meet the standards set forth in Division 23-4C-2 (Civic Open Space).
- (3) Exemptions from this section do not preclude the dedication of parkland if required by Article 23-3B (Parkland Dedication).

### (B) Civic Open Space Amounts and Locations

- (1) The dedication of land or provision of a recreation easement to the City for Parkland Dedication in Article 23-3B (Parkland Dedication) may contribute to satisfying the requirements of this section.
- (2) Site plan submittals and subdivision applications shall set aside a minimum of 10 percent of the net development acreage as civic open space. This number shall be calculated after street rights-of-way are subtracted from the total development acreage. The following are exceptions:
  - (a) For sites less than eight acres and within 1/4 mile of an existing publicly accessible park of at least one acre, no civic open spaces are required.
  - (b) Each residential lot within the Urban Core shall be within 1/4 mile of an existing or proposed civic open space, and each residential lot outside of the Urban Core shall be within 1/2 mile of an existing or proposed civic open space.
  - (c) For sites greater than 15 acres, the required amount of civic open space shall be distributed throughout the neighborhood as multiple civic open spaces no less than 0.25 acres in size. See Figure 23-4C-1040(1).



*Figure 23-4C-1040(1) Distributing civic open spaces throughout the community ensures that all residents have access to an open space within walking distance of their homes.*

- (C) **Public Access and Visibility.** Along public parks, civic uses, and natural open spaces, including creeks and drainages, public access and visibility shall be maintained through the use of:

- (1) Single-loaded frontage streets (those with development on one side and open space on the other);
- (2) Bike and pedestrian **publicly accessible multi-use trails**; or
- (3) Other methods of frontage that provides similar access and visibility to the open space that are appropriate in the zone and use of the space.

**(D) Ownership and Maintenance**

- (1) Set-aside areas shall be maintained as permanent civic open space through one or more of the following options:
  - (a) Establishment of an entity to manage and maintain the set-aside by the property owner, in a form that ensures long-term maintenance and management;
  - (b) Conveyance of the land to a property owners' or homeowners' association that holds the land in common ownership and will be responsible for managing and maintaining it for its intended purposes;
  - (c) Conveyance of the land to a third party beneficiary, such as a nonprofit environmental or civic organization, that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes; or
  - (d) Dedication of the land to the City or other appropriate public agency that is organized for, capable of, and willing to accept responsibility for managing and maintaining the land for its intended purposes.
- (2) If a set-aside is to be conveyed to a property owners' or homeowners' association, the association shall be established in accordance with the following:
  - (a) The landowner shall submit documents for the creation of the property owners' or homeowners' association to the City for review and approval. The documents shall include the association's bylaws, a legal description of open space set-aside areas, and all documents governing ownership, maintenance, and use restrictions for the set-aside;
  - (b) Documents for the creation of the association shall provide that membership in the association is automatic (mandatory) for all purchasers of land, dwelling units, or structures in the development, and their successors in title, and that the association shall have clear legal authority to compel contributions from members to cover their proportionate share of the costs associated with the maintenance of common areas and facilities; and
  - (c) The landowner shall agree that the association shall be established (with all required documents for its creation properly recorded), and operating (with financial subsidization by the landowner or applicant, if necessary) before approval of the first Building Permit for the development.
- (3) If the set-aside is to be conveyed to a third party beneficiary, such as a non-profit civic organization, then the conveyance shall include deed restrictions that:
  - (a) Govern the use, management, and maintenance of the set-asides, consistent with the standards in this Section;
  - (b) Run with the land in perpetuity; and
  - (c) Include any other provisions the City Attorney deems necessary and appropriate to fulfill the requirements of this Section.

- (4) All methods utilizing private ownership shall include deed restrictions, covenants, or other legal instruments that ensure continued use of the land and facilities for their intended uses and provide for the continued and effective management, operation, and maintenance of the land and facilities.

# Division 23-4C-2: Civic Open Space

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## 23-4C-2010 Purpose

This Division sets forth standards for a wide range of civic open space types appropriate to Austin.

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## 23-4C-2020 Applicability

The standards established in this Division apply to all civic open spaces and shall be considered in combination with Article 23-4D (Specific to Zones) and Division 23-4C-1 (General to Large Sites).

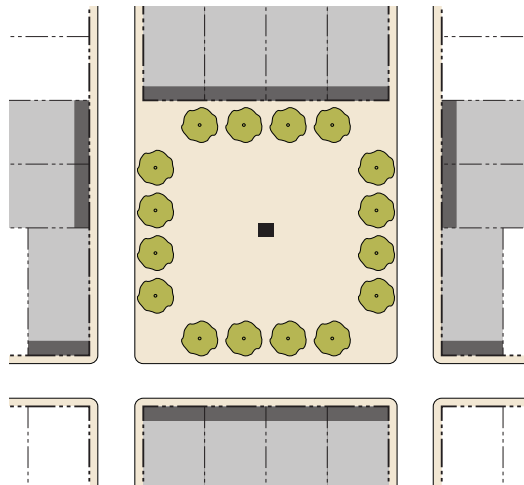
These standards must be considered in combination with the parkland dedication standards in Article 23-3B (Parkland Dedication). If there is a conflict between any standards the provisions of Article 23-3B (Parkland Dedication) control over Article 23-4D (Specific to Zones). If there is a conflict with any other requirements of this Title, the provision which is more restrictive or imposes higher standards or requirements shall control, so that in all cases the most restrictive provision shall apply.

Civic open space may be used to satisfy common open space requirements as described in Section 23-4C-1030 (Common Open Space) when those spaces both meet the requirements in this Division and are publicly accessible.

**23-4C-2030 Civic Open Space Design**

**(A) Building Frontage**

- (1) Building frontage is the relationship along property lines of an open space to adjacent buildings and lots.
- (2) The facades on the lots attached to or across a street from a civic open space shall be designed so that primary entrances and the primary facade shall front onto the open space for a minimum of three quarters of the open space perimeter, in combination with the allowed frontage.



*Civic Open Space Diagram showing building front in dark grey.*

Key:  = front

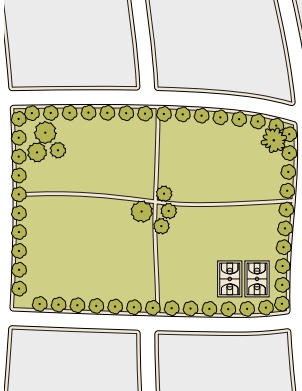
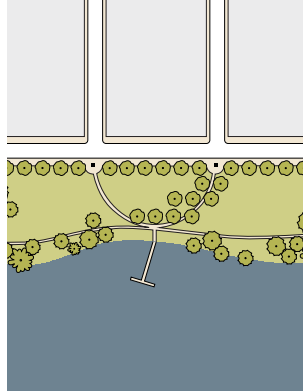


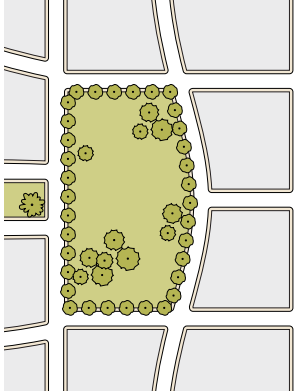
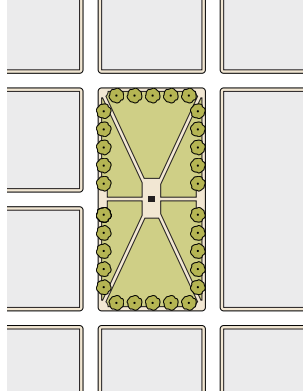
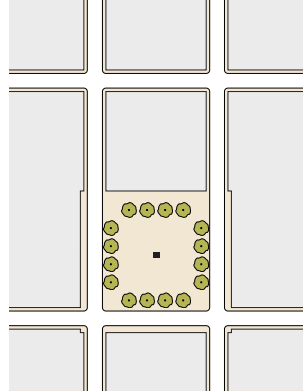
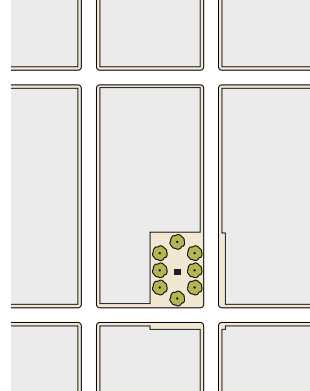
- (B) Accessory Structure Standards.** All accessory structures within civic open spaces, including, but not limited to, restrooms, open-air pavilions, gazebos, picnic shelters and outdoor theaters are not subject to the physical requirements of the Building Form Standards in Article 23-4D (Specific to Zones). They shall be designed and furnished to be consistent with the character of the zoning district in which they are located. Such consistency may require accessory structures to maintain building setbacks, frontage, massing, and character similar to adjacent development as determined by the Planning Director.

**23-4C-2040 Civic Open Space Types Overview**

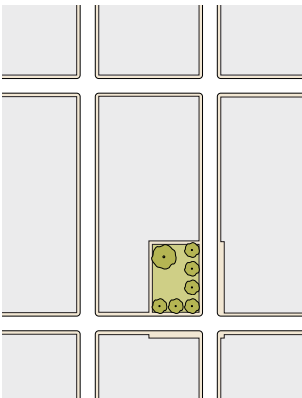
The standards established in this Division provide the zones with a diverse palette of parks and other publicly accessible civic open spaces that are essential components of walkable urban environments.

- (A) There are 12 different civic open space types defined in Table 23-4C-2040.A (Civic Open Space Types Overview). Two of the civic open space types, Nature Space and Community Garden, may be incorporated into any of the other 10 types or may stand alone.

**Table 23-4C-2040.A Civic Open Space Types Overview**

<p><b>Neighborhood Park</b></p> 	<p><b>Greenbelt</b></p> 	<p><b>Stormwater Amenity</b></p> 	<p><b>Linear Park</b></p> 
<p>Medium-scale public urban open space that provides basic recreational opportunities close to home.</p>	<p>Natural corridor that often follows a river, creek, ridgeline, valley, or other linear public open space.</p>	<p>Large public open space that accommodates required water quality and/or detention ponds with trails and other natural recreation amenities.</p>	<p>Linear space for community gathering and strolling for nearby residents and employees.</p>
<p><b>Green</b></p> 	<p><b>Square</b></p> 	<p><b>Plaza</b></p> 	<p><b>Pocket Plaza/Paseo</b></p> 
<p>Public urban open space available for civic purposes, commercial activity, informal recreation, and other informal uses.</p>	<p>Public urban open space available for civic purposes, commercial activity, recreation, and other informal uses.</p>	<p>Public urban open space that offers abundant opportunities for civic gathering.</p>	<p>Small-scale public urban open space that serves as an impromptu gathering place for civic, social, and commercial purposes.</p>

**Table 23-4C-2040.A Civic Open Space Types Overview (continued)**

Pocket Park	Nature Space	Community Garden	
			
<p>Small-scale public urban open space intended to provide recreational opportunities where (publicly accessible/park) space is limited.</p>	<p>An open space where children of all ages and abilities and adults play and learn by engaging with diverse natural elements, materials, and organisms.</p>	<p>Small-scale open space designed as a grouping of garden plots available to nearby residents for small-scale cultivation.</p>	



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## 23-4C-2050 Civic Open Space Standards

- (A) Sections 23-4C-2060 to 23-4C-2170 provide standards for required civic open spaces. The sections provide a palette of civic open space types to apply to a development. The standards are described in 23-4C-2050(B)-(E) below. The images in Sections 23-4C-2060 to 23-4C-2170 are illustrative and not regulatory.
- (B) **General Character.** The placement of objects within the civic open space. Shade shall be integral to all designs.
  - (1) **Naturalistic Design.** Civic open spaces with naturalistic design character shall be composed in a natural manner with no formal arrangement of elements.
  - (2) **Formal Design.** Civic open spaces with formal design character shall be composed in a more rigid layout that follows geometric forms and has trees and other elements arranged in formal patterns.
  - (3) **Hybrid Design.** Civic open spaces with hybrid design character shall be composed to have a mix of naturalistic and formal design characteristics.
- (C) **Size and Location.** Specifies a minimum and/or maximum size for each type; the orientation of the space to road and building frontages; and maximum pervious cover.
- (D) **Typical Uses.** A list of the typical uses or facilities found within the civic open space. This list is not intended to be a complete list of facilities allowed nor is it intended that every civic open space would contain each of the facilities listed.
- (E) **Parking.** Open Space 5 acres or less, no requirement; greater than 5 acres, as determined by Planning Director.

**23-4C-2060 Neighborhood Park**



**A. Description**

Medium-scale public urban open space that provides informal recreational opportunities close to home with access by foot or bicycle and responds to demographic and cultural characteristics of neighborhood. Typically located in the center of a single neighborhood or in conjunction with a trail system or elementary school.

**B. General Character**

Naturalistic or hybrid design.

Open play areas, open shelters with picnic tables, playgrounds, basketball and tennis courts. Landscape treatment varies from traditional grass and trees to more natural areas with native plants, wildflowers, and less intensive maintenance techniques.

**C. Size and Location**

Min. perimeter along street: 50%

2-30 acres

Within 1 mile of residences

Min. pervious cover: 50%

**D. Typical Uses**

Informal recreation; group gathering, nature play

General Note: Images on this page are illustrative, not regulatory.

**23-4C-2070 Greenbelt**



**A. Description**

Natural corridor that often follows a river, creek, ridgeline, valley, or other linear public open space. Can serve multiple functions, such as hike and bike trails, a linear park system, a wildlife corridor, an area for flood control, a means of preserving water quality, and a bicycle pedestrian linkage throughout a community.

**B. General Character**

Naturalistic design.

Multi-use trail. Trees lining trail for shade. Appropriately lit for safety.

**C. Size and Location**

Min. perimeter along street: 25%	
Min. width: 30'	Avg. width: 60'
Min. length 1 mile	Min. pervious cover: 90%

**D. Typical Uses**

Informal recreation; casual seating, group gathering, trailheads, nature play

*General Note: Images on this page are illustrative, not regulatory.*

### 23-4C-2080 Stormwater Amenity



General Note: Images on this page are illustrative, not regulatory.

#### A. Description

Open space that accommodates both recreational amenities and required stormwater controls, including flood detention and green stormwater infrastructure such as rain gardens. The area is designed to be attractive and open to public view.

#### B. General Character

Naturalistic, formal, or hybrid design.

Landscape treatment varies from formal plantings to more natural areas with native plants and wildflowers. Limited use of hard edges. Recreational trails or sidewalks connect to nearby pedestrian sidewalks. Must be designed as an amenity in compliance with the Environmental Criteria Manual.

#### C. Size and Location

Min. pedestrian access: 50% of perimeter

Min. pervious cover: 90%, unless approved by the Planning Director

#### D. Typical Uses

Informal recreation, trails, and overlooks. No dog parks or organized sports.

**23-4C-2090 Linear Park**



**A. Description**

Linear space for community gathering and strolling for nearby residents and employees. These parks are defined by the tree-lined streets forming a one way couplet on their flanks as well as by the fronting buildings beyond. Due to their narrow dimensions, linear parks will be for informal use. Linear parks can serve an important role as a green connector between destinations.

**B. General Character**

Naturalistic, formal, or hybrid design.

Hardscape path. Spatially defined by buildings and tree-lined streets. Shaded. No fencing.

**C. Size and Location**

Min. width: 60'                      Min. pervious cover: 70%

Must front at least one street

**D. Typical Uses**

Informal recreation; strolling, walking, running, and biking; casual seating; art exhibits

*General Note: Images on this page are illustrative, not regulatory.*

**23-4C-2100 Green**



**A. Description**

Public urban open space available for civic purposes, commercial activity, informal recreation, and other informal uses.

**B. General Character**

Formal or hybrid design.

Spatially defined by street frontage, building frontages, and landscaping. Lawns, trees, and shrubs naturally disposed. Open shelters and paths formally disposed.

**C. Size and Location**

0.25–3 acres

Min. width: 25'

Min. pervious cover: 80%

Must front at least one street.

**D. Typical Uses**

Informal recreation; casual seating; commercial and civic uses; no organized sports. Focus on informal play, grass games and picnicking, and community gathering.

*General Note: Images on this page are illustrative, not regulatory.*

**23-4C-2110 Square**



**A. Description**

Public urban open space available for civic purposes, commercial activity, informal recreation, and other informal uses.

**B. General Character**

Formal or hybrid design.

Spatially defined by buildings and tree-lined streets. Open shelters, paths, lawns, and trees formally arranged. Walkways and plantings at all edges. Abundant seating opportunities.

**C. Size and Location**

0.25–3 acres

Min. width: 50'

Min. pervious cover: 60%

Min. perimeter frontage on public right of way: 75%

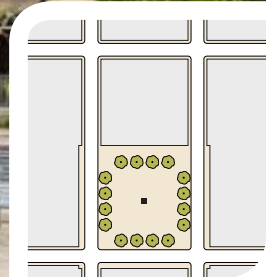
Located at important intersections

**D. Typical Uses**

Informal recreation; no organized sports; community gathering; occasional commercial and civic uses

General Note: Images on this page are illustrative, not regulatory.

**23-4C-2120 Plaza**



**A. Description**

Public urban open space that offers abundant opportunities for civic gathering. Adds to the vibrancy of streets and transit stops within the more urban zones.

**B. General Character**

Formal design.

Spatially defined by building frontages. A balance of hardscape and planting. Trees important for shade.

**C. Size and Location**

0.1-1 acre

Min. width: 30'

Min. pervious cover: 40%

Min. perimeter frontage on public right of way: 30%

Located at important intersections, at vista termini, or at entrances to public/civic buildings

**D. Typical Uses**

Commercial and civic uses; formal and casual seating; tables and chairs for outdoor dining; retail and food kiosks

General Note: Images on this page are illustrative, not regulatory.



**23-4C-2130 Pocket Plaza/Paseo**



**A. Description**

Small-scale public urban open space that serves as an impromptu gathering place for civic, social, and commercial purposes. Designed as a well-defined area of refuge separate from the public sidewalk, either linear or centralized. Frequently located in a building supplemental zone next to the streetscape.

**B. General Character**

Formal design.

Spatially defined by the building configuration. Defined seating areas. Refuge from the public sidewalk.

**C. Size and Location**

Min. 400 sf

Min. width: 20'

Min. pervious cover: 40%

Min. perimeter frontage on public right of way: 25%

Located at important intersections, at vista termini, or at entrances to public/civic buildings

**D. Typical Uses**

Civic and commercial uses; formal and casual seating

General Note: Images on this page are illustrative, not regulatory.

**23-4C-2140**    **Pocket Park**



**A. Description**

Small-scale public urban open space responding to specific user groups. Intended to provide recreational opportunities where publicly accessible space is limited. Typically should be placed within new areas of high population density, such as Transit-Oriented Developments or Vertical Mixed-Use. Often located between buildings and developments, on single vacant lots, and on small irregular pieces of land.

**B. General Character**

Formal or hybrid design.

Range of character can be for recreational use or aesthetic enjoyment. Low maintenance is essential.

**C. Size and Location**

0.25–1.99 acres                      Min. pervious cover: 50%

Within a few blocks or up to 1/4 mile of residences

**D. Typical Uses**

Development varies per user group

*General Note: Images on this page are illustrative, not regulatory.*

**23-4C-2150 Nature Space**



**A. Description**

A designated, managed location in an existing or modified outdoor environment where children of all ages and abilities and adults play and learn by engaging with and manipulating diverse natural elements, materials, organisms, and habitats, through sensory, fine motor, and gross motor experiences. Meeting the needs and pleasures of the adult and child, with much to explore, throughout all the seasons.

**B. General Character**

Naturalistic design.

Features may include: Seating (contemplative and/or learning areas), Nature Walking Trails, Water Infiltration features (bioswales, rainwater gardens, dry creeks), Habitats (pollinator meadows, vegetable gardens), nature play areas (boulders & logs, climbing stumps & play hills).

**C. Size and Location**

Min. 300 sf Min. pervious cover: 80%

Residential districts, streets, urban trails, greenways, parks, childcare centers, schools

**D. Typical Uses**

Outdoor health, learning, exploration and free play

*General Note: Images on this page are illustrative, not regulatory.*

### 23-4C-2160 Community Garden



#### A. Description

Small-scale open space designed as a grouping of garden plots available to nearby residents for small-scale cultivation. Community gardens may be fenced to protect edible plants from wildlife and may include a small accessory structure for storage. Community gardens may be included within all other open space types.

#### B. General Character

Formal or hybrid design.

Plant beds (in-ground or raised). Accessory structure < 2,500 sf. Decorative fencing, when fencing present. Spatially defined by adjacent buildings and street trees. Irrigation. Access for supply deliveries.

#### C. Size and Location

No size requirements

Min. pervious cover: 90%

#### D. Typical Uses

Food production, paths, access for delivery

General Note: Images on this page are illustrative, not regulatory.