ORDINANCE NO. CO06.21.01.14.E1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS, AMENDING THE CEDAR PARK CODE OF ORDINANCES CHAPTER 11 ZONING (OA-20-001); PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Cedar Park ("City Council") desires to update regulations related to zoning regulations; and

WHEREAS, City Staff has determined that the proposed amendments provide consistency with other Chapters within the City's Code of Ordinances; and

WHEREAS, the proposed amendments provide additional clarifications regarding design standard requirements; and

WHEREAS, the City's Comprehensive Plan, recommends updating the City's development regulations as needed to address design characteristics within Cedar Park; and

WHEREAS, the City posted proper notice and conducted public hearings in accordance with Texas Local Government Code Chapter 211; and

WHEREAS, the Cedar Park City Charter Section 2.04 authorizes the Council to zone the City and to pass all necessary ordinances, rules and regulations governing the same under and by virtue of the authority vested in the cities by State statutes; and

WHEREAS, on November 17, 2020 the Planning and Zoning Commission voted 6-0 to recommend approval of the proposed amendments to Chapter 11 Zoning; and

WHEREAS, the City Council finds that the proposed amendments to Chapter 11 Zoning in the best interest of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR PARK, TEXAS:

SECTION 1. That Chapter 11 Zoning of the Cedar Park Code of Ordinances be amended as provided in the attached Exhibit A.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 5. This Ordinance shall be and remain in full force and effect from and after the date of approval.

READ AND CONSIDERED ON FIRST READING by the City Council of Cedar Park at a regular meeting on the 17th day of December, 2020 at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

READ, CONSIDERED, PASSED AND APPROVED ON SECOND AND FINAL READING by the City Council of Cedar Park at a regular meeting on the _14th_ day of _January_, 2021, at which a quorum was present and for which due notice was given pursuant to Section 551.001, et. Seq. of the Government Code.

CITY OF CEDAR PARK, TEXAS

Corbin Van Arsdale, Mayor

ATTEST:

LeAnn M. Quinn, TRMC
City Secretary

APPROVED AS TO FORM
AND CONTENT:

JP LeCompte, City Attorney

ORDINANCE NO. CO06.21.01.14.E1

EXHIBIT A

Amendments to Chapter 11 Zoning are shown in red. Only the text shown in red shall change.

CHAPTER 11

ZONING

Sec. 11.02.033 Land use

A. Prohibited uses in the ~~Downtown District~~Town Center. The following uses are prohibited on any portion of property where the Town Center (TC) is applicable regardless of the designation of the development area or adopted development standards:

1. Motor vehicle sales, service, fueling, storage, repair, parts and accessory sales and automotive and machinery repair or painting, except that motor vehicle fueling is permitted in the Neighborhood Commercial Area;
2. Wrecking and salvage yards;
3. Sexually oriented businesses;
4. Flea markets, but not excluding temporary or permanent outdoor markets approved by the City for such use;
5. Public storage, commercial warehouses, office warehouses, and mini-warehouses;
6. Pawnshops;
7. Portable building sales or lease;
8. Recreational vehicle parks;
9. Outdoor shooting ranges;
10. Automobile, boat, recreational vehicle, trailer, heavy equipment, and other motorized vehicle sales or lease;
11. Kennels, except as provided herein for development within the Neighborhood Commercial Area;
12. Industrial uses, except those permitted in the Professional Office (PO) district;
13. Funeral homes and mortuaries;
14. Drive-through commercial uses; except as provided for herein for development within the Neighborhood Commercial Area;
15. Any uses involved with hazardous materials;
16. Self-service laundry facilities, except as provided as an accessory use to a residential lodging use;
17. Car washes, except that car washes are permitted within the Neighborhood Commercial Area;
18. Motels;
19. Portable building sales; and
20. Private pitch and putt, golf courses, and driving ranges.

(Ordinance CO02-17-11-09-H1, exh. A, sec. 11.02.02.03, adopted 11/9/17)

Sec. 11.02.063 Residential uses by zoning district

Table 11.02.063. Residential Uses by Zoning District

Land Use	Standards Reference	Zoning Districts																			
		Interim	Residential					Nonresidential											Mixed Use Districts		Overlay District
		DR	ES	SR	SU	UR	MF	NB	LB	GB	PO	HC	LI	HI	H	PS	OG	OR	MU	PA	EC
	Legend: P = Permitted; C = Conditional; S = Special Use; – = Prohibited																				
Accessory dwelling unit	11.02.092 (1)	C	C	C	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Apartment	11.02.092 (8)	–	–	–	–	–	C	–	–	–	–	–	–	–	–	–	–	–	P	P	P
Bed-and-breakfast facility	11.02.092 (12)	C	–	–	–	–	–	~~C~~	–	–	–	–	–	–	–	–	–	–	C	C	C

Sec. 11.02.092 Conditional and special use standards and conditions

In accordance with the land use designations noted in table 11.02.063, *Residential Uses by Zoning District*, table 11.02.064, *Nonresidential Uses by Zoning District* and table 11.02.065, *Temporary Uses by Zoning District*, the following uses are permitted as conditional uses or may be considered as special uses if the following requirements are met:

9. Automotive, minor service, is permitted subject to the following conditions:

   a. All service and repairs are performed within a fully enclosed building;

   b. Wrecked or inoperable vehicles are not stored within or outside of the facility;

   c. Automobile bay doors are located perpendicular to the public right-of-way and are not visible from abutting residentially zoned districts; -and ~~and~~

   d. Primary ~~Access~~ access is taken from a collector or higher roadway classification.

15. Car wash, is permitted subject to the following conditions:

   a. It is automatic or full-service;

   b. There are no more than three (3) car washing bays;

   c. All mechanical equipment, excluding vacuum and air units is enclosed within a building;

   d. All facilities are designed and configured such that any outdoor spraying preparation or drying activities are directed away from any abutting residential district;

   e. Bay access is designed ~~oriented~~ to prevent headlights from shining onto any street or abutting a residential district;

   f. If self-service vacuums are provided, a minimum of one (1) parking space per vacuum is required, which will not interfere with site circulation, driveways, or fire lanes;

   g. Access is taken from a collector or higher classification roadway; and

   h. All new full-service vehicle wash facilities~~,~~ are equipped with, operate, and maintain in operation, a water recycling system that will recycle not less than 50 percent of the water being used by the facility, and for existing automobile wash facilities, such system is required as a condition of any permit to:

      i. Expand the floor area of the vehicle wash facility building by more than 50 percent of the area of the vehicle wash facility building as it existed on the effective date of this Chapter;

ii. Demolish, destroy or remove and then replace more than 50 percent of the floor area of the vehicle wash facility building as it existed on the effective date of this Chapter, except for the purpose of replacing or repairing water recycling equipment; or

iii. Enlarge the water tap, meter, or service line.

ARTICLE 11.03 DEVELOPMENT AND DESIGN STANDARDS

Division 1. Purpose and Applicability

Secs. 11.03.034–11.03.060 Reserved

Table 11.03.061B. Townhome and Garden-Style Apartment Lot and Building Standards

District and Housing Type		Maximum Gross Density (units/ acre)	Minimum Lot		Minimum Setbacks				Maximum Building Height [6]	Minimum Living Area
			Area [1]	Standard/ Corner Width	Front [2]	Interior Side	Street Side [4, 5]	Rear		
Urban Residential (UR)										
Townhome [3]	Front entry	8	3,000 sf	30' per unit	25'	0'/15' [9]	15'/20'/25'	20'	35'	1,100 sf
	Rear entry		2,500 sf	25' per unit	10'					
Multifamily (MF)										
Garden-style apartment [7, 8]		20	2,178 sf	150'/165'	25'	10'	25'	25'	48'	450 sf efficiency 650 sf one bedroom 730 sf two bedroom 80 sf each additional bedroom

Table Notes:

1. For townhome and apartment dwellings, the lot area is measured on a per dwelling unit basis.

2. If the front setback along the entire length of the property (street side) is common open space, the minimum front setback may be reduced to zero feet.

3. When two (2) principal structures are arranged face-to-face or back-to-back, the minimum distance between them shall be 40 feet. The points of measurement shall be the exterior walls of the buildings, which do not include balconies, railings, or other architectural features.

4. The street side yard for garden-style apartment dwellings is also the minimum separation between buildings on

the same parcel.

5. The minimum street side setback shall be 15' on local streets, 20' on collector streets, and 25' on arterial streets.

6. Principal structures shall not exceed one (1) story within 100 feet of the property line when abutting a single-family residential district. Additionally, building height shall be measured by existing grade if the structure is abutting or within 100 feet of a single-family residential district. Building height shall be measure by finished grade if the structure is located more than 100 feet from a single-family residential district.

7. The front and interior and street-side setbacks must accommodate a sidewalk.

8. The minimum site area is 10 acres.

9. The second number represents the minimum separation between townhome buildings consisting of three (3) or more contiguous dwelling units.

Sec. 11.03.151 Major corridors

A. Purpose. The standards of this section establish requirements of site design that supplement the standards of the applicable zoning district. The intent of these standards is to heighten the design and aesthetic appearance for highly visible properties that are directly adjacent to the City's most highly traveled thoroughfares. These roadways serve as major entrances to the community, where higher development standards enhance the visual appearance, economic viability, and hence, quality of life for the citizens of Cedar Park.

B. Applicability. This section establishes standards for development along major corridors which is defined to mean land within 500 feet on either side of the street right-of-way of the following roadways:

1. Anderson Mill Road.
2. Arterial A: Arrow Point Drive south of East Whitestone Boulevard.
3. Bagdad Road from West Whitestone Boulevard to the City limits.
4. Brushy Creek Road.
5. C-Bar Ranch Trail, north of East Whitestone Boulevard.
6. Colonial Parkway.
7. Cottonwood Creek Trail (CR 185).
8. Cypress Creek Road and East Cypress Creek Road.
9. Lakeline Boulevard.
10. Little Elm Trail from Wood Ridge Lane to U.S. 183.
11. Medical Parkway.
12. East New Hope Road.
13. West New Hope Road from U.S. 183 to West Whitestone Boulevard.
14. East Park Street from Greater Scaup Lane to Vista Ridge Boulevard.
15. West Park Street from Lakeline Boulevard to Anderson Mill Road.
16. Parmer Lane.
17. Ronald W. Reagan Boulevard.
18. Vista Ridge Boulevard.
19. RM 620 (SH 45).
20. RM 1431 (Whitestone Boulevard).
21. Sam Bass Road (CR 175) north of East Whitestone Boulevard.
22. Toro Grande Boulevard from RM 1431 (Whitestone Boulevard) to Parmer Lane.

23~~2~~. U.S. 183 (Bell Boulevard).
24~~3~~. 183A Toll Road.

Sec. 11.03.154 Nonresidential development

B. Nonresidential developments.

1. Design standards. The building and site design standards shall be as stated below.

a. Exterior building facades. The design of buildings in the applicable districts shall comply with the standards stated in this section, and all other applicable standards and requirements of this Chapter.

b. Building facades.

1. Each ~~F~~facade~~s~~ that is~~are~~ greater than 100 linear feet shall be articulated with recesses or projections, which total no less than 25 percent of the facade length. Recesses or projections shall be a minimum depth of two (2) percent of the length of the facade. No uninterrupted length of any facade shall exceed 75 linear feet. (See figure 11.03.154A, *Building Wall Articulation*.) Rear facades are exempt from this requirement if:

a. Landscaping is provided along the rear façade totaling no less than 25% of the façade length;

b. No uninterrupted length of the rear façade exceeds 75 linear feet;

c. Landscape areas abut the building, are a minimum length of 10 feet and minimum depth of 10 feet, and include one 4-inch caliper shade/canopy tree and one 15-gallon evergreen ornamental tree for every 100 square feet of the landscaped area; and

d. the rear façade is not visible from a public roadway.

2. Any public, ground floor entrance facade(s) shall have arcades, display windows, entry areas, awnings, or other such design features along no less than 60 percent of the entrance facade. (See figure 11.03.154B, *Animating Features*.)

Figure 11.03.154A
Building Wall Articulation

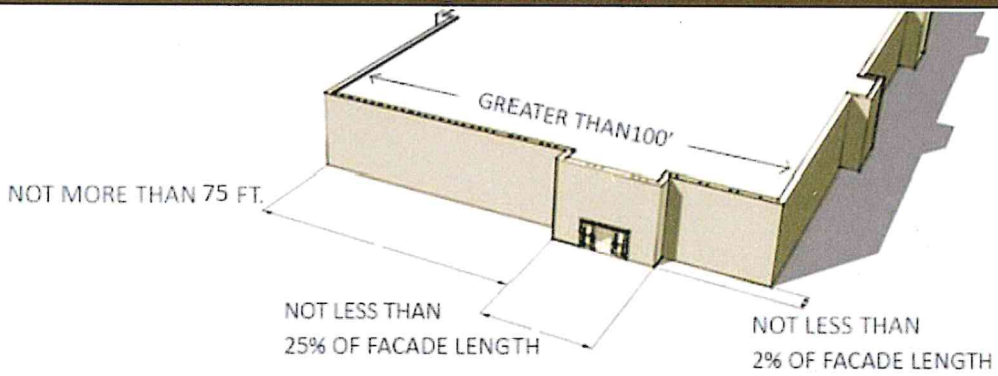
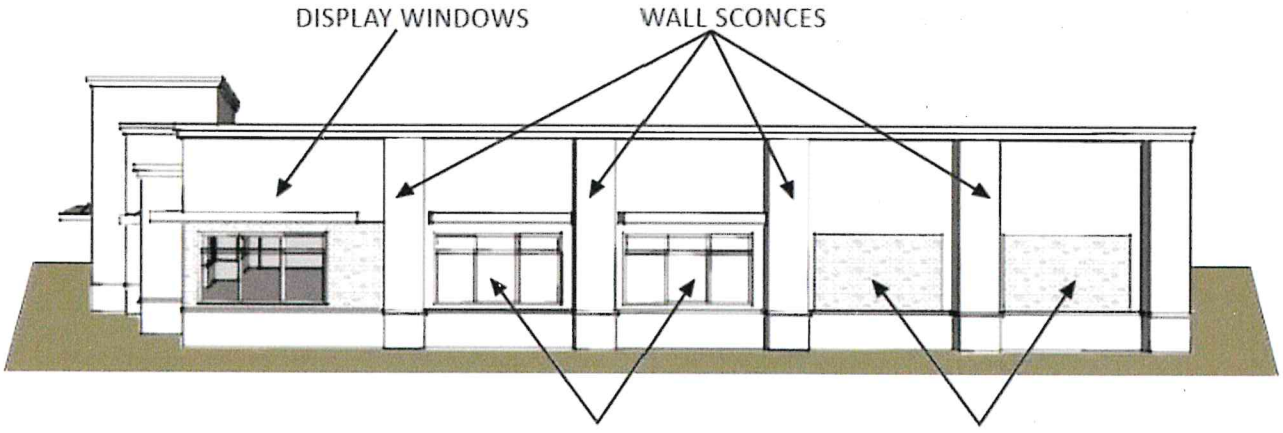


Figure 11.03.154B
Animating Features



c. Mechanical equipment and meters. Mechanical equipment associated with building operations

(e.g., HVAC systems, electric meter banks, etc.) shall be screened as stated in this subsection.

1. Roof-mounted equipment. Mechanical equipment shall be fully screened from ground-level views from ~~all adjacent property~~the subject property boundary and adjacent rights-of-way by:

a. Parapet walls, which shall include cornice treatments that are of adequate height to fully screen the equipment such that the equipment cannot be seen by pedestrian-level at the property line; or

b. Screening walls of adequate height to fully screen the equipment, which use materials and colors that match or are consistent with the design of the principal building; or

c. Sloped roof systems or other architectural elements of adequate height to fully screen the equipment from all adjacent property and rights-of-way.

2. Building-mounted equipment. Mechanical equipment that is mounted on a building wall that is within public view shall be enclosed, screened by opaque fencing, landscaping, or painted to match the building facade.

d. Canopies. Gasoline canopies, car washes, and other accessory uses with canopies shall be constructed of the same materials as the principal structure. The design of the canopy shall complement the design of the principal structure.

e. Service entrances. All service entrances and other non-public building sides or areas shall be screened from public rights-of-way using vegetation or masonry fencing of the same materials as the principal structure.

f. Outdoor displays. In addition to the requirements stated in table 11.03.091, *Nonresidential and Mixed Use Standards*, permanent and seasonal outdoor sales areas shall be incorporated into the design of the building and site. Only designated and approved permanent or seasonal outdoor sales areas shall be permitted. Unenclosed areas for the sale and storage of seasonal inventories shall be permanently designated and separated with walls or fences, while keeping with the common design of the principal structure.

g. Outdoor storage, trash collection, and loading areas. In addition to the requirements stated in table 11.03.091, *Nonresidential and Mixed Use Standards*, as well as Cedar Park Code of Ordinances, Chapter 14, *Site Development*, these areas shall be screened, recessed, or enclosed as follows:

1. No area for outdoor storage, trash collection, compaction, loading, or other such uses shall be located within 20 feet of any public street, public sidewalk, or internal pedestrian walkway.

2. Outdoor shopping-cart storage areas shall be provided in the parking lot, and adjacent to the buildings if they are not available at the entrance.

3. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other such service functions shall be incorporated into the overall design of the structure and landscaped so that they are visually screened from public view.

h. Parking and vehicular and pedestrian circulation. The parking lot design and pedestrian circulation routes shall provide safe, convenient, and efficient access for vehicles, pedestrians, and bicyclists. Pedestrian circulation via internal public sidewalks shall be required. The placement of structures shall enhance and promote pedestrian circulation on the site.

1. At a minimum, one (1) internal continuous sidewalk with at least five (5) feet of clearance shall be provided from the public street to the building entrance(s). Additionally, walkways at least four feet in width ~~foot wide walkways~~ shall connect focal points of pedestrian activity, ~~such as transit stops, street crossings or store entry points,~~ and shall feature adjoining landscaped areas to provide a separated and pedestrian-friendly access route.

2. All internal pedestrian walkways shall be physically separated from the drive lanes. Additionally, all sidewalks and crosswalks shall be visually distinct from the driving surface by use of striping, pavers, bricks, or scored concrete.

3. Sidewalks, at least six (6) feet in width, shall be provided along any facade featuring a customer entrance, and along any facade abutting public parking areas. At all times, such sidewalks shall maintain a clear pedestrian passage that extends the entire width of the sidewalk. Additionally, such sidewalks shall connect all customer entrances to other internal sidewalks, and shall be located an average of at least three (3) feet from the facade of the building to provide planting beds for living foundation landscaping, except where architectural features, such as covered walkways, arcades, or entryways, are part of the facade.

i. Roofs. In addition to the regulations stated in section 11.03.152, *General Standards for All Districts*, all roof designs must use at least one (1) of the following design features:

1. Three (3) or more roof slope planes;

2. Overhanging eaves or canopy projections, which extend no fewer than two (2) feet past the supporting walls; or

3. Flat roof with an architecturally articulated parapet or cornice.

j. Facade treatments. ~~All~~ Each building facade~~s~~ shall use no less than four (4) of the following design features, for which the Administrator may allow minor deviations to the full requirement of each chosen feature if the petitioner adequately demonstrates that the overall intent and spirit of this subsection adheres to the overall development design:

1. Colors, materials or textures. Facades shall have two (2) or more exterior contrasting colors and have more than three (3) exterior materials or texture changes.

2. Building wall offsets. Building facades ~~facing the front lot line~~ shall have minimum 12-inch offsets, such as pilasters, columns, and/or reveals, or other decorative elements.

3. ~~Covered walkways~~Awnings. Across ~~the entire~~at least 50% of the ~~front~~ facade of the structure, an awning ~~covered pedestrian walkway~~ with a minimum depth of six ~~eight~~ (6~~8~~) feet is provided.

4. Display windows. Clear glass window displays cover no less than 20 percent of ~~one (1) facade or 30 percent of two (2) facades.~~the façade.

5. Integral planters or walls. Planters or landscape walls constructed adjacent to the face of the building and incorporate living landscaped areas and/or places for sitting. Such areas shall be a minimum of two (2) feet wide and 19 inches high for sitting, and five (5) feet wide for a planter and cover at least 50 percent of the facade.

6. Open space pedestrian plaza. A plaza may be incorporated for gathering and sitting adjacent to the main entrance or on the front facade, which must be equivalent to two (2) percent of the gross square footage of the subject building. Such area shall include seating with benches and/or tables and chairs at a minimum rate of one (1) seat per 15,000 square feet of gross floor area, and may include any of the following features:

a. Kiosk(s);

b. Outdoor playground area;

c. Water feature;

d. Gazebo;

e. Clock tower; or

f. Other such focal feature and amenity that enhances the public space.

7. Atrium skylight(s), with a minimum depth of 20 feet that visually enhances the exterior architectural style and design of the front entrance, facade, and roof area.

8. Exterior lighting. Enhanced exterior lighting, such as wall sconces, are located at least every 20 linear feet along the ~~front~~ facade.

9. Prominent landmark. The front facade of the building contains a prominent three-dimensional landmark feature such as a tower, turret, arches, etc.

(Ordinance CO02-17-11-09-H1, exh. A, sec. 11.03.06.04, adopted 11/9/17)

Sec. 11.03.155 Mixed use development

C. Mixed use requirements.

1. Building area and density. Depending on whether a development includes horizontal or vertical mixed use, the residential and nonresidential building areas and residential densities vary.

a. In horizontal mixed use developments, the maximum percentage of gross building area allowed for residential uses is 60 percent and the minimum percentage of gross building area allowed for nonresidential uses is 40 percent. Amenities associated directly with the residential component of the development including amenity centers, laundry, business and exercise facilities, shall not be included in the nonresidential building area. The minimum residential density shall be 60 dwelling units per acre, based upon the net acreage of the residential development.

b. In vertical mixed use buildings, the maximum percentage of gross building area allowed for residential uses is 85 percent and the minimum percentage of gross building area allowed for nonresidential uses is 15 percent. Amenities associated directly with the residential component of the development including amenity centers, laundry, business and exercise facilities shall not be included in the nonresidential building area. The minimum residential density shall be 40 dwelling units per acre, based upon the net acreage of the site.

2. Building types.

a. Vertically mixed use buildings require the ground floor to be devoted to retail, services, office or institutional uses, with residential uses on the upper floors.

b. Single-use multifamily buildings are allowed provided they are of an urban character, using on-street or structured parking in lieu of surface parking.

c. Single-use retail, office, services, and institutional buildings are allowed provided they are a minimum of two (2) stories.

Sec. 11.04.002 General provisions

The following provisions apply to both Article 11.04, division 2, *Residential Uses*, and Article 11.04, division 3, *Nonresidential and Mixed Uses*.

A. General regulations.

1. A manufactured or mobile home is not permitted as an accessory building or structure.

2. An accessory building or structure may not be rented, sublet, or sold separately from the sale of the entire property.

3. An accessory building or structure is not allowed without the presence of a principal building or principal use.

4. Accessory buildings or structures shall not be located in front of the principal building or use.

5. A use that is prohibited in a zoning district shall not be permitted as an accessory use in the district, with the exception of outdoor storage.

(Ordinance CO02-17-11-09-H1, exh. A, sec. 11.04.01.02, adopted 11/9/17)

B. Residential accessory building coverage.

1. The sum of all accessory uses (including home occupations) in a principal building shall not exceed 25 percent of the total gross floor area of the principal building.

2. The total of all accessory buildings cannot exceed 20 percent coverage of the back yard of a single-

family residence, and each accessory building shall not to exceed the size of the principal building.

3. For any lot of five (5) acres or greater, the total square footage of accessory buildings shall not exceed 4,000 square feet, with the exception of a private airplane hangar as provided in this Article.

4. For property of any size located within 1,000 feet of an airport landing strip, a private airplane hangar for the sole purpose of airplane storage is permitted; however, the airplane hangar shall only for the owner or lessee of the principal building.

(Ordinance CO09-19-12-12-E2 adopted 12/12/19)

C. Attached accessory buildings or structures. Accessory buildings or structures that are structurally attached to a principal building shall conform to all standards that are applicable to the principal building; however, the attached accessory structure may encroach into the rear setback as long as a minimum rear setback of 10 feet is maintained.

D. Residential occupancy. No accessory building shall be used as a dwelling unit unless it is specifically permitted for such purpose.

E. Location, height and setbacks. Square footage, setback and height requirements for accessory structures and buildings are noted in table 11.04.002, Accessory Building and Structure Standards.

Sec. 11.05.032 Planning and Z~~z~~oning C~~c~~ommission

A. Generally. The Planning and Zoning Commission, established by Cedar Park Home Rule Charter, Article VIII [VII], Planning and Zoning, shall have the following powers and duties pursuant to Local Government Code chapter 211, Municipal Zoning Authority.

1. Zoning text amendment. The Planning and Zoning Commission shall recommend to the City Council approval or disapproval of proposed changes to this Chapter and the appropriate zoning regulations for each zoning district pursuant to section 11.06.086, Zoning Text Amendment.

2. Original zonings and rezonings. The Planning and Zoning Commission shall recommend boundaries for the original zoning districts and rezonings pursuant to section 11.06.082, Rezoning Request.

3. Other matters. The Planning and Zoning Commission shall hear, decide, and/or make recommendations as authorized by this Chapter, the Cedar Park Home Rule Charter, and Texas Local Government Code chapter 211, including recommendations related to master development plans, as stated in section 11.06.083, planned developments, as stated in section 11.06.084, and special use permits as stated in section 11.06.085.

B. Composition and rules. The Planning Commission shall also serve as a zoning commission and which shall be known as the Planning and Zoning Commission. The Planning and Zoning Commission shall consist of ~~no fewer than five (5) or more than~~ seven (7) members, and all shall be residents of the City ~~who own real property within the City~~. The members of the commission shall be appointed by the Council for ~~to~~ staggered two (2) year terms, with seats 1, 3, and 5 running from August 1st through July 31st of odd-numbered years and seats 2, 4, 6 and 7 running from August 1st through July 31st of even-numbered years, or until their successors are appointed and qualified. Vacancies on the commission shall be filled for the unexpired term by the Council. The commission shall elect a chairperson, vice-chairperson and a Secretary from among its appointed members. Four (4) commission members shall constitute a quorum and a minimum of four (4) affirmative votes shall be required to take official action for the transaction of business. Each commission member shall be at least 18 years of age, a registered voter of the City and have resided within the City for 12 consecutive months before being appointed.

(Ordinance CO33-19-09-12-E2, sec. 4, adopted 9/12/19)

State law reference–Zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

Sec. 11.05.034 Zoning B~~b~~oard of A~~a~~djustment

A. Generally. The zoning board of adjustment, established by Cedar Park Home Rule Charter, Article VIII [VII] *Planning and Zoning*, shall have the following powers and duties pursuant to Local Government Code chapter 211, Municipal Zoning Authority.

1. Administrative appeals. The zoning board of adjustment shall hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of

this Chapter.

2. Special exceptions. The zoning board of adjustment shall hear and decide special exceptions to the terms of this Chapter.

3. Variances. The zoning board of adjustment shall authorize in specific cases a variance from the terms of this Chapter if the variance is not contrary to the public interest, and due to special conditions, a literal enforcement of this Chapter would result in unnecessary hardship, and so that the spirit of this Chapter is observed and substantial justice is done.

4. Other matters. The zoning board of adjustment shall hear and decide other matters, as authorized by this Chapter, the Cedar Park Home Rule Charter, and Texas Local Government Code Chapter 211.

B. Composition and rules. The zoning board of adjustment shall consist of seven (7) members and not more than four (4) alternates. All shall be residents of the City. ~~and shall own real property within the City.~~ The members and alternates of the board shall be appointed by the Council for staggered two (2) year terms, with seats 1, 3, and 5 running August 1st through July 31st of odd-numbered years and seats 2, 4, 6, and 7 running from August 1st through July 31st of even years, or until their successors are appointed and qualified. Vacancies on the board shall be filled for the unexpired term by the Council. The board shall elect a chairperson, vice-chairperson, and secretary from among its appointed members and adopt its own rules of procedure consistent with due process of law and in accordance with the laws of the State of Texas. Seventy-five percent of the members of the board shall constitute a quorum. Each member shall be at least 18 years of age, a registered voter of the City and have resided within the City for 12 consecutive months before being appointed. Where required by law, a concurring vote of 75 percent of the members of the board shall be necessary for action.

(Ordinance CO33-19-09-12-E2, sec. 5, adopted 9/12/19)

State law reference–Establishment and authority of zoning board of adjustment, V.T.C.A., Local Government Code, sec. 211.008 et seq.

C. Loss of nonconforming use status. The right to operate a nonconforming use ceases if: (1) such use is lost pursuant to section 11.07.005, *Amortization of Nonconforming Uses and Nonconforming Structures*; (2) the use is changed; or (3) the intent of the owner to discontinue the use is apparent, as determined by the Administrator. Factors to consider by the Administrator when determining apparent intent include:

1. Discontinuance of the use for a period of 180 days or more; and

2. Removal of the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within 180 days or more.

(Ordinance CO02-17-11-09-H1, exh. A, sec. 11.07.03, adopted 11/9/17)

ARTICLE 11.09 DEFINITIONS

Sec. 11.09.001 Definitions

Restaurant, dine-in only. The use of a site for the preparation and retail sale of food and beverages for on-premises consumption, including the on-premises sale and consumption of alcoholic beverages as an accessory use (must be less than 50~~1~~ percent of gross sales). The use does not include drive-in or drive-through facilities.

Structure. Anything constructed or erected with a fixed location on the ground or attached or resting on something having a fixed location on the ground. ~~The following shall always be considered structures:~~

~~A. Buildings;~~

~~B. Billboards;~~

~~C. Fences;~~

~~D. Signs;~~

~~E. Storage tanks; and~~

~~F. Walls.~~