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This June version is prepared for the PH and compares the current adopted 2019 UDC to the P & Z recommended 2023 amended version and captures ALL the incremental changes over 18 months and multiple reviews by P & Z.

The highlighted changes were all reviewed twice before by legal and staff. However, due to recent legislative changes, this version was reviewed by legal on July 3, 2023.

July 7, 2023

CHAPTER 4 ZONING DISTRICTS AND USE REGULATIONS

Section 4.1 Purpose and Intent

The purpose of this Chapter is to establish zoning districts and allowable uses within the City Limits of Fair Oaks Ranch, as well as procedures for special and temporary uses within each district. The zoning regulations herein established have been designed in accordance with the planning principles and land use patterns outlined within the City of Fair Oaks Ranch's Comprehensive Plan for the purpose of promoting health, safety, and the general welfare of the public.

Section 4.2 Permits, Projects, and Vested Rights

(1) Permit applications - expiration

Notwithstanding any other provision of this code, all permit applications shall expire as stated herein, and any approved permit or authority to construct, build or execute any project pursuant to a permit or series of permits shall expire as follows:

- a. A permit application or plan for development, filed on or after April 27, 2005, shall expire on the 45th day after said application or plan is filed, unless approved, if:
 - i. The applicant fails to provide documents or other information necessary to comply with the city's technical requirements relating to the form and content of the application;
 - ii. The city provides written notice to the applicant of the failure not later than the 10th business day after the date the application is filed specifying the necessary documents or other information and the date the application will expire if the documents or other information are not provided; and
 - iii. The applicant fails to provide the specified documents or other information within the time provided in the notice.
- b. ~~The City Manager or his/her designee. The director~~ may, but is not required, to extend the time only for issuance of a building permit to erect or improve a building or other structure, in which event the permit application shall expire when said extension expires. Any such extension shall be in writing and signed by the City Manager or his/her designee ~~director or his designee~~.

(2) Permits and projects - expiration

- a. Only a project which was in progress (as defined by LGC section 245.003) or for which a completed permit application was filed after September 1, 1997 may be eligible to claim vested rights; any project for which the completed permit application was filed prior to September 1, 1997, or has expired, is not eligible.
- b. The following permits (as well as other permits satisfying the requirements of LGC chapter 245), which include plat applications, and plats, may be relied on by a property owner or developer to establish certain vested rights for a project. A project will expire in five (5) years from the date the first permit application was filed for the project with the city if progress, as defined in LGC section 245.005, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse and the project must comply with current ordinances and requirements.
 - i. Plat applications. Vested rights under LGC chapter 245 will be recognized for the project that is the subject of a completed application for a plat that has been filed with the city,

provided all necessary fees have been paid. The vested rights recognized for a project located within the area being ~~platted~~planted by such a plat application will expire two (2) years after the date of the initial plat application, provided fair notice is provided with the plat application in accordance with LGC chapter 245, unless the plat application is heard by the city council and approved within two (2) years after the date of the initial application. Neither an expired nor a withdrawn plat application may be relied upon as a permit for the declaration of vested rights under LGC chapter 245. If after the expiration or the withdrawal of a plat application the applicant wishes future plat approval of the subject property, a new plat application must be filed and new application fees shall be required.

- ii. Plats. Vested rights under LGC chapter 245 will be recognized for a project associated with the property which is the subject of a plat that has been approved by the city council or the City Manager or his/her designee ~~director of public works~~ for the city provided that fair notice is provided with the plat application in accordance with LGC chapter 245. The vested rights recognized for a project located within the area platted by an approved plat will expire two (2) years after the date of plat approval unless the plat is recorded in the county deed records within two (2) years after the date of approval by the city council.
- iii. Other permits. For the purposes of determining whether any vested rights exist, any other permit for which an expiration date is not specifically set forth in this Code of Ordinances or in other applicable law shall expire two (2) years after the date the application for the permit was filed with the city if progress, as defined in LGC section 245.005, has not been made towards completion of the project.

(3) Administrative procedure for consideration of claim of vested rights

- a. Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission shall include, at a minimum, the following:
 - i. The name, mailing address, telephone number and email address of the property owner (or the property owner's duly authorized agent);
 - ii. Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds (if not platted), for which the property owner claims a vested right;
 - iii. Provide project name, type of permit and date the permit was filed;
 - iv. If a property owner claims that certain regulations do not apply to the project, the property owner must identify, with particularity, all requirements that the property owner claims do not apply; and
 - v. Attach all supporting documents, if any.
- b. The letter should be addressed to the city's public works department.

(4) Vested rights determination

The City Manager or his/her designee ~~director~~ will review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project, and shall identify in writing to the property owner all claims for which vested rights have been granted (the "vested rights determination").

(5) Appeal

If the property owner believes that the vested rights determination is in error, the property owner shall have the right to appeal such vested rights determination to the city council, which will have jurisdiction to hear and decide the appeal.

Section 4.3 Official Zoning Map

(1) Creation of Official Zoning Map

The City is divided into zoning districts, shown on the Official Zoning Map (described in Sections 4.5 and 4.6), which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this UDC. The Official Zoning Map shall be located in the City of Fair Oaks Ranch City Hall and be identified by the signature of the Mayor, attested to by the City Secretary and bear the Seal of the City of Fair Oaks Ranch under the following words: "*This is to certify that this is the Official Zoning Map of the City of Fair Oaks Ranch.*"

(2) Changes to the Official Zoning Map

If, in accordance with the provisions of this UDC and §211.006 of the Texas Local Government Code, as amended, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be effective immediately.

- a. Once a year, or subsequent to the approval of the changes, the City shall update the Official Zoning Map by entering any changes approved by the City Council and the Mayor shall sign the map attesting the changes.
- b. Approved zoning changes shall be entered on the Official Zoning Map by the City Manager or a designated representative and each change shall be identified on the Map with the date and number of the Ordinance making the change.
- c. No change of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with procedures set forth in this UDC.

(3) Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may at any time by resolution adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map and bring the Official Zoning Map up-to-date to reflect any and all amendments or changes in the same.

(4) Digital Mapping

Digital maps, created through the use of Geographical Information Systems (GIS) technology, containing registration points recorded on the Texas State Plane Coordinate System (USGS NAD 83, mean sea level) and Texas State Plane, measured in feet, as amended, may be used in the administration and enforcement of this UDC, but will not replace the paper originals of official maps required by this UDC.

(5) Interpreting Zoning District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerlines of street, highways, or alleys shall be construed to follow such centerlines.

- b. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated, as approximately following city limits shall be construed as following city limits.
- d. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- e. Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (d) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- f. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or where precise scale is difficult to determine, or in circumstances not covered by subsections (a) through (e) above, the City Manager shall interpret the district boundaries. Boundaries indicated in the legal description that is provided with the application that established zoning may be referred to as a guide to resolve discrepancies.

(6) Building Frontage

Building Frontage designations are established by the Zoning Map to specify certain building form and site development standards along each street illustrating the City's regulatory commitment to providing streets in certain areas that are oriented to pedestrian travel and safety, as well as auto travel and safety. The Zoning Map illustrates the Building Frontage designations within Fair Oaks Ranch. For additional regulations on building frontages, please refer to Section 6.4 (1) of this Code.

Section 4.4 Rezoning

(1) Applicability

Any decision to amend the Official Zoning Map shall be made based on the procedure outlined below, and the criteria in Chapter 2, Review Authority and Procedures, and Chapter 3, Applications and Permits. No rezoning action may specifically vary from the Permitted Uses Table 4.2 found in Section 4.8, or from the Future Land Use Map included in the Comprehensive Plan.

- a. Applicability. For the purpose of establishing and maintaining sound, stable, and desirable development within the corporate limits of the City, the Official Zoning Map may be amended based upon changed or changing conditions in a particular area or in the City generally, or to rezone an area, or to extend the boundary of an existing Zoning District.
- b. Amending the Official Zoning Map for Planned Use Developments. For Planned Use Developments, the City Manager will promulgate a procedure based on the Comprehensive Plan and related planning studies.
- c. Any decision to amend the Official Zoning Map shall be heard for approval by a joint public hearing of the City Council and the Planning and Zoning Commission.

(2) Newly Annexed Territory

All areas annexed into the City shall be provided a temporary zoning designation of Rural Residential (RR) by City Council at the time of annexation, unless permanent zoning is requested with the annexation. As soon as practical, after the completion of annexation proceedings City Council shall permanently zone the area.

Section 4.5 Lot Standards and Zoning

(1) Lot standards

Zoning Districts and their respective development standards are set forth below.

(2) The Future Land Use Map

The Future Land Use Map should be consulted for areas located outside of the current City Limits of Fair Oaks Ranch in order to determine the recommended use(s) of land for a specific area.

Section 4.6 Zoning Districts

The following Zoning Districts reflect the existing land uses ~~and recommended future land use areas, applicable zoning districts, and recommended future land use classifications~~ included in the City of Fair Oaks Ranch's Comprehensive ~~Plan~~ Plan's Future Land Use Map (FLUM). Portions of the City of Fair Oaks Ranch, as specified on the Official Zoning Map of the City, are hereby divided into the following zoning districts. (Refer to Table 4.2 for allowable uses within each Zoning District):

Table 4.1 Zoning Districts

RESIDENTIAL DISTRICTS	
Rural Residential	RR
Neighborhood Residential	NR
Existing Residential 1	R1
Existing Residential 2	R2
Existing Residential 3	R3
Existing Residential 4	R4
NON-RESIDENTIAL DISTRICTS	
Mixed Use Village	MU
Neighborhood Commercial	NC
Community Facilities	CF
Logistics	LO
Open Space	OS
SPECIAL DISTRICTS	
Planned Unit Development	PUD

RESIDENTIAL DISTRICTS	ZONING ABBREVIATIONS	EQUIVALENT FLUM CLASSIFICATION
Rural Residential	RR	Rural Residential
Neighborhood Residential	NR	Neighborhood Residential
Existing Residential 1	R1	Existing Residential 1
Existing Residential 2	R2	Existing Residential 2
Existing Residential 3	R3	Existing Residential 3
Existing Residential 4	R4	Existing Residential 4
NON-RESIDENTIAL DISTRICTS	ZONING ABBREVIATIONS	EQUIVALENT FLUM CLASSIFICATION
Mixed Use Village	MU	Mixed Use Village
Neighborhood Commercial	NC	Neighborhood Commercial
Community Facilities	CF	Community Facilities
Logistics	LO	Logistics
Parks/Open Spaces/Existing Parks	OS	Parks/Open Spaces/Existing Parks
SPECIAL DISTRICTS	ZONING ABBREVIATIONS	EQUIVALENT FLUM CLASSIFICATION
Planned Unit Development	PUD	None

(1) Residential Districts

All residential development shall adhere to applicable development standards found in Chapter 5, Subdivision Standards and Chapter 6, Site Development and Building Form Standards, as well as other applicable standards found in this UDC.

a. Rural Residential District (RR)

The Rural Residential District (RR) is a residential district that includes land subdivided for single-family residential purposes and associated uses. The lots are a minimum of 5 acres (or one (1) acre using the Conservation Development Alternative Minimum to incentivize conservation areas), and are generally not served by urban infrastructure, such as City sewer service. This district is intended to retain a rural character. Residences in the RR district are appropriate primarily for direct access to Local Rural Residential streets.

b. Neighborhood Residential District (NR)

The Neighborhood Residential District (NR) serves as the residential district for areas where low-to-medium density development is appropriate in Fair Oaks Ranch. The lots are a minimum of one (1) acre (or 0.5 acres using the Conservation Development Alternative Minimum to incentivize conservation areas). The NR district allows a variety of lot sizes and housing. NR developments provide pedestrian-friendly residential neighborhoods, protected from incompatible uses. Residences in the NR district are appropriate primarily for direct access to ~~Local Connector streets,~~ Local Neighborhood Residential streets and Rural Residential streets.

c. Existing Residential 1 (R1)

The Existing Residential 1 (R1) category governs the most dense existing residential types with lot sizes generally under 0.3 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations. ~~Exclusive of city permits and ordinances, all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements.~~

d. Existing Residential 2 (R2)

The Existing Residential 2 (R2) category governs existing residential lots with lot sizes generally between 0.3 acres and 1.3 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.~~Exclusive of city permits and ordinances, all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements.~~

e. Existing Residential 3 (R3)

The Existing Residential 3 (R3) category governs the existing rural residential lots with lot sizes generally between 1.3 acres and 5 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.~~Exclusive of city permits and ordinances all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions in these neighborhoods, in compliance with City ordinance requirements.~~

f. Existing Residential 4 (R4)

The Existing Residential 4 (R4) category governs existing rural oriented neighborhoods with lot sizes generally greater than 5 acres. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.~~Exclusive of city permits and ordinances all lot, building, landscaping and other standards will be controlled by the applicable deed restrictions, in compliance with City ordinance requirements.~~

g. Design Standards

g. Building Placement- Setbacks						
	R1	R2	R3	R4	NR	RR
Front	-	-	-	-	25' min.	50' min.
Street Side	-	-	-	-	15' min.	25' min.
Side	-	-	-	-	10' min.	25' min.
Rear	-	-	-	-	20'min	25'min
h. Lot Size Standards						
	R1	R2	R3	R4	NR	RR
Minimum	-	.3 AC	1.3 AC	5 AC	1 AC	5 AC
Minimum w/ Conservation Development Option	-	-	-	-	.75 AC (blended average min.)	3.75 AC (blended average min.)
i. Building Height						
i. Principal Building Standards						
Building maximum			2.5 stories or 35' max.			
ii. Accessory Building Standards						
Building maximum			2 stories or 25' max.			

Building Placement - Setbacks						
	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>NR</u>	<u>RR</u>
Front	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>50' min.</u>	<u>75' min.</u>
Street Side	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>25' min.</u>	<u>50' min.</u>
Side	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>20' min.</u>	<u>25' min.</u>
Rear	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>0*</u>	<u>25' min.</u>	<u>50' min.</u>
Lot Size Standards						
	<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>NR</u>	<u>RR</u>
Minimum	<u>RC</u>	<u>.3 AC</u>	<u>1.3 AC</u>	<u>5 AC</u>	<u>1 AC</u>	<u>5 AC</u>
Minimum w/ Conservation Option	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>Min. 0.5 acre</u>	<u>Min. 1 acre</u>
Building Height						
i. Principal Building Standards						
<u>Building maximum</u>				<u>2.5 stories or 35' max.</u>		
ii. Accessory Building Standards						
<u>Building maximum</u>				<u>2 stories or 25' max.</u>		

*Note: Building setbacks for the R1, R2, R3, and R4 districts are privately enforced through deed restrictions. The City does not enforce private deed restrictions or HOA regulations.

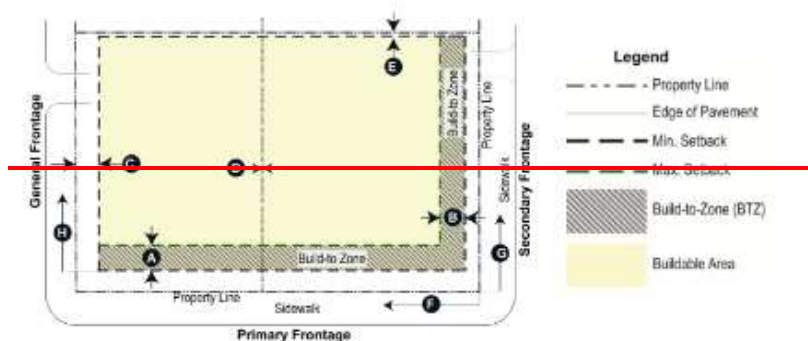
(2) Commercial / Mixed Use / Nonresidential Districts

All Commercial / Mixed Use / Nonresidential development shall adhere to development standards found in Chapter 5, Subdivision Standards and Chapter 6, Site Development and Building Form Standards, as well as other applicable standards in this UDC. The diagrams are for illustrative purposes only. If case of a conflict between the text and the diagrams, the text will govern.

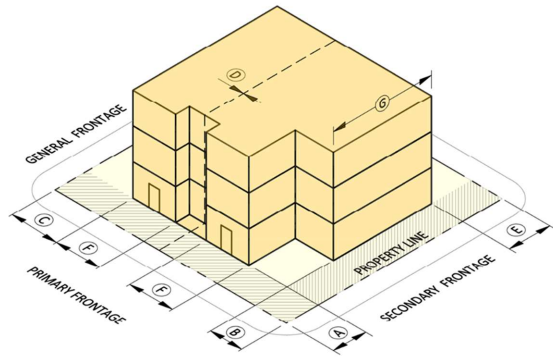
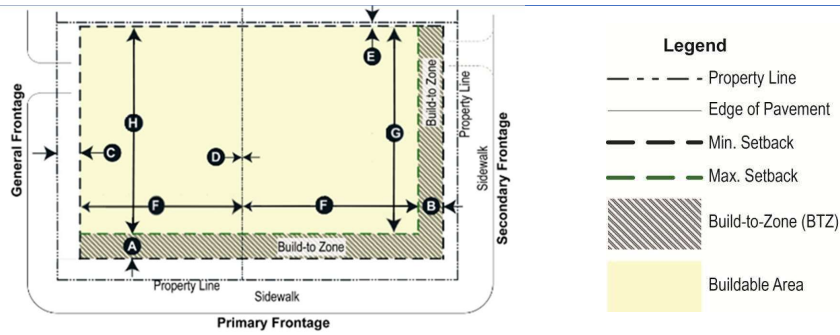
a. Mixed Use Village (MU)

- i. Purpose: The Mixed Use Village District (MU) indicates areas within the City of Fair Oaks Ranch where the City allows and encourages a mixture of uses that create pedestrian scaled commercial and residential development at major nodes in the City that generally conform to a Hill Country Design aesthetic. Sites in the MU district are appropriate for direct access to primarily Arterial, Collector streets and Local Connector Streets. Development standards in this district will require new buildings to create pedestrian friendly building frontages and generally conform to a Hill Country Design aesthetic (defined under Texas Hill Country Character in Chapter 12). Uses within this Zoning District include commercial (office, retail, and restaurant) with a variety of residential uses also permitted.

ii. Design Standards:

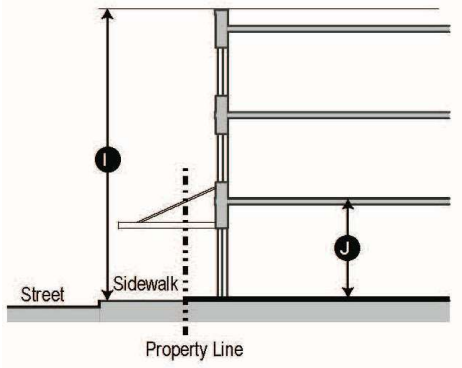
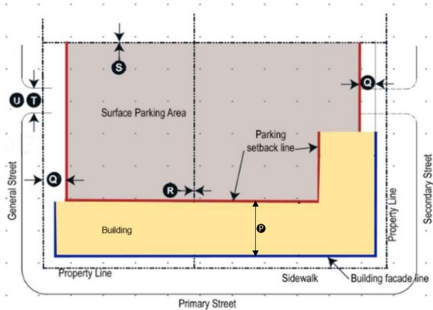


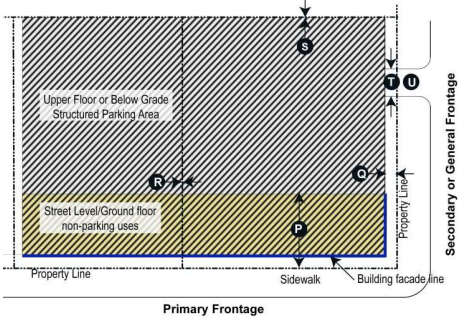
Building Placement



Building to Zone (Distance from property line to edge of the zone)

Primary Frontage	0' min. setback – 20' max. setback. <u>25' min. – 30' max. along IH -10</u>	A
Secondary Frontage	10' min. setback – 20' max. setback	B
General Frontage	20' min. setback; no max. setback	C
Interior Side	5' min.; no max. setback	D
Rear	10' min.; no max. setback	E
Building Frontage		
Primary Frontage	60% min.	F
Secondary Frontage	40% min.	G
General Street or Alley Frontage	None Required	H

Building Height		
Principal Building Standards		
	Building Maximum	3 stories or 45' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings with Primary Frontage designation 10' min. for all other frontages J
Parking & Service Access		
Surface Parking Setbacks		
	Primary Frontage	Shall be located behind the principal building along the street frontage P
	Secondary Frontage/General Frontages/Alley	Shall be located behind the principal building along that street frontage Q If no building is located along the street frontage; then surface parking shall be setback a minimum of 6' from the property line.
	Side	5' min. R
	Rear	5' min. S

Structured Parking		
 <p>The diagram illustrates a property layout with a 'Primary Frontage' at the bottom and a 'Secondary or General Frontage' on the right. A 'Property Line' runs along the top and left. A 'Sidewalk' is shown along the primary frontage. The parking area is divided into two sections: 'Upper Floor or Below Grade Structured Parking Area' (hatched) and 'Street Level/Ground floor non-parking uses' (yellow). Various setback lines and building facade lines are indicated with arrows and labels like 'P', 'C', 'R', 'S', 'T', 'U'.</p>	Primary Frontages	Shall be located behind the principal building; P
	Secondary Frontages/ General Frontages	Allowed to be built up to the minimum setback line along that street frontage C
	Side	5' min. R
	Rear	5' min. S

Partially Below and Above Grade Parking

Allowed to be built up to the building façade line along all streets

Below Grade Parking

May be built up to the property line along all street frontages

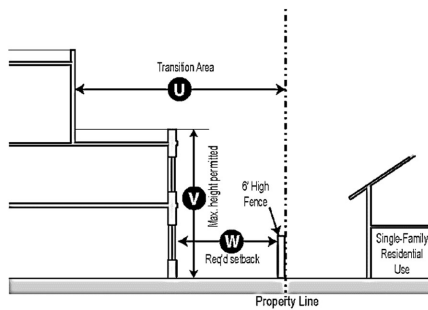
Driveways and Service Access

i. Parking driveway width	Section 6.6 shall apply	T
ii. Driveways and off-street loading and unloading standards	Section 6.6 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

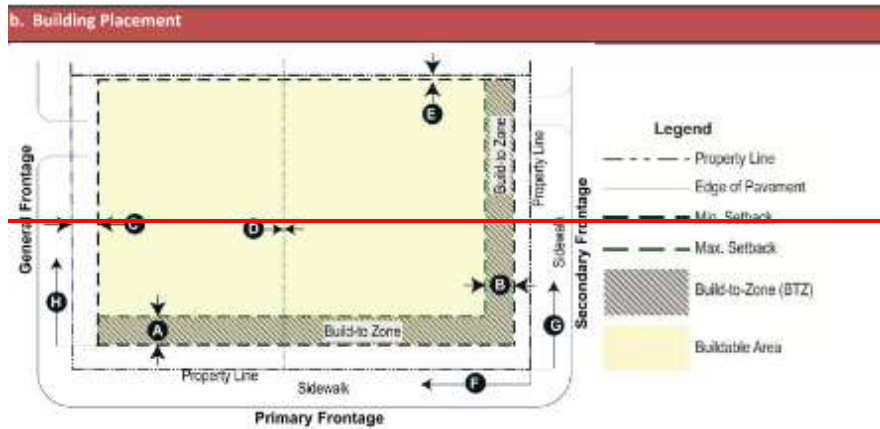
i. Transition Area	25' min.	U
ii. Max. Building Height within Transition Area	2 stories or 30'	V
iii. Required setback	10' min.	W
iv. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided		



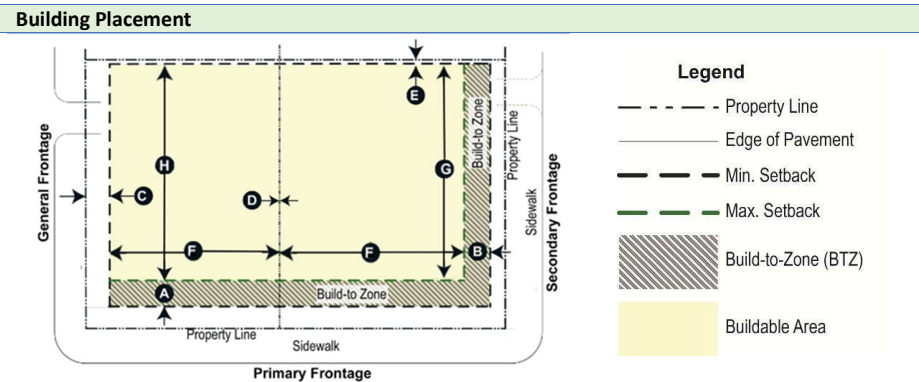
b. Neighborhood Commercial District (NC)

- i. **Purpose:** The Neighborhood Commercial District (NC) is intended to provide areas for commercial activity that is relatively compatible with residential areas or is located within residential neighborhoods. Other light commercial uses that are not major daily traffic generators and are generally compatible with nearby residential activity are also allowed. Neighborhood commercial areas shall have pedestrian access to adjacent residential areas. Sites in the NC district are appropriate primarily for direct access to Collector streets, Local Connector streets and Local Neighborhood streets.

ii. Design Standards:

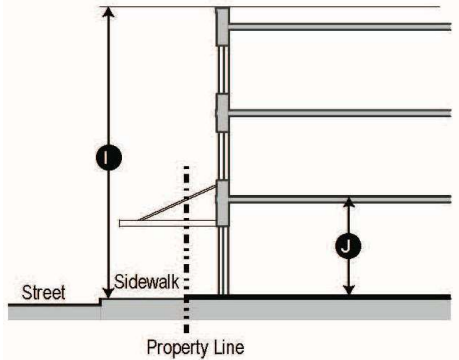
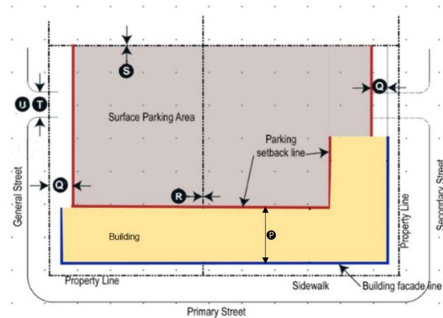


iii.



Build to Zones (BTZs)
(Distance from property line to edge of the zone)

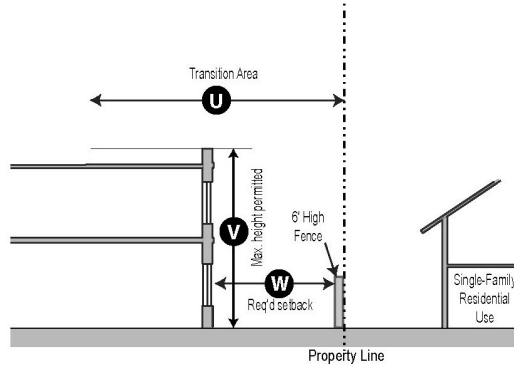
Primary Frontage	10' min. setback – 20' max. setback <u>50' min. setback along Arterial;</u> <u>30' along other streets;</u> <u>no max. setback</u>	A
Secondary Frontage	10' min. setback – 80' <u>no</u> max. setback	B
General Frontage	20' min. setback; no max. setback	C
Interior Side	20' min; no max. setback	D
Rear	20' min.; no max. setback	E
Building Frontage		
Primary Frontage	40% min.	F
Secondary Frontage	20% min.	G
General Frontage	None Required	H

Building Height		
Principal Building Standards		
	Building Maximum	2 stories or 30' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings with a Secondary Frontage designation 10' min. for all other frontages J
Parking & Service Access		
Surface Parking Setbacks		
	Primary Frontage	Shall be located behind the principal building along the street frontage or Min. 10' behind the property line along that street P
	Secondary/ General Frontage	Min. 3' behind the property line along that street Q
	Side	10' min. R
	Rear	10' min. S
Driveway and Service Access		
1. Parking driveway width	Section 6.6 shall apply	T
2. Driveways and off-street loading /unloading standards	Section 6.6 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

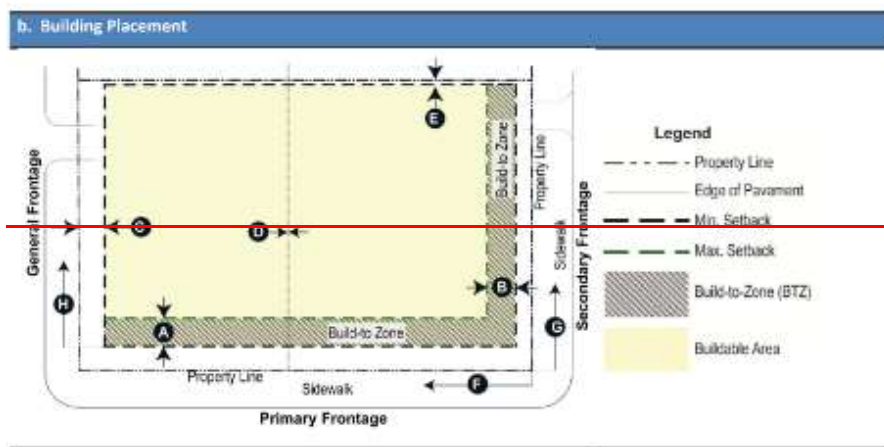
i. Transition Area	30' min.	U
ii. Building Height within Transition Area	25' max	V
iii. Required setback	20' min.	W
iv. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided		



c. **Community Facilities District (CF)**

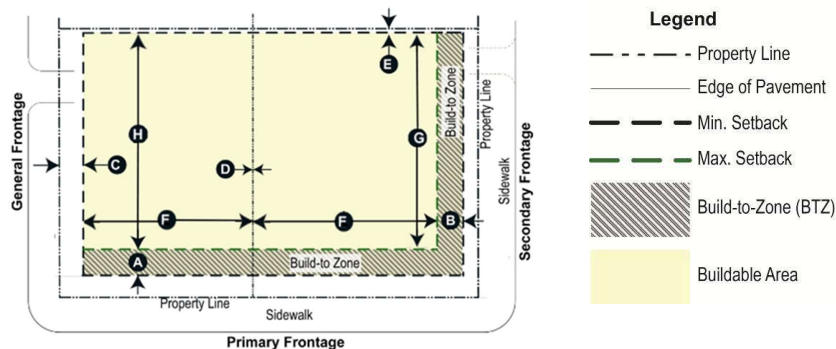
- i. **Purpose:** The Community Facilities (CF) District is intended for locations at which facilities are provided for governmental, religious, educational, health care, public gatherings, and social services. Sites in the CF district are appropriate primarily for direct access to Arterial, Collector streets and Local Connector Streets. Development standards in this district will require new buildings to create pedestrian friendly building frontages and generally conform to a Hill Country Design aesthetic. Uses within this Zoning District include primarily Civic and places of worship.

ii. **Design Standards**



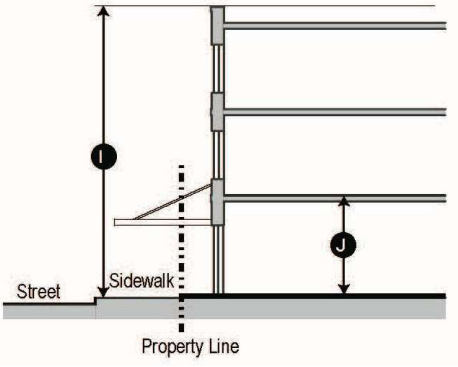
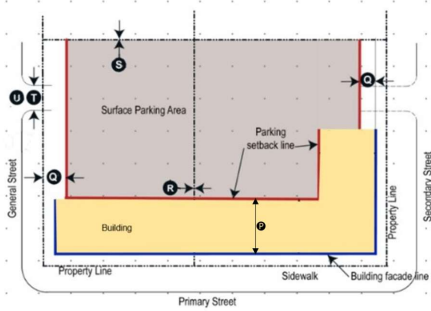
iii.

Building Placement



Build to Zones (BTZs)

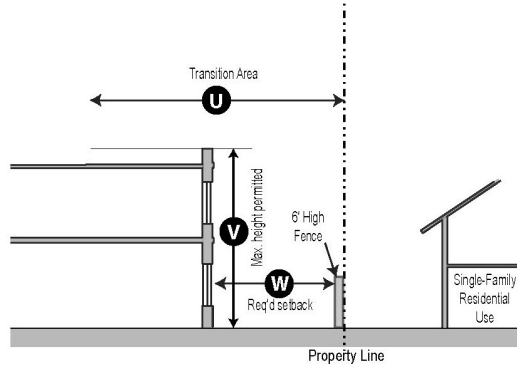
(Distance from property line to edge of the zone)		
Primary Frontage	20' min. setback — 50' max. setback <u>50' min. setback along Arterial;</u> <u>30' along other streets;</u> <u>no max. setback</u>	A
Secondary Frontage	20' <u>10'</u> min. setback — 80' <u>no</u> max. setback	B
General Frontage	20' min. setback; no max. setback	C
Interior Side	20' min; no max. setback	D
Rear	20' min.; no max. setback	E
Building Frontage		
Primary Frontage	40% min.	F
Secondary Frontage	20% min.	G
General Frontage	None Required	H

Building Height		
Principal Building Standards		
	Building Maximum	2 stories or 30' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings with a Secondary Frontage designation 10' min. for all other frontages J
Parking & Service Access		
Surface Parking Setbacks		
	Primary Frontage	Shall be located behind the principal building along the street frontage or Min. 10' behind the property line along that street P
	Secondary/ General Frontage	Min. 3' behind the property line along that street Q
	Side	10' min. R
	Rear	10' min. S
Driveway and Service Access		
1. Parking driveway width	Section 6.6 shall apply	T
2. Driveways and off-street loading /unloading standards	Section 6.6 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

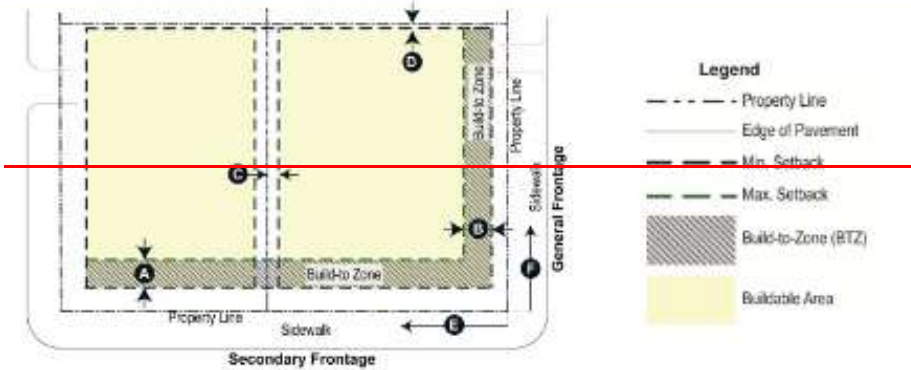
a. Transition Area	30' min.	U
b. Building Height within Transition Area	25' max	V
c. Required setback	20' min.	W
d. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided.		



d. Logistics (LO)

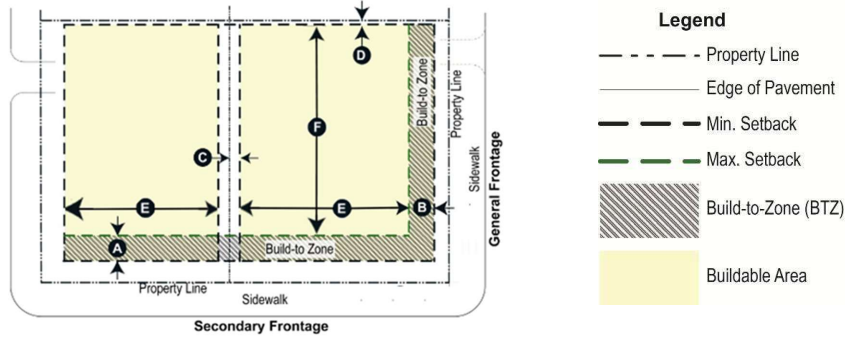
- i. **Purpose:** The Logistics District (LO) is intended to provide an area for appropriately scaled office- warehouse and what is sometimes called light industrial/commercial uses at discrete locations in the City. It is also appropriate for non-commercial uses that may generate significant traffic at limited times, such as places of worship and educational or community institutions. Sites in the L O district are appropriate for direct access to primarily Arterial and Collector streets.

b. Building Placement



ii. Design Standards

Building Placement



Build to Zones (BTZs)

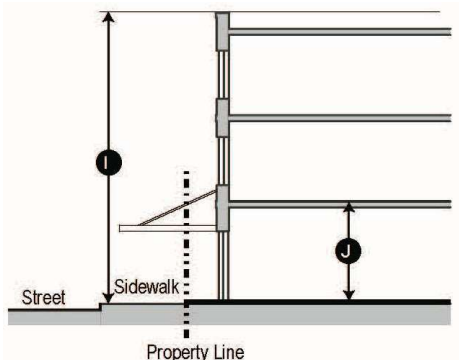
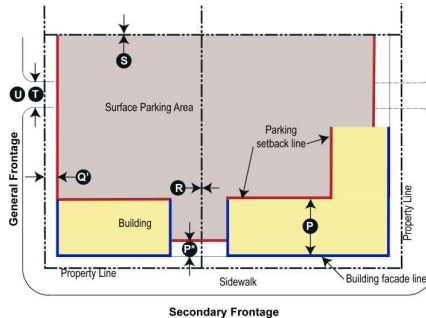
(Distance from property line to edge of the zone)

Secondary Frontage	30' min. setback – 80' max. setback	E
General Frontage	30' min. setback; no max. setback	F
Side	30' min; no max. setback	A
Rear	30' min.; no max. setback	D

Building Frontage

Secondary Frontage	50% min.	B
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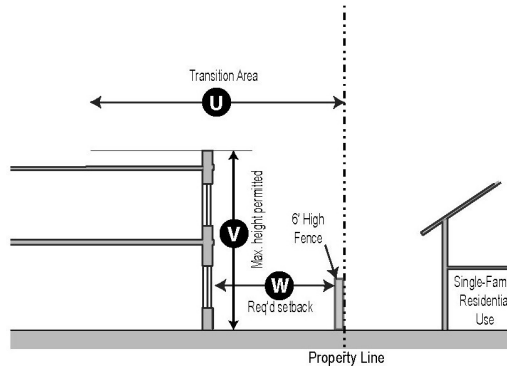
General Frontage	None Required	Ⓢ
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Building Height		
Principal Building Standards		
	Building Maximum	2 stories or 30' max. I
	First floor to floor height (fin. Floor to fin. Floor)	12' min. for all buildings J
Parking & Service Access		
Surface Parking Setbacks		
	Secondary Frontage	<p>Shall be located behind the principal building along the street frontage or Min. 3' behind the building facade line along that street;</p> <p>If no building is located along the street frontage; then surface parking shall be setback a minimum of 6' from the property line.</p> <p>Min. 3' behind the property line P</p>
	General Frontage	Min. 3' behind the property line along that street Q
	Side	10' min. R
	Rear	10' min. S
Driveway and Service Access		
1. Parking driveway width	Section 6.1 shall apply	T
2. Driveways and off-street loading /unloading standards	Section 6.1 shall apply	U

Residential Transition Standards

The following transition standards shall apply to all new building construction adjacent to a Residential Zoning District. This requirement shall NOT apply if a street, alley or other similar R-O-W separates the subject lot and adjoining Residential Zoning District

e. Transition Area	50' min.	U
f. Max. Building Height at within Transition Area	1 story or 20' max	V
g. Required setback	min. 30'	W
h. A maximum 6' high solid screening fence and landscaping screen shall also be required. The required fence shall NOT be chain link or vinyl. Wood fencing must be double-sided		



e. Open Space (OS)

Open Space (OS) serves to preserve the quasi-rural aesthetic character of Fair Oaks Ranch, to ensure preservation of land for environmental stewardship, to guard against erosion and provide for flood control, to provide for natural light and greenery within the City, and to generally contribute to the public health and welfare. These areas may be owned and operated by a government entity such as the City of Fair Oaks Ranch, a private entity, or protected through private covenant and managed by a homeowner's entity such as FORHA. All open space identified on the Future Land Use Map indicates areas where open space is to be preserved. Proposed development near these general locations shall consider including open space within the development.

Section 4.7 Special Zoning Districts

A Special Zoning District is a zoning district that establishes regulations that are unique to the district but combine with the regulations of an underlying (base) zoning district. The purposes of a Special Zoning District shall be to establish additional or different development and/or design criteria in exchange for a public benefit. An overlay may also establish conditions for uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the base district.

(1) Planned Unit Development (PUD)

The purpose of the Planned Unit Development District (PUD) is to provide land for uses and developments that promote development that is more sensitive to the natural environment, creates a significantly enhanced natural setting and/or sense of place, or otherwise enhances the standard pattern of development in Fair Oaks Ranch. Development is required to provide a higher level of amenities to its users or residents than what is usually required under the normal standards of this UDC. A PUD can be used to provide a creative solution around unforeseen constraints or to offer development flexibility that is in keeping with the Comprehensive Plan but is outside the prescriptions of the base zoning district. A PUD may be used to permit new or innovative concepts in land use not permitted by other zoning districts in this UDC or to permit development projects that existing districts cannot easily accommodate. This district is appropriate in areas where the Comprehensive Plan reflects the specific uses proposed in the PUD or mixed use as a land category. Rezoning to the PUD district requires a specific PUD ordinance and a ~~g~~General dDevelopment ~~P~~lan from the property owner. Applicants are responsible for developing the PUD Ordinance. Further information on PUD applications and applicability is found in Section 3.7(5).

~~Section 4.8(2)~~ — **Conservation Development Alternative (CDA)**

The Conservation Development Alternative provides a development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land. A Conservation Development Alternative is a development of land within Rural Residential or Neighborhood Residential Districts, occupying ten (10) contiguous acres or more, that is developed in a manner generally consistent with engineering and planning principles often described as “low impact design.” The land must also be under unified control and planned and developed as a whole in a single development operation or programmed series of development stages. The development may cover more than one parcel as long as all parcels are contiguous, but the entirety of each included parcel will be included in the gross area of the development. This process also provides incentives to landowners by providing uniform rules to govern increased density, outlined in the table below, entitled “Conservation Development Alternative Density Incentive.” Conservation Development may also be used to preserve natural resources, minimize infrastructure costs for the landowner or the City, and to better conform lot configurations and housing types to topography and market needs in places where the City deems it appropriate. These regulatory incentives are intended to ensure that regulatory modifications to the zoning standards benefit the general public welfare as well as the landowner. Additional regulations for the Conservation Development ~~Zoning~~ Alternative may be found in Section ~~87.3~~ of this UDC.

~~Section 4.9~~ Section 4.8 Permitted Uses

(1) Use Table

The following table (Table 4.2) reflects the uses permitted within each zoning district. ~~For uses not listed, the City Manager or his/her designee shall make a determination based on their interpretation of the intent and spirit of this ordinance and the Fair Oaks Ranch Comprehensive Plan.~~ An applicant

may appeal the decision of the City Manager by presenting their case to the Zoning Board of Adjustment.

- a. A Use Permitted by right (P) is subject to all other applicable regulations of this UDC.
- b. Some uses require supplemental regulations in addition to the other applicable regulations of this UDC. A use indicated by (P/C) is permitted by right and **approval by City Council is not required**, provided that it meets the conditional use standards found in Section 4.9, as well as the other applicable regulations of this UDC.
- c. A Special Use Permit (S) is allowed **only if approved by City Council** in accordance the standards found in Section 3.7.
- d. Not Permitted (NP).

(2) Unlisted Uses

~~For uses not listed, the City Manager or his/her designee shall make a determination based on their interpretation of the intent and spirit of this ordinance and the Fair Oaks Ranch Comprehensive Plan. The City Manager shall produce an administrative policy for addressing unlisted uses, consistent with all other provisions of this UDC, either allowing for administrative decisions by the City Manager or requiring legislative action by the City Council, or a combination of both the above, depending on the circumstance.~~

For uses not listed or new uses, the City Manager shall use the descriptions found in Appendix B: Definitions to determine how an unlisted use should be treated.

- a. A new and unlisted use may be interpreted by the City Manager (or designee) as similar to another listed use and treated in the same manner as that listed use.
- b. If the City Manager (or designee) finds that the use is not substantially similar to a listed use, an amendment to the UDC shall be required as per Section 3.6 to add such a use to the Land Use Matrix.
- c. Any decision of the City Manager (or designee) may be appealed according to the process outlined in Section 2.3.

Table 4.2: Use Table

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ^a
Retail Sales or Service <u>with no drive through facility</u>	P	P	NP	NP	NP	NP	NP	NP
Retail Sales or Service <u>with drive through facility</u> (includes retail with <u>associated fuel sales</u>)	P/C	NP	NP	NP	NP	NP	NP	NP
Bars	S	S	NP	NP	NP	NP	NP	NP
Food Service Uses such as full-service restaurants, cafeterias, bakeries catering and snack bars <u>with no drive through facilities</u>	P	P	NP	P	NP	NP	NP	NP
Art, antique, museum, furniture or galleries (retail, repair or artisanal fabrication)	P	P	NP	P	NP	NP	NP	NP
Entertainment, theater, cinema, or music venue	P/C	NP	NP	P/C	NP	NP	NP	NP
Sexually Oriented Business	NP	NP	NP	P	NP	NP	NP	NP
Commercial/ Office <u>with no drive through facility</u>	P	P	NP	NP	NP	NP	NP	NP

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ¹
Commercial/ Office <u>with drive through facility</u>	P	NP	NP	NP	NP	NP	NP	NP
Pet and animal sales or service	P	NP	NP	P	NP	NP	NP	NP
Fitness, recreational sports, gym, athletic club, dance or yoga studio	P	P	P	P	NP	NP	NP	NP
Parks, greens, plazas, squares, and playgrounds	P	P	P	P	P	P	P	P
Business associations and professional membership organizations	P	P	P	P	NP	NP	NP	NP
Childcare, day care, and preschools	P/C	P/C	P/C	NP	NP	NP	NP	NP
Family home child care	P/C	P/C	P/C	NP	S	S	S	NP
Schools, libraries, and community/civic facilities	P	NP	P	NP	NP	NP	NP	NP
Religious Institutions	NP	NP	P	P	NP	NP	NP	NP
Universities and Colleges and Technical, trade, and specialty schools	P	NP	P	P	NP	NP	NP	NP
Hospitals and nursing establishments	P	NP	P	NP	NP	NP	NP	NP
Social, fraternal and philanthropic organizations	P	P	P	P	NP	NP	NP	NP
Transitional Housing	S	S	S	S	S	S	S	NP
Community or Group Homes	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP
Public administration uses (including local, state, and federal government uses, public safety, health and human services)	P	P	P	P	NP	NP	NP	NP

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ¹
Funeral homes	P/C	NP	NP	NP	NP	NP	NP	NP
Single Family Residential	P	NP	P	NP	P	P	P	NP
Accessory Building Residential Unit (Garage Apt.)	P	P	P	P	P	P	P	NP
Single-family Residential Attached/ Townhomes/ Patio Home/ Duplex/ Multi Unit Home (3-4 Units)	P	P	P	P	P/C	NP	NP	NP
Multi-family Residential	P	NP	NP	NP	NP	NP	NP	NP
Home Occupations	P	P	P	P	P	P	P	NP
Manufactured Housing	NP	NP	NP	P/C	NP	NP	NP	NP
Auto and Vehicle Related Sales and Service Establishment	NP	NP	NP	P/C	NP	NP	NP	NP
Brewery, Distillery, or Winery	NP	NP	NP	P	NP	NP	NP	NP
Brewpub (restaurant with auxiliary: Brewery, Distillery, or Winery)	P	NP	NP	P	NP	NP	NP	NP
Commercial food, textile and product manufacturing	NP	NP	NP	NP	NP	NP	NP	NP
Heavy manufacturing that may produce hazardous waste	NP	NP	NP	NP	NP	NP	NP	NP
Miscellaneous light manufacturing (Manufacturing processes that do not create hazardous waste)	NP	NP	NP	P	NP	NP	NP	NP
Warehouse and Self-Storage	NP	NP	NP	P/C	NP	NP	NP	NP
Climate Controlled Self-Storage	P/C	NP	NP	P/C	NP	NP	NP	NP
Transportation services (air, rail, road, truck and freight)	NP	NP	NP	P	NP	NP	NP	NP

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space ¹
Telecommunications and broadcasting (radio, TV, cable, wireless communications, telephone, etc.)	S	S	S	S	S	S	S	NP
Utility Facilities (electric, natural gas, alternative)	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP
Hotel (45 or fewer rooms)	P	NP	NP	NP	NP	NP	NP	NP
Hotels (more than 45 rooms)	P	NP	NP	NP	NP	NP	NP	NP
Bed and Breakfast (5 or fewer guest rooms)	P	P/C	P	P/C	P/C	P/C	P/C	NP
Parking, structured	P	NP	NP	NP	NP	NP	NP	NP
Veterinary Services	P	NP	NP	P	NP	NP	NP	NP
Commercial Stables/Boarding	NP	NP	S	S	S	S	S	NP

Table 4.2: Use Table

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
Retail Sales or Service with no drive through facility	P*	P	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Retail Sales or Service with drive through facility (includes retail with associated fuel sales)	P/C	NP	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Bars	S	S	NP	NP	NP	NP	NP	NP	1 space per 150 sf of usable building area
Food Service Uses such as full-service restaurants, cafeterias, bakeries catering and snack bars with no drive through facilities	P*	P	NP	P	NP	NP	NP	NP	1 space per 100 sf of usable building area
Art, antique, museum, furniture or galleries (retail, repair or artisanal fabrication)	P*	P	NP	P	NP	NP	NP	NP	1 space per 300 sf of usable building area
Entertainment, theater, cinema, or music venue	P/C	NP	NP	P/C	NP	NP	NP	NP	1 for each 4 seats w/ outdoor facilities – add 1 for each 800 square feet of outdoor area

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
<u>Outdoor recreation and entertainment facilities</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each 800 sf of outdoor recreational area
Sexually Oriented Business	NP	NP	NP	P	NP	NP	NP	NP	1 space per 300 sf of usable building area
Commercial/ Office with no drive through facility	P*	P	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Commercial/ Office with drive through facility	P*	NP	NP	NP	NP	NP	NP	NP	1 space per 300 sf of usable building area
Pet and animal sales or service	P*	NP	NP	P	NP	NP	NP	NP	1 space per 300 sf of usable building area
Fitness, recreational sports, gym, athletic club, dance or yoga studio	P*	P	P	P	NP	NP	NP	NP	1 space per 100 sf of usable building area
<u>Golf course</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	3 spaces per hole, plus additional spaces required for accessory uses (restaurant, bar, pro shop)
Parks, greens, plazas, squares, and playgrounds	P	P	P	P	P	P	P	P	To be determined by the City Manager or designee based on use and location
<u>Park maintenance facilities</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	To be determined by the City Manager or designee based on use and location
Business associations and professional membership organizations	P*	P	P	P	NP	NP	NP	NP	1 space per 200 sf of usable building area
Childcare, day care, and preschools	P/C	P/C	P/C	NP	NP	NP	NP	NP	2 spaces per employee
Family home child care	P/C	P/C	P/C	NP	S	S	S	NP	2 spaces per residential use plus 1 space for drop off/pick up.
<u>Kindergarten, Elementary and Middle</u> Schools, libraries, and community/civic facilities	P	NP	P	NP	NP	NP	NP	NP	3 spaces per classroom, plus 1 space per administrative employee
Religious Institutions	NP	NP	P	P	NP	NP	NP	NP	1 space per 200 square feet of usable building area
<u>High Schools,</u> Universities and Colleges and Technical, trade, and specialty schools	P	NP	P	P	NP	NP	NP	NP	1 space per 3 seats in classroom, plus 1 space per staff

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
									member (plus additional required for auditoriums, gymnasiums)
<u>Health Clinic/Medical Office</u>	<u>P*</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each 200 sf of usable building area
Hospitals and nursing establishments	P	NP	P	NP	NP	NP	NP	NP	1 for each 1.5 beds
<u>Residential Care Facility</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each on duty or resident care provider and 1 space per 2 residents
<u>Retirement Community</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each dwelling unit
<u>Long Term Care Facility</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	1 for each 4 beds
Social, fraternal and philanthropic organizations	P/C	P	P	P	NP	NP	NP	NP	1 space per 200 sf of usable building area
Transitional Housing	S	S	S	S	S	S	S	NP	1 for each on duty or resident care provider and 1 for each bedroom
Community or Group Homes	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP	1 for each on duty or resident care provider and 1 per 2 residents
Public administration uses (including local, state, and federal government uses, public safety, health and human services)	P	P	P	P	NP	NP	NP	NP	1 for each 300 sf of usable building area of offices
Funeral homes	P/C	NP	NP	NP	NP	NP	NP	NP	1 space per 4 seats in chapel/sanctuary where the congregation is seated during worship services (22" of undivided seating = 1 seat)
Single Family Residential	<u>PP*</u>	NP	P	NP	P	P	P	NP	2 for the first three bedrooms plus 1 for each additional bedroom in each family unit
<u>Accessory Building Residential Unit (Garage Apt.), with an additional 7,000 square foot lot area for each additional dwelling, and not to exceed the total floor area of the principal dwelling unit. Limited to one unit per lot.</u>	P	P	P	P	P	P	P	NP	1 space per each additional dwelling unit
Single-family Residential Attached/ Townhomes/ Patio Home/ Duplex/ Multi Unit Home (3-4 Units)	<u>PP*</u>	P	P	P	P/C	NP	NP	NP	2 spaces per each dwelling unit
Multi-family Residential	<u>P*</u>	NP	NP	NP	NP	NP	NP	NP	1.5 for each studio, one or two-bedroom unit; 2 for

Zoning District	Mixed Use Village	Neighborhood Commercial	Community Facilities	Logistics	Existing Residential	Neighborhood Residential	Rural Residential	Open Space	Parking
									each unit with 3 or more bedrooms
Home Occupations	P	P	P	P	P	P	P	NP	2 spaces per each dwelling unit
Manufactured Housing	NP	NP	NP	P/C	NP	NP	NP	NP	2 spaces per each dwelling unit
Auto and Vehicle Related Sales and Service Establishment	NP	NP	NP	P/C	NP	NP	NP	NP	1 for each 300 sf of usable building area
Brewery, Distillery, or Winery	NP	NP	NP	P	NP	NP	NP	NP	1 space per 500 sf of usable building area
Brewpub (restaurant with auxiliary: Brewery, Distillery, or Winery)	P/C	NP	NP	P	NP	NP	NP	NP	1 space per 300 sf of dining area, 1 per 1000 sf of manufacturing area
Commercial food, textile and product manufacturing	NP	NP	NP	NP	NP	NP	NP	NP	1 space per 500 sf of usable building area
Heavy manufacturing that may produce hazardous waste	NP	NP	NP	NP	NP	NP	NP	NP	1 space per 500 sf of usable building area
Miscellaneous light manufacturing (Manufacturing processes that do not create hazardous waste)	NP	NP	NP	P	NP	NP	NP	NP	1 space per 500 sf of usable building area
Warehouse and Self-Storage	NP	NP	NP	P/C	NP	NP	NP	NP	1 space per each employee or 1 space per 1,000 sf of usable building area, whichever is greater area
Climate Controlled Self-Storage	P/C	NP	NP	P/C	NP	NP	NP	NP	1 space per each employee or 1 space per 1,000 sf of usable building area, whichever is greater
Transportation services (air, rail, road, truck and freight)	NP	NP	NP	P	NP	NP	NP	NP	As required per the service
Telecommunications and broadcasting (radio, TV, cable, wireless communications, telephone, etc.)	S	S	S	S	S	S	S	NP	As required per the utility
Utility Facilities (electric, natural gas, alternative)	P/C	P/C	P/C	P/C	P/C	P/C	P/C	NP	As required per the utility
Hotel	P	NP	NP	NP	NP	NP	NP	NP	.75 space per guest room; all other areas, such as conference space shall be parked at 1 space per 300 sf of usable building area.
Hotel (45 or fewer rooms)	P	NP	NP	NP	NP	NP	NP	NP	
Hotel (more than 45 rooms)	P	NP	NP	NP	NP	NP	NP	NP	
Bed and Breakfast (5 or fewer guest rooms)	P	P/C	P	P/C	P/C	P/C	P/C	NP	1 space per guest room.
Parking, structured	P	NP	NP	NP	NP	NP	NP	NP	
Veterinary Services	P	NP	NP	NP	NP	NP	NP	NP	As required by the associated use
Commercial Stables/Boarding	NP	NP	SNP	SP	S NP	SNP	S NP	NP	1 space per 300 sf of usable building area

P* - Permitted as part of a mixed use development that contains a mix of residential and nonresidential designed as a unified development. The residential component of any type shall not exceed thirty (30) percent of the entire development.

- Open Spaces are reserved for active or passive recreation, and for the preservation of land in its natural state. Building on, or modification of, land in Open Space districts is generally prohibited except where incidental to a larger purpose of preserving and enhancing Open Space areas; or, where necessary for public health and safety purposes. The only exception is the category in Table 4.2 described as “Parks, greens, plazas, squares, and playgrounds.” These uses are allowed in Open Space districts, provided that vertical construction is kept to a minimum and, in the opinion of the City Manager, the primary purpose of the land use is not to provide for activity intended for other districts nor to otherwise circumvent this provision and the intent of this zoning UDC and the Comprehensive Plan of Fair Oaks Ranch.
- When square feet are specified in the above chart the area measured shall be the primary interior floor area of the structure(s) on the property within which the use operates, which shall exclude stairwells, restrooms, elevator shafts, hallways, ornamental balconies, space occupied by heating, air conditioning or other utility equipment, and interior area devoted to parking or loading.
- The number of employees of a new or expanding business shall be estimated in a manner reflecting realistic needs, considering factors such as number of shifts, employees per shift, and parking space turnover rates of the existing or comparable business. The City Manager or designee shall determine number of employees from employment information presented by the use or owner of the property.
- In the event several uses occupy a structure or property simultaneously, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately based on the proportional area devoted to each separate use.
- A stacked or tandem parking arrangement, where one vehicle parked directly behind another must be removed before the front vehicle can exit its space, shall be allowed only for a structure containing one, or two (2) residential dwelling units.
- The City Manager or designee shall determine the number of off-street parking spaces required for uses not specifically listed in this section following an assessment of comparable uses and associated parking requirements.
- Refer to Section 6.7 for additional parking standards.

~~Section 4.10~~ Section 4.9 Conditional Uses

(1) Retail Sales or Service with Drive Through Facility

Retail Service with drive through facility will be governed by the guidelines ~~promulgated by the City or by a design UDC. Until such guidelines are adopted, an applicant will develop plans consistent with the comprehensive plan and submit them to the City for approval by the City Manager (or designee), with appeal to the Zoning Board of Adjustment~~ specified below:

- Drive through windows and similar elements shall not be located in yards adjacent to residential zone or use.
- Such facilities must meet all applicable screening and landscaping requirements of Chapter 6.
- Stacking spaces shall be provided as per the requirements in Section 6.6 (3).

(2) Alcohol Sales or Liquor Store

Alcohol Sales or Liquor Store is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Alcohol sales shall be prohibited within 300 feet of a church, public or private school.
- b. Method of measurement. The measurement of the distance between the premises and a church, public or private school shall be from the property line of the church, public or private school to the property line of the place of business, and in a direct line across intersections.
- c. This section does not apply to any establishment that is licensed for the sale or consumption of alcoholic beverages at the time a church, public school or private school begins construction or occupancy of a building within 300 feet of the licensed establishment. Nor shall it apply to churches, public schools or private schools that are themselves licensed for the sale or consumption of alcoholic beverages.
- d. This section does not apply to on-premises consumption if less than 50 percent of the gross receipts for the premises is from the sale or service of alcoholic beverages; off-premise consumption if less than 50 percent of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages; or a wholesaler, distributor, brewer, distiller, rectifier, winery, wine bottler or manufacturer as those words are ordinarily used and understood in Chapter 102 of the Texas Alcoholic Beverage Code.

e. Alcohol Sales or Liquor Store shall conform to all applicable regulations of the State of Texas, and the applicable County.

(3) Bed and Breakfast

A bed and breakfast establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. A maximum of five guest rooms may be provided in any one bed and breakfast establishment.
- b. No food preparation, except beverages, is allowed within individual guest rooms.
- c. Preparation and service of food for guests shall conform to all applicable regulations of the State of Texas, the applicable County, and the City of Fair Oaks Ranch.
- d. The operator shall keep a current guest register including names, permanent addresses, dates of occupancy and motor vehicle license numbers for all guests.
- e. Bed and breakfast establishments in any residential district shall be subject to the following additional standards:
 - i. The operator of the bed and breakfast must be a full-time resident of the dwelling in which the bed and breakfast establishment is housed.
 - ii. No exterior evidence of the bed and breakfast shall be allowed, except for one attached sign which meets the requirements of Chapter 9, Signs. No additional outdoor advertising of any kind is allowed on site.
 - iii. There must be adequate parking with one off-street space for every two (2) rooms. All parking areas on property (except driveways) shall be located behind the primary buildings front façade or must be screened from the view of adjacent residences to a height of six (6) feet by a solid masonry screening fence, or an opaque buffer of dense shrubs and vegetation.

(4) Entertainment

Entertainment uses are permitted in accordance with Table 4.2 and subject to the following standards:

- a. Outdoor entertainment uses adjacent to a residential district shall not create or permit any unreasonably loud noise which disturbs or causes distress to those residents in the surrounding neighborhoods.
- b. A noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from the magistrate or peace officer that the noise is a public nuisance.
- c. Entertainment uses that include regular outdoor activities (twice per month or more) involving live or recorded music within 300 feet of a residence; amplified speaking, music, or sound effects; motors operating at high revolution, or other activities considered by a reasonable person likely to create loud or obnoxious noises to the distress of other residents of the City, shall file a plan in writing with the City outlining what standards and procedures will be followed to prevent violation of Conditions a and b.

(5) Auto Vehicle Related Sales and Service Establishment

An Auto and Vehicle Related Sales and Service Establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Fixed lighting shall be so arranged to prevent direct glare of beams onto any adjacent public or private property or street and be in compliance with the Camp Bullis Joint Land Use Study lighting guidelines and the City of Fair Oaks Ranch lighting guidelines.
- b. Repairs shall be performed only within the principal building on the premises, unless it can be shown to the satisfaction of the City Manager that a separate building containing parts or accessories can achieve the intended aesthetic purpose of this Section.
- c. Screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property, to block any view of the use, its operations and stored materials and equipment from all points on such residential property when viewed from ground level. Minimum screening shall include a row of shrubs.
- d. Outdoor display of vehicles shall be set back a minimum of fifty (50) feet from all lot lines abutting residentially zoned or developed property.
- e. Setback areas shall be configured to prevent access by vehicles.
- f. Open space along the perimeter of the required buffer yard shall be landscaped in accordance with City development regulations.
- g. Portable buildings on site are prohibited.
- h. All automotive parts shall be stored within an enclosed building, and there shall be no open storage of dismantled vehicles visible at any point beyond the premises.
- i. All repair or service work requiring six or more consecutive hours (i.e. major repair) shall take place either within an enclosed structure or behind a suitable screening device.
- j. The bay doors to the garage shall not be oriented toward the public right-of-way.

(6) Warehouse/ Self-Storage

A self-storage establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district, and the site must be in compliance with the Camp Bullis Joint Land Use Study lighting guidelines and the lighting regulations of the City of Fair Oaks Ranch.

(7) Climate Controlled Self-Storage

A climate controlled self-storage establishment is permitted in accordance with Table 4.2 and subject to the following standards:

- a. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district, and the site must be in compliance with the Camp Bullis Joint Land Use Study lighting guidelines and the lighting regulations of the City of Fair Oaks Ranch.

(8) Utility Facilities

A utility facility is permitted in accordance with Table 4.2 and subject to the following standards:

- a. Such uses must be accompanied by an eight-foot high solid screening fence (or alternate material approved in writing by the City Manager) with a gate made of similar material and with landscaping in compliance with Chapter 8, Infrastructure and Public Improvements.
- b. The facility must be secured so as not to pose a threat to the health or safety of human life.
- c. Requirements for Wireless Transmission Facilities found in Chapter ~~11~~ 10 are met.

(9) Childcare

- a. Day Care. Day care use is permitted in accordance with Table 4.2 and subject to the following standards:
 - i. All day care facilities shall meet the minimum state requirements for such facilities and shall be registered with the State of Texas.
 - ii. Day care facilities are permitted subject to state regulations and the restrictions in this section.
 - iii. All child care facilities shall provide at least as much outdoor play area and indoor activity space per child as required by the state for licensed day care centers. All outdoor play areas shall be located behind front building lines and a 6 ft. tall opaque screen shall be provided to screen abutting property that is zoned residential at the time the child care facility is established.
- b. Family Home Child Care. Family home child care use is permitted in accordance with Table 4.2 and subject to the following standards:
 - i. Number of children: A family home care facility shall provide regular care to no more than six (6) children under fourteen (14) years of age (as defined by State Regulations), excluding children who are related to the caretaker; may provide care after school hours for not more than six additional elementary school children; provided that the total number of children, including those related to the caretaker, shall not exceed twelve (12) at any given time.
 - ii. Number of employees: A family home childcare facility may employ only residents of the premises, including all paid and unpaid care providers.
 - iii. Signs: Signage shall be in accordance with the regulations specified in Section 10.4 of this UDC and for the district in which the facility is located.
 - iv. Separation: Family home care facilities located in residential districts shall be separated from other child care facilities in that district by not less than six hundred (600) feet. Upon the recommendation of the Planning and Zoning Commission, the Council may grant exceptions to this rule upon finding that such exceptions do not contribute to the proliferation of child care facilities within a neighborhood.
- c. Group Day Care Home. Group day care home use is permitted in accordance with Table 4.2 and subject to the following standards:

- i. Number of Children: A group day care home shall provide regular care for seven to twelve (7-12) children under fourteen (14) years of age for less than twenty-four (24) hours a day.
 - ii. Separation: Group Day Care home care cannot be located in residentially zoned areas.
 - iii. Number of Employees: A maximum of two (2) non-resident employees may work at group day care home.
 - iv. Signs: Signage shall be in accordance with the regulations for the district where the facility is located.
- d. Day Care Center. Day care center use is permitted in accordance with Table 4.2 and subject to the following standards:
- i. Number of children: A Day care center shall provide regular care to children under fourteen (14) years of age for less than twenty-four (24) hours a day.
 - ii. Separation: Day Care Centers cannot be located in residentially zoned areas.
 - iii. Off-street parking and loading: Loading zones must be off-street, drive-through and paved to a minimum width of ten (10) feet and a maximum width of twenty (20) feet. Loading zones shall have a holding capacity of one vehicle per five hundred (500) square feet of the facility, exclusive of parking spaces, provided that no facility shall be required to have a loading zone with a capacity in excess of six (6) spaces.

(10) Senior Adult Group Home Care

- a. Number of Residents: A Senior Adult Group Home Care shall provide regular live-in care for two to four (2-4) adults.
- b. Separation: Senior Adult Group Home care facilities located in residential districts shall be separated from other Senior Adult Group Home care facilities in that district by not less than six hundred (600) feet. Upon the recommendation of the Planning and Zoning Commission, the Council may grant exceptions to this rule upon finding that such exceptions do not contribute to the proliferation of facilities within a neighborhood.
- c. Number of Employees: A maximum of two (2) non-resident employees may work at Senior Adult Group Home Care home.
- d. Signs: Signage shall be in accordance with the regulations for the district where the facility is located.

(11) Community Home or Group Home

- a. For the limitation of six or fewer clients, this means six or fewer clients and two authorized supervisory personnel.
- b. A community home or group home must be at least 2,000 feet from other halfway house or inpatient substance abuse treatment facility, measured property line to property line.
- c. A community home or group home must be at least 750 feet from any community home or group home, notwithstanding any additional distance restrictions of Federal, State or local law for moderate and high risk (level 2 and 3) and civil commitment sex offenders, measured property line to property line.
- d. The appearance and residential character of the structure cannot be altered, either through use of colors, materials, construction (excepting provisions for the physically handicapped) and lighting; the emission of sound, noise, vibration and electromagnetic interference; or outdoor storage of any kind.

- e. Signs identifying the property as a community home or group home are prohibited in residential zoning districts.
- f. Vehicles used primarily for the community home or group home (for instance, vans displaying an institution name) must be stored where they cannot be seen from the public right-of-way or adjacent properties when located in a residential zoning district.
- g. Any single-family dwelling unit to be utilized for a community home or group home shall provide as a minimum, the following square footage in each bedroom:
 - i. To house one person per bedroom, the dwelling unit must provide one hundred (100) square feet of space per bedroom utilized for this purpose.
 - ii. To house two or more persons per bedroom, the dwelling unit must provide at least eighty (80) square feet of space per person housed in the bedroom utilized for this purpose. For example, two persons would require a one hundred sixty (160) square foot room.
- h. A single-family dwelling unit to be utilized for a community home or group home shall provide as a minimum, one parking space for each bedroom in the home, including the spaces provided by the garage but not including the parking on public right of way adjacent to the home.

(12) Manufactured Housing

- a. Mobile Homes may not be installed.
- b. HUD-Code Manufactured Homes may be installed.
- c. No more than four units may be installed on a single lot.

(13) Funeral Homes

- a. Users seeking a Conditional Use Permit shall file a written plan with the City demonstrating how operations will not adversely impact residential uses within 1000 feet.

(14) Single Family Residential Attached

- a. Permitted only on Lots that have current or previous use (within the past 12 months) as a single-family attached residential dwelling; or,
- b. Where applicant can demonstrate that the total density of dwelling units within a proposed development is equal to or less than the average density of the zoning district. For the purposes of this Condition, a “development” includes the total number of dwelling units proposed or accounted for in a development agreement, a master drainage plan, or another type of master plan approved by the City. If two or more such plans exist for the property in question, the one with higher total number of dwelling units controls.

(15) Park Maintenance Facilities

Park Maintenance Facilities are permitted by right in I zoning districts provided that the following conditional use standards are met (P/C)

- Permitted only on lots that have current or previous use (within the past 12 months) as a Park Maintenance Facility; or
- City approval of a written plan from the user demonstrating how the operations will not adversely impact residential uses within 1,000 feet.

~~Section 4.11~~ Section 4.10 Accessory Uses

(1) General

Any accessory use may be permitted provided there is association with a primary use that may be permitted in accordance with Table 4.2 of this UDC. The establishment of such accessory uses shall be consistent with any or all of the following standards:

- a. The accessory use shall be subordinate to and support a primary use or principal;
- b. The accessory use shall be subordinate in area, extent or purpose to the primary use;
- c. The accessory use shall contribute to the comfort, convenience or necessity of the primary use;
- d. The accessory use shall be located within the same zoning district as the primary use and/or;
- e. Accessory uses located in residential districts shall not be used for commercial purposes other than authorized and legitimate Home Occupations.

(2) Home Occupations

- a. A home occupation is that accessory use of a dwelling that shall constitute all or some portion of the livelihood of a person or persons living in the dwelling. The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling or adversely affect the uses permitted in the district of which it is a part.
- b. Home occupations are permitted provided the occupation meets the following provisions:
 - i. Is conducted entirely within a dwelling or integral part thereof and has no outside storage of any kind related to the home occupation;
 - ii. Is clearly incidental and secondary to the principal use of the dwelling;
 - iii. Is conducted only by persons residing on the premises (nonresident employees are not permitted);
 - iv. Does not affect the residential character of the dwelling or cause the dwelling to be extended or altered, internally or externally;
 - v. No identification sign or advertising of the home occupation is placed or situated on the site or structures, as required in Chapter ~~10~~ 9 , Signs;
 - vi. Deliveries by commercial vehicle occur only between the hours of 8 a.m. and 6 p.m.;
 - vii. Does not generate traffic, parking, sewage, or water use in excess of what is typical in the residential neighborhood;
 - viii. Does not create disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, unhealthy or unsightly condition, electrical interference, or other hazard to persons or property within the vicinity;
 - ix. Does not result in the off-street or on-street parking of more than two vehicles at any one time not owned by members of the occupant family; and
 - x. Does not involve any on-site retail sales.
- c. Prohibited Home Occupations
The following are prohibited as Home Occupations:
 - i. Animal hospitals, kennels, or crematoriums.
 - ii. Mortuaries;
 - iii. Private clubs;
 - iv. Repair shops;
 - v. Restaurants (excluding Bed and Breakfasts);
 - vi. Automobile or mechanical paint or repair shops;

- vii. Doctor, dentist, veterinarian or other medically related office;
- viii. Rooming/Boarding House;
- ix. Barber shops, Hair Salon and Beauticians.

~~Section 4.12~~ Section 4.11 Temporary Uses

(1) Purpose

Temporary uses, as set forth below, are declared to have characteristics which require certain controls in order to ensure compatibility with other uses in the district within which they are proposed to be located. Permits for Temporary Uses must be submitted for review prior to its use.

(2) Temporary Sales Offices and Model Homes

Model homes are allowed provided they are servicing only the subdivision in which they are located.

(3) Construction Oversight Offices

A temporary building for use as a construction oversight office is permitted on a twelve- (12) month or shorter basis ~~unless a renewal is approved by the City, subject to the renewal policy outlined for model homes found in Section 3.9.~~ One construction oversight temporary building shall be allowed for each builder in a subdivision in which that builder has the authority to construct structures.

(4) Temporary Parking Lots

- a. When additional parking, in excess of what this UDC requires and/or in excess of what was installed when a facility first opened, is necessary to accommodate business or patronage that was unanticipated when the facility first opened, this parking may be supplied using the standards below. All such parking lots must receive site plan approval from the City Council or City Manager following the site plan review procedures outlined in Section 3.10(1). If these standards are allowed, the parking lot may exist on a temporary basis, not to exceed twelve (12) months. The beginning date of the 12-month period shall be determined by the City Manager.
- b. Standards. Temporary parking lots are subject to the following standards:
 - i. The surface of the parking lot may be gravel or some other temporary material approved by the City Engineer;
 - ii. Curbs, gutters or other improvements may be required where necessary to comply with drainage regulations as approved by the City Engineer;
 - iii. Entrance to the lot from any public right-of-way is at the discretion of the City Engineer;
 - iv. When entrance to the lot is allowed from a public right-of-way, that portion of the entrance located in the right-of-way must be paved with an all-weather surface as approved by the City Engineer; and
 - v. It must be shown that steps will be taken to prevent the blowing of dust onto adjacent properties and the tracking of mud or gravel onto public rights-of-way. Violation of this standard will suspend use and immediately shut down parking lot until problem has been corrected to the satisfaction of City Engineer.
- c. Future Compliance.

At the end of the twelve-month period the lot must be brought up to full compliance with parking lot standards, as approved through the applicable site plan review process. If no site plan is approved within two (2) months of the expiration of the temporary parking lot approval, the lot, including all paving material, must be removed and the area no longer used for the parking of

vehicles. If the lot is removed, the area must be sodded, seeded or hydro mulched with grass within ten (10) days of removal. Driveway access shall be removed and curb and gutter replaced.

~~Section 4.13~~ Section 4.12 Outdoor Display and Storage

(1) General

Outdoor display and storage shall be allowed in nonresidential districts in accordance with this Section. Any merchandise, material or equipment situated outdoors in nonresidential districts shall be subject to the requirements of this Section. For the purpose of this section, outdoor storage and display shall be classified into three categories.

(2) Categories of Outdoor Display and Storage

- a. Outdoor Display
 - i. Outdoor display is a display of items actively for sale.
 - ii. Outdoor display shall be allowed adjacent to a principal building wall, may not extend into the right-of-way, and may only extend a distance of no greater than 5 feet from the wall. Such storage shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.
 - iii. Outdoor display may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
- b. Limited Outdoor Storage
 - i. Limited outdoor storage is temporary storage of goods in individual packaging and not in storage containers. Organic materials stored on pallets are considered limited outdoor storage.
 - ii. Limited outdoor storage shall be to the side or rear and not exceed 1,000 square feet or 5 percent of the total site area (whichever is greater), except in the Logistics district where additional outdoor storage and display is allowed so long as it is completely screened from view from outside the site, by a solid opaque wall or fence at least six feet in height. Such area may extend from the primary building, but not for a distance greater than 50 feet, and not into a public right-of-way or easement.
 - iii. Limited outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.
 - iv. Limited outdoor storage shall not be allowed in required off-street parking spaces.
- c. General Outdoor Storage
 - i. General outdoor storage consists of all remaining forms of outdoor storage not classified as outdoor display or limited outdoor storage, including items stored in shipping containers, and semitrailers not attached to a truck.
 - ii. General outdoor storage shall be allowed in unlimited quantity, provided that the storage area is screened from any public right-of-way and meets the location restrictions below.
 - iii. No general outdoor storage shall be permitted within the following areas:
 - 1. A required front or side setback or easement.
 - 2. Between a front setback and the building front.
 - 3. Between a side setback along a public right-of-way and any building or structure.
 - iv. General outdoor storage may not occupy more than 30 percent of the linear distance along any principal building wall facing a public right-of-way.

- v. Areas intended for general outdoor storage must be paved and painted to distinguish them from required off-street parking areas. No general outdoor storage shall be allowed in required off-street parking areas.

(3) Outdoor Display and Storage Requirements

- a. Required in Site Plan: All outdoor display and storage areas must be clearly shown in the site plan submitted for the property.
- b. Right-of-Way: Unless specifically authorized elsewhere in this UDC, all outdoor storage and display shall be located outside the public right-of-way and/or at least 15 feet from the back edge of the adjacent curb or street pavement and outside of any required landscape area. Additionally, all outdoor display and storage shall only be on pavement, and still within the maximum impervious cover limitations set forth in Chapter 5, Subdivision Design Standards.
- c. Side Yards: No form of outdoor display and storage shall be allowed in required side setbacks or buffer yards. Landscaping and Buffers shall be provided as set forth in Chapter 6, Site Development and Building Form Standards.

(4) Exceptions

- a. Vehicles for sale within part of a properly permitted vehicle sales use (including boats and recreational vehicles) shall not be considered outdoor display or storage.
- b. Such vehicles must be located and displayed on a paved vehicle use area, clearly indicated on the site plan, and screened under the same requirements for a parking lot.
- c. Waste generated on-site and properly deposited in ordinary refuse containers shall not be subject to the restrictions of this Section.
- d. Outdoor display and sales rules do not apply to temporary sales by a charitable organization that is operating with the permission of the City.

Section 4.13 Nonconforming Uses

Revised for compliance with S.B. 929.

(1) Purpose

Nonconforming uses are lawful uses within a zoning district that do not conform to the requirements of this UDC when it was adopted, or when any amendments thereto, take effect. The purpose of this section is to provide for recognition of such uses, ~~and procedures for bringing such uses into conformance.~~

(2) Notice of Nonconforming Status

- a. In addition to any notice required by this section or Section 211.007, the governing body of a municipality or a zoning commission, as applicable, shall provide written notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary under which a current conforming use of a property is a nonconforming use if the regulation or boundary is adopted or changed.
- b. The notice must be:
 - (i) be mailed by United States mail to each owner of real or business personal property where the proposed nonconforming use is located as indicated by the most recently approved municipal tax roll and each occupant of the property not later than the 10th day before the hearing date; and

(ii) contain the time and place of the public hearing; and

(iii) include the following text in bold 14-point type or larger: "THE [MUNICIPALITY NAME] IS HOLDING A HEARING THAT WILL DETERMINE WHETHER YOU MAY LOSE THE RIGHT TO CONTINUE USING YOUR PROPERTY FOR ITS CURRENT USE. PLEASE READ THIS NOTICE CAREFULLY."

(23) Description

- a. Any use of property existing at the time of the passage of this section of the UDC or that exists when land is annexed into the city that does not conform with the regulations prescribed in the preceding sections of this UDC shall be deemed a nonconforming use, except that any single-family use existing at the time of passage of this UDC shall be thereafter deemed a conforming use.
- b. A nonconforming use of land may be continued, but if said nonconforming use is discontinued intentionally abandoned by the property owner for a period of time in excess of 180 consecutive days six (6) consecutive months, any future use of said premises shall be in conformance with the provisions of this UDC.
- c. A nonconforming use of a building may be continued although such does not conform to the provisions hereof, and such use may be extended throughout the building provided no structural alterations except those required by law or ordinance are made therein.
- d. The right to maintain the nonconforming use shall be subject to such regulations as to pertaining to the maintenance of the premises, and conditions of operation, and other measures, as may, in the judgment of the Zoning Board of Adjustment, be reasonably required for the protection of adjacent property.
- e. A nonconforming use or a structure shall not be extended or rebuilt in case of obsolescence as per Section 4.14 (2)(d) above or total destruction by fire or other cause. In cases of partial destruction by fire or other causes, not exceeding fifty (50) per cent of its value, the building inspector shall issue a permit for reconstruction and continuation of the previously existing non-conforming use where no expansion or changes are proposed to the footprint. If greater than fifty (50) per cent and less than the total, the Zoning Board of Adjustment, may grant a ~~permit~~ Special Exception for repair after public hearing (similar to a variance process) and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and of the conservation and preservation of property.
- ~~f. A violation of this UDC provision and a request for a nonconforming designation or request for relief under this designation shall not create an estoppel of the trial of any lawsuit which may be filed in any court.~~
- ~~g.f.~~ Notwithstanding any other provisions of this chapter, any legal nonconforming use of property existing as of March 1, 2018, that does not conform to the regulations prescribed in the UDC of the City of Fair Oaks Ranch, shall be deemed a non-conforming use, subject to the provisions contained in this section.
- ~~h.g.~~ A non-conforming use and/or a non-conforming structure shall not be expanded or enlarged outside of the limits of the existing building or area. The Zoning Board of Adjustment may grant

Commented [CT1]: Revised for compliance with S.B. 929.

Commented [CT2]: Same as above - will trigger S.B. 929 if the City attempts to use this section as a means on discontinuing nonconforming status.

a Special Exception for expansion of a non-conforming use and/or enlargement of a non-conforming structure after a public hearing (similar to a variance) and having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and/or structure and of the conservation and preservation of property. The Zoning Board of Adjustment may attach conditions of approval that they may deem necessary to mitigate the adverse impacts of such an enlargement or expansion on neighboring properties and residents.

(4) Notice and Compensation

- a. A person using a property in a manner considered to be a nonconforming use as a result of the adoption of or change to a zoning regulation or boundary may continue to use the property in the same manner unless required by the City to stop the nonconforming use of the property.
- b. The following actions by the City are considered a requirement to stop a nonconforming use of a property under this section:
 - (i) an official action by the governing body of the City or a board, commission, department, or official of the City; or
 - (ii) a determination by the City that a nonconforming use has an adverse effect or other necessary determination that the City must make before imposing a requirement to stop a nonconforming use under applicable law.
- c. If the City requires the property owner to stop the nonconforming use, the property owner or lessee shall be entitled to notice and payment as required by Local Government Code 211.006, as amended.

(5) Appeal of Nonconforming Determination and Compensation

- (a) A property owner or lessee entitled to a remedy under this section may appeal a determination to the Board of Adjustment not later than the 20th day after the date the determination is made. At the hearing before the Board of Adjustment, the City has the burden of proof to establish the correctness of its determination.
- (b) Any property owner or lessee aggrieved by a final decision of the Board of Adjustment may appeal the final decision to a court of competent jurisdiction within twenty (20) days.