



Memorandum

To: David Vehaun, City Manager

From: Bill Meyer, Planning & Development Director

**Subject: Request to Sponsor Zoning Code Amendments –
Land Use Separation Requirement Modifications**

Date: May 18, 2012

Staff is requesting that the City Council sponsor a set of Zoning Ordinance amendments to address additional concerns about the impact of land use separation requirements, particularly on existing buildings.

Issue Statement

The 2006 Zoning Ordinance created land use separation requirements between certain commercial and industrial uses and residential, church, school and park uses. There was no appeal or variance process, so existing buildings that lost their nonconforming status could no longer house their historic uses.

In 2007, the Zoning Ordinance was amended to allow these separation requirements to be reduced or eliminated by Special Exception, which was particularly designed to provide some consideration for existing buildings and historical uses in older areas of the City.

In 2009, the City Council adopted certain amendments to allow for expansion of existing uses or re-establishment of historical uses without requiring Special Exception. These included the use of an Administrative Adjustment for small distance deviations (under 20% in Old Town and under 10% elsewhere) and for historical “back to back” orientations along commercial corridors.

However, we still have a regular flow of requests for special exception to these separation requirements. Historically, about one third of all special exception requests (31 of 87) have been to relax these spacing requirements. Over half of those were for automotive uses, and all of them were approved, with only 1 out of 16 that went to public hearing drawing any negative comment. Of the other separation cases heard for other uses 4 of 11 were denied.

Proposed Amendments

Eliminate Spacing Requirements from Certain Existing Uses – The majority of the spacing requirements use the same language – “XXX feet from residential district, existing residential use, religious institution use, day care use, or school”. While there has always been a strong historical case for separating certain “morals” or nuisance uses from the institutional uses listed above, the primary concern for most situations is to separate things from residential districts. In addition, there is a less strong case to maintain separation from existing residential uses that are in transition and zoned commercial or industrial, versus homes that are zoned residential.

We propose eliminating the separation requirement from all but zoned residential uses for some permitted uses that have lesser impacts.

Eliminate all Spacing Requirements for Certain Permitted Uses – From our experience through five years of public hearings, there are certain spacing requirements in the vehicle use and specialized industrial categories that seem unnecessary. These uses do not seem to be of significantly greater impact than those allowed by right in the same zoning districts, and can be addressed by additional performance standards that must be met by new facilities.

Waive Special Exception Approval for Historical Uses – Allow re-establishment of historical uses (except those that this process is not available to) on a property within a given time frame, without meeting the spacing requirements. Our public hearing history is that historical uses have not been opposed by neighborhoods. Language could be added to still allow staff to require mitigation of obvious non-conformities that could affect the neighborhood.

Fine Tune any Performance Standards for Uses that are Affected by the Above Changes – We will review the use specific standards to see if additional administrative standards are appropriate to ensure compatibility.

Attached is a list of uses with separation requirements, and a summary of the changes proposed, as shown by redline deletions and additions.

We have also attached an initial draft with recommendations that help to explain the overall direction of this proposal. The specifics will obviously be massaged as the staff completes its drafting and the Planning Commission holds its hearings and makes its recommendation. We request the Council’s sponsorship, and any initial thoughts on the direction of this amendment.

Uses Requiring Separation from Certain Residential or Institutional Uses

| Use | Spacing Requirement |
|---|--|
| High Impact Commercial Uses | |
| Convention Center | 500 feet from residential |
| Stable | 300 feet from dwelling |
| Restaurant, outdoor seating | 100 feet from dwelling |
| Restaurant, drive-thru | 100 feet from residential district or use |
| Arena, Stadium | 500 feet from residential or day care |
| Adult Entertainment | 1000 feet from residential, institutional* |
| Bar, Nightclub | 300 feet from residential, <u>institutional</u> |
| Convenience Store w/Gas, Filling Station | 250 feet from residential, institutional |
| Tattoo Parlor | 1000 feet from residential, institutional |
| Body Piercing | 500 feet from residential, institutional |
| Liquor Store | 300 feet from residential, <u>institutional</u> |
| Check Cashing, Payday & Title Loan | 300 feet from residential, institutional |
| Vehicle Sales and Service Uses | |
| Auto Paint & Body | 250 feet from residential, institutional |
| Auto Parts & Installation | 250 feet from residential, institutional |
| Auto, Truck, RV Rental & Sales | 250 feet from residential, institutional |
| Auto Repair & Service | 250 feet from residential, institutional |
| Auto Wrecker Service | 250 feet from residential, institutional |
| Boat & Marine Sales | 250 feet from residential, institutional |
| Car Wash & Detailing | 250 feet from residential, institutional |
| Gasoline Filling Station | 250 feet from residential, institutional |
| Truck Stop | 250 feet from residential, institutional |
| Heavy or Specialized Industrial Uses | |
| Extractive Industry | 1000 feet from residential, institutional |
| Machine Shop, Motor Repair | 250 feet from residential, institutional |
| Heavy Equipment Sales | 250 feet from residential, institutional |
| Laundry, Carpet Cleaning | 250 feet from residential, institutional |
| Heavy Manufacturing | 500 feet from residential, institutional |
| Parcel Services, Truck Terminal | 250 feet from residential, institutional |
| Landfill | 1000 feet from residential, institutional |
| Recycling Center | 250 feet from residential, institutional |
| Salvage & Junkyard | 250 feet from residential, institutional |

* The term institutional is shorthand for the full phrase "religious institution use, day care use, or school"

ARTICLE 4: USE REGULATIONS

4-300 USE SPECIFIC STANDARDS

Use specific standards are the requirements applied to individual Use Types regardless of the zone district where these are located, or the review procedure under which these are approved. This section is intended to list the use specific standards for all principal uses identified in Table 4-100(B), *Table of Allowed Uses*, as being subject to additional requirements. These standards may be modified by other applicable requirements in this Ordinance.

4-300(C) Commercial Uses

Where the language in this section refers to a separation of a use from certain zoning districts or other uses, the distance requirement may be modified by special exception based on the following criteria:

- 1) There are no adverse impacts to the residential or institutional properties within the specified separation distance that are greater than those generally experienced in the area from other permitted uses in the district, including but not limited to noise, light, and traffic;
- 2) Any impacts of the use can be mitigated through buffering, screening, or other mechanisms that are made a part of the site plan for the property; and
- 3) The separation requirements for the following uses are not subject to reduction through special exception: Adult entertainment, tattoo parlor, body piercing establishment, check cashing establishment, title loan lender, or deferred presentment lender.

(2) Eating Establishments

(a) *Restaurants with Outdoor Seating*

Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

1. *Setback from Residential District*
The outdoor seating area shall be located no closer than one hundred (100) feet from any ~~single-family attached, detached, townhouse, or two- (2) to four- (4) family dwelling residential district.~~
2. *Hours of Operation*
Restaurants with outdoor seating located adjacent to single-family attached, detached, townhouse, or two- (2) to four- (4) family dwellings shall not operate the outdoor portions of the use after 10:00 PM.
3. *No Obstruction of Pedestrian Movement*
The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks to through areas intended for public use.
4. *Service of Food and Beverages*
Employees of the establishment shall serve food and beverages in the outdoor seating area.
5. *Compatibility and Compliance with Building Codes and State Regulations*
In approving the use, the City may impose conditions relating to the location, configuration, and operational aspects of such outdoor seating area to ensure its compatibility with surrounding uses, its architectural consistency

with the restaurant, and its compliance with the City's building codes and all relevant state laws and regulations.

(b) Restaurants with Drive-Through Facilities

Restaurants having drive-through facilities shall comply with the following standards:

1. *Proximity to Residential Districts*
The order box and/or pickup window shall be located no closer than one hundred (100) feet from any residential district ~~or existing residential use~~;
2. *Not Obstruct Pedestrian Movement*
Design and locate the drive-up window or outdoor area so as not to obstruct the movement of pedestrians along sidewalks or through areas intended for public use; and
3. *Compatibility and Compliance City Conditions*
Be subject to City-imposed conditions relating to the location, configuration, and operational aspects of the drive-through window to ensure its compatibility with surrounding uses, its architectural consistency with the principal use, and its compliance with the City's building codes and all relevant state laws and regulations.

(6) Recreation/Entertainment, Outdoor

Arena, Stadium

All arenas or stadiums shall:

1. *Minimum Separation*
Be located at least five hundred (500) feet from ~~day care uses~~, Household Living uses, or vacant land classified in the RH, SF-2, SF-3, SF-4, SF-5, and SF-8 zone districts;
2. *Lot Area*
Be at least five (5) acres in area;
3. *Frontage*
Have a minimum of four hundred (400) feet of frontage on an arterial or major collector street, at the primary point of access;
4. *Vehicular Access*
Locate access points to minimize vehicular traffic to and through local streets in residential neighborhoods; and
5. *Safety Fences*
Provide safety fences up to a height of eight (8) feet, if necessary, to protect the general health, safety, and welfare in accordance with Section 6-400, *Fencing Standards*.

(7) Retail Sales and Services

(c) *Bar, Nightclub, or Cocktail Lounge*

A bar, nightclub, or cocktail lounge use shall:

1. *Minimum Separation*

Be located at least three hundred (300) feet from any religious institution use, day care use, public park, residential zone district or portion of a Planned Development designated for residential use.

2. *Drive-Through; Outdoor Seating; Live Entertainment*

Not have a drive-up window or outdoor area for seating or live or recorded acoustic or amplified entertainment, unless such feature is approved as part of a Special Exception Permit (Section 2-300(D), *Special Exception Permit*).

3. *Outdoor Activities (as part of a Special Exception Permit)*

Such uses with drive-up window or other outdoor areas shall:

- a. Design and locate the drive-up window or outdoor area so as not to obstruct the movement of pedestrians along sidewalks or through areas intended for public use;
- b. Only allow employees of the establishment to serve food and beverages in the outdoor area; and
- c. Be subject to City-imposed conditions relating to the location, configuration, and operational aspects of the drive-in window or outdoor area to ensure its compatibility with surrounding uses, its architectural consistency with the principal use, and its compliance with the City's building codes and all relevant state laws and regulations.

(j) *Tattoo Parlor*

Tattoo parlors shall:

1. *Separation*

Be separated by at least one thousand (1,000) feet from any residential district, existing residential use, religious institution use, day care use, public park, or school (elementary, middle, or senior high);

2. *Not Engage in Other Services*

Not engage in other business or services, including but not limited to the retail sales of goods or any form of body piercing; and

3. *Not Display Signage*

Not display signage visible from outside the premises that are illustrative of services offered on the premises.

(k) *Body Piercing Establishment*

Body piercing establishments shall:

1. *Separation*

Be separated by at least five hundred (500) feet from any residential district, existing residential use, religious institution use, day care use, or school (elementary, middle, or senior high); and

2. *Not Display Signage*

Not display signage visible from outside the premises that are illustrative of services or merchandise offered on the premises.

(l) *Liquor Store*

A liquor store shall be located at least three hundred (300) feet from any religious institution use, day care use, public park, residential zone district or portion of a Planned Development designated for residential use.

(8) Vehicle Sales and Services

(a) Automobile Painting/Body Shop

Automobile painting/body shop uses shall:

1. *Minimum Separation*
Be located at least two hundred fifty (250) feet from any residential district, ~~existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;~~
2. *Parked Vehicles*
Not park or store a vehicle as a source of parts, or park or store a vehicle for the purpose of sale or lease/rent;
3. *Lighting*
Design and arrange all lights and lighting so no source of light shall be visible from any residential district;
4. *Enclosure*
Repair and store all vehicles within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than twenty-five percent (25%) of the total lot area. Such areas shall be located to the rear of the principal structure and be screened with a wooden fence or masonry wall in accordance with Section 6-400, *Fencing Standards*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall; and
5. *Vehicle Storage*
Not store or park a vehicle that has been repaired and is awaiting removal for more than thirty (30) consecutive days. In cases where a vehicle has been abandoned by its lawful owner prior to or during the repair process, the vehicle may remain on site as long as is necessary after the thirty (30) day period, provided the owner or operator of the establishment can demonstrate steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(b) Automobile Parts Sales and Installation

Automobile parts sales and installation uses shall:

1. *Enclosure*
Repair and store all vehicles within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than twenty-five (25%) of the total lot area. Such areas shall be located to the rear of the principal structure and be screened with a wood or vinyl fence or masonry wall in accordance with Section 6-400, *Fencing Standards*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall;
2. *Public Address Systems*
Have no outdoor speaker or public address system that is audible off-site;
3. *Trash Storage*
Provide adequate, enclosed trash storage facilities on the site; and
4. *Test Drives*
Not test drive vehicles on residential streets.
5. *Automobile Parts, Sales and Installation in IB District*

Be restricted to the sales and installation of non-mechanical specialty items, except where located on an arterial or collector road. Such items include electronics, security systems, interior and exterior specialty accessories, and similar items that can be installed with little or no noise or other external impacts. No outside equipment or vehicle storage shall be permitted with such uses in the IB district.

(c) Automobile Rental and Sales; Recreational Vehicle/Travel Trailer Rental and Sales; Truck or Tractor Rental or Sales

Automobile rental and sales, recreational vehicle/travel trailer rental and sales, and truck or tractor rental or sales uses shall:

1. *Vehicle Display Pad*
 - a. Not have more than one (1) vehicle display pad for every one hundred (100) feet of street frontage. The vehicle display pad may be elevated up to two (2) feet above adjacent displays or grade level;
 - b. Have no racks that tilt vehicles in any way to show the underside, unless located inside a showroom;
2. *Not Display on Top of Building*

Not display vehicles or other similar items on top of a building;
3. *Public Address Systems*

Have no outdoor speaker or public address system that is audible off-site;
4. *Other Materials for Sale*

Display no other materials for sale between the principal structure and the street; and
5. *Test Drives*

Not test drive vehicles on residential streets.
6. *Automobile Rental and Sales in IB District*

Be restricted to automobile rental, or the sale of specialty vehicles in the IB district, except where located on an arterial or collector road. Such vehicles include collector vehicles, racing vehicles, vehicles modified for the disabled, or other vehicles that have a similar limited market. All vehicles must be stored inside the building or in lots to the rear of the building.

(d) Automobile Repair and Servicing (without Painting/Bodywork)

Automotive repair and servicing uses shall:

1. *Minimum Separation*

~~Be located at least two hundred fifty (250) feet from any residential zone district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;~~
21. *On-Site Circulation*

Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements;
32. *Enclosure*

Repair and store all vehicles within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than twenty-five percent (25%) of the total lot area. Such areas shall

be located to the rear of the principal structure and be screened with a wooden fence or masonry wall in accordance with Section 6-400, *Fencing Standards*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall;

43. Public Address Systems

Have no outdoor speaker or public address system which is audible off-site;

54. Trash Storage

Provide adequate, enclosed trash storage facilities on the site;

65. Test Drives

Not test drive vehicles on residential streets;

76. Gasoline Sales

Comply with the standards for a gasoline filling station (Section 4-300(C)(8)(h), *Gasoline Filling Station*) if gasoline is sold on-site;

87. Parked Vehicles

Not park or store a vehicle as a source of parts, or park or store a vehicle for the purpose of sale or lease/rent; and

98. Vehicle Storage

Not store or park a vehicle that has been repaired and is awaiting removal for more than thirty (30) consecutive days. In cases where a vehicle has been abandoned by its lawful owner prior to or during the repair process, the vehicle may remain on site as long as is necessary after the thirty (30) day period, provided the owner or operator of the establishment can demonstrate steps have been taken to remove the vehicle from the premises using the appropriate legal means.

(e) Automotive Wrecker Service

Automotive wrecker service uses shall:

1. *Number of Vehicles*

Be limited to nine (9) vehicles or fewer;

2. *Duration*

Not store vehicles for more than ninety (90) days;

3. *Location*

Store vehicles to the rear of the principal structure behind a wooden fence or masonry wall in accordance with Section 6-400, *Fencing Standards*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall;

4. *Minimum Separation*

Be located at least two hundred fifty (250) feet from any residential zone district, existing residential zone district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park; and

5. *Compliance with Landscaping Standards*

Comply with all landscaping standards in Section 6-300, *Landscaping Standards*.

(f) Boat and Marine Rental and Sales

Boat and marine rental and sales uses shall:

~~1. *Minimum Separation*~~

~~Be located at least two hundred fifty (250) feet from any residential district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle or senior high), or public park;~~

21. *Displays within Setbacks and Buffers*

Not locate boat and marine equipment displays within a required setback or perimeter buffer;

32. *Vehicle Display Pad*

Not have more than one (1) boat or marine display pad for every one hundred (100) feet of street frontage. The display pad may be elevated up to two (2) feet above adjacent displays or grade level;

43. *Public Address Systems*

Have no outdoor speaker or public address system which is audible off-site; and

54. *Other Materials for Sale*

Not display other materials for sale between the principal structure and the street.

(g) *Car Wash or Auto Detailing*

A car wash or auto detailing use shall:

1. *Minimum Separation*

Be located at least two hundred fifty (250) feet from any residential district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park unless all of the following conditions are met;

- a. An attendant must be onsite at all times that the establishment is open for business; and
- b. All washing, waxing, and machine drying must be conducted inside the building (vacuuming, hand drying, and hand waxing of vehicles may take place outside); and
- c. Building openings for vehicle entry shall not face any adjacent residential property line (minimum sixty (60) degree offset required); and
- d. All vacuums and air compressors located outside must be designed such that noise does not exceed sixty (60) decibels at or beyond any property line; and
- e. A solid six (6) foot high fence or wall must be provided along any property line that adjoins a residential district, existing residential use, religious institution use, community service use, daycare use, school (elementary, middle, or senior high), or public park.

2. *On-Site Circulation*

Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements;

3. *Trash Storage*

Provide adequate, enclosed trash storage facilities on the site.

4. *Automatic Car Wash with Automotive Service Station*

If an automatic car wash is an accessory use to a gasoline filling station, it shall be governed by the use and dimensional standards applicable to the gas sales use.

(h) Gasoline Filling Station

Gasoline filling stations shall:

1. *Separation*

Be located at least two hundred fifty (250) feet from any residential district, ~~existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;~~

2. *Design*

a. Primary gasoline filling station buildings shall be designed like traditional commercial structures, to include wooden or vinyl siding, stone, brick, or stucco-type exterior and a sloped roof or a flat roof that is screened with a parapet façade;

b. Gasoline pump canopies shall mimic rooflines and surface materials of the roof of the principal structure;

c. Gasoline pump canopies shall have a maximum clearance height of fourteen (14) feet above grade, except where state or federal law requires higher clearances; and

3. *Gasoline Pump Location*

Gasoline pumps shall not be located between the building's front façade and the street it is addressed from or the primary street, as determined by the Development Services Director.

(i) Truck Stops

A truck stop shall meet the standards for a gasoline filling station (Section 4-300(C)(8)(h), *Gasoline Filling Station*), except that gasoline pump canopies shall have a maximum clearance height of twenty (20) feet above grade except where state or federal law requires higher clearance.

4-300(D) Industrial and Related Uses

Where the language in this section refers to a separation of a use from certain zoning districts or other uses, the distance requirement may be modified by special exception based on the following criteria:

- 1) There are no adverse impacts to the residential or institutional properties within the specified separation distance that are greater than those generally experienced in the area from other permitted uses in the district, including but not limited to noise, light, and traffic;
- 2) Any impacts of the use can be mitigated through buffering, screening, or other mechanisms that are made a part of the site plan for the property; and
- 3) The separation requirements for the following uses are not subject to reduction through special exception: Adult entertainment, tattoo parlor, body piercing establishment, check cashing establishment, title loan lender, or deferred presentment lender.

Industrial and Related uses shall obtain a DHEC permit if required by state law, and shall comply with the following:

(2) Industrial Services

(a) *Electric Motor Repair; Machine Shop; Tool Repair*

Electric motor repair, machine shops, and tool repair uses ~~shall:~~

~~1. *Minimum Separation*~~

~~Be located at least two hundred fifty (250) feet from any residential district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;~~

~~2. *Enclosure*~~

~~Repair shall repair~~ and store all machines within an enclosed building. Temporary storage may be allowed in an outdoor storage area that shall be no larger than twenty-five percent (25%) of the total lot area. Such areas shall be located to the rear of the principal structure and be screened with a wooden fence or masonry wall in accordance with Section 6-400, *Fencing Standards*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(b) *Heavy Equipment Sales, Rental, or Repair*

Heavy equipment sales, rental, or repair uses shall:

~~1. *Minimum Separation*~~

~~Be located at least two hundred fifty (250) feet from any residential district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;~~

~~21. *Displays within Setbacks and Buffers*~~

Not locate heavy equipment displays within a required setback or perimeter buffer;

~~32. *Vehicle Display Pad*~~

Not have more than one (1) heavy equipment display area for every one hundred (100) feet of street frontage;

~~43. *Not Display on Top of Building*~~

Not place heavy equipment or other display on top of a building; and

~~54. *Public Address Systems*~~

Have not outdoor speaker or public address system which is audible off-site.

(c) Laundry, Dry Cleaning, and Carpet Cleaning Facilities

Laundry, dry cleaning, and carpet cleaning facilities shall:

~~1. *Minimum Separation*~~

~~— Be located at least two hundred fifty (250) feet from any residential zone district, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;~~

~~21. *Enclosure*~~

Be within an enclosed building; and

~~32. *Nonflammable Enclosure*~~

Use nonflammable liquids in the cleaning processes that emit no odor, fumes, or steam detectable to normal senses from off the premises.

(d) Building, Heating, Plumbing, or Electrical Contractor

Contractor facilities in the IB district shall not include the outside storage of heavy equipment or bulk storage of raw materials.

(5) Wholesaling, Warehouse, and Freight Movement

(a) Parcel Services; Truck or Freight Terminal; Wholesale and Warehouse, General (Distribution or Storage)

Parcel services, truck or freight terminals, or warehouses (distribution or storage) shall:

1. *Minimum Separation*

Be located at least two hundred fifty (250) feet from any residential district, existing residential use, religious institution use, community service use, day care use, school (elementary, middle, or senior high), or public park;

2. *Displays Outside Setbacks and Buffers*

Not locate storage areas within a required setback or perimeter buffer;

3. *Screening*

Locate outdoor storage areas to the rear of the principal structure and be screened with a wooden fence or masonry wall not less than eight (8) feet in height in accordance with Section 6-400, *Fencing Standards*;

4. *Public Address Systems*

Have no outdoor speaker or public address system which is audible offsite;

5. *On-Site Circulation*

Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements; and

6. *Access*

Have direct access onto an arterial or major collector street.