

**CITY OF WHARTON
ORDINANCE NO. 2025-15**

AN ORDINANCE ESTABLISHING THE CITY OF WHARTON CODE OF ORDINANCES, APPENDIX B – DOWNTOWN DEVELOPMENT REGULATIONS; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE REGULATIONS AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING FOR SEPARABILITY AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED by the City Council of the City of Wharton, Texas:

WHEREAS, it is the desire of the City of Wharton Ordinances to read as follows:

APPENDIX B: DOWNTOWN DEVELOPMENT REGULATIONS

Article 1: General Provisions

Section 1.1: Purpose

These Downtown Development Regulations are intended to implement the goals of the City of Wharton's Downtown Master Plan 2024. Downtown Wharton is intended to be the most densely developed area of the community with the greatest building coverage and the most amount of shared public parking, pedestrian amenities, and mixed-use development. It is also intended to be an area highly conducive to pedestrian activity. Building facades should be the dominant visual feature of individual streets, with groups of buildings providing a consistent vertical framing of the street space. Variation and contrast are achieved through subtle changes in setback depths, building heights and shapes, and asymmetrical corner building forms. Traditional commercial storefronts characterized by large display windows, awnings, and recessed entryways should dominate the ground floors of individual buildings. The majority of parking in Downtown Wharton is accommodated either on-street or within shared rear parking lots accessible via alleys or shared service drives. Parking lots and private driveways do not face any of Downtown's Principal Streets. Commercial signs are integrated into building architecture and are limited in size and placement.

Section 1.2: Authority, Jurisdiction, and Applicability

- a. No structure shall be built or modified, or any land use established, without complying with this Appendix as permitted by the Texas Local Government Code.
- b. The jurisdiction of this Appendix applies to the area generally comprising Wharton's Historic Downtown core bounded by the railroad tracks on the west, and the outer sides of Caney Street on the north, Resident Street on the east, and Elm and Burleson Streets on the south as depicted below.

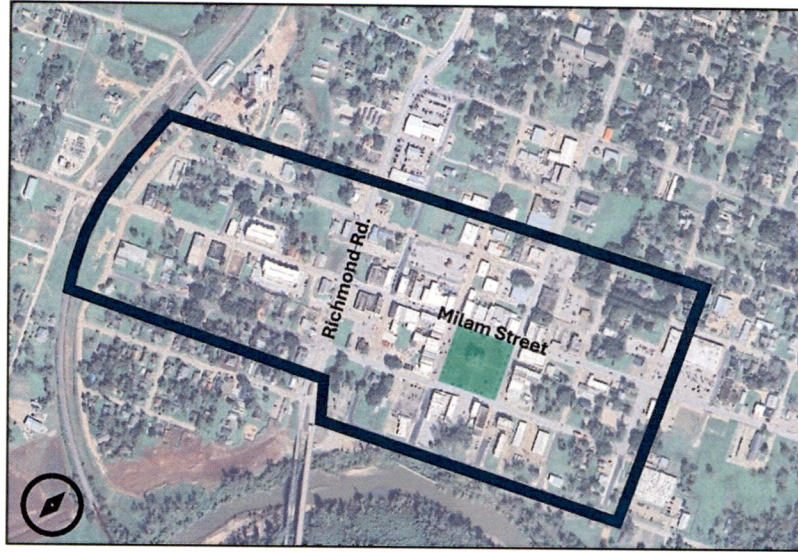


Exhibit 1.1: Downtown Wharton District Boundaries.

- c. The provisions of this Appendix shall not apply to single-family detached dwellings, duplexes, triplexes, or fourplexes.
- d. The provisions of this Appendix shall apply to new development, redevelopment, or expansions of buildings or sites as shown in Table 1.2 below.

Table 1.2: Design and Site Development Standards Applicability					
Type of Development	Articles and Sections of this Appendix				
	Art. 5.0: Building Design Standards	Sec. 4.2-4.3: Parking and Access	Sec. 4.4: Landscaping (applies only to <i>Non-Principal Streets</i>)	Sec. 5.3: Signs	Sec. 4.5: Outdoor Lighting
	◆ = Article or Section Applies				
New nonresidential, mixed-use, townhouses, and multi-family residential development greater than 4 units.	◆	◆	◆	◆	◆
Single-family, duplexes, triplexes, and four-plexes.	--	--	--	--	--

Table 1.2: Design and Site Development Standards Applicability

Renovated from residential to nonresidential or mixed-use.	◆	◆	◆	◆	◆
Renovated from nonresidential or mixed-use to residential.	--	--	--	--	--
Increase in GFA, apartment units, or impervious surface by 50 percent or more.	◆	◆	◆	◆	◆
Increase in GFA, apartment units, or impervious surface by under 50 percent.	--	--	--	--	--
Change in use requiring additional parking, loading, or stacking spaces.	--	◆	◆	--	◆
Construction of a new sign or structural modification of an existing sign.	--	--	--	◆	◆
<p>TABLE NOTES: ¹Cumulative over a 5-year time period. GFA = Gross Floor Area</p>					

Section 1.3: Effective Date

This Appendix shall become effective upon adoption and publication by the Wharton City Council.

Section 1.4: Effect of Regulations

- a. Abrogation and Conflicting Provisions. This Appendix supersedes any conflicting standards affecting Downtown Wharton within the City’s Code of Ordinances. If there is a conflict between the standards of this Appendix and other local standards, Appendix B standards shall apply. If there is a conflict between the text of this Appendix and a table or graphic within this Appendix, the text shall control.
- b. Severability. If a part of this Appendix is found invalid or unconstitutional by a court, that does not invalidate other parts of this Appendix.

Article 2: Dimensional Standards

Section 2.1: Measurements and Allowances

- a. Purpose. The purpose of this section is to provide uniform measures for interpretation and enforcement of this Ordinance and to list any exceptions to the dimensional standards in this Ordinance.
- b. Measurements. The table below provides the method of measurement for the developmental standards in this Ordinance.

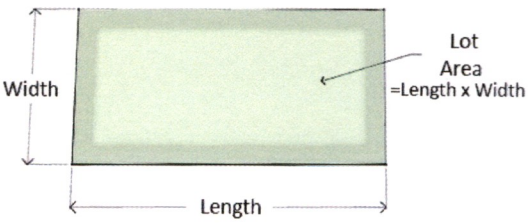
Table 2.1: Dimensional Standards		
Measurement	Definition and Methodology	Illustration
Lot Area	The total horizontal area included within property lines. Lot area is calculated by multiplying lot width by lot depth.	 <p>The diagram shows a light green rectangular lot. On the left side, a vertical double-headed arrow is labeled "Width". At the bottom, a horizontal double-headed arrow is labeled "Length". To the right of the lot, an arrow points to the interior of the rectangle, with the text "Lot Area = Length x Width" next to it.</p>

Table 2.1: Dimensional Standards

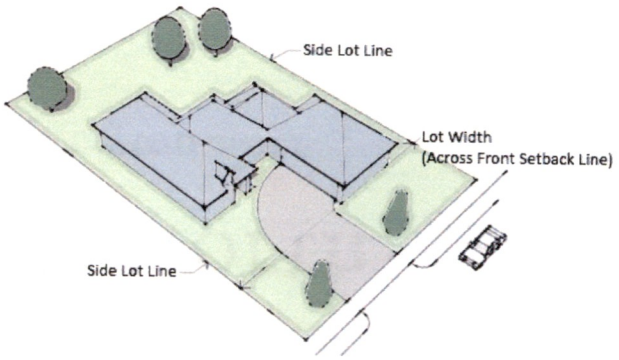
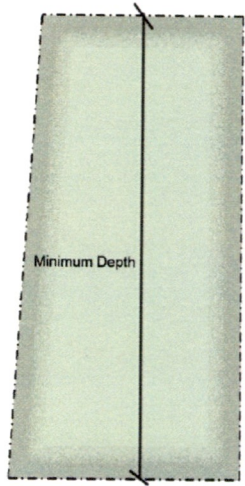
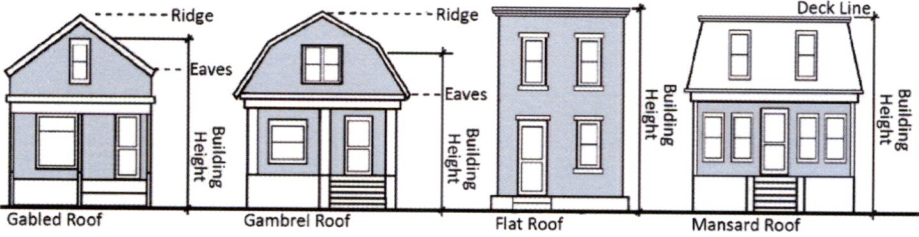
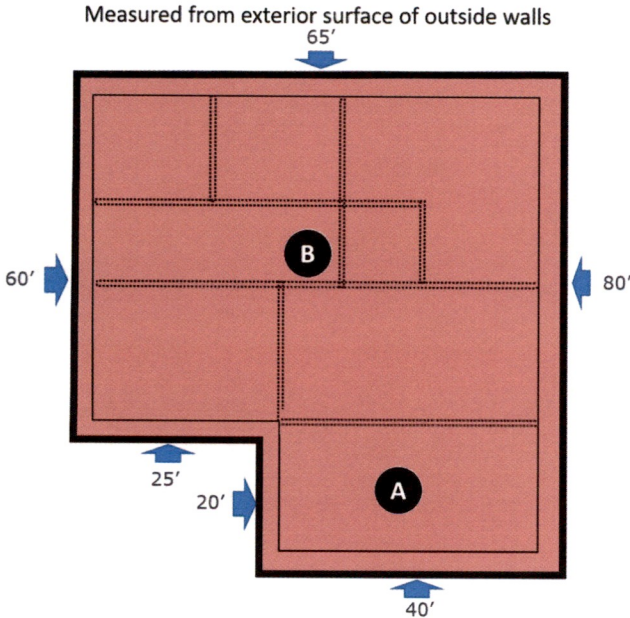
Measurement	Definition and Methodology	Illustration
Lot Width	<p>For an interior parcel, the lot width is the horizontal distance between the side property lines, measured at the required front setback line.</p>	
Lot Depth	<p>The depth of a lot is measured from the front lot line to the rear lot line. Where the lot is not rectangular, the average depth should be calculated by determining the smallest and largest points and averaging for the lot depth.</p>	

Table 2.1: Dimensional Standards

Measurement	Definition and Methodology	Illustration
Setback	<p>Setbacks are minimum or maximum horizontal distances of a required open space at grade between the outer wall of a building or structure and the property lines, unoccupied and unobstructed by any portion of a structure from the ground upward. The front and rear setbacks span the entire distance of the property. The interior side and street side setbacks extend from the required front setback line to the required rear setback line.</p>	
Front Setback	<p>The front setback is the minimum required distance between the building and the front lot line, extending across the width of the property.</p>	
Street Side Setback	<p>The street-side setback is the minimum required distance between the building and the street-side lot line, extending between the front and rear setbacks.</p>	
Interior Side Setback	<p>The interior side setback is the minimum required distance between the building and the side lot line, extending between the front and rear setbacks.</p>	
Rear Setback	<p>The rear setback is the minimum required distance between the building and the rear lot line, extending across the width of the property.</p>	

Table 2.1: Dimensional Standards

Measurement	Definition and Methodology	Illustration
<p>Building Height</p>	<p>The vertical distance from the portion of the parcel covered by the building to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or to the average height between eaves and the ridge of a gable or gambrel roof. Where a parapet is used to screen rooftop mechanical equipment, the overall height, including the parapet, may exceed the stated maximum height by no more than five feet.</p>	 <p>The illustration shows four building types with their height measurement points indicated: <ul style="list-style-type: none"> Gabled Roof: Height is measured from the ground to the ridge. Gambrel Roof: Height is measured from the ground to the average height between the eaves and the ridge. Flat Roof: Height is measured from the ground to the top of the flat roof coping. Mansard Roof: Height is measured from the ground to the deck line of the mansard roof. </p>
<p>Gross Floor Area</p>	<p>The sum of the total horizontal square footage of every floor of every building on a lot is measured as follows:</p> <ol style="list-style-type: none"> 1. The horizontal square footage is measured from the outside face of all exterior walls. 2. Cellars, basements, penthouses, attics, covered or uncovered porches, balconies and decks, enclosed storage or mechanical areas, mezzanines, and similar structures are included as gross floor area wherever at least seven feet of clearance is provided between the finished floor and the ceiling. 	 <p>Measured from exterior surface of outside walls</p> <p> $65'$ $60'$ $80'$ $25'$ $20'$ $40'$ </p> <p> A: $40' \times 20' = 800$ sq. ft. B: $60' \times 65' = 3,900$ sq. ft. A + B = 4,700 sq. ft. Gross Floor Area = 4,700 sq. ft. </p>

Section 2.2: Dimensional Standards

Table 2.2 below lists the dimensional standards for the Downtown District.

Table 2.2: Dimensional Standards		
Frontages	Principal Streets	Non-Principal Streets
Building Height (min./max.)	1.5 – 4 stories	1.5 – 6 stories
Front Setbacks (min./max.)	0' – 5'	5' – 10'
Side Setbacks (min./max.)	0' - 10'	5' – 20'
Rear Setback (min./max.)	0' – 20'	20' – 30'
Max. Lot Coverage	95%	80%
Min. Lot Width	25'	35'

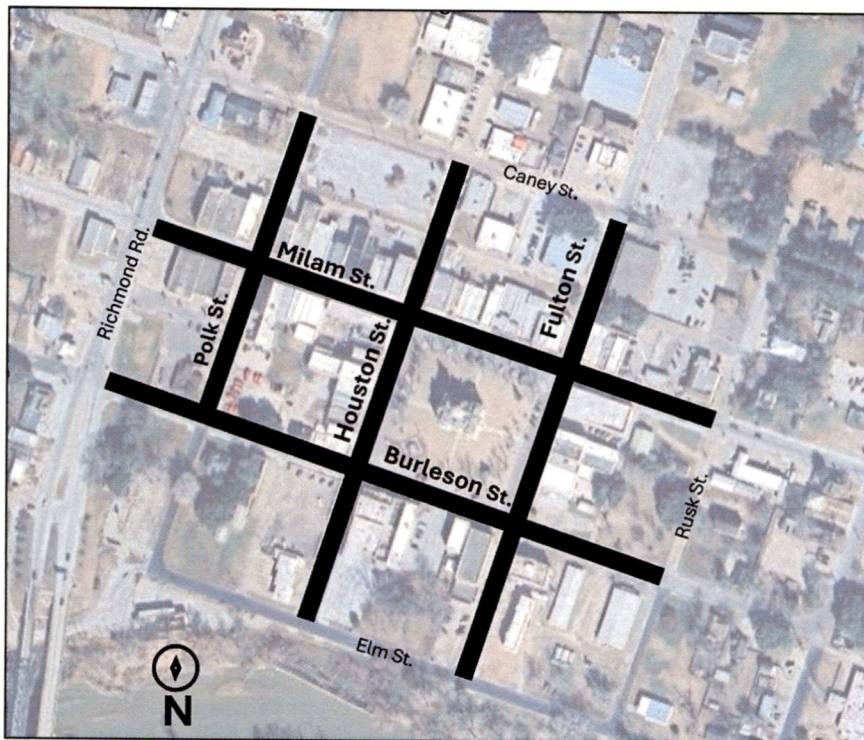


Exhibit 2.1. Downtown Principal Streets:

- (1) Milam Street between Richmond Road and Rusk Street
- (2) Burleson Street between Richmond Road and Rusk Street
- (3) Houston Street between Caney Street and Elm Street
- (4) Fulton Street between Caney Street and Elm Street

Article 3: Use Standards

Section 3.1: Prohibited Uses

The following uses are prohibited in the Downtown district and are not eligible for a Variance or Design Waiver:

- Kennels
- Resource extraction
- Private correctional facilities
- Firearms ranges
- Car washes
- Fuel sales and storage
- Heavy industrial
- Outdoor storage yards
- Warehouses
- Self-storage
- Sexually oriented businesses
- Light industry (over 25,000 s.f. in gross floor area)
- Vehicle servicing

Section 3.2: Specific Use Standards

The standards of this Appendix shall be used in conjunction with Appendix A, *Subdivisions* of the City's Code of Ordinances. Any conflicts or ambiguities between Appendix A and Appendix B shall be resolved by applying the standards of Appendix B.

Article 4: Site Design Standards

Section 4.1: Site Configuration

- a. Building Placement.
 - i. Principal Streets. Buildings shall be placed within the minimum and maximum setbacks established in Section 2.2 to define the street edge and pedestrian environment.
 - a) Buildings shall be placed and arranged to provide physical definition and enclosure to streets, pedestrian pathways, and interior plazas and courts.
 - b) Loading and service areas shall be grouped internally on the site, organized along shared service alleys or roadways wherever possible, and screened from view utilizing landscaping and/or fencing.
 - c) External mechanical systems shall be incorporated into the building architecture and/or screened from public view.
- b. Garages.
 - i. Commercial, Multi-Family or Mixed-Use. All attached or detached garages serving commercial or mixed-use buildings shall be placed towards the rear of a building, except on a corner, where a side entrance may also be allowed. All side garage entrances must be topped with a full second-story use, such as an apartment or office. Garages may be accessed via privately controlled lanes and alleyways.

- ii. Townhouses. All detached garages serving townhouses shall be placed towards the rear of a building, except on a corner, where a side entrance may also be allowed. Street-facing integral garages shall be allowed only along Non-Principal Streets.
 - iii. Integral Garages. All built-in garages on buildings facing Principal Streets must face the rear of the building, except on corner lots/units where it may face the side street. All street-facing integral garage doors along Non-Principal Streets must be recessed at least two feet from the façade surface and include some type of relief feature, such as inset or raised panels, or an overhanging balcony.
- c. Building Orientation.
- i. All buildings shall face the nearest principal street as measured from the lot line to the nearest building edge and have clearly delineated entryways that are also street-facing.
 - ii. The main building entrance shall be on the side of the building with the narrowest street frontage. Exceptions will be made for buildings designed to have corner entrances.
 - iii. The façade treatment of corner buildings shall completely wrap the building on all street-facing sides as required in Subsection 5.1 g. below, Building Form and Detailing.

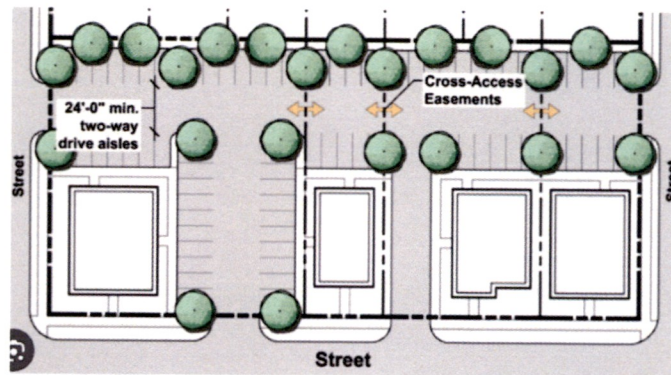
Section 4.2: Parking

- a. Parking Minimums: There is no minimum on-site parking requirement for nonresidential and mixed-use development in the Downtown District.
- b. Parking Maximums: The maximum amount of on-site surface parking in the Downtown District for nonresidential and mixed-use buildings shall not exceed 1 space per 250 square feet of leasable commercial space.

Table 4.2: Downtown District Off-Street Parking Requirements		
	Off-Street Parking minimum	Off-Street Parking maximum
Nonresidential and mixed-use	0	1 space per 250 s.f. of gross floor area.
Multi-family	1 space per unit. (May be satisfied off-site within 200')	2 spaces per unit.
Townhouses	1 space per unit. (May not be placed in front yard area.)	2 spaces per unit. (May not be placed in front yard area.)

- c. Parking Access. Along Principal Streets, any off-street parking lot must be accessed from a Non-Principal Street.
- d. Parking Lots. Parking lots shall be paved and lit. No parking lot shall face a Principal Street.

- e. Cross-Access Easements. Parking areas shall be connected, and driveways shall be shared whenever possible through the use of a cross-access or shared driveway easement recorded in the office of the Wharton County Clerk.



Cross-access easements should be used to connect individual parking lots whenever possible.

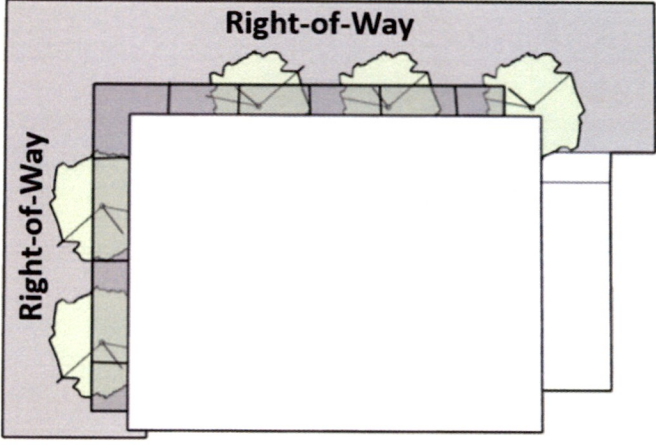
- i. Any parking lot with more than 20 spaces shall have one tree for every 10 spaces.
- ii. These trees shall be placed along the side or rear lot lines or in landscape islands within the parking lot. The Building Official or his/her designee may waive this requirement in situations where it is physically impractical due to existing site constraints, or where underground stormwater detention is installed. Parking lot landscaping may be considered as part of the general site landscaping requirements outlined in Section 4.4 (Landscaping and Buffering) below.

Section 4.3 Vehicular Access and Circulation

- a. Private Driveways. Private driveways are not allowed along any Principal Street.
- b. Driveway Locations. On Non-Principal Streets, driveways shall be spaced such that they are at least 25 feet from any adjacent driveway.
- c. Shared Driveways. Shared driveways are allowed.
- d. Curb Cuts. Subject to the conditions of Section 4.2. e, above, only one driveway approach or opening shall be permitted on each Non-Principal Street frontage of each premise. At locations where driveways are not shared with an adjoining property, each driveway shall be placed in such a way as not to impede the visual clearance to access the public street.
- e. Maximum Driveway Width. The maximum driveway width shall be 12 feet.
- f. Access to Attached and Detached Garages. Attached and detached garages shall be from the rear of a building only, except if the property is located on a corner lot, in which case, the side street may be used for access. (Exception: integral garages for individual townhouse units facing Non-Principal Streets.)
- g. Drive-Ins and Drive-Throughs. Drive-in and drive-throughs are prohibited in the Downtown District.

Section 4.4: Landscaping and Pedestrian Amenities

- a. Landscape Standards for Non-Principal Streets.
 - i. Table 4.4 *Landscape Standards* for Non-Principal Streets below provides general landscape standards for development in the Downtown District on properties along Non-Principal Streets.

Table 4.4, Landscape Standards for Non-Principal Streets		Table 4.4, Landscape Standards for Non-Principal Streets	
Min. Landscape Surface Ratio (LSR)	5% ¹	 <p>The diagram illustrates a rectangular lot within a larger shaded area labeled 'Right-of-Way'. Inside the lot, a white rectangle represents a building footprint. Three tree wells, depicted as green shapes with roots, are shown along the top edge of the lot, within the Right-of-Way boundary.</p>	
Min. Canopy Trees per 40 ' of Street Frontage (Tree wells where applicable) ^{2, 3, 4}	1		
Min. Width of Streetside Parking Lot Perimeter Landscape Strip.	3-feet		
<p>TABLE NOTES: ¹Tree wells in the public right-of-way may count toward the LSR with the approval of the Public Works Director. ²For corner lots, applies to both frontages. ³The resulting number of trees shall be rounded up to the nearest whole number. For example, a corner lot with 30 feet of frontage on one street and 140 feet of frontage on another requires 7 canopy trees. ⁴The Public Works Director may reduce or waive this requirement in cases where trees are impractical or may pose a public safety hazard.</p> <p>Canopy trees must be a minimum 3” caliper at planting.</p>			

b. Pedestrian Amenities Along Principal Streets.

- i. Street Furniture. Public seating, trash receptacles, and directional kiosks shall be of uniform design and provided along all Principal Streets as approved by the Building Official or his/her designee. Street trees, landscaping, weather protection, public art, street furniture, and other pedestrian amenities in public rights-of-way and plazas shall provide a minimum passable sidewalk width of five feet.
- ii. Sidewalks. Sidewalks shall connect to existing perimeter sidewalks and to all building entrances, parking courts, garages, or structures, civic spaces, and any other pedestrian destinations.

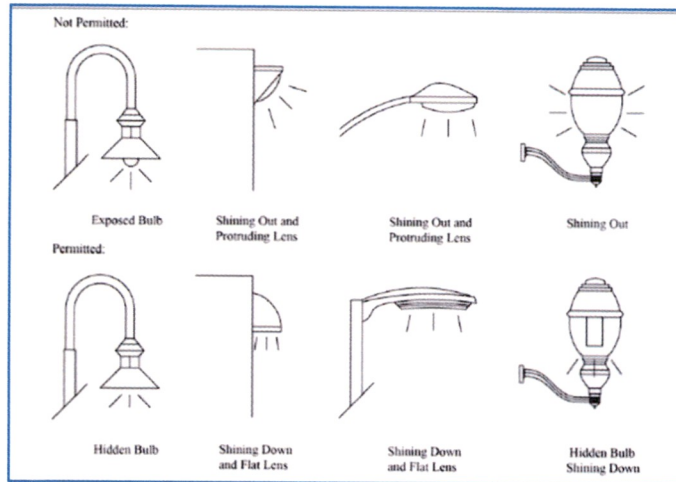
- iii. Outdoor Amenities. Building or buildings on a single lot that have a gross floor area greater than 40,000 square feet along Principal Streets shall set aside an area equivalent to 10 percent of the total building footprint for outdoor amenities. All amenities shall be installed by the developer at time of site re/development and maintained by the property owner.
- a) Eligible Features. The applicant shall provide outdoor amenities that include any one or a combination of the following:
- 1) Shaded plaza or patio area providing seating;
 - 2) Shaded outdoor dining;
 - 3) Water feature;
 - 4) Landscaped green area with seating;
 - 5) Shaded public art area;
 - 6) Through-block pedestrian passageway or breezeway; or,
 - 7) Permanent planters.



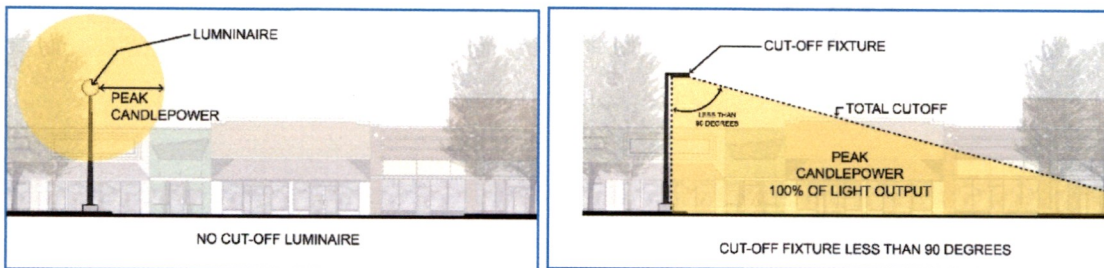
Pedestrian amenities shall accompany buildings greater than 40,000 square feet along Principal Streets. Graphic: Wharton Downtown Master Plan 2024.

Section 4.5: Outdoor Lighting

- a. As shown in the exhibit below, all wall-mounted accent lighting within the Downtown District shall be shielded or directed downward to prevent light shining beyond the property lines of the property on which the lighting fixtures are located.



- b. As shown in the exhibit below, to minimize glare and diffusion of light onto adjacent properties, all pole-mounted lights within the Downtown District shall either use hooded, cut-off fixtures that project downward at under a 90-degree angle from the light source, or have a maximum footcandle strength of 0.5.



Section 4.6: Refuse Containers, Mechanical Equipment, and Meters

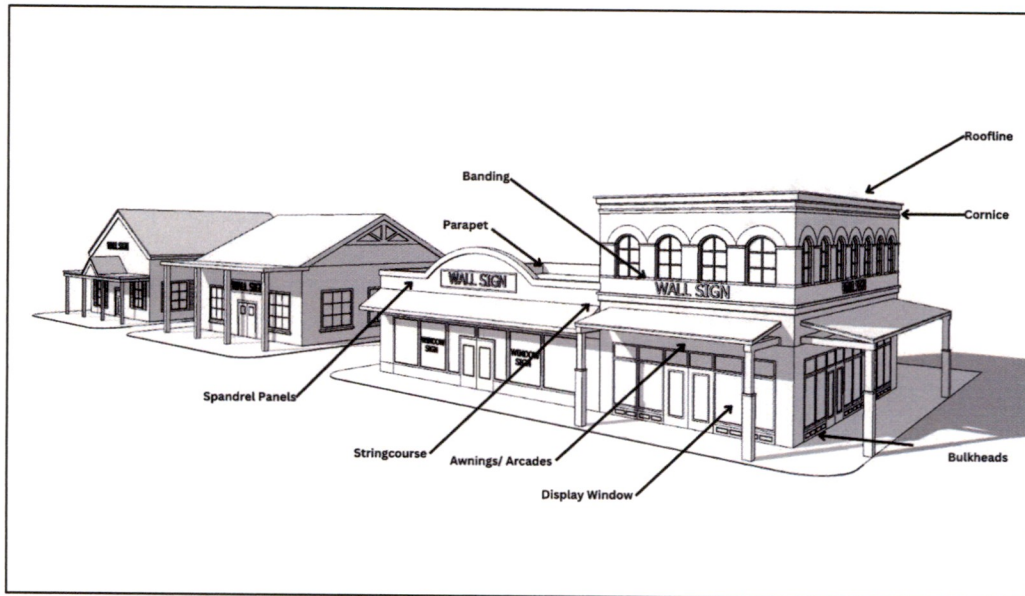
- a. Service areas, garbage receptacles, utility meters, and mechanical and electrical equipment shall be screened from public view and located for convenient access by service vehicles.
- b. Screening of these areas shall be integrated into the overall building and landscape design.
- c. Window air conditioners shall not protrude from any windows facing Principal streets.

Article 5.0: Building Design Standards

Section 5.1: Building Form and Detailing: General Standards

- a. Building size, shape, and height.
 - i. No single building shall exceed 100 feet in width or 45 feet in height along Principal Streets.
 - ii. No Single building shall exceed 100 feet in width or 65 feet in height along Non-Principal Streets.

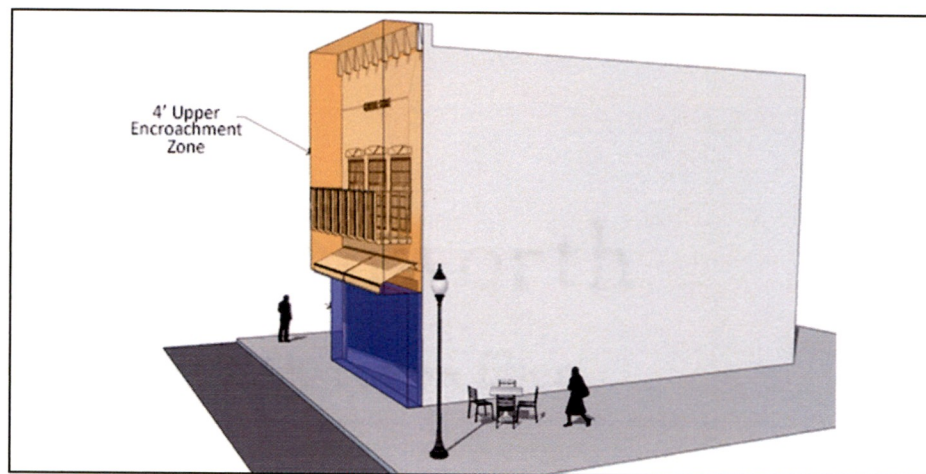
- iii. Insets or projections of at least two feet deep (two-foot return) and 10 feet in length shall extend the full height of a building for every 40 feet in building length or width.
- b. Façades. Building façades shall be architecturally treated to create a visually distinct building base, middle, and top, and include at least three of the following elements:
 - i. Window-bands, canopies, parapets, spandrel panels, decorative brackets, pilasters, cornices, and prominent or expressive rooflines;
 - ii. Variations in building heights or rooflines;
 - iii. Material changes for different building planes or elements;
 - iv. Accents through the use of moldings, sills, cornices, awnings, or spandrels, extruded window bands, decorative brackets, or;
 - v. Other façade features, such as arcades, breezeways, galleries, oriel or bay windows, pavilions, pergolas, porches, porticos, or recessed entryways.



Buildings in Downtown Wharton shall incorporate architectural features such as ground-floor display windows, varied roof shapes, awnings, window bands, accented rooflines, and other features that add visual interest to the street.

- c. Awnings, Canopies, Arcades, Encroachments.
 - i. All Principal-Street facing building elevations shall be equipped with either awnings above the first floor, or ground floor arcades extending the full length of the building. Recessed arcades must be indented at least four feet back from the main façade plane (4-foot overhang). Roofed arcades must extend outward the full width of the sidewalk, with all vertical supports clearing the sidewalk space. All awnings and overhangs must be constructed of durable materials, be non-retractable, and be permanently affixed to the façade surface.
 - ii. Awnings and canopies shall not extend more than five feet from the façade of the building.

- iii. Awnings and canopies shall be attached to, and supported only by, the building façade and shall not have any vertical support structures affixed into the ground surface.
- iv. Awnings and canopies shall maintain a minimum of eight feet of vertical clearance from the ground plane.
- v. Encroachments. The City Engineer or Director of Public Works may permit, by recorded license agreement, encroachments into the public right-of-way if the encroachment:
 - a) Does not extend more than four feet into the right-of-way and has an elevation of at least eight feet above grade.
 - b) The encroachment does not impact the general functionality of the public sidewalk.
 - c) The encroachment does not make the sidewalk noncompliant with the requirements of the Americans with Disabilities Act (ADA).
 - d) The encroachment does not create unsafe clearances from other elements of the right-of-way (e.g., street lighting, landscaping, vehicular movement, etc.).



All street-facing building elevations of nonresidential and mixed-use buildings along Principal Streets shall have projecting awnings, arcades, or overhangs as described in Sec. 4.5:c. above. Recessed upper floors may not encroach more than four feet into the public right-of-way.

- d. Entryways.
 - i. Each building shall have a clearly visible entrance with either an overhang, recess, or projection over the door or another design element approved by the Building Official.
 - ii. Doorways adjacent to a public right-of-way shall be set back so that doors do not swing into a right-of-way.
- e. Windows and Doors.
 - i. The front façade and side street façade of any new building shall be comprised of at least 50 percent windows and doors. Highly reflective glass, dark-tinted glass, or other types of glass that are intended to obscure transparency shall be prohibited.

- ii. All windows and doors shall be trimmed with decorative details such as sills, ledges, lintels, transoms, and raised or recessed framing of at least four inches wide.
- f. One-Story Buildings. Buildings that are functionally one-story shall be constructed to appear of greater height in relation to the street. This can be achieved through raised parapets; the use of an intermediate cornice line to separate the ground floor and the upper level; or, in limited cases, the use of pitched or gabled roofs.



One-story buildings shall be constructed to appear of greater height by featuring raised parapets and other architectural treatments. Source: City of Hitchcock Redevelopment Plan 2023.

- g. Wrap-Around (4-sided) Design.
 - i. Except for the percentage of window and door openings, all building elevations visible from public rights-of-way should feature similar quality materials, colors, and architectural elements as the main façade.
 - ii. All outside mechanical equipment and dumpster areas shall be incorporated into the architecture of the main building and/or screened with the same wall treatment materials as the Principal Building.
- h. Roof Shape.
 - i. Low-slope, membrane roofs with parapets are the preferred roof type in the Downtown District.
 - ii. Where building parapets or roof lines extend for greater than 50', changes in roof height, projection, or angle are required.
 - iii. Pitched, gable, and shed roofs are only acceptable when:
 - a. The façade below the roof is greater than 22' in height.
 - b. The roof is not draining into the side of a façade of greater height or onto a lower roof.
 - c. The width from the eave to the center ridgeline is less than 25'.
 - d. Used for entries, canopies, or pediment elements.

Section 5.2: Specific Nonresidential and Mixed-Use Building Standards

These standards are in addition to the preceding requirements of this section and apply specifically to all non-residential and mixed-use buildings in the Downtown District.

a. Façade Composition: Base, Body, and Cap.

- i. The base of the building, as depicted in the exhibit below, shall constitute a minimum of eight percent of the average building height. The body of the building shall constitute a minimum of 60 percent of the average building height. The cap of the building shall constitute a minimum of eight percent of the average building height.



Figure notes: A= base, B= body, C=cap

- ii. The base and body of the building shall have a minimum of three of the following features:
 - a. Windows that comply with Subsection b. Windows, below:
 - b. Canopies, spandrel panels, decorative brackets, pilasters, cornices, and pronounced or extruded rooflines;
 - c. Variations in building heights or rooflines;
 - d. Useable balconies or roof terraces;
 - e. Material changes for different building planes or surfaces;
 - f. Accent moldings, sills, canopies, or awnings, extruded window bands, decorative brackets, or;
 - g. Other façade elements such as arcades, breezeways, oriel or bay windows, pediments, bulkheads, or recessed entryways.
- iii. The cap of the building shall be expressed with a minimum of two of the following features:
 - a. Cornice;
 - b. Parapet;
 - c. Decorative brackets or corbels;

- d. Raised or extruded banding;
- e. Clearstory windows;
- f. Material changes;
- g. Overhanging eaves; or,
- h. Friezes.

b. Windows.

- i. Ground-floor windows shall not consist of darkened or reflective glass and shall cover a minimum of 70 percent of the length of the street-facing façade along Principal Streets and a minimum of the 50 percent of the street-facing façade along all other streets. Upper story windows shall cover a minimum of 50 percent of the length of all street-facing facades, including corner building elevations.
- ii. Windows shall contain trim features to accentuate the window frame, such as:
 - a. Projecting sills.
 - b. Shutters.
 - c. Lintels.
 - d. Decorative moldings.
 - e. Pediments.
 - f. Architraves.



Sample Façade Articulation Elements: Example A.: A=Mid-section windows, B=Clearstory windows, C=Insets, D=Varied rooflines, E=Materials changes



Sample Façade Articulation Elements: Example B: A=Cornice, B=Spandrel Panel, C=Parapet, D=Pedestrian amenities, E=Window signs. Source: Downtown Wharton Master Plan 2024.

- c. Single-Story Buildings. Along all Principal streets, all nonresidential and mixed-use buildings over 4,000 square feet in gross floor area or any building façade greater than 100 feet in length that do not already have a habitable second story shall have either a raised parapet or a false second story that has a minimum of two of the design elements listed in subsection iii. above.
- d. Design Points. In addition to the other requirements of this section, all nonresidential and mixed-use buildings shall comply with Table 4.4 below, Minimum Mixed-Use and Nonresidential Building Design Standards, and shall achieve a cumulative minimum of 50 design points to be approved.

Table 5.2: Mixed-Use and Nonresidential Building Design Options Menu	Design Standard	Points
Structural awning, canopy, arcade, or upper story overhang.	Required on Principal Street frontages only.	+5
Raised or projecting parapet.	Allowed on single-story buildings only.	+5
Massing relief feature: (2 of 3) -Projecting bays -Change in roofline -Insets	See Sec. 5.1.b. above.	+5
<u>Primary Materials:</u> (Min. 80% of total surface area excluding windows and doors). Brick or Cut Stone.	No requirement or standard.	+15
<u>Primary Materials:</u> (Min. 80% of total surface area excluding windows and doors). Metal, Vinyl, Siding, Wood, Glass, Stucco, Composites, or Other.	No requirement or standard.	-10

Table 5.2: Mixed-Use and Nonresidential Building Design Options Menu	Design Standard	Points
<u>Roof Type:</u> Flat, Mansard, Hipped	No requirement (See 3.5 h.iii. above for standards on gable and hipped roofs).	+5
<u>Roof Type:</u> Gable, Barrel.	No requirement.	-5
<u>Roof Material:</u> Standing Seam Metal or Shingles (Asphalt, Metal, Slate, or Wood).	No requirement or standard.	+5
<u>Roof Material:</u> Asphalt, Concrete, or Vinyl Membrane.	No requirement or standard.	-5
Windows as percentage of ground floor façade surface.	70% on Principal Streets. 50% on Non-Principal Streets.	+5
Windows as percentage of upper-floor façade surface.	50%+	+5
Recessed primary entryway with bulkhead.	No requirement or standard.	+10
Covered outdoor seating area (300 square feet min.).	No requirement or standard.	+10
Decorative stringcourse, banding, or corbeling.	No requirement or standard.	+5
Pedestrian amenities.	Required for buildings over 40,000 s.f. only on Principal Streets (See Sec. 4.4.b. above).	+5

Section 5.3: Signs

- a. Fitted Signs. Signs are considered part of the architecture of the building and should not overwhelm or detract from the building design by their size, placement, shape, or material quality.
- b. Permitted Signs.
 - i. Table 5.3: Allowed Attached Permanent Signs establishes the permitted sign types in the Downtown District.
 - ii. Directional signs shall be limited to two per premise and shall be limited to six square feet each, with a maximum height of four feet.
 - iii. Freestanding signs shall be limited only to monument signs along Non-Principal streets.
 - iv. Sandwich Board signs are permitted, provided they are removed after every business day.
- c. Number of Signs Permitted. Two attached signs shall be permitted per establishment facade, provided there shall be no more than one of any single type per establishment facade.
- d. Maximum Sign Area. No sign shall exceed the following maximum surface area.

- i. Sandwich Board Signs. Four square feet.
 - ii. Window Signs. 25 percent of the window area to which the sign is permanently attached.
 - iii. All Other Permitted Attached Signs. The total area of all other signs added together shall not exceed 20 percent of the first-floor building facade surface area to which they are associated. In no case shall signs exceed 200 cumulative square feet in total area.
 - iv. Monument Signs. 48 square feet.
- e. Maximum Sign Height.
 - i. Monument Signs. Six feet.
 - ii. Awning, Canopy, or Marquee Signs. Shall not extend above, below, or beyond the awning, canopy, or marquee to which they are attached.
 - iii. All Other Attached Signs. Such signs shall not project above the building facade on which they are attached.
- f. Sign Illumination. Permanent signs may be internally or externally illuminated.
- g. Prohibited Signs.
 - i. Roof signs;
 - ii. Interior box-lit (or cabinet) signs;
 - iii. Pole or pylon signs; and
 - iv. Electronic message boards.
 - v. Any sign type not expressly listed in the table below;
 - vi. Inflatable, non-stationary, or non-static signs.

Table 5.3: Allowed Attached Permanent Signs



Awning Signs

Number Allowed.	1 per building front or per storefront for a multi-tenant building.
Maximum Area.	5 s.f. per linear ft. of awning or <u>canopy</u> length.
Maximum Height.	8 ft. above grade.
Illumination.	External.
Other Standards.	N/A.

Canopy (or Over-Canopy) Sign

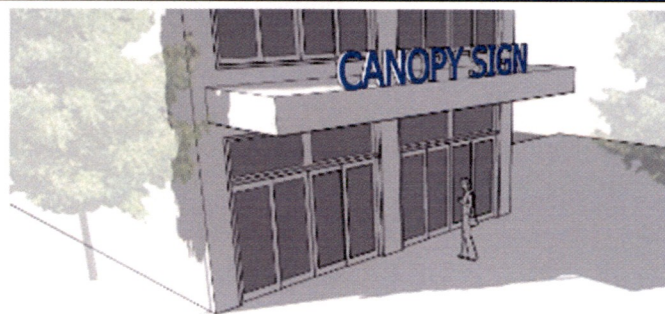


Table 5.3: Allowed Attached Permanent Signs

Number Allowed.	1 per building front or per storefront for a multi-tenant building.
Maximum Area.	50% of the canopy width.
Minimum Height. (copy above sign)	2 feet.
Illumination.	External or Internal.
Other Standards.	N/A.

Hanging Signs



Number Allowed.	1 per building.
Maximum Area.	6 s.f.
Maximum Height.	8 feet above grade.
Illumination.	Indirect illumination only.
Other Standards.	<ol style="list-style-type: none"> 1. Not extend within 2 ft. of the curb line. 2. May be suspended under a <u>marquee sign</u> or under a canopy, or an awning.

Table 5.3: Allowed Attached Permanent Signs

Marquee Signs



Number Allowed.	1 per street-facing façade.
Maximum Area.	50 s.f. per side; 100 s.f. total.
Maximum Height.	4 ft. from the lowest point of the marquee to the highest point, excluding any ornamentation supported directly by the marquee.
Minimum Clearance.	8 ft. above grade.
Illumination.	Down lighting only; only the changeable copy area may be internally illuminated.
Other Signs.	If used, then a wall sign is prohibited on the same façade.
Other Standards.	<ol style="list-style-type: none"> 1. May not project more than 6 ft. from the building; may require an <u>encroachment</u> permit. 2. Sign may be on up to three sides of a marquee.

Projecting Signs

Table 5.3: Allowed Attached Permanent Signs



Number Allowed.	1 per building or 1 per 20 ft. of building <u>frontage</u> if multiple occupants.
Maximum Area.	1 s.f. for each linear foot of building frontage.
Maximum Distance from Building Wall to Farthest Part of Sign.	No more than half the distance from the building facade into the <u>public right-of-way</u> .
Minimum Clearance.	8 ft. above sidewalk or walkway and 20 ft. above adjacent public or private street.
Illumination.	Internal or External (down lighting only).
Other Signs.	If used, then a wall sign is prohibited on the same façade.

Wall Signs



Number Allowed.	1 per building facade or tenant (multi-tenant bldg.); Maximum 2 per building.
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Table 5.3: Allowed Attached Permanent Signs

Maximum Area.	Total sign area shall not exceed 1.5 s.f. for each foot of linear frontage; a 2nd wall sign shall not exceed 0.5 s.f. per linear frontage.
Maximum Height.	The eave line or the bottom of the second-story window sill, whichever is lower.
Illumination.	Indirect lighting only.
Other Standards.	1. No wall sign shall project more than 18 inches from the building wall. 2. No wall sign or its supporting <u>structure</u> shall cover any window or part of a window.

Window Signs



Number Allowed.	1 per commercial window.
Maximum Area.	25% of window area, or 9 sq. ft., whichever is less.
Illumination.	Indirect or internal lighting; light shall be turned off when off-business hours.

Sandwich Boards

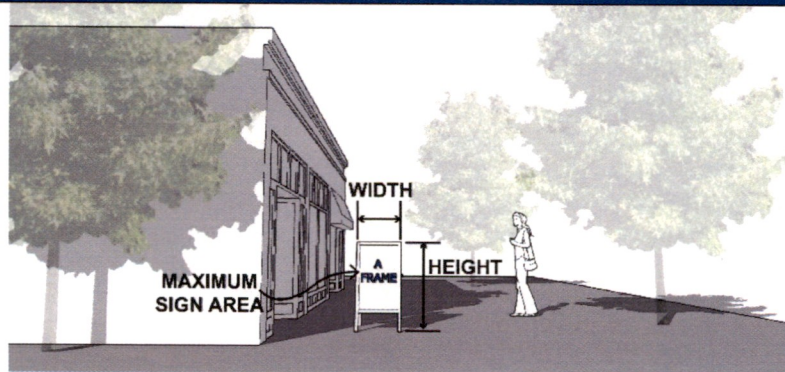


Table 5.3: Allowed Attached Permanent Signs

Number Allowed.	1 per commercial storefront.
Maximum Area.	4 square feet per side.
Maximum Height.	4 feet.

Section 5.4: Fences and Walls

A fence or wall may be placed along or extended to any lot line provided that the height and other requirements of this Section are met.

- a. Materials. Fences and walls shall be constructed of solid masonry, wood, or finished ornamental metal only. Barbed wire, chain-link, concertina wire, razor wire, unfinished metal, rough-hewn wood, or plastic fencing is expressly prohibited.
- b. Opacity. Fences shall be a minimum of 50 percent open or see-through.
- c. Expression: The finished side of the fence or wall must face outward.
- d. Maximum Height.
 - i. Front yard or street-facing side yard: 3.5 feet.
 - ii. Non-street-facing side yard: 4 feet.
 - iii. Rear yard: 6 feet.

Section 5.5: Outdoor Storage and Merchandise Display

The outdoor display area shall only include items for sale by a business located within a permanent structure on the same site.

- a. Outdoor Display Areas. Outdoor display areas shall be contained within the buildable area of the site formed by the required setbacks and shall not occupy more than 50 percent of the ground-level storefront area or 15 percent of the gross floor area of the principal building, whichever is less.
- b. Attached to Principal Building. An outdoor display area that is attached to a principal building shall be:
 - i. Directly adjacent to a wall of a Principal Building;
 - ii. Configured as an enclosed wall or fenced-in area that is architecturally integrated into the Principal Building using similar or complementary materials and proportions;
 - iii. Not located in areas used for parking, loading, or vehicular circulation.

Section 5.6: Outdoor Dining Facilities

The following development standards apply to all outdoor dining areas.

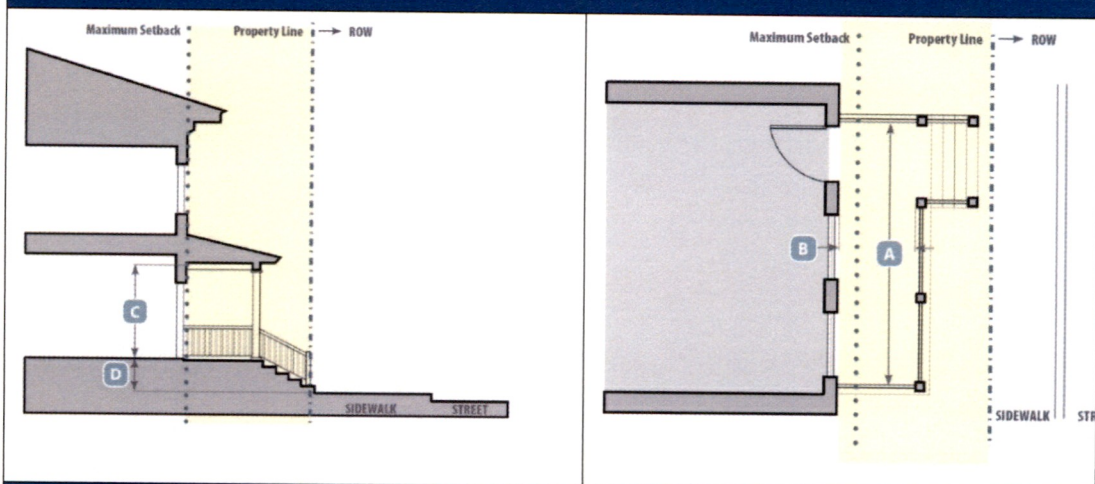
- a. Clear Path. A clear path of at least five feet wide, free of all obstructions to the flow of pedestrian traffic, shall be provided in the public right-of-way and shall be maintained at all times.
- b. Shall Not Obstruct an Entrance. No outdoor dining area shall obstruct the entrance to any building, interfere with, or impede the flow of pedestrian or vehicle traffic, or create any other condition that is detrimental to the appearance of the premises or any surrounding property, or in any other manner that is detrimental to the public health, safety or welfare or causes a public nuisance.
- c. Furniture. Outdoor dining area furniture, including but not limited to tables, chairs, and umbrellas, shall be of high quality and consistent with the theme of the primary establishment or overall premises.
- d. Hours and Circulation. An outdoor dining area shall be used only for dining, drinking, and circulation, and shall operate only in conjunction with and during the same hours as the adjacent eating and drinking establishment.
- e. Free of Litter. The area within, and adjacent to, the outdoor dining area shall be clean and free of litter at all times.
- f. Trash or Storage Areas. Trash or storage areas shall not be located on or adjacent to the public right-of-way and shall be screened.
- g. Orientation. Outdoor dining shall be oriented away from adjacent residential uses except as approved by the approving authority.

Section 5.7: Specific Residential Building Standards

General. These residential standards are in addition to the preceding requirements of this section and apply specifically to residential structures in the Downtown District.

- a. Stairs. All stairs shall lead to a covered primary entrance and be at least 90 percent enclosed.
- b. Parking. All parking shall be at the rear or side of the building except along Principal Streets, where only rear parking is allowed.
- c. Upper-Story Residential. The standards in Section 4.6, Nonresidential and Mixed-Use Standards, shall apply to the upper-story portion of residential buildings.
- d. Townhouse. A townhouse shall be equipped with either a porch or a stoop at the building entrance in accordance with Exhibit 5.6, Porch Standards, or Exhibit 5.7, Stoop Standards, below.

Table 5.7: Porch Standards



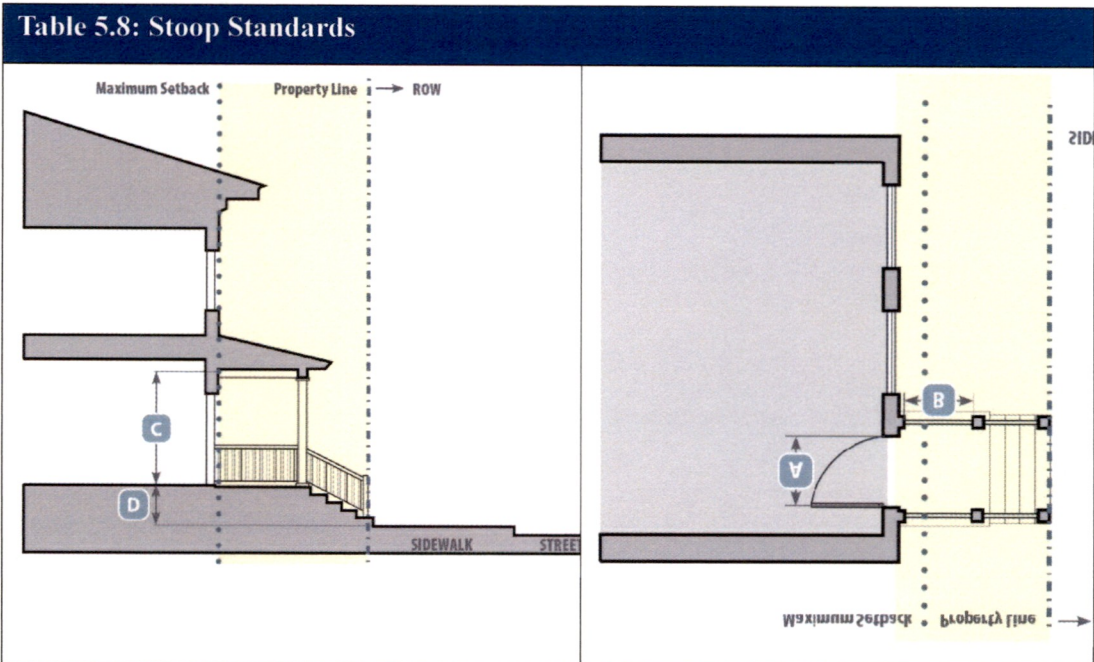
Dimensional Standards

a.	Porch Width.	8 feet.
b.	Porch Depth.	5 feet.
c.	Porch Height.	8 feet.
d.	Finish Level Above Sidewalk (min.).	1.5 feet min.

Other Standards


1.	All porches shall have a roof, but they shall not be fully enclosed.
2.	Open porch bases shall be visually concealed with latticework, skirting, or landscaping.
3.	A six-foot minimum clear zone for pedestrians shall be maintained on the sidewalk.

Examples



Dimensional Standards

a.	Stoop Width (min./max.).	5 feet/8 feet.
b.	Stoop Depth (min./max.).	5 feet/8 feet.
c.	Stoop Height (min./max.).	8 feet/1 story.
d.	Finish level above sidewalk. (min.)	1.5 feet min.

Other Standards	
1.	Stoops may extend forward of the setback line.
2.	Stoops may have a roof, but shall not be fully enclosed.
3.	A six-foot minimum clear zone for pedestrians shall be maintained on the sidewalk.
4.	Stairs may be perpendicular or parallel to the building façade.
5.	Entry doors shall be covered or recessed from the façade surface to provide shelter.
Examples	
	

- e. Design Points. In addition to the other requirements of this section, all multi-family buildings shall achieve a cumulative minimum of 50 design points from Exhibit 4.8, Residential Building Design Options, below.

Table 5.9: Residential Building Design Options Menu	Design Standard	Points
Balconies (1 per residential unit).	No requirement or standard.	+10
Raised or projecting parapet.	No requirement for multi-story buildings.	+5
Massing relief feature: (2 of 3) -Projecting bays. -Change in roofline. -Insets.	See Sec. 5.1.b. above.	+5

Table 5.9: Residential Building Design Options Menu	Design Standard	Points
<u>Primary Materials:</u> (Min. 80% of total surface area excluding windows and doors). Brick or Cut Stone.	No requirement or standard.	+15
<u>Primary Materials:</u> (Min. 80% of total surface area excluding windows and doors). Metal, Vinyl, Siding, Wood, Glass, Stucco, Composites, or Other.	No requirement or standard.	-10
<u>Roof Material:</u> Standing Seam Metal or Shingles (Asphalt, Metal, Slate, or Wood).	No requirement or standard.	+5
<u>Roof Material:</u> Asphalt, Concrete, or Vinyl Membrane.	No requirement or standard.	-5
Windows as percentage of total façade surface.	50%+	+5
Recessed or covered primary entryway.	No requirement or standard.	+10
Decorative stringcourse, banding, or corbeling.	No requirement or standard.	+5
Landscaping.	Required for buildings over 40,000 s.f. on Non-Principal Streets (See Sec. 4.4 a. above.)	+5

Article 6.0: Review Bodies

Section 6.1 Administrative and Enforcement Official

The City Manager shall appoint a designee, who will be responsible for administering the provisions of this Appendix, including, but not limited to, the following:

- a. Accept and process all submitted applications for specific use permits, text amendments to the development regulations, modifications, variances, and/or waivers to the development regulations, and amendments to the official district map;
- b. Prepare staff comments for review by the Planning Commission, City Council, and the Board of Adjustment;
- c. Represent the City at all public hearings;
- d. Maintain all records, minutes, and the official district map related to the enforcement and procedures of this Appendix;
- e. Serve as the enforcement officer to ensure compliance with this Appendix;
- f. Serve as liaison between the Planning Commission and City Council; and

- g. Perform other duties as necessary and appropriate to uphold the provisions of this Appendix.

Section 6.2: Planning Commission

- a. In addition to the stated responsibilities and duties in the City's Charter, the Planning Commission shall be responsible for the following:
 - i. Hear testimony on behalf of applicants and consider the facts, findings, and recommendations of the Building Official;
 - ii. Consider the interests of the public related to the public health, safety, morals, and general welfare;
 - iii. Identify the appropriateness of requested map and text amendments considering conformance with the adopted development regulations, official district map, and land use policies;
 - iv. Make recommendations to the City Council, in the form of a final report, related to approval or denial of an application;
 - v. Develop and recommend to the City Council a comprehensive plan for the long-range development of land in the City;
 - vi. Perform other such duties and be vested with such powers as the City Council shall from time to time prescribe.

Section 6.3: Board of Adjustment

The Board of Adjustment is established in accordance with the provisions of Texas Government Code Chapter 211. Under this Chapter, the Board of Adjustment shall perform the following functions:

- i. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section;
- ii. Hear and decide appeals of any interpretation of the text of this Chapter made by the Building Official;
- iii. Authorize in specific cases such variances from the terms of this section as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this section will result in unnecessary hardship, and so that the spirit of this section shall be observed and substantial justice done.

Article 7.0: Review Procedures

Section 7.1: Text Amendments

An application for an amendment to the text of this chapter or the official district map may be initiated by the Planning Commission, City Council, or by a landowner filing a complete application with the Building Official.

- a. Submission of Application. A complete application for amendment of the text of this chapter or the official district map shall be submitted to the Building Official in a form established by the City. No application shall be processed until the established fee has been paid and the application has

been deemed complete by the Building Official. No application or fee shall be required when the amendment is proposed by the Planning Commission or City Council.

- b. Landowner Designee. If a landowner application for an amendment is not submitted by the owner of the property under consideration, a notarized letter from the landowner authorizing said applicant to act as the agent on behalf of the landowner is required. A landowner application shall include, but is not limited to, the following information:
 - i. Name, address, and telephone number of applicant(s), owner(s), and agent(s);
 - ii. A statement of the reasons why the amendment is being requested;
 - iii. Legal description of the property that is the subject of the proposed amendment;
 - iv. Filing fee, as established by the City Council;
 - v. Other information or documentation necessary to process the application, as required.
- c. Planning Commission Public Hearing. The Planning Commission shall, after due notice shall conduct a public hearing on the proposed amendment. At the public hearing, the Planning Commission shall consider the application, the relevant supporting materials, and all comments and written materials submitted at the public hearing by the Building Official, Planning Commission, and/or City Council.
- d. Planning Commission Consideration. The Planning Commission may give consideration to the following criteria, to the extent pertinent to the application. In addition, other factors may be considered which may be relevant to the application.
 - i. Conformance of the proposed development with the City's land use policies.
 - ii. The character of the neighborhood.
 - iii. The use of nearby properties and the extent to which the proposed development would be compatible.
 - iv. The extent to which approval of the application would detrimentally affect nearby properties.
 - v. The extent to which the proposed use would affect the capacity or safety of that portion of the street network, other public facilities or utilities, or present parking problems in the vicinity of the property.
 - vi. The extent to which approval of the application would harm the value of nearby properties.

Section 7.2: Site Development Plan.

Development review procedures in the Downtown district shall generally follow the same process as Section 4, *Procedure*, of Appendix A of the City's Code of Ordinances.

- a. Submission of Site Development Plan. After the effective date of this Appendix, no property other than single-family homes or multi-family buildings of not more than four units may be developed or redeveloped within the Downtown District without a Site Development Plan and accompanying elevation drawings first having been submitted to and approved by the Planning Commission. For the purposes of this section, the term "redeveloped" refers to any site improvement that is projected to increase the assessed value of the building or property by 50 percent or more based on the records of the County Tax Assessor-Collector. If a permit for development, in accordance with the approved Site Development Plan, is not issued within one year after approval of such Plan, such approval shall expire and be of no force or effect. Time extensions may be granted up to one additional year by the Planning Commission.
- b. Review of Plans. The Building Official will check the Site Development Plan for completeness. "Completeness" consists of the following:

- i. Submittal of all required materials with the contents required in Subsection e., Site Development Plan Graphic Requirements, below;
 - ii. A Site Development Plan application with the property owner's signature on it;
 - iii. The required development review fee; and,
 - iv. Any other material that the Building Official deems necessary to adequately review the Site Development Plan.
- c. When the application and Plans are complete, the Building Official will schedule a meeting before the Planning Commission. The Planning Commission will review the complete Site Development Plan and, upon approval by the Planning Commission, the applicant may submit final development plans for issuance of a Building Permit. Upon review and approval of the final development plans, the Building Official shall notify the applicant of its approval, disapproval, or the conditions or modifications necessary before approval on subsequent submission.
- d. Site Development Plan. Site development plans are required for all developments and redevelopment within the Downtown district. Disapproval of a site development plan by the Planning Commission may be appealed to the City Council by the property owner by filing a notice of appeal with the Building Official within 10 days following the Planning Commission's decision.
- e. Site Development Plan Graphic Requirements. Each site development plan shall contain the following information:
 - i. North arrow, scale, and date.
 - ii. Key map showing orientation of the area being developed in relation to adjacent areas and public streets.
 - iii. Proposed name of the development.
 - iv. Name and address of the landowner(s), architect, engineer, planners, surveyor, agent, or other person involved in the preparation of the plan.
 - v. An accurate boundary survey of the property, prepared by a registered public surveyor, with bearing and distances, referenced to section/original survey corners, and showing the lines of adjacent lands and streets and their names and widths.
 - vi. The width, depth, and location of all lots.
 - vii. The location, size, and landscape treatment of any off-street parking lots in relation to adjacent buildings and streets.
 - viii. The location of all building lines.
 - ix. The names, locations, widths, and purposes of all existing and proposed easements.
 - x. Surrounding activities, uses, and influences of the site within two hundred (200) feet, including adjacent property owners, streets, alleys, watercourses, pipelines, easements, buildings, and other improvements.
 - xi. Any land areas within the one hundred (100) year floodplain.
 - xii. Locations of fire hydrants, storm drainage system improvements, street lights, and other facilities or improvements.
 - xiii. Location, massing, and pattern of existing vegetation.

- xiv. Building setback lines.
- xv. Lot, block, and section numbers placed consecutively.
- xvi. An overall development program including total floor area, dwelling units, land area, parking spaces, land use intensity, and other quantities relative to the submitted plan.
- xvii. The locations and dimensions of all existing and proposed driveways, parking facilities, maneuvering areas, loading areas, commercial garbage dumpster pads, and related screening, sidewalks, curbs, gutters, buildings, structures, screening fences, and other walls or fences, and exterior lighting.
- xviii. Elevation drawings or other renderings of all exterior building facades prepared by a registered architect depicting the placement, sizes, and distance measurements of all windows, doors, signs, and other prominent architectural design features.

Section 7.3: Variances.

- a. Purpose. Variances are deviations from Article 2.2: Dimensional Standards of this Appendix. After holding an appropriately noticed public hearing on the matter, the Board of Adjustment shall have the authority to approve, approve with conditions, or deny V as it deems necessary and appropriate, in accordance with Texas Local Government Code Section 211.
- b. Conditions for Approval. To approve an application for a Variance, the Board of Adjustment shall make an affirmative finding that each of the following criteria is met:
 - i. Special circumstances exist that are peculiar to the land or structure;
 - ii. These special circumstances are not self-imposed or the result of the actions of the applicant;
 - iii. Literal interpretation and enforcement of the terms and provisions of this Appendix would cause an unnecessary and undue hardship;
 - iv. Granting the variance is the minimum action that will make possible the use of the land or structure, which is not contrary to the public interest and which would carry out the spirit of this Appendix and would result in substantial justice;
 - v. Such variance will not alter the essential character of the district in which it is located or the property for which the variance is sought;
 - vi. The variance will not adversely affect the health, safety, or welfare of the public.

Section 7.4: Design Waiver

- a. Purpose. Design Waivers are deviations from Article 4.0, Site Design Standards, and Article 5.0, Building Design Standards of this Appendix. At a public meeting on the matter, the Planning Commission shall have the authority to approve, approve with conditions, or deny Design Waiver requests upon such terms and conditions as it deems necessary and appropriate.
- b. Conditions for Approval. To approve an application for a Design Waiver, the Planning Commission shall make an affirmative finding that each of the following criteria is met:
 - a. Strict application of the standard requested to be waived renders redevelopment of the subject property unfeasible;

- b. The Design Waiver requested is the minimum necessary that will make possible redevelopment of the subject property;
- c. The reason for the Design Waiver is based on a minimum of one of the following:
 - i. The particular physical surroundings, shape, or topographical conditions of the subject property; or,
 - ii. Achieving alternative compliance with the standard requested to be waived in a manner not contemplated in this Appendix.

Article 8.0: Nonconformities

This Article explains nonconformities (use, structures, or site improvements such as parking or signs) and sets parameters for their expansion and modification.

Section 8.1: General Provisions

- a. Purpose. The purpose of this Article is to:
 - i. *No Expansion*. Ensure that nonconforming uses do not expand;
 - ii. *Protection*. Protect conforming uses from nuisances that may be associated with nonconformities;
 - iii. *Elimination*. Eliminate substantially damaged or abandoned nonconformities whose degrees of incompatibility with adjacent land uses are high; and,
 - iv. *Balance*. Balance the City's objective to eliminate nonconformities with a landowner's right to maintain and make use of a nonconformity.
- b. Applicability. This Article's regulations apply to all nonconformities that were legally established prior to the adoption of this Appendix. Uses, structures, lots, signs, or other site features that were illegally established or constructed are not nonconformities and the provisions of this Article do not apply to them, and instead remain "unlawful" and are violations of this Appendix.

Section 8.2: Types of Nonconformities

- a. All Nonconforming Uses. The following shall apply to major and minor nonconforming uses.
 - i. A nonconforming use shall not be changed to another nonconforming use.
 - ii. If a nonconforming use is changed to a conforming use, the nonconforming use shall not be resumed.
 - iii. If the use of only a portion of a building or property is changed from a nonconforming use to a conforming use, then the use of that portion of the building or property shall not be changed back to the nonconforming use.
- b. Nonconforming Uses.
 - i. Discontinuance of a nonconforming use for a period of 12 consecutive months constitutes abandonment of the use, regardless of the owner's intent. A nonconforming use shall not be re-established on the property after it is abandoned unless the property owner converts the nonconforming use to a conforming use prior to the end of the six-month period.

- ii. No nonconforming use shall be expanded or extended in such a way as to:
 - a) Occupy any open space or landscaped area that is required by this Appendix.
 - b) Exceed the site or building dimension standards established by this Appendix.
 - c) Occupy any land beyond the boundaries of the property as it existed on the effective date of this Appendix; or
 - d) Displace any conforming use in the same building or on the same property.
- c. Nonconforming Structures.
 - i. *Continuance.* Subject to this Section, any nonconforming structure may be occupied, operated, and maintained subject to maintenance regulations adopted by the City designed to protect adjacent properties.
 - ii. *Damage or Destruction.* If a major or minor nonconforming structure is damaged or partially destroyed by any means, the structure may be restored to its original dimensions, subject to the following:
 - a) *Percentage.* The damage or destruction does not exceed 50 percent of the gross floor area (GFA) of a major nonconforming structure or 66 percent of the GFA of a minor nonconforming structure;
 - b) *Permit.* A Building Permit is obtained for repairs within six months of the date the building was damaged;
 - c) *Construction.* The construction is commenced within six months after obtaining the required Building Permits;
 - d) *No Increase.* The original nonconformity is not enlarged, increased, or extended;
 - e) *Existing Nonconforming Structures in the Regulated Floodway.* It is the intent of the City that no permanent buildings or structures be located or substantially improved in the Regulated Floodway, and that existing nonconforming structures shall be removed upon abandonment. As such, a property with an abandoned nonconforming structure in the Regulated Floodway shall not be eligible for any development review approval until the property owner removes the abandoned nonconforming structure.
- d. Nonconforming Lots.
 - i. *Continuance.* The nonconforming lot may be used for any use allowed by the district in which it is located, subject to the following:
 - a) *Access to Street.* The lot has direct paved access to an existing improved public or private street or alley.
 - b) *Contiguous Properties.* The lot is in separate ownership from all adjacent and contiguous parcels, therefore preventing acquisition of the additional land area needed to comply with the standards that would normally apply to the creation of the lot (for example, minimum area and width).
 - c) *Other Standards.* Development on the lot complies with applicable standards of this Appendix (other than lot area and/or width).
- e. Nonconforming Signs.

- i. *Continuance.* A nonconforming sign existing as of the effective date of this Appendix may be continued, repaired, and maintained in good condition, but may not be otherwise altered, subject to the following:
 - a) *No Message.* If a nonconforming sign does not display any message for a period of six months, it shall be removed or brought into conformance with this Appendix.
 - b) *Removal.* If a nonconforming sign is removed for any reason, it shall not be replaced unless the replacement sign conforms to this Appendix.
 - c) *Damage or Destruction.* If a nonconforming sign is damaged or destroyed by any means and the repair or reconstruction cost, whichever is applicable, equals or exceeds 50 percent of the fair market value of the sign at the time of the damage, it shall be removed or brought into compliance with this Appendix.

f. Nonconforming Site Elements.

- i. *Generally.* A site element includes parking, loading, and stacking; landscaping and buffers; signs, including billboards; outdoor lighting; or other site conditions or standards.
- ii. *Continuance.* Nonconforming site elements may continue if there is no site expansion, enlargement, or extension.
- iii. *Compliance.* If a structure or use is expanded, enlarged, or extended, nonconforming site elements shall comply with the standards of this Appendix.

Article 9.0: Word Usage

Section 9.1: Rules of Construction

The following rules of construction apply to the text of this ordinance:

- a. The particular shall control the general.
- b. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- c. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- d. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- e. A "building" or "structure" includes any part thereof.
- f. The phrase "used for" includes "arranged for", "designed for," "maintained for," or "occupied for."
- g. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- h. Unless the context clearly indicates the contrary, where a regulation involves two or more items, "conditions," "provisions", or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:
 - i. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - j. "Or" indicates that the connected items, conditions, provisions, or events shall apply.
 - k. "Either ... or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- l. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Section 9.2: Definitions

For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given in this Article. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number; and words used in the plural number include the singular number. Definitions not expressly prescribed herein are to be determined according to customary usage in municipal planning and engineering practices.

Access means the principal means of ingress and egress to abutting property from a publicly dedicated right-of way.

Accessory building or structure means a detached, subordinate building, the use of which is clearly incidental and related to that of the principal building, and which is located on the same lot as the principal building.

Accessory use means a use that is customarily incidental to the principal use, and so necessary that it cannot be prevented by the code. Accessory uses shall be located on the same premises as the principal use.

Acre means forty-three thousand five hundred sixty (43,560) square feet of land or water.

Administrative Official means the City Manager and/or any staff member(s) of the City authorized by the City Council to enforce, to interpret, or to administer the regulations, ordinances, or orders.

Alley means a right-of-way which affords only a secondary means of access to property abutting thereon, and is not intended or used for general traffic circulation.

Alterations, building means any change in the structure which will increase the number of dwelling units, the floor area, or the height of a structure.

Apartment means a room or suite of rooms which is rented, leased, let, or hired out to be occupied as the home or residence of one individual, family, or household.

Apartment house means any building, a portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied; or which is occupied as the home or residence of more than two families living independently of each other, and doing their cooking in the said building, and shall include flats and apartments.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this Chapter or a request for a variance.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Architect means an individual duly registered and licensed as an architect in the State of Texas.

Area of future conditions flood hazard means the land area that would be inundated by the one-percent annual chance (100-year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into ZONE A, AE, AH, AO, A1-99, VO, V1-30, VE, or V.

Articulation means an architectural design method in which particular elements and parts of a building are made more distinct through variation in flat surfaces and straight lines (e.g., building facades, rooflines, etc.).

Assisted living facility means an establishment that:

- Furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;
- Provides:
- Personal care services; or

- Administration of medication by a person licensed or otherwise authorized in this state to administer the medication; and
- May provide assistance with or supervision of the administration of medication.

Automotive repair shop means a building or structure used for painting, retouching, and/or major repairs of motor vehicles.

Automotive service station means a building, other structure, or tract of land used exclusively for the retail sale of gasoline or other motor fuels, and for any accessory uses, such as the sale of lubricants, accessories, supplies, or the repair of motor vehicles. No vehicles shall be stored or mechanical repairs done outside the building. A public parking lot or public parking garage is not a permitted accessory use.

Bar means an establishment where alcoholic beverages are sold for on-premises consumption, but not a restaurant (as the principal use).

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BSE) means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, AI-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year — also called the Base Flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Bedroom means a sleeping room with a minimum of 120 feet.

Blockface means the properties abutting on one side of a street between the two nearest intersecting streets or other physical features, such as a watercourse or unsubdivided land, that defines the end of the block.

Buildable area means the portion of a lot remaining after the required yards have been provided. Buildings may be placed in any part of the buildable area, but limitations on the percent of the lot which may be covered by buildings may require open space within the buildable area.

Building means any structure built for the support, the enclosure, the shelter, or the protection of chattels, persons, animals, or the like. The word "building" includes the word structure, and shall include anything constructed or erected which requires permanent location on the ground, or is attached to anything having a permanent location on the ground; and shall include, but is not limited to, such structures as homes, hotels, motels, apartments, stores, service stations, radio towers, cooling towers, tanks, silos and billboards.

Building front line of means the line of that face of the building nearest to the front line of the lot.

Building line rear means the line of that face of the building nearest to the rear line of the lot.

Building line side means the line of that face of the building nearest to the side lines of the lot.

City means the City of Wharton, Texas.

Cornice means a horizontal molded projection that crowns or completes the top of a building or wall.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Density means the relationship between numbers of dwelling units and land area.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Dormer means an extension built out from a sloping roof to accommodate a vertical window.

Duplex means a building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family, and each of which has its own primary outside entrance. Duplexes may be configured side-by-side or over and under.

Dwelling means a building, or portion thereof, used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities.

Dwelling single family means an individual dwelling unit which is physically connected or detached from one or more other dwelling units.

Dwelling unit means one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family, with separate facilities for all of the following: sanitation, living, sleeping, cooking, and eating.

Easement means the area for and a right granted thereon for the purpose of limited public or semipublic use across, over, or under property for a specific purpose or purposes.

Elevated Building means for insurance purposes, a non-basement building, which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means an extension or overhang into the airspace above a sidewalk or public right-of-way.

Entertainment, Indoor means a use category containing commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting. Uses in this use category include: Archery/firearms range (indoor); Axe throwing lounge; Bar or tavern; Bingo hall; Body Art Service; Bowling alley; Convention center; Dance club or dance hall; Fitness gym; Gymnastic, dance, or martial arts facility; Movie, live, or other theater; Other Gaming Establishments; Pool hall; Sexually-oriented business; Skateboard or trampoline park; Skating rink; Swimming pool (public); Tennis or racquetball facility; and Other uses that the Building Official interprets to be functionally similar to a use in this Use Category.

Entertainment Outdoor means a use category containing commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an outdoor setting. Uses in this use category include: Amphitheater; Amusement park; Campground without Overnight Accommodation; Fairgrounds; Farmers market (outdoor); Golf course, golf driving range, or mini-golf course; Intensive Recreational Facilities; Marina; Outdoor Auditorium; Paintball facility; Race Track (Vehicle); Skateboard or trampoline park;

Sports Stadium, running track, or ball field; Swimming pool (public); and Other uses that the Building Official interprets to be functionally similar to a use in this use category.

Establishment means an occupant of a commercial building consisting of either a business, non-profit organization, or other nonresidential tenant.

Existing construction means for purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Fence means a structural or natural physical barrier used to divide and/or enclose a defined area.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- The overflow of inland or tidal waters.
- The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Floodplain Administrator, where the boundaries of the flood, mudslide (i.e., mud-flow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.

Floodplain management regulations means ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real estate property, water and sanitary facilities, structures, and their contents.

Flood protection system means those physical structural works for which funds have been authorized, appropriated, and expended, and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodway. See "regulatory floodway."

Frontage means all the property on one side of a street between two intersecting streets, or if the street is a dead end, all of the property abutting on one side between an intersecting street and the dead end of the street.

Gable means a triangular area of an exterior wall under the inverted "v" formed at the end of a pitched roof.

Governmental services means the building of municipal government and related facilities such as, without limitation, libraries, recreational centers, public safety facilities, or city offices.

Grade means a reference plane representing the average of finished ground level adjoining the building at all exterior walls.

Gross land area means the total area, including all public and private areas within the legal boundaries of a parcel of land or project.

Ground-floor level means the ground-floor level of a building is the first livable area. Unfinished basements and storage areas for automobiles and other vehicles do not constitute a ground-floor level.

Group living means a use category containing uses with residential occupancy of a dwelling by a means other than found in Household Living, typically providing communal kitchen/dining facilities. Uses in the use category include: Assisted living facility; Dormitory; Fraternity or sorority; Group home (6 or fewer residents); Hospice; Monastery or convent; Orphanage; Residential care facility; School dormitory. Supervised residential institution; Workforce housing; Youth shelter; and Other uses that the Building Official interprets to meet the characteristics of this use category. Typical accessory uses include: Associated office; Facilities for treatment of sickness, injuries or surgical care; Food preparation and dining facility; Greenhouse or nursery (noncommercial); Minor utilities; Pool house; Private community center; Swimming pool; Recreational facility; and Other miscellaneous household amenities.

Heavy industrial means a use category containing uses engaged in the manufacturing, assembly, or processing of chemicals, animal products, and metals, the activities of which are likely to have characteristics that discourage adjacency to residential uses. Factory production and industrial yards are located here. Sales to the general public are rare.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

- Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
- By an approved state program as determined by the Secretary of the Interior; or
- Directly by the Secretary of the Interior in states without approved programs.

Hospital means a “general hospital” or a “special hospital” as defined in the Texas Health and Safety Code § 241.003.

Hotel means any building containing principally sleeping rooms in which transient guests are lodged with or without meals, with no provisions made for cooking in any individual rooms or suite, and which may have dining rooms, restaurants, cafes, or accessory uses.

Industrialized housing means a residential structure that is:

- Designed for the occupancy of one or more families;
- Constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site;
- Designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.

Integral Garage means a garage that is structurally built into, and fully enclosed by, the mass of the Principal building, and not attached as an appendage.

Kennel means any premises on which four or more dogs, six months or older, are kept.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lot frontage means the shortest property line adjacent to a public street; it is also the front property line.

Lot, interior means any lot that is neither a corner lot, nor a through lot.

Lot, through means any lot that has both the front and rear property line adjacent to a public street.

Lot area means the total horizontal area included within lot lines.

Lot corner means either a lot bounded entirely by streets, or a lot which adjoins the point of intersection of two or more streets.

Lot coverage means the portion of the area of a lot expressed as a percentage, occupied by all buildings or structures which are roofed or otherwise covered, and that extends more than three feet above the ground level.

Lot depth means the horizontal length of a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line of the lot.

Lot line means the boundary of a lot.

Lot width means the horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear property lines.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Medical lab means a facility offering diagnostic or pathological testing and analysis of blood, blood fluids, pathological specimens, DNA sampling and analysis, and any other diagnostic test generally recognized in the healthcare industry.

Medical office means an office space used by physicians, pediatricians, radiologists, dentists, chiropractors, physical therapists, acupuncturists, and other healthcare professionals for the examination and/or treatment of patients on an outpatient basis, with no overnight stays by patients.

Mixed use means a mix of two or more categories of uses (e.g., office and commercial retail) on the same parcel proposed for development. Mixed use includes:

- *Horizontally mixed use*, or "multiple use," means that the uses are separated horizontally, and may be in separate buildings.
- *Vertically mixed use* means that the uses are separated vertically in a single building.

Motel means a building or group of buildings which contain sleeping accommodations for transient occupancy, and has individual entrances from outside the building to serve each sleeping unit. Motels may have one or more dining rooms, restaurants, or cafes, but no provision shall be made for cooking in the individual room or suite of rooms.

Multi-family dwelling means a dwelling unit located within a building that contains three or more dwelling units that are accessed from interior elevators or hallways, or from individual exterior entrances, and are separated by interior walls and/or floors.

- The term "multi-family dwelling" includes dwelling units that are located inside of mixed-use buildings.
- The term "multi-family dwelling" does not include boarding houses, dormitories, fraternities, sororities, bed and breakfast establishments, single-family attached dwellings, or commercial lodging.

New construction means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Nonconforming building or structure means structure or building existing at the time of the passage of this ordinance which does not conform to the property development regulations including area, height, lot coverage, yard setbacks, lot location, or other like requirements of the district in which it is located.

Nonconforming use means a land use existing at the time of this ordinance passage which does not conform to the provisions, requirements, and regulations of the district in which it is located.

Non-Principal Street means a secondary street or any street other than a Principal Street.

Nursery Retail means an enterprise that conducts the sale of plants grown off of the premises. The terms also include, as an accessory use, the sale of a limited selection of items (e.g., soil, planters, pruners, mulch, lawn or patio furniture, garden accessories, etc., but not power equipment) that are directly related to the care and maintenance of landscapes.

Nursery Wholesale means an enterprise that conducts the sale of plants grown on the premises. The terms also include, as an accessory use, the sale of a limited selection of items (e.g., soil, planters, pruners, mulch, lawn or patio furniture, garden accessories, etc., but not power equipment) that are directly related to the care and maintenance of landscapes.

Nursing home or convalescent home means an establishment that:

- Furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment; and
- Provides minor treatment under the direction and supervision of a physician licensed by the Texas Medical Board, or other services that meet some need beyond the basic provision of food, shelter, and laundry.

Open space means an exterior open area clear from the ground upward, devoid of residential and commercial buildings, accessory structures, and impervious areas, except for those structures used exclusively for recreational purposes or as walkways or sidewalks.

Park or playground (public ownership) means an open recreation facility, field, golf course, or park owned and operated by a public agency or school district and available to the general public.

Parking area means the total area devoted to the parking and maneuvering of automobiles.

Parking lot means an open area which is used for the parking of automobiles.

Parking space means a surfaced area enclosed or unenclosed, sufficient in size to store one automobile (or one or more bicycles in the case of spaces dedicated to bicycle parking), together with a driveway connecting the parking space to a street or alley, permitting ingress and egress of vehicular and non-vehicular traffic.

Planning Commission means an advisory body to the City Council to affect the orderly and desired growth, development, and beautification of the city planning and development functions.

Principal Building means a main building, and not an accessory building such as a garage or other outbuilding.

Principal Street means a commercial through-street located in the Downtown core and directly connecting side streets that are lined principally with commercial building fronts.

- Milam Street between Richmond Road and Rusk Street.
- Burleson Street between Richmond Road and Rusk Street.
- Houston Street between Caney Street and Elm Street.
- Fulton Street between Caney Street and Elm Street.
- Polk Street between Caney Street and Elm Street.

Private club means a building in which members of a community or association may gather for social, educational, or cultural activities.

Public and private utility services means a room or portion of a building, or an area adjacent to a building, enclosed from public access and view which use is incidental to, and is required in, direct support of the primary building use.

Restaurant drive-in or drive-through means a restaurant located either within a retail center or situated on its own freestanding pad, which:

- Contains a drive-in or drive-through facility;
- Primarily serves food that is prepared and packaged within five minutes; and,
- Customarily serves food in disposable containers.

Restaurant no drive-in or drive-through means an establishment that serves prepared meals to customers for consumption on-site or off-site, but does not include drive-in or drive-through facilities (however, the use may include designated parking spaces for "curbside pickup" of food ordered in advance if the curbside pickup is a clearly subordinate function to the restaurant's operations), and includes:

- Full-service restaurants;
- Limited-service eating facilities; and,
- Special food services.

Right-of-way means a strip of land dedicated or deeded to the perpetual use of the public.

School means a public or private elementary, middle, or high school with a specific curriculum; it does not include trade or commercial schools or nursery schools.

Secondary Street means a Non-Principal Street or any street that doesn't directly connect to an arterial street, or any street that is used mainly as a rear service street to opposite-facing commercial buildings. Any street that fronts onto a residential block.

Setback means a line running a certain distance back from and parallel to the base building line or front property line, whichever provides the greater separation, wherein no building, structure, or portion thereof shall be permitted. *Special Flood Hazard Area*. See "area of special flood hazard."

Start of construction (for other than new construction of substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Street means a strip of land privately or publicly owned which affords principal means of access to abutting property.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Townhouse means a single-family attached dwelling unit, with a single unit going from ground to roof and with individual outside access.

Variance means a grant of relief to a person from the requirements of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter. (For full requirements, see section 60.6 of the National Flood Insurance Program regulations.)

Vehicle service means uses that perform service on automobiles, boats, motorcycles, and/or recreational vehicles. The phrase does not include auto body (e.g., collision repair), paint, or upholstery services.

Vehicle wash means any area or business using self-service, in-bay automatic, or conveyor equipment for cleaning and washing motor vehicles, whether as a part of another business operation (e.g., as an accessory use to light automobile service/fueling station or vehicle sales, rental and service), or as a stand-alone

operation, of any type, on a commercial basis. The phrase "vehicle wash" includes fleet and municipal in-bay automatic and conveyor vehicle wash facilities.

Vending kiosk/ATM means a machine that is located in a fixed position outdoors (either attached to a building or in a freestanding structure), which does not require employees or attendants to conduct transactions, and which is used for:

- Automated banking or other financial transactions (e.g., "ATM," change machines, etc.); or
- Vending or dispensing products (e.g., water, ice, DVD purchases or rentals, postal supplies, soft drinks, newspapers, snacks, ice cream, coffee, or other foods or consumer items).

Veterinary Clinic or Veterinary Hospital means a place that provides care for small domestic animals. The term does not include large animal and livestock veterinarians.

Yard means a required open space, clear from the ground upward of any structure except for fences, walls, and hedges.

Yard front means a yard extending across the front of a lot.

Yard interior means a yard between any structure and the side line of the lot.

Yard rear means a yard extending across the rear of a lot.

Penalty Clause

Except as otherwise provided in this chapter, any person found guilty of intentionally, knowingly, or recklessly violating any provision of this article and upon conviction thereof in the municipal court shall be fined in accordance with the terms of Section 1-5 of the Code of Ordinances of the City of Wharton, Texas.

Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed to be a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

Effective Date

This Ordinance shall become effective on the 8th day of August 2025.

Passage and Approval

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Wharton, Texas, on the 28th day of July 2025.

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CITY OF WHARTON, TEXAS

By: *Tim Barker*
TIM BARKER
Mayor

ATTEST:

Paula Favors
PAULA FAVORS
City Secretary

APPROVED AS TO FORM:

Paul Webb
PAUL WEBB
City Attorney

