



*Development
Regulation
Packet*

**MIXED RESIDENTIAL AT LOW
TO MEDIUM DENSITIES (SF2)**

This district provides for single-family detached and attached residential dwellings and two-family dwellings at a density up to nine dwelling units per acre.

THE INTENT OF THIS DOCUMENT IS TO ASSIST COMMERCIAL BUILDERS WITHIN THE CITY OF BAYTOWN IN IDENTIFYING APPLICABLE REGULATIONS FOR NEW CONSTRUCTION. PLEASE NOTE THAT THIS DOCUMENT IS NOT ALL-INCLUSIVE.

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SEC. 2.05 - RESIDENTIAL ZONING DISTRICTS.

- (e) *Mixed residential at low to medium densities ("SF2").* This district provides for single-family detached and attached residential dwellings and two-family dwellings at a density up to nine dwelling units per acre.

SEC. 2.07 - DENSITY AND USE.

A mix of residential uses shall be allowed in SF2, MF1, and MF2 zoning districts according to density as shown in table 2-1.

Table 2-1. Net Density/Allowed Use

Density	Up to 9
	SF2
Single-family detached	✓
Single-family attached	✓
Two-family duplex	✓

SEC. 2.09 - LAND USE TABLES.

- (a) *Uses.* This subsection sets forth the land uses allowed in each zoning district. In the following tables "P" means permitted use and "PC" means permitted use with conditions as set forth in the conditions tables in division 3 of this article. Where neither a "P" nor a "PC" exists in the table, the use is prohibited. To the extent that there is a conflict between the use tables and the conditions, the use table controls.
- (b) *Prohibited uses.* In all residential zoning districts, the use of containers for any purpose is expressly prohibited.

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Table 2-4. Residential uses.

USES	SF2	COND REF
Agriculture	PC	B3
Community services	PC	B6-7
Industrialized home	P	
Single-family residential attached	PC	B14, B21
Single-family residential detached	P	B17
Two-family dwelling duplex	PC	B18, B19
Country clubs	P	
Golf courses	P	
Group home for the disabled	PC	B9
Personal care home	PC	B9
Public park	P	
Places of assembly	PC	B12

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Accessory uses are uses incidental and subordinate to the principal use, located on the same lot as the principal use and in the same zoning district as the principal use.

Table 2-5. Residential accessory use table.

ACCESSORY USE	SF2	COND REF
Accessory dwelling	PC	B1, B2, B10
Barn	PC	B2, B23
Community building	PC	B5
Family home day care	PC	B2, B8
Garage sale	PC	B2, B20
Gazebo	P	B2
Home occupation	PC	B2, B10
Non-commercial solar energy facilities	PC	B2, B15
On-site management office for multifamily or single-family attached dwellings	PC	B7
On-site storage of a personal pleasure boat or recreational vehicle	PC	B2, B22
Pool, pool house, hot tub and their equipment	P	B2
Private open space	PC	B13, B23
Private recreation space	PC	B2, B13
Storage building	P	B2
Studio	PC	B2, B10
Sports court	P	B2

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SEC. 2.10 - LAND USE CONDITIONS.

This section sets forth the conditions associated with identified land uses in section 2.05. The conditions expressed in the use table are cumulative of applicable conditions contained elsewhere in the Code.

Land Use	Applicable Zoning District	Conditions
B. Residential Categories		
1 Accessory dwelling units	All, where permitted	(a) Accessory dwelling units may be permitted as an accessory use to an otherwise allowed detached single-family dwelling in any zoning district that allows single-family dwellings.
		(b) The unit shall include a full kitchen.
		(c) Only one accessory dwelling per lot is allowed.
		(d) The total living area of the accessory dwelling unit shall not exceed 600 square feet or 25 percent of the square footage of the living area of the private residential dwelling, whichever is greater.
		(e) The principal residential and accessory dwelling unit together shall not exceed the maximum zoning district impervious cover.
		(f) The accessory dwelling unit may be part of or attached to the principal structure, and /or may be a separate structure.
		(g) All principal structure yard requirements shall be met by the principal structure and the accessory dwelling unit.
		(h) The accessory dwelling unit shall not exceed the maximum zoning district height.
		(i) Accessory dwelling units may not be used for commercial purposes.
		(j) Accessory structures other than accessory dwelling units that exceed 25% of the gross floor area of the primary residence must abide by the design standards in article three of this ULDC.

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#	Land Use	Applicable Zoning District	Conditions	
			(k)	Accessory dwelling units must have similar architecture to the primary residence.
			(l)	Accessory dwelling units may be placed inside the primary residence or may be a freestanding structure.
			(m)	The primary and secondary dwelling units must be serviced by the same water/sewer meter.
			(n)	The accessory dwelling unit must have a separate address on file with the city and the authorities/organizations responsible for emergency response, mail delivery and electric service.
2	Accessory structures	All, where permitted	(a)	Except barns, the sum of all accessory structures on a tract of land must not exceed 75 percent of the gross square footage of the primary structure on the same lot.
			(b)	Residential accessory structures are allowed to remain in non-residential zoning districts as nonconforming uses only if the structure is an accessory to an existing, nonconforming primary residential use.
3	Agriculture	SFE, SF1, SF2, OR	(a)	Any agriculture function involving animals shall be at least 100 feet from any adjacent residential property line.
			(b)	Any agents causing noxious odors shall not be located closer than 100 feet from any adjacent residential property line.
5	Community building	SF2 and all MF districts	(a)	Free standing buildings must be of the same architectural style as the dwelling units they serve.
			(b)	Free standing buildings must be connected by walkways to pedestrian areas and parking lots.
			(c)	Parking must be provided in the amount of one space for every 50 residential dwelling units in the complex or one space for every 50 lots in the subdivision.
6	Community services	All, where permitted	(a)	Community services shall be separated from all adjacent residential dwellings by opaque screening.

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No.	Land Use	Applicable Zoning District	Conditions	
			(b)	Minimum parking requirements are one per 200 square foot of usable area.
7	On-site association management offices and club houses for dwelling units	All, where permitted	Club houses and management facilities must be of similar architecture to the apartment complex or the neighborhood in which they are located.	
8	Family home day care	SFE, SF1, SF2, MF1, MF2	(a)	There is a maximum of six children, including children of the family providing day care.
			(b)	Only those family home day cares that are duly licensed by the state are allowed.
			(c)	Baytown fire department permitting and inspections are required.
			(d)	All requirements for a home occupation shall be followed.
			(e)	Annual renewal of family home day care permit required with an inspection in advance of renewal.
9	Group housing, group homes for the disabled and personal care homes	All, where permitted	(a)	No group housing residents may occupy a single-family residence, other than the property owner or family of the property owner until a group housing acknowledgment form has been duly filed with the director on a form prescribed by the director.
			(b)	The facility shall be responsible for providing food, shelter, personal guidance, general care and supervision to all of its residents.
			(c)	There shall be no signs or other exterior visible evidence of the group housing use and the exterior structure must retain its compatibility with the surrounding residential dwellings.
			(d)	There shall be no visible storage of equipment, materials or vehicles that have more than two axles.
			(e)	No equipment shall be used that creates undue noise, vibration, electrical interference, smoke or particulate matter emission, excessive power demands or odors.

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No.	Land Use	Applicable Zoning District	Conditions	
			(f)	The facility shall comply with the operational performance standards of the Code of Ordinances.
			(g)	The residents of the home may not keep, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the numbers of bedrooms in the home.
			(h)	The city reserves the right to inspect the location at any time to ensure that the health, safety and general welfare of the residents is being provided for by the facility.
			(i)	Nothing in this section shall be construed as attempting to regulate or affect the right of handicapped individuals to purchase their own dwellings or to affect the right of individuals to care for handicapped family members.
10	Home occupation	All residential districts	(a)	A home occupation shall not exceed 25% of the heated/air conditioned space of the dwelling unit.
			(b)	The following home occupation standards are intended to permit residents to engage in home occupations within zoning districts that allow residential uses and that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential areas.
			(c)	These home occupation standards shall have no application in any non-residential zoning district.
			(d)	A home occupation shall be considered an accessory use, subject to the following standards:
			i.	A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner;
			ii.	There shall be no signs or other exterior visible evidence of a home occupation;
			iii.	There shall be no storage of equipment visible outside the dwelling, or materials or vehicles that have more than two axles;

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No.	Land Use	Applicable Zoning District	Conditions	
			iv.	The home occupation shall be conducted entirely within the principal residential building; and
			v.	No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, power demands or odors above the existing level.
			(e)	Home occupations shall comply with the operational performance standards of this ULDC.
			(f)	Home occupation applicants shall complete an annual registration form and pay the one-time and annual fees as defined in chapter 2 of the Code of Ordinances.
12	Places of assembly	All, where permitted	(a)	Direct vehicle access shall be provided from an arterial street.
			(b)	Outdoor recreation, entertainment and performing arts uses associated with places of assembly that utilize outdoor lighting and speaker systems shall be setback at least 300 feet from any residential use and shall provide a 25-foot wide vegetative buffer against the property line containing the residential use.
13	Private open space	All residential districts	(a)	Private open space is not a public park and may not be used to increase the net density on the project.
			(b)	Private open space shall be a minimum of 100 square feet in size.
			(c)	Private open space must be accessible to pedestrian pathways, if available.
			(d)	Private open space must be deed restricted to private recreation prior to any building permits being issued for any dwelling unit.
14	Single-family dwelling attached	SF2, MF1, MF2	(a)	Each single-family attached dwelling unit shall be situated on a separate legally platted lot.
			(b)	Required parking areas and garages shall be located to the rear of the building.

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#	Land Use	Applicable Zoning District	Conditions
			<p>(c) Parking shall be permitted in the required street side yard.</p> <p>(d) A home owner's association shall be established and made responsible for the perpetual maintenance and repair of common areas.</p> <p>(e) The maximum number of units per building is eight.</p> <p>(f) The minimum number units per building is three.</p> <p>(g) Each dwelling unit shall have a front and a back door on the ground floor that exits to the exterior.</p> <p>(h) Each unit shall have 25% of the lot area in private open space on the lot with the unit.</p> <p>(i) Shared open space: each townhouse development shall have common open space not on the lot with the unit, accessible to all residents and not used for parking, storage, lift stations and the like.</p> <p>(j) Density in the MF2 district shall not exceed 21 units per acre.</p>
15	Solar energy systems	All, where permitted	Solar energy systems are allowed, so long as they do not reflect light into the public right-of-way or adjacent properties.
18	Two-family dwelling duplex	SF2 ACE	<p>(a) Minimum density allowed shall be six units per acre.</p> <p>(b) No two-family dwelling unit shall front on Texas Avenue.</p>
20	Garage sales	All, where permitted	Subject to the restrictions of chapter 82, article IV of the Code of Ordinances.
22	On site storage of a personal pleasure boat or recreational vehicle	All, where permitted	Personal pleasure boat or recreational vehicle must be outside of the rear and side setbacks for the specific zoning category and stored in accordance to chapter 94 which requires such to be on an impervious surface.

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ARTICLE III. - DESIGN AND COMPATIBILITY STANDARDS

DIVISION 1. - PROPERTY DEVELOPMENT STANDARDS

Table 3-1. Property development standards.

Zoning Category	SF2
Minimum lot size (square feet)	See Tb. 2-1
Minimum front setback	15
Minimum rear setback	10
Minimum interior side setback	5
Minimum street side setback	15
Maximum height (in feet)	35
Percent maximum lot coverage	60
Minimum lot frontage required (linear feet)	50

SEC. 3.01 - LOTS.

- (a) *Previously platted lots.* No requirement of this section shall prevent the development of a legally platted lot approved by the planning and zoning commission prior to April 13, 2013, so long as the development meets all other applicable provisions of this ULDC.
- (b) *Area.* Each lot shall have a minimum area as set forth in table 3-1.
- (c) *Required frontage.*
- (1) Each lot shall have frontage on a dedicated public right-of-way on which a street is accepted and built to the city's engineering standards or on a private, platted street that is built to the city's engineering standards as set forth in table 3-1.
 - (2) Each lot shall have a minimum width no less than the lot's minimum frontage width as set forth in table 3-1.
 - (3) Radial lots shall have at least 20 feet of frontage.
- (d) *Layout.* Where lot lines intersect the right-of-way, the lot lines shall be at a 90-degree angle with the right-of-way.

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SEC. 3.02 - SETBACKS.

- (a) Double frontage lots shall have setbacks that are at least equal to the required front or side yard setbacks of adjacent lots.

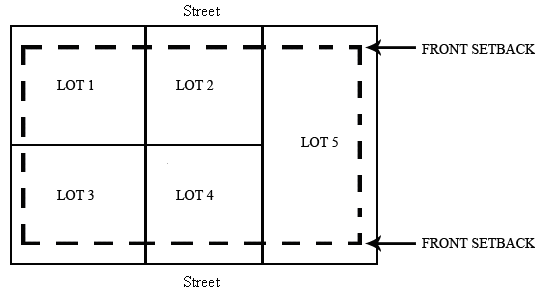
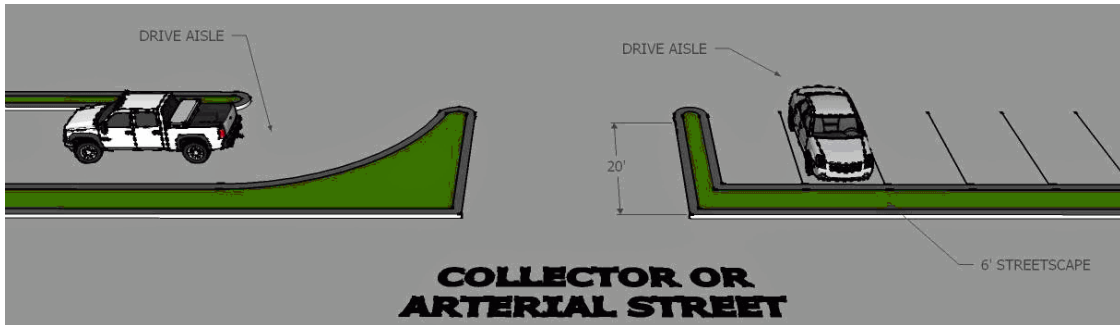


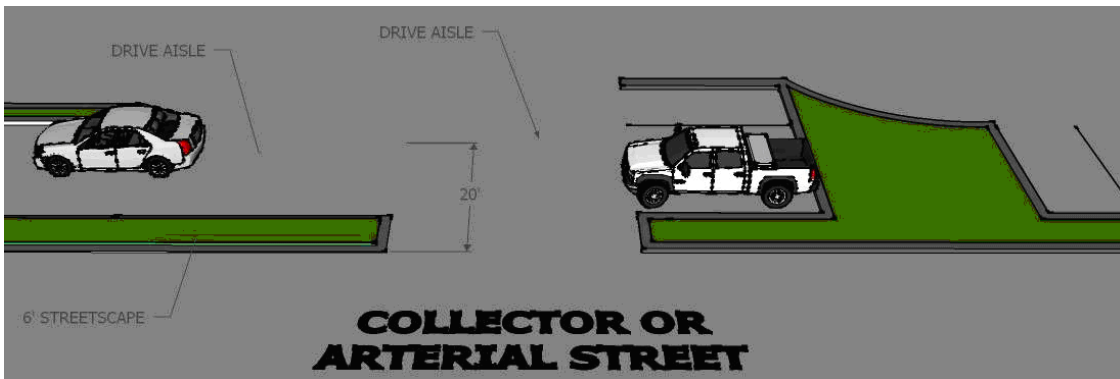
Figure 3-1. Double Frontage Lots

- (b) Parking stalls and drive aisles shall be allowed within all setbacks. Drive aisles with ingress/egress access to a collector or arterial street shall not be located parallel to a street so that turning movements occur within 20 feet of the property line. There shall be no parking stalls located along the entrance driveway/apron to the drive aisle, which may interfere with stacking of vehicles upon entrance to the property.

Figure 3-2. Parking Stalls and Drive Aisles



Examples of Allowable Configurations



Examples of Configurations that are Not Allowed

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- (c) The following features may be located within required setbacks so long as they are in conformance with the visibility triangle standards in section 122-3 of the Code of Ordinances:
- (1) Trees, shrubbery or other features of natural growth;
 - (2) Fences or walls may be placed in the front, side or rear yard setbacks provided that they do not violate sight triangles and provided that fences in the front yard setback are non-opaque;
 - (3) Off-street parking areas and sidewalks;
 - (4) Signs, if permitted by chapter 118 of the Code of Ordinances;
 - (5) Bay windows, architectural design embellishments and cantilevered floor areas of buildings that do not project more than two feet into the required setback;
 - (6) Eaves that do not project more than two feet into the required setback;
 - (7) Open outside stairways, entrance hoods, terraces, canopies, carports and balconies that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback;
 - (8) Chimneys, flues and ventilating ducts that do not project more than two feet into a required setback and when placed so as not to obstruct light and ventilation;
 - (9) Open, unenclosed porches that do not project more than five feet into a required front or rear setback or more than two feet into a required side setback;
 - (10) Utility lines, wires and associated structures, such as power poles; and
 - (11) Mechanical equipment, such as air conditioning units, pool filtering and heating equipment, water softeners and similar equipment, if the equipment does not restrict pedestrian access through such setbacks and if it is totally screened from view from abutting property and rights-of-way by fences, walls or landscaping.

SEC. 3.03 - HEIGHT.

- (a) *Buildings.* Each zoning district shall have a maximum building height as specified in table 3-1.
- (1) Building height shall be measured as the vertical distance between the average finished grade at the base of the building and the mean height of the roof. The mean height of the roof is determined by averaging the highest and lowest points of the roof.
 - (2) For fences or walls, height shall be measured on the side with the least vertical exposure above the finished grade to the top of the fence or wall.
 - (3) Buildings in the heavy industrial (HI) zoning district have a maximum height of 60 feet unless the entire building is equipped with a National Fire Protection Association ("NFPA") 13 fire sprinkler system, then the maximum height shall be 75 feet.
- (b) *Exemptions.* The following structures and features shall be exempt from the height requirements of this ULDC to the extent indicated:

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- (1) Chimneys;
- (2) Cupolas, widow walks;
- (3) Utility poles and support structures;
- (4) Cooling towers and ventilators;
- (5) Municipal or other state or county government utility infrastructure; and
- (6) Spires and church steeples.

DIVISION 2. - OPERATIONAL PERFORMANCE STANDARDS

SEC. 3.08 - STANDARDS.

Under this division, the following standards shall apply:

- (a) *Noise.* Sites shall be laid out and uses shall be operated to prevent noise from becoming a nuisance to adjacent single-family and duplex uses;
- (b) *Vibration.* All uses shall be operated so that ground vibration is not perceptible outside the lot lines of the site on which the use is located;
- (c) *Fire and explosive hazards.* Underground storage tanks for flammable liquids and gasses shall be located at least 50 feet from the lot line of lots that contain a single-family or duplex use; aboveground tanks shall be set back at least 100 feet from such lot lines, unless the board of adjustment determines, based on information provided by the applicant, that a 50-foot setback will ensure compliance with all applicable state standards. The storage tank setback requirements of this subsection shall not apply to tanks that are necessary to single-family or duplex units; and
- (d) *Light and glare.* The following operational performance standards shall apply:
 - (1) All exterior lighting shall be hooded or otherwise shielded so that the light source is not directly visible from property that contains a single-family or duplex;
 - (2) All lighting shall be shielded so that substantially all emitted light falls within the property line of the property from which the light emanates;
 - (3) All exterior building floodlights shall be shielded so that all emitted light falls upon the property from which the light emanates;
 - (4) No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. The types of lighting that shall be prohibited by this subsection shall include but not be limited to any light that may be confused with or construed as a traffic control device and any animated, flashing or changing intensity lights, except for temporary holiday displays; and

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- (5) Electromagnetic interference. No operations or activities shall be conducted that cause electrical disturbances to be transmitted across lot lines.
- (e) *Screening.* Non-residential and multifamily residential development, including off-street parking areas associated with such developments, shall be screened from view of adjacent single-family or duplex use and any property zoned SFE, SF1, SF2, or OR. Such visual screening shall be accomplished through the use of opaque fence meeting the requirements of division 2 of article X of chapter 18, pertaining to buffer fencing, along the lot line that is adjacent to the single-family or duplex use or property zoned SFE, SF1, SF2 or OR. Mechanical equipment, outdoor storage areas and refuse collection areas shall be completely shielded from view of adjacent single-family or duplex uses, scenic corridors or property zoned SFE, SF1, SF2 or OR by an opaque fence or wall made of material specified in division 2 of article XII of chapter 18 that is at least one foot taller than the site feature being screened from view, provided this shall not be interpreted as requiring screening, fences, or walls to be taller than ten feet. Fences, walls and buffers must comply with all other requirements of the ULDC.

DIVISION 4. - RESIDENTIAL ZONES

SEC. 3.11 - APPLICABILITY, LOTS UNDER 43,560 SQUARE FEET.

Any building on a lot smaller than 43,560 square feet, with the exception of manufactured housing, or a building containing two or more dwelling units shall comply with the masonry, architectural and site design standards listed in this section.

- (a) *Masonry.* Buildings in subdivisions platted after April 13, 2013, shall have all exterior walls constructed using masonry materials covering at least 60 percent of said walls, exclusive of doors and windows.
- (1) A combination of at least three materials shall be used, two of which shall be masonry.
- (2) Materials shall be used consistently on the same building plane. The minimum offset to establish a new building plane is six inches.
- (b) *Architectural.* New residential dwellings shall be constructed using at least two of the following design features to provide visual relief along the front of the residence as depicted in figure 3-3: 1) dormers; 2) gables; 3) recessed entries with a three-foot minimum; 4) covered front porches; 5) cupolas; 6) pillars or posts; 7) bay windows with a 24-inch minimum projection; or 8) other equivalent design feature approved by the director.

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- Figure 3-3. Style Elements*
- (1) Front facing windows shall be provided with trim or shall be recessed. The windows shall not be flush with exterior wall treatment and shall be provided with an architectural surround at the jamb.
 - (2) Roofs shall have a minimum pitch of 12:4. Mansard roofs shall be allowed.
- (c) *Site design.*
- (1) Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new residential building.
 - (2) Entrances to attached garages shall have a 25-foot setback from the front property line and shall not exceed 35 feet in width or occupy more than 40 percent of the total building frontage, whichever is greater. The 25-foot setback does not apply to attached side entry garages.

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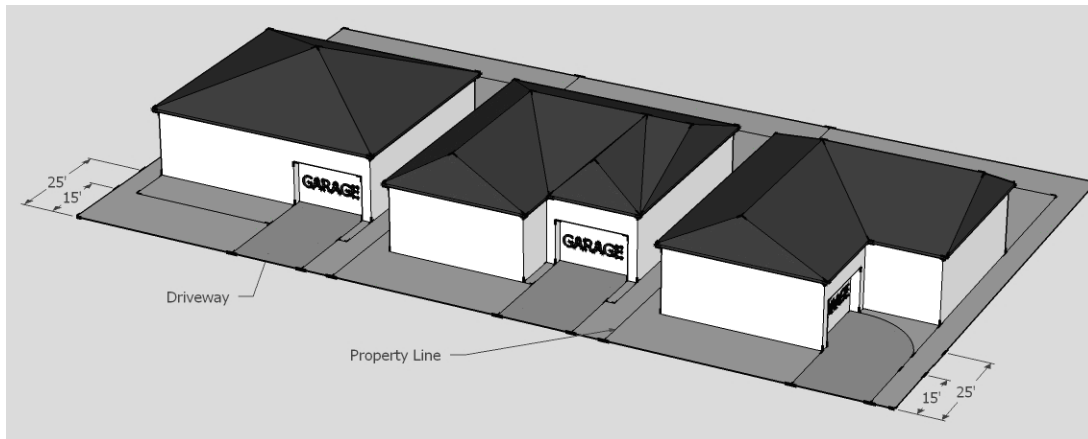


Figure 3-4. Garage Setback Options

- (3) Mechanical equipment shall not be located in the front yard. Mechanical equipment may be allowed in the street side yard setback if screened from view of the public right-of-way.

SEC. 3.115 – RESIDENTIAL ACCESSORY STRUCTURES

- (a) For tract of land two (2) acres or smaller:
 - (1) The sum of all barns and stables shall not exceed the gross square footage of the primary structure on the same lot; and
 - (2) The sum of all other residential accessory structures shall not exceed 75% of the gross square footage of the primary structure on the same lot.
- (b) For tracts of land larger than two (2) acres:
 - (1) The sum of all barns and stables may exceed the gross square footage of the primary structure on the same lot; and
 - (2) The sum of all other residential accessory structures shall not exceed the gross square footage of the primary structure on the same lot.

SEC. 3.12 - APPLICABILITY, BUILDINGS WITH MULTIPLE UNITS.

Any residential building designed for multiple units, including duplex or two-family either for rental or condo ownership shall comply with the masonry, architectural and site design standards listed in this section.

- (a) *Masonry.*
 - (1) Sixty percent of the total exterior wall area of the first floor of each building elevation shall be constructed of masonry materials, excluding doors and windows.
 - (2) Thirty percent of the total exterior wall area of each floor above the first floor of each building elevation shall be constructed of masonry materials, excluding doors and windows.

(b) *Architectural.*

(1) *Building articulation.*

- a. Building frontages greater than 75 feet in length shall have recessed places, projections, windows, arcades or other distinctive features to interrupt the length of the building facade.
- b. Front and street sides of buildings visible from the public right-of-way shall include changes in relief such as columns, cornices, bases, fenestration, and fluted masonry, for at least 15 percent of all exterior wall area.

(2) *Stairwells.* Open, unenclosed stairwells shall not be allowed along any facade facing a public street or private street system.

(3) *False door or window openings.* Use of false door or window opening shall be defined by frames, sills and lintels.

(c) *Site design.*

(1) Parking areas designed to serve multi-unit dwellings shall not be located between residential buildings and the street or drive isle system.

(2) Sidewalks in conformance with chapter 122 of the Code of Ordinances shall be installed from property line to property line at the expense of the property owner in all adjacent rights-of-way prior to the issuance of a certificate of occupancy for a new multi-unit dwelling.

(3) *Building orientation:*

- a. Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a maximum height of 40 feet or shall be constructed in conformance with the requirements of the 35-degree angle residential proximity slope as depicted in figure 3-5.

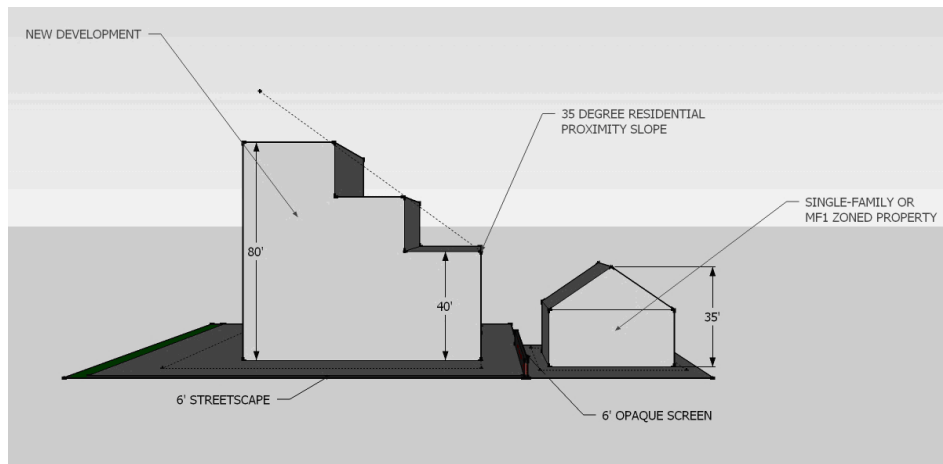


Figure 3-5. Building Orientation

- b. Building(s) located on parcels that are adjacent to SFE, SF1 SF2, or MF1 zones shall have a 15-foot building setback and shall provide opaque screening. Parking, dumpsters, and mechanical equipment shall not be allowed within the setback.
 - c. Buildings shall front on public streets and/or private street systems.
- (4) Developments shall provide a private driving aisle system consisting of limited access driveways. At least one side of the private driving aisle system shall include sidewalks at least five-foot wide and a planting strip between the driveway and sidewalk at least five-foot wide that includes street trees 30-foot on center. The private street system shall provide vehicular and pedestrian access to all parking areas and on site amenities and must connect to the public sidewalk system in the public right-of-way.
- (5) *Recreation space:*
- a. Each development shall provide at least 100 square feet of outdoor recreation space per dwelling unit that is intended to serve the entire development. Open space in the required setbacks can not be counted.
 - b. Outdoor recreation space shall be turf area at least 3,000 square foot in size with maximum slopes of three percent.
 - c. One perimeter shade tree is required for each 1,000 square foot of outdoor recreation space.

GENERAL ORDINANCES

SEC. 18-93. - SIDEWALKS.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Construction means the building or placement of any structure requiring a permit from the city.

Impervious surface means any type of improvement to real property that will prevent water from passing through to the soil below.

Primary non-residential structure means the main structure on a lot or parcel that is anything other than a primary residential structure.

Primary residential structure means the main dwelling unit on a lot or parcel that is:

- (1) A detached one- or two-family dwelling; or
- (2) A townhome not more than three stories above grade plane in height, with separate means of egress, and open to a public right-of-way or yard on at least two sides.

Sidewalk means a paved path for the use of pedestrians constructed:

- (1) In the right-of-way between the curb lines or the edge of pavement of a roadway and the adjacent property lines; or
- (2) In an easement on private property dedicated to the city or the public for which a sidewalk is permitted to be built.

- (b) *Required.* Except as provided in subsection (c) of this section, sidewalks conforming to the requirements of chapter 122 of this Code shall be constructed when a permit is issued for any of the following:

- (1) Construction of a primary residential structure in a subdivision platted after July 26, 2012;
- (2) Construction of a primary non-residential structure within any zoning district with the exception of a LI or HI zoning district; or
- (3) Construction on a primary non-residential structure or the parking area serving a primary non-residential structure that would result in either:
 - a. A 30-percent aggregate increase in the existing gross area of impervious surface on the property in any zoning district with the exception of the HI zoning district; or
 - b. Five thousand square feet of new impervious surface area, on the property in any zoning district with the exception of LI or HI zoning district.

- (c) *Exempt.* Construction of sidewalks shall not be required:

- (1) On a property where a primary residential structure in a residential zoning district, as determined by the ULDC, is being constructed but there is not enough space within the right-of-way to construct a sidewalk as determined by the director of engineering;

- (2) When a residential lot is platted after July 26, 2012, in an existing residential area where less than 80 percent of the existing homes have sidewalks;
 - (3) On property where a governmental agency prohibits the construction of sidewalks and the applicant has provided to the chief building official current documentation to this effect from the governmental agency; or
 - (4) When, in the opinion of the chief building official, the installation of sidewalks would not be feasible due to planned public improvements and the owner or developer, in lieu of constructing a sidewalk, pays at the time of the issuance of a building permit a fee. Such fee shall be in an amount equal to the cost of the construction of the sidewalk per square foot based upon the competitively bid prices obtained by the city for its annual concrete work contract.
- (d) *Appeals.* Appeals from a decision of the chief building official shall be made in accordance with section 18-58.
- (e) *Violation.* It shall be unlawful for any person to willfully or maliciously tear up, injure, deface or destroy any sidewalk, or any portion thereof.
- (f) *Enforcement.*
- (1) Any violation of this article shall constitute a misdemeanor punishable, upon conviction, by a fine as provided in section 1-14.
 - (2) In addition to enforcement action taken pursuant to subsection (f)(1), certificates of occupancy and certificates of completion shall be withheld until repairs required in subsection (d) of this section have been made and approved by the chief building official.