



AIR-17-755
AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS

AGENDA OF: Joint Public Hearing - Nov. 20, 2017
DATE SUBMITTED: 10 Nov 2017 **DEPT. OF ORIGIN:** Community Development
PREPARED BY: Jimontanae McBride

SUBJECT: **Amendments to the Unified Development Code (UDC) No. (T-27) ZONE 17-00022**
- A request of the City of Pearland, for proposed amendments to the Unified Development Code, Ordinance No. 2000T-27.

ATTACHMENTS: [I. Proposed revisions to the Land Use Matrix](#)
[II. Proposed additions to the UDC for regulations specific to use](#)
[III. Proposed revisions to regulations associated with landscape buffers](#)
[IV. Proposed additions to the UDC regarding tree mitigation fee credits](#)

FUNDING:

<input type="checkbox"/> Grant	<input type="checkbox"/> Developer/Other	<input type="checkbox"/> Cash
<input type="checkbox"/> G.O. Bonds To Be Sold	<input type="checkbox"/> G.O. Bonds - Sold	<input type="checkbox"/> Rev. Bonds to Be Sold
<input type="checkbox"/> Rev. Bonds - Sold	<input type="checkbox"/> C.O.'s To Be Sold	<input type="checkbox"/> C.O.'s - Sold

EXECUTIVE SUMMARY

BACKGROUND

As a response to the changing needs of the community, regular updates are often proposed to the Unified Development Code (UDC). Staff recommends that the following proposed UDC amendments be adopted:

I. Revisions to the Land Use Matrix:

- To allow liquor/package stores to be permitted by a Conditional Use Permit (CUP) only in the BP-288, GB, & GC zoning districts and no longer allowable by a CUP in the M-1 zoning district. The intent is to not permit retail uses in industrial zoning districts.
- To move the conditions and criteria associated with Micro Breweries/Micro Distilleries/Micro Wineries from the Land Use Matrix to section 2.5.3.2 (b) of the UDC, which is a new addition to the UDC that outlines regulations specific to the uses.

II. Additions to the UDC to include regulations specific to liquor/package stores & micro-breweries/ micro-distilleries/ micro-wineries.

- Throughout the first three quarters of 2017, the City of Pearland saw an influx of CUP applications related to liquor/package stores. As a result, City Council and the Planning and Zoning commission saw the need to develop land use regulations associated with this use. The intent of this amendment is to outline those regulations.
- This amendment also incorporates the criteria for mobile food units and concessionaires associated with Micro-breweries/Micro-Distilleries/Micro-Wineries. This amendment is reflected in Section 2.5.3.2, which is a new addition to the UDC. Please note that the previously approved criteria for this use has not change, however the text associated with the criteria has been move to section 2.5.3.2 of the UDC.

III. Revisions to regulations associated with landscape buffers between nonresidential zoning districts or uses that are adjacent to single-family development.

- Currently the UDC requires a 25' landscape buffer between nonresidential zoning districts or uses that are adjacent to single-family zoning even if the adjacent use is an undevelopable parcel that encompasses a City of Pearland, Brazoria Drainage District #4, or or other retention/detention features over thirty-feet in width. This amendment will remove this landscape buffer requirements when single-family zoning is adjacent to the above. This amendment is reflected in Section 4.2.2.4 of the UDC.

IV. Additions to the UDC regarding tree mitigation fee credits.

- This amendment is reflected in Section 4.2.3.7 of the UDC and is in response to the newly adopted State law requirements for tree mitigation fee credits.

I. Proposed revisions to the Land Use Matrix

Section 2.5.2.1 The Land Use Matrix

Division 2 – Land Use Matrix

Use	Residential Zoning Districts											Mixed Use Districts					Old Town			Non-Residential Zoning Districts									
Liquor/Package Store	SD	R-E	SR-15	SR-12	R-1	R-2	R-3	R-4	TH	MF	MH	SPD					C-MU	G/O-MU	OT-R	OT-GB	OT-MU	RRN	OP	BP-288	NS	GB	GC	M-1	M-2
												S1	S2	S3	S4	S5													
																							C		C	C	Ⓢ		
	Description: A retail sales establishment principally for the retail sales of alcoholic beverages to the general public for off-premise consumption that requires a Package Store Permit from the Texas Alcoholic Beverage Commission to operate. See Division 3 Section 2.5.3.3 for specific use regulations.																												
Parking: One space per 200 square feet of gross floor area.																													

Use	Residential Zoning Districts											Mixed Use Districts					Old Town			Non-Residential Zoning Districts										
Micro-Brewery/Micro-Distillery/Micro-Winery	SD	R-E	SR-15	SR-12	R-1	R-2	R-3	R-4	TH	MF	MH	SPD					C-MU	G/O-MU	OT-R	OT-GB	OT-MU	RRN	OP	BP-288	NS	GB	GC	M-1	M-2	
												S1	S2	S3	S4	S5														
																		C	C		C	C					C	C	C	C
	Description: A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possess the appropriate licenses from the state of Texas. See Division 3 Section 2.5.3.3 for specific use regulations. These are typically much smaller establishments and independently owned. Each facility must meet the following conditions: a.) Maximum Size of the facility and all associated uses shall be 15,000 square feet. b.) The establishment will include at least one of the following uses, associated with the facility, and located in the same building: a restaurant, tasting room, bar, or lounge, that shall meet the following conditions: 1. All prescribed conditions associated with the retail, restaurant, tasting room, bar, or lounge shall be met including separation distances and buffers; 2. The minimum size of the associated retail, restaurant, tasting room, bar, or lounge shall be 10% of the total square footage of the facility and all associated uses, or 1,000 square feet, whichever is less 3. All Texas Alcoholic Beverage Commission (TABC) regulations will apply. Food trucks will be permitted for Breweries, Micro Distilleries, and Micro Wineries with the conditions as listed below and in conjunction with the CUP for the above mentioned uses. a. Number of vendors (combination of food trucks and concessionaires) shall be limited to a maximum of three per site, with a minimum of one acre site area per truck. b. Vendors shall not use the site as a commissary. c. Vendors shall not be allowed to stay overnight on the property and shall operate only during the hours that the brewery/distillery/winery is open. d. The areas for food trucks/concessionaires shall be outside the fire lane and will not encroach on required parking spaces for other primary and accessory uses on site. e. Food handlers shall follow current Pearland standard for obtaining a "Food Handlers Permit". f. Food trucks and concessionaires shall not be located on parcels that are adjacent to residential uses or zones. g. Food trucks and concessionaires shall be screened from view of adjacent streets, similar to parking spaces, as per applicable criteria outlined in Section 4.2.2.4 (d) of the UDC. Additionally, food trucks shall not have their rear façade facing the street or circulation driveways, unless adequately screened as per the Screening and Fencing requirements in Chapter 4, Article 2, Division 4 of the UDC. Additional screening may be required as a condition of approval of the CUP. h. Associated equipment, such as generators, gas tanks, etc. shall not be located in areas visible to the public or from streets and driveways, unless screened from view, as per the Screening and Fencing requirements in Chapter 4, Article 2, Division 4 of the UDC. i. Additional parking shall be provided as per the UDC for food trucks and concessionaires. j. Other conditions of the CUP, as approved by the City Council.																													
	Parking: One space per 200 square feet of gross floor area.																													

II. Proposed additions to the UDC for regulations specific to use

Chapter 2-Zoning regulations

Division 3 – Accessory Uses, Structures, & Regulations Specific to Use

Section 2.5.3.3 Regulations Specific to Use

- (a) **Liquor/ Package Store** – All Liquor/Package Store are subjected to the following Conditions:
- a. All Texas Alcoholic Beverage Commission (TABC) regulations will apply.
 - b. Package liquor stores are allowed by a CUP within the following zoning districts: BP-288, GB, GC, & Planned Developments where the base zoning is commercial.
 - c. Package liquor store must be at least 2500 feet from the nearest Package liquor store.
 - i. The 2500 foot buffer radius separation requirement may be waived by seeking a P&Z variance, but in no instances may the buffer radius separation be less than 1000 feet.
 - ii. This requirement only applies to package liquor stores and does not apply to alcohol outlets that are only permitted for off premises sells of beer and wine (ie. grocery stores & conveniences stores).
 - d. Package liquor stores cannot be within 300 feet of the entrance of any residential subdivision.
 - i. Measurements are taken from along the property lines of the street fronts and from front door to front door, and in a direct line across intersections
 - ii. The 300 foot buffer radius requirement may be waived by seeking a P&Z variance.
 - e. Drive-Thru windows or Drive-Thru services are not permitted.
 - f. Check cashing services are not permitted.
 - g. Package liquor store must meet all other UDC requirements for landscaping, parking, transparency, building articulation & façade.

- h. All Package liquor stores approved prior to these regulations do not have to meet the separation requirements; however if operations cease at any point they will be required to come in full compliance with all regulations.
- (b) **Micro-Brewery/Micro-Distillery/Micro-Winery** – Each facility must meet the following conditions:
- a. Maximum Size of the facility and all associated uses shall be 15,000 square feet.
 - b. The establishment will include at least one of the following uses, associated with the facility, and located in the same building: a restaurant, tasting room, bar, or lounge, that shall meet the following conditions:
 - i. All prescribed conditions associated with the retail, restaurant, tasting room, bar, or lounge shall be met including separation distances and buffers,
 - ii. The minimum size of the associated retail, restaurant, tasting room, bar, or lounge shall be 10% of the total square footage of the facility and all associated uses, or 1,000 square feet, whichever is less
 - iii. All Texas Alcoholic Beverage Commission (TABC) regulations will apply.

Mobile Food Units and Concessionaires ~~Food trucks~~ will be permitted for Breweries, Micro Distilleries, and Micro Wineries with the conditions as listed below and in conjunction with the CUP for the above mentioned uses.

- (1) Number of ~~vendors (combination of food trucks and concessionaires)~~ **Mobile Food Units** and Concessionaires shall be limited to a maximum of three per site, with a minimum of one acre site area per ~~truck~~ **Unit**.
- (2) Vendors shall not use the site as a commissary.
- (3) Vendors shall not be allowed to stay overnight on the property and shall operate only during the hours that the brewery/distillery/winery is open.
- (4) The areas for ~~food trucks/concessionaires~~ **Mobile Food Units** and Concessionaires shall be outside the fire lane and will not encroach on required parking spaces for other primary and accessory uses on site.
- (5) Food handlers shall follow current Pearland standard for obtaining a “Food Handlers Permit”.
- (6) ~~Food trucks~~ **Mobile Food Units** and Concessionaires shall not be located on parcels that are adjacent to residential uses or zones.
- (7) ~~Food trucks and concessionaires~~ **Mobile Food Units** and Concessionaires shall be screened from view of adjacent streets, similar to parking spaces, as per applicable criteria outlined in Section 4.2.2.4 (d) of the UDC. Additionally, ~~food~~

~~trucks~~ **Mobile Food Units** and Concessionaires shall not have their rear façade facing the street or circulation driveways, unless adequately screened as per the Screening and Fencing requirements in Chapter 4, Article 2, Division 4 of the UDC. Additional screening may be required as a condition of approval of the CUP.

- (8) Associated equipment, such as generators, gas tanks, etc. shall not be located in areas visible to the public or from streets and driveways, unless screened from view, as per the Screening and Fencing requirements in Chapter 4, Article 2, Division 4 of the UDC.
- (9) Additional parking shall be provided as per the UDC for food trucks and concessionaires.
- (10) Other conditions of the CUP, as approved by the City Council.

III. Proposed revisions to regulations associated with landscape buffers

Chapter 4 Site Development

Article 2 – Development Standards

Division 2 – Landscaping

Section 4.2.2.4 Required Landscape Area Standards for Nonresidential, Multiple-Family, & Single-Family Development

(j) Landscaping Within Single-Family Developments.

4. **Adjacent to a Single – Family or Nonresidential Use or Zoning District.**
 - a. When a multiple-family development, manufactured home park, or nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five-foot (25') wide landscaped buffer with a six-foot (6') masonry wall or a thirty-foot (30') wide landscape buffer along the property line that is adjacent to such uses or districts. The landscaped buffer shall remain open and unobstructed (i.e., no parking or driveways), and shall be planted with ground cover, such as grass or ivy. If parking fronts the thirty-foot (30') landscape buffer there shall be a thirty-foot (30') continuous hedge row planted. This landscape buffer may be counted toward the landscaping requirements, but shall not be counted toward landscaping required in the front yard area. The exception to this requirement shall be when an M-2 industrial development is established adjacent to an M-1 industrial development. **This regulation does not apply to development adjacent to verified City of Pearland regional drainage projects, Brazoria Drainage District #4, or retention/detention features over thirty-feet in width.**
 - b. Along all roadways adjacent to a manufactured home park, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such uses or districts. The landscaped buffer shall remain open and unobstructed (i.e., no parking, or driveways) and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.

Chapter 2 Zoning regulations

Section 2.4.2.10 MF, Multiple-Family Residential District

- (n) **Adjacent to a Single-Family or Nonresidential Use or Zoning District.** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4 ~~When a multiple-family development is established on a tract of land that is adjacent to a single-family development, to property zoned for single-family use, to a nonresidential use, or to property zoned for nonresidential use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such uses or districts. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscape buffer may be counted toward other landscaping requirements, but shall not be counted toward landscaping required in the front yard area.~~

Section 2.4.2.11 MH, Manufactured Home Park District

- (m) **Adjacent to a Single-Family or Nonresidential Use or Zoning District, Adjacent to the Roadway.** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4

- ~~(1) When a manufactured home park is established on a tract of land that is adjacent to a single-family development, to property zoned for single-family use, to a nonresidential use, or to property zoned for nonresidential use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such uses or districts. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy.~~
- ~~(2) Along all roadways adjacent to a manufactured home park, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such uses or districts. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.2 OP, Office & Professional District

- (k) **Adjacent to a Single-Family Use or Zoning District.** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When an office/professional development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.3 BP-288, Business Park District-288

- (3) **Adjacent to a Single-Family Use or Zoning District:** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When a nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.4 NS, Neighborhood Service District

- (k) **Adjacent to a Single-Family Use or Zoning District.** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When a nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.5 GB, General Business Retail District

- (k) **Adjacent to a Single-Family Use or Zoning District.** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When a nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.6 GC, General Commercial District

- (j) **Adjacent to a Single-Family Use or Zoning District.** See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When a nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five-foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.7 M-1, Light Industrial District

(h) Special Conditions.

(1) Landscaped Open Area:

- b. Adjacent to a Single-Family Use or Zoning District - See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When a nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area.~~

Section 2.4.4.8 M-2, Heavy Industrial District

(h) Special Conditions.

(1) Landscaped Open Area:

- b. Adjacent to a Single-Family Use or Zoning District - See Chapter 4, Article 2, Division 2, Section 4.2.2.4 (j) 4. ~~When a nonresidential development is established on a tract of land that is adjacent to a single-family development or to property zoned for single-family use, there shall be a twenty-five foot (25') wide landscaped buffer along the property line that is adjacent to such use or district. The landscaped buffer shall remain open and unobstructed (i.e., no parking, driveways, or other use of the buffer area), and shall be planted with ground cover, such as grass or ivy. This landscaped buffer may be located with the required yard/setback area. The exception to this requirement shall be when an M-2 industrial development is established adjacent to an M-1 industrial development.~~

IV. Additions to the UDC regarding tree mitigation fee credits

Chapter 4 Site Development

Division 3 – Tree Mitigation

Section 4.2.3.7 Tree Replacement Requirements

(d) Tree Mitigation Fee Credit.

- (1) The owner, builder/developer of any lot or tract of land that removes Protected Trees for the development or construction of the property may apply for a Tree Mitigation Fee Credit for replacement trees planted in accordance with this section. To qualify for a credit under this section, a tree must be:
 - a. planted on property:
 - i. for which the tree mitigation fee was assessed; or
 - ii. mutually agreed upon by the City and the person applying for the credit; and
 - b. at least two inches (2") in diameter at the point on the tree trunk 4.5 feet above the ground; and
 - c. at least six feet in height when measured immediately after planting; and
 - d. a tree species listed on the Tree Replacement Tree List in Appendix A of the Criteria Manual (a copy of the Criteria Manual is available in the City Parks and Recreation Department).
- (2) For purposes of Subsection (d)(1) above, the City and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the City.
- (3) The amount of a credit provided to a person under this section must be:
 - a. applied in the same manner as the tree mitigation fee assessed against the person; and
 - b. at least 50 percent of the amount of the tree mitigation fee assessed against the person.
- (4) Nothing contained in subsection (d) shall affect the ability of the City to determine:
 - a. The size, number, and type of trees that must be planted to receive a credit under this section, except as provided by Subsection (d)(1);

- b. The requirements for tree removal and corresponding tree mitigation fees, if applicable; or
 - c. The requirements for tree planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity.
- (5) No credit shall be given toward the minimum landscape requirements pursuant to Article 2, Division 2 of this Chapter of the UDC.

Example:

Developer removed 100 inches and is required to mitigate (at 200%) a total 200 inches.

Developer plants 50'' of new trees onsite, but the site cannot support additional trees (with minimum 2'' planting requirements and according to ordinance).

Developer required to pay a mitigation fee for 150'' of trees not mitigated. 150'' @ \$200 per inch = \$30,000.

NEW LAW CREDIT APPLIED

Developer Credit: 50'' mitigated on-site; 50% of the per inch mitigation fee of \$200 = \$100. 50'' at \$100 = \$5,000 credit

Original Fee: 150'' = \$30,000.

Adjusted Fee: \$30,000 less the \$5,000 credit = \$25,000

Summary: The developer gets credit for mitigating on-site, plus an additional \$100 credit for each caliper inch of replacement trees. This amendment to our ordinance will encourage developers to plant on-site and not just pay the fee.