

RID (Rule Interpretation Decision)
(Use additional sheets as necessary)

Type of RID	Requested Response Time	DSD Assigned RID # 110
Customer RID <input type="checkbox"/>	24 hours <input type="checkbox"/>	
Internal Staff RID <input checked="" type="checkbox"/>	10 working days <input type="checkbox"/>	
	As time available <input checked="" type="checkbox"/>	

1. Project Name: Permitted uses within zoning setbacks

2. Project Number: n/a
(Plat #, Zoning Case #, etc.)

3. Project Street Address: n/a
(If not available nearest intersection of two public streets)

4. Applicant Name: Andrew Spurgin

5. Applicant Address: n/a

6. Applicant Telephone #: 210-207-8229

7. Applicant e-mail Address: Andrew.Spurgin@sanantonio.gov

8. Rule in Question:
(Section and/or policy of UDC, Sign Code, etc)

Allowable uses and activities within required zoning setback areas.

9. Applicant's Position:
(Including date position presented and name of city staff point of contact)

Date: June 13, 2012 **Contact:** Andrew Spurgin **Contact Telephone #:** 207-8229

The zoning setbacks are minimum safeguards to protect property from encroachment of incompatible uses and activities. Setbacks also provide for openness, light and air circulation; and prevent overcrowding. These concepts are rooted in early twentieth century urban design concerns resulting from industrialization and new technology allowing taller construction.

Based on the definition of setback in UDC Section 35-A101, a land use permitted pursuant to the use tables in 35-311 shall not be located within the minimum required zoning setback.

10. Staff Finding:
(Including date of finding and name of city staff person formulating finding)

Date: June 13, 2012 **Contact:** Andrew Spurgin **Contact Telephone #:** 207-8229

UDC 35-310, Table 310-1 and 35-516 provide various requirements for setbacks based on location and uses. The definitions found in 35-A101 provides the following:

***Setback.** A line within a lot parallel to and measured from a corresponding lot line, establishing the minimum required yard and governing the placement of structures and uses on the lot.*

A setback is different than a yard, which is defined as follows:

***Yard.** An area on a lot between the lot line and the nearest principal structure, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this chapter.*

A yard, as defined, may include a larger area on a lot than the minimum setback area. The definition of “setback” states that it governs “the placement of structures *and* uses” therefore, the zoning setback established by the UDC is intended to provide a distance for limiting not only building location but also uses and activities on the lot in the interest of promoting compatibility between different land uses and mitigating potential nuisances.

With respect to nonresidential setbacks, staff also notes the following footnotes to UDC 35-310, Table 310-1:

1. Footnote for Column (K) waives the rear setback requirements in the “NC”, “O-1”, “O-1.5”, “O-2”, “C-1”, C-2” and “C-3” districts which abuts an alley or another structure within any of these zoning districts

2. Note (2) – columns (J) and (K): Applies only to the setback area measured from a lot line which abuts a residential use or residential zoning district. The side or rear setback shall be eliminated where the use does not abut a residential use or residential zoning district or the two districts are separated by a public right-of-way. The indicated setback would not apply if the subject property adjoins a residentially zoned property (single-family or multi-family) which is occupied by an existing nonresidential use such as a public or private school, church, park and/or golf course.

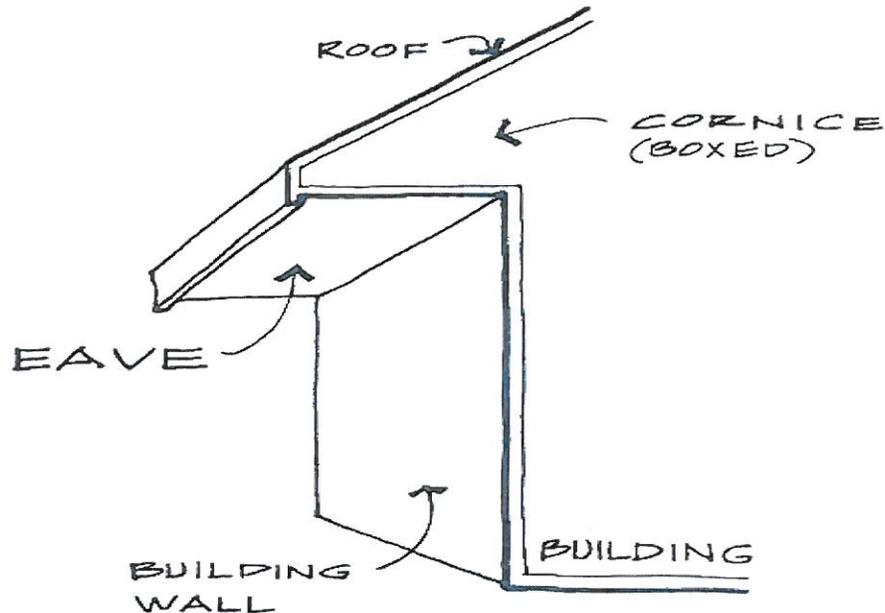
In addition staff notes that most commercial and office zoning districts established in Article III of the UDC permit zero front setback, specifically the “NC”, “O-1”, “O-1.5”, “C-1”, C-2” and “C-3” districts have no minimum front setback. The composite of these regulations is that purely commercial areas have no internal zoning setbacks.

As an example of the impact of this requirement, where a restaurant is permitted by the zoning district, the restaurant use including food preparation areas, dining areas (both indoor and outdoor), storage areas and other food service related uses may not be located within the minimum zoning setbacks. Parking areas, access driveways, landscaping, lighting and signage may be located within the minimum zoning setback. A drive-through use, as it is part of the principal use on the lot could not be located within the required setback nor is outdoor seating allowed in the minimum setback area. Such setbacks only exist if the property is abutting a residential use or residential zoning district, but not if there property is zoned residential but developed with a permitted nonresidential uses such as a school, church, park or golf course.

Staff notes that the UDC permits very limited minor architectural encroachments within the zoning setback as provided in 35-516 (j) and as illustrated below:

***(j) Projecting Architectural Features.** Every part of a required yard shall be open and unobstructed from the ground to the sky except for permitted accessory structures and the*

ordinary projection of sills, belt courses, cornices, buttresses, eaves, and similar architectural features, provided that such projections shall extend neither more than five (5) feet into any required yard nor closer than three (3) feet to any property line.



11. Staff Position:

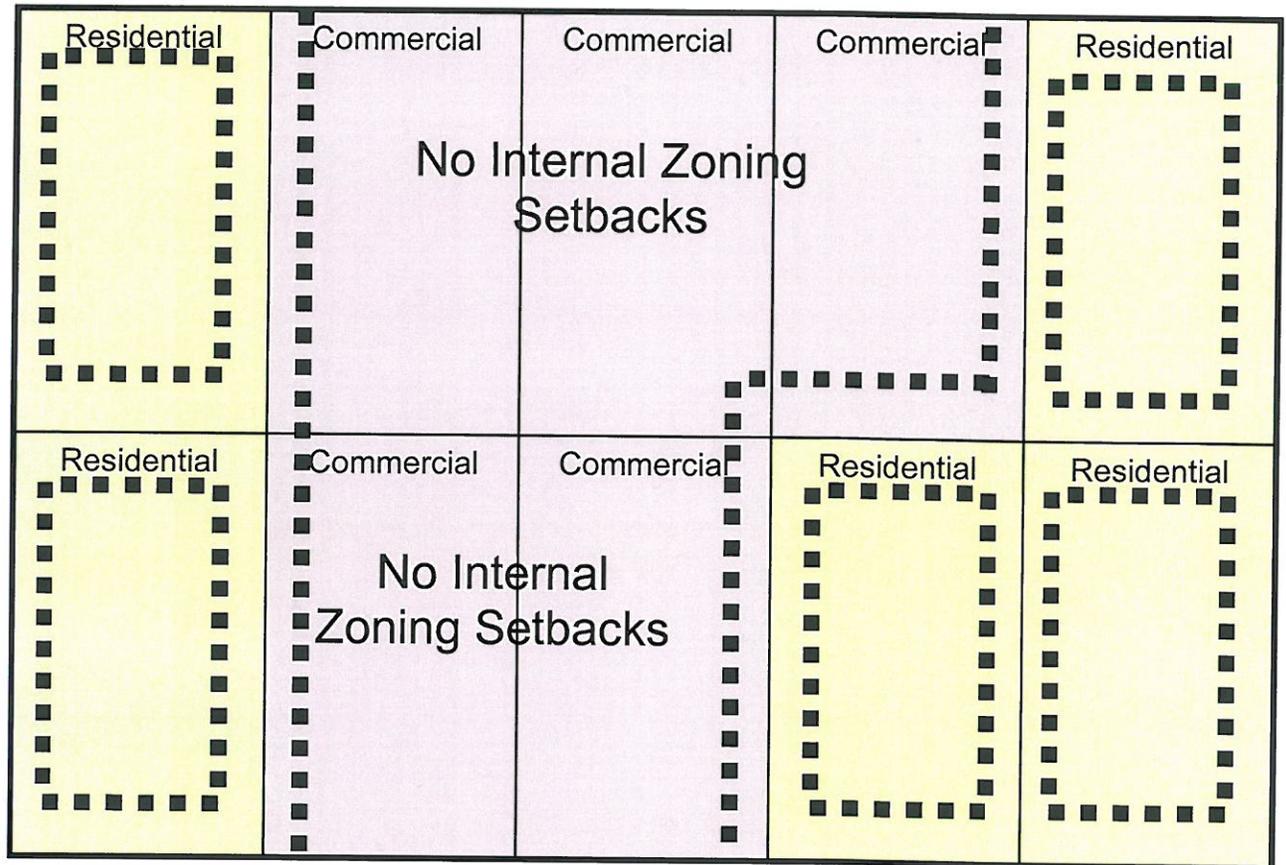
(Including date position presented internally and name of city staff person formulating position)

Date: June 13, 2012 **Contact:** Andrew Spurgin **Contact Telephone #:** 207-8229

Based on the definition of "setback" provided in 35-A101 of the UDC, land uses permitted pursuant to 35-311 of the UDC shall not be located within any required minimum zoning setbacks. The following activities, however, may be located within the minimum setback area:

- Driveways, parking, fire lanes, not including drive-through service lanes
- Residential playground equipment
- Swimming pools, provided 35-516 (h) is met
- Sport courts, provided 35-514 (b)(1) is met
- Landscaping, buffers, tree preservation areas
- Signs, provided the setbacks of Chapter 28 are met
- Lighting fixtures, provided 35-392 is met
- Fences and retaining walls
- Access gates
- Stormwater management facilities
- Utility equipment (not including communication systems per 35-385)
- Accessory structures permitted pursuant to the specific setbacks in 35-370 and/or 35-371
- Outdoor storage if the required buffers are provided and related standards of 35-525 are met
- Minor architectural encroachments as provided in 35-516 (j)

The diagram below shows a simplified interpretation of the applicable zoning setbacks on ten contiguous properties:



■ ■ ■ ■ ■ Applicable Zoning Setback Lines

The interpretation explained above is a general interpretation for conventional base zoning districts in San Antonio including but not limited to single family districts (R-3 through R-20), multifamily district (MF-18 through MF-50), commercial districts (NC through C-3) and industrial districts (L through I-2). It is noted that special districts and overlay districts may impose additional requirements for setbacks and uses within yard areas.

The setback measurement process is explained in Information Bulletin #515, available online at <https://webapps1.sanantonio.gov/dsddocumentcentral/upload/IB515.pdf>

The determination of the location of the front, yard and rear location on a property shall be in accordance with Information Bulletin #539, available online at <https://webapps1.sanantonio.gov/dsddocumentcentral/upload/IB539.pdf>.

For information on Portable Storage Units (i.e. Pods and Shipping Containers) within the yard area please see Information Bulletin #515, available online at <https://webapps1.sanantonio.gov/dsddocumentcentral/upload/IB540.pdf>

Supplemental use regulations exist in UDC Article III, Division 7 to address specific land uses in San Antonio. Several of these supplement use regulations have specific setback and/or spacing requirements including the following:

- Accessory uses and structure regulations, 35-370
- Accessory dwelling units, 35-371
- Attached dwellings, 35-373
- Bed and breakfast, 35-374
- Day care facilities, 35-375
- Head shops, 35-377
- Manufactured home and recreational vehicle parks, 35-379
- Parking lots as a primary use, 35-384
- Radio, television antennas and wireless communication systems, 35-385
- Sanitary landfills, solid waste facilities, 35-386
- Sexually oriented businesses, 35-388
- Transitional homes, 35-390
- Temporary uses, 35-391
- Carwashes, 35-395
- Renewable energy systems, 35-398

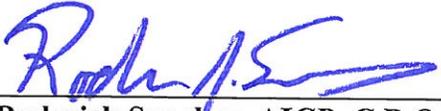
Any property owner seeking relief from a zoning setback may request a variance from the Zoning Board of Adjustment pursuant to 35-482.

12. Departmental Policy or Action:

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director)

Date of policy/action: June 13, 2012 **Effective Date of policy/action:** Immediately

The Director concurs with staff's position that the definition of setback established in UDC Section 35-A101 applies to both structures and uses on a lot with the understanding that multiple-lot areas developed with office and commercial uses generally have no zoning setback requirements in accordance with UDC Table 310-1 and related footnotes.



Roderick Sanchez, AICP, C.B.O
Director

6-14-12

Date