

35-311.Use Regulation

(b) Uses Not Mentioned

(4) **Rules of Construction.** The director may determine that a use is materially similar if:

A. The use is listed as within the same structure or function classification as the use specifically enumerated in the Use Matrix, as determined by the [most recently updated](#) Land- Based Classification Standards ("LBCS") of the American Planning Association. The director shall refer to the following documents in making this determination, which documents are hereby incorporated by this reference and which shall be maintained on file in the office of the department of ~~planning and~~ development services: American Planning Association, Land-Based Classification Standards, LBCS Structure Dimension with Detail Descriptions (~~September 13, 1999~~); American Planning Association, Land-Based Classification Standards, LBCS Function Dimension with Detail Descriptions (~~September 13, 1999~~); American Planning Association, Land-Based Classification Standards, LBCS Tables (~~September 13, 1999~~); and American Planning Association, Land-Based Classification Standards (~~April 18, 1999~~). The use shall be considered materially similar if it falls within the same LBCS classification (subject to subsection (5), below), and meets the requirements of subsection C., below.

B. If the use cannot be located within one of the LBCS classifications pursuant to subsection A., above, the director shall refer to the [most recently updated](#) North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, ~~1997~~)("NAICS"). The use shall be considered materially similar if it falls within the same industry classification of the NAICS (subject to subsection (5), below), and meets the requirements of subsection C., below.

C. The proposed use shall not generate trips exceeding other uses proposed in the zoning district by more than ten (10) percent, as determined by the [most recently updated](#) Institute of Transportation Engineers, Trip Generation (~~5th ed., 1991~~)(the "ITE Manual"), which document is hereby incorporated by this reference. If the trip generation is not listed in the ITE Manual, the use shall be considered materially similar.

Sec. 35.374. Bed and Breakfast

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~~(h) **Cleaning Requirements.** The owner/operator shall provide clean linens and towels as necessary, as well as adequate heating, ventilation, water, and sewage disposal. The owner/operator shall maintain the outside area in a clean and sanitary manner and shall properly clean the premises and facilities during the guest's stay and after each guest has departed.~~

Sec. 35-402. - Completeness Review.

The provisions of this section apply to any application under this Chapter, unless otherwise provided in the provisions pertaining to the regulations for the specific application or permit.

Sec. 35-389. Subdivision Sales Offices.

- (a) **Permitted.** Subdivision sales offices shall be permitted in any district on a temporary basis for a two-year period or until sales of ninety-five (95) percent of the houses in the subdivision have been consummated, whichever is greater.
- (b) **Definition of Service Area.** An official map of the addition to be served, along with the proposed office location, shall be furnished the director of planning and development services at the time the permit for such office is requested.
- (c) **Occupancy Permit Required.** Occupancy permits shall be reviewed at six-month intervals by application with the director of planning and development services.
- (d) **Signs.** Advertising signs, limited to four (4) in number, and restricted to identification of the land developer and to advertising of residences for sale will be permitted. The signs are allowed to be installed on any lot within the defined subdivision. The signs are permitted on a temporary basis for a two year period or until sales of ninety-five (95) percent of the houses in the subdivision have been consummated, whichever is greater. Such signs shall be limited to two hundred eighty-eight (288) square feet in area and shall not be of neon or flashing type. Also, temporary signs advertising individual homes for sale will be permitted when limited to a maximum of twelve (12) square feet.
- (e) **Removal of Improvements.** Any lighting, paved area, curb cuts, or signs erected or constructed for use of such office shall be removed and the property returned to complete residential character upon expiration of occupancy permit.
- (f) **Construction and Location.** This operation shall be conducted for sales within the subdivision. The office shall be used for sale of houses within the applicable addition only and shall be used for no purpose other than that of conducting sales of residences or for residential use.

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(b) **Uses Not Mentioned.**

(2) **Uses Preempted by State Statute.** Notwithstanding any provision of this section to the contrary, uses which are required to be permitted in any zoning district by state statute may be permitted in accordance with state law whether or not the use is included in the Use Matrix.

Example: NAICS 5413 (Architectural Engineering, and Related Services) is coded under "Office, General." Assume that the Use Matrix sets out a classification for "Laboratories, Testing," which is NAICS 54138 (a subheading of 5413 ~~54183~~). The latter 5-digit number is more specific than the 4-digit code. Accordingly, testing laboratories are not included within the same classification as general offices. However, if testing laboratories had not been separately listed, they would be permitted in all districts where general offices are permitted.

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(b) Uses Not Mentioned

- (5) **Construction of LBCS and NAICS.** In order to assist in interpretation of the Use Matrix, the LBCS and NAICS numbers precede each use in the Use Matrix. In interpreting the Use Matrix, the following rules of construction shall apply:
- A. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs.
 - B. **Governs:** The specific use is not permitted in all districts where the uses coded to the general classification are permitted simply because they share a similar NAICS code number. The numbers increase as the classifications get more specific.
 - C. Some uses are listed separately, but fall within the same LBCS or NAICS classification. The uses within one (1) such classification are not permitted in all of the zoning districts as the others simply because they fall within the same LBCS or NAICS classification.

ARTICLE III - ZONING

DIVISION 3. - SPECIFIC USE AUTHORIZATION ~~PERMITS~~ AND CONDITIONAL
ZONING DISTRICTS

Sec. 35-320. - Specific Use Authorization ~~Permit~~.

See [section 35-423](#) of this chapter.

Sec. 35-511. Landscaping.

STATEMENT OF PURPOSE

In addition to the purposes recited generally for this division, the purpose of this section is:

- *To improve the appearance of commercial properties when viewed from the street.*
- *To screen the unattractive aspects of commercial properties.*

(a) Applicability.

(1) Generally. This section shall apply to any of the following, except where exempted pursuant to subsection ~~(3) (2)~~, below:

- A. The construction or erection of any new occupiable building or structure for which a building permit is required.
- B. Any enlargement exceeding one thousand (1,000) square feet or ten (10) percent in area, whichever is greater, of the exterior dimensions of an existing building for which a building permit is required.
- C. Any construction of a new parking lot regardless of size.
- D. Expansion of an existing parking lot within the street yard by more than two thousand (2,000) square feet or ten (10) percent in area whichever is greater. Parking lots in residential zoning districts shall be subject to the requirements of subsection (e) of this section.

(2) Expansion. When a building or parking lot is enlarged, the requirements of this section shall be applied incrementally such that landscaping shall be required in the same proportion that the enlarged building area or off street parking area has to the existing development. For example, a ten (10) percent increase requires ten (10) percent of the required landscaping.

(3) Exemptions. This section shall not apply to the following situations:

Sec. 35-477. Tree Permits.

(b) Initiation.

(1)**Application to City Arborist.** A valid application for permit must be filed and approved with the city arborist before:

A. Mitigating, removing, or destroying any significant or heritage trees, or areas of tree canopy that are required to be counted for calculating minimum tree preservation percentages as provided in the tree preservation standards; or

B. Any person conducts a regulated activity, as defined in subsection 35-523(a), on property that may result in the removal or destruction of any such tree

Sec. 35-523. Tree Preservation

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(b) Administration.

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(2) In accordance with Section 35-104(b), all city departments or its agencies or instrumentalities ~~Public works and capital improvement management services (CIMS) departments~~ shall maximize the preservation of trees or areas of tree canopy ~~during public works and CIMS projects~~ for public improvements such as, but not limited to, utility installation, street construction and maintenance, drainage construction and maintenance, grading, filling, placement of soil, etc. and coordinate any projects that modify natural drainage areas in a way that negatively affects trees on private property or public property.

Sec. 35-523. Tree Preservation

(g) **Mitigation/Alternative Mitigation Methods.** Significant or heritage trees may be removed in excess of the minimum preservation requirement contained in subsection (f) provided the excess removal is properly mitigated. If mitigation is required to compensate for removing trees in excess of the number of diameter inches allowed to be removed within the surveyed area to be calculated for tree preservation under the minimum preservation requirements, the mitigation may be achieved in one (1) of the ways prescribed in table 523-2, below:

Table 523-2 Mitigation

<i>(A) Method</i>	<i>(B) Description</i>	<i>(C) Restrictions</i>
Establishment and maintenance of new trees at the required ratio on-site	Significant 1:1 Heritage 3:1 All tree species of Ash (all Fraxinus species) Hackberry (all Celtis species) Huisache, Ashe Juniper and Mesquite will be mitigated at 1:1.	No more than twenty-five (25) percent of the replacement trees shall be of the same species for the purposes of mitigation. Replacement trees must be at least one and one-half (1.5) caliper DBH .
Payment to the tree mitigation fund	In lieu of meeting the minimum preservation or final canopy standards of this section, a payment to the tree mitigation fund may be provided in accordance with 35-C110	See subsection (o) tree mitigation fund for the authorized collection and disbursement of these funds.
Protection and maintenance of smaller trees within surveyed area	Protection and maintenance of existing trees within the surveyed area that are smaller than the size requirements for a protected tree.	Such trees must be at least two and one-half (2½) inches DBH. See column B ratios for diameter-inches required.
Protection and maintenance of natural areas within the surveyed area	Protection and maintenance of existing natural areas, i.e., prairie, etc.	Area(s) must contain desirable plants as determined by the city arborist and/or by Texas Parks and Wildlife Dept.

In considering a mitigation method, the city arborist may weigh the value of smaller trees, clumps of trees, and natural vegetation that could be retained to meet the requirements of this section, such as mitigation method above, or the amount of vegetation to be retained on the site and/or added according to a landscape plan to determine the extent additional trees may not be required. For these reasons, indiscriminate clearing of smaller trees and shrubs or understory is discouraged. Small tree species shall be mitigated based on the one trunk that is five (5) inches or greater for

significant status and the one trunk that is twelve (12) inches or greater for heritage status. Small tree species that achieve heritage status shall be mitigated on a 1:1 basis.

Sec. 35-523. Tree Preservation

(m) General Planting Standards.

(4) Plant materials required by this section [shall be consistent with Appendix E](#) [and](#) must comply with the following minimum size requirements at the time of installation:

- A. In satisfying the requirements of this section, the use of mulch material shall be provided at the time of planting.
- B. Each replacement tree must be planted at least thirty (30) inches away from any impervious surface.
- C. Plant areas must be protected from vehicular traffic through the use of concrete curbs, wheel stops or other permanent barriers.

Sec. 35-523. Tree Preservation

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(p) **Public Projects.** Municipal and utility entities shall obtain a tree permit before any vegetation is removed or new construction activity takes place ([as specified in Section 35-B127](#)). Special attention will be given to the preservation of trees in public rights-of-way that are to help satisfy the objectives of the streetscape planting standards of this article (section 35-512). The city arborist shall approve an application for the reasonable removal of a protected tree in connection with construction, maintenance or repair of public facilities in or above a public street, alley, rights-of-way, easement or other public land.

(1) **Preservation.** A minimum of twenty-five (25) percent of all diameter inches of protected trees within the project boundary/limits must be preserved.

(2) **Calculations of Preservation Ratios.** All percentages relating to preservation stated within this section shall be based the initial tree survey. Any subsequent redevelopment of public property must minimally preserve the applicable percentage of the total diameter inches of protected trees as indicated in the initial tree survey.

(3) **Tree Retention Ratio.** A minimum of twenty (20) percent of the total diameter inches within the surveyed area must be retained in their original location when possible. Removal of additional trees, up to the percentage prescribed in this section, requires mitigation (see subsection (f) "preservation").

(4) **Design, Diversity and Desirability.** The location of all improvements shall be orientated by the applicant, to the extent the applicant determines possible, in a manner which allows for the preserving of the greatest number of trees and in doing so is encouraged to acquire rights-of-way in such a manner. Applicants are also encouraged to preserve trees to meet the landscape and streetscape standards. Also as the particular site conditions warrant, the applicant shall preserve a diversity of species.

Sec. 35-B123. Tree Permit-Tree Preservation Plan Option.

- (a) **Number of Copies.** The applicant shall submit a tree preservation [permit](#) /~~affidavit~~ application with three (3) sets of tree preservation plans, a survey showing the location of all significant, heritage, or mitigation trees, including clusters, an inventory with calculations, and tree protection notes as provided herein. The applicant shall also provide a Habitat Compliance Form consistent with section 35-B133, as applicable.

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Sec. 35-B125. Tree Permit-Tree Stand Delineation Plan Option.

- (a) **Number of Copies.** The applicant shall submit a tree preservation [permit](#) ~~/affidavit~~ application with three (3) sets of the tree stand delineation plan.

Sec. 35-B127. Tree Permit-Public Project Preservation Plan.

(c) **Contents.** The tree preservation plan shall include the following information:

- (1) A current aerial photographs (where applicable) at a minimum of six-inch pixel with an overlay of the project alignment and all easements;
- (2) A vicinity map, existing grades and proposed grades, location of project lines, and dimensions of the project rights-of-ways and/or all easements, and delineation of the proposed limit of clearance;
- (3) Project name, street address, legal description, date, scale, north arrow and the names, addresses and telephone numbers of the person(s) preparing the plan;
- (4) The location, species and size in diameter inches of each Significant or Heritage trees, or areas of canopy within the project area as defined in subsection 35-523(f). Each tree is to be given a unique number which cross references or identifies the trees in the inventory;
- (5) Location of any mitigation trees to be planted within the project area;
- (6) Approximate centerlines of existing watercourses and the location of the 100-year floodplain; approximate location of significant drainage features and any major topographical features; including environmentally sensitive areas such as steep slopes and riparian buffers with the applicable sixty- or thirty-foot preserve area;
- (7) The location and width of existing and proposed streets and alleys, utility easements, driveways, parkways, and sidewalks on or adjacent to the project;
- (8) A summary table indicating the total number, diameter inches, and species of protected trees to be removed within the project area;
- (9) Description of tree and tree clusters that may be impacted by any construction activity or fifteen (15) feet from any proposed improvements;
- (10) Location and dimensions of all staging areas and/or designated parking areas for the parking and maintenance of all vehicles, trailers, construction equipment, and related items as well as stockpile areas for the storage of construction supplies and materials;

- (11) For applications that require boring of utilities, show bore pit areas so that the minimum distance of the bore is outside the canopy of the trees or tree clusters and that the minimum depth of the bore shall be twenty-four (24) inches or greater; and
- (12) Tree and understory preservation notes, specifications, and details.

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Sec. 35-605. Designation Process for Historic Districts.

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(c) ~~(e)~~ **Historic District Guidelines.**

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