



AGENDA MEMORANDUM

Public Hearing for the Planning Commission Meeting of July 25, 2018

DATE: July 17, 2018

TO: Corpus Christi Planning Commission

FROM: Nina Nixon-Méndez, FAICP, Director,
Development Services Department
NinaM@cctexas.com
(361) 826-3276

THROUGH: Gregory S. Collins, J.D., Senior City Planner
Development Services Department
GregC@cctexas.com
(361) 826-3535

**Report to the Planning Commission
on Staff's Written Interpretations of the Unified Development Code (UDC)
and Staff's Recommended UDC Text Amendments**

CAPTION:

This is a report to the Planning Commission on Staff's Written Interpretations of the Unified Development Code (UDC), and an Ordinance to amend the text of the UDC.

PURPOSE:

Section 3.23.3.B of the Unified Development Code (UDC) states that on an annual basis, written interpretations of the UDC shall be summarized in a report to the Planning Commission, Board of Adjustment and City Council. Based on the report, City Council shall authorize such UDC text amendments as it deems appropriate, to be processed in accordance with Section 3.2 of the UDC.

BACKGROUND AND FINDINGS:

Staff has drafted a text amendment to the UDC to codify a written interpretation of the UDC clarifying what is considered a "Minor Plat." Staff has also drafted five additional text amendments based on recent cases and circumstances that Staff believes warrant attention. The text amendments are summarized below.

1. Exception from Platting Requirement for State-Owned Properties on Beaches, Bays and Submerged Lands

Because the Texas General Land Office (GLO) does not permit the platting of state-owned lands administered by the GLO, Staff recommends the following UDC Text Amendment:

“3.8.2. Exceptions From Platting Requirements

* * *

J. Land, including submerged lands, owned by the State of Texas and administered by the Texas General Land Office.”

2. Categorize the Consolidation of Large Volumes of Lots as “Minor Plats,” Where the Resulting Number of Lots is Four (4) or Fewer

To codify a 2015 written interpretation,¹ Staff recommends the following UDC text amendment, with proposed additions shown in **red, bold, underlined typeface**, and proposed deletions shown in **~~bold, strikethrough~~** typeface:

“3.10.1. Applicability

Minor, amending or vacating plats may be approved by the Assistant City Manager of Development Services in accordance with this Section.

A. Minor Plat

1. A minor plat is ~~any plat a replat~~ for **the combining or consolidating of any number of existing, platted lots, if the replat results in** four or fewer lots fronting on an existing street, **does not increase the number of lots**, and **does** not require~~ing~~ the creation of any new street or **the creation or extension of municipal facilities or improvements**. (Ordinance 030832, 05/02/2016) (Ordinance XXXXXX __/__/201__)
2. Any plat that requires a waiver from subdivision design and improvement standards of this UDC shall not be processed as a minor plat. (Ordinance 030832, 05/02/2016)”

This text amendment aligns the UDC with Texas Local Government Code by clarifying that a “Minor Plat” refers only to the **combination or consolidation of already-platted** lots, and not the splitting or creation of new lots. “Minor Plats” are a city-created category, and are a subset of the state law category, “amending plats,” which can be approved administratively under state law. Plats that involve “splitting” lots, that is, an increase in the number of lots, are not allowed to be approved administratively, under Texas Local Government Code Section 212.016(a)(9) and (a)(11).

This text amendment also clarifies that it is the number of lots *at the end of the consolidation process*, not at the beginning, that determines whether the replat is minor. For instance, a proposal to consolidate 16 lots into four (4) lots (that does not involve the creation of any new street or extension of municipal facilities) would qualify as a minor plat.

¹ *Informal Staff Report* dated June 16, 2015, from Dan Grimsbo, P.E., Director of Development Services, to Development Services Staff (emphasis added).

3. **Distance from a Bar, Tavern or Pub, to Churches, Schools, Daycares and Public Hospitals**

To make the UDC and the Municipal Code consistent, and to make the UDC consistent with the Texas Alcoholic Beverage Code, Staff recommends the following UDC text amendment, with proposed additions shown in red, bold, underlined typeface, and proposed deletions shown in ~~bold, strikethrough~~ typeface:

“5.2.7 Bar, Tavern or Pub

A bar, tavern or pub shall be permitted in accordance with the use tables in Article 4 provided that the bar, tavern or pub shall not be located any closer than ~~1,000~~ 300 feet from a place of worship, or elementary, middle or high school, ~~and 300 feet from a~~ Day Care use, or public hospital.”

[remainder of Section 5.2.7 to remain]

4. **Require that Recipients Who Receive a Waiver from the Wastewater Construction Requirement, or an Exemption from, or a Refund of, Lot/Acreage Fees, Agree to Connect to City Sanitary Sewer, and Pay Lot/Acreage Fee, and Pro Rata Fee, if Wastewater Later Becomes Available**

To align the UDC with current Development Services Department policy and practice, Staff recommends the following UDC text amendment (addition shown in red, bold, underlined typeface):

“8.2.7. Wastewater

*** * ***

B. Requests for a waiver from these requirements shall be submitted to the Assistant City Manager of Development Services and administered in accordance with paragraph 3.8.3.D waivers. **Such a waiver shall only be granted on the condition that the land owner agrees:**

- (i) **to connect to City sewer at such time as a wastewater manhole is located at the frontage of the property, or a wastewater line extends along the frontage of the property;**
- (ii) **to pay wastewater lot or acreage fees (whichever is greater) at the rate in effect at the time of connection if wastewater services are available within fifteen (15) years from the recording date of the plat; and**
- (iii) **to pay tap fees and pro rata fees at the time of connection to City wastewater.**

Such agreement shall run with the land and shall be enforceable against the current owner land owner and its successors, transferees, and assigns.

* * *

“8.5.2.G. Exemptions

3. Such exemption or refund shall only be granted on the condition that the land owner agrees:

- (i) to connect to City sewer at such time as a wastewater manhole is located at the frontage of the property, or a wastewater line extends along the frontage of the property;
- (ii) to pay wastewater lot or acreage fees (whichever is greater) at the rate in effect at the time of connection if wastewater services are available within fifteen (15) years from the recording date of the plat; and
- (iii) to pay tap fees and pro rata fees at the time of connection to City wastewater.

Such agreement shall run with the land and shall be enforceable against the current owner land owner and its successors, transferees, and assigns.

5. Eliminate the 5.5 Percent Interest Rate Paid to Recipients of Water and Wastewater Lot/Acreage Fee Refunds

Staff recommends the following UDC text amendment, to eliminate the 5.5 percent interest rate paid to recipients of water and wastewater lot and acreage fee refunds. This amendment comes in response to a recommendation of the Audit Report of April 9, 2018, on Development Services Funding for Developer Agreements “to review UDC provisions related to refunding lot/acreage fees, paying interest and interest rate.” This amendment has been drafted in coordination with the Finance Department, which recommends that no interest be paid.

UDC Section 8.5.1.D.2.c (water lot/acreage fee refund):

- “i. Any refunds shall only be made when monies are fully available in, and appropriated from the Water Arterial Transmission and Grid Main Trust Fund. The order of reimbursement will be determined according to the date the application for refund is approved by the City Council. ~~Refunds shall include 5.5% interest per annum from the date of the filing of the final plat....~~”
- “ii. Governmental entities, water control districts, or authorities, other than the City, which have provided for the furnishing of an approved water supply to a tract of land for which a lot or acreage fee has been

paid to the City may apply to the City for a reimbursement of the lot or acreage fee paid on such tract if such fee has not already been refunded to the lot owners. **Such refund shall include 5.5% interest per annum from the date of the filing of the final plat.**"

UDC Section 8.5.2.G.1.c.i (wastewater lot/acreage fee refund):

- "i. Any refunds shall only be made when monies are fully available in, and appropriated from the Wastewater Trunk Line Trust Fund. The order of reimbursement will be determined according to the date the application for refund is approved by the City Council. **Refunds shall include 5.5% interest per annum from the date of the filing of the final plat.**
- "ii. Governmental entities, wastewater control districts, or authorities, other than the City which have provided for the collection or treatment of sanitary sewage to a tract of land for which a lot or acreage fee has been paid to the City may apply to the City for a reimbursement of the lot or acreage fee paid on such tract if such fee has not already been refunded to the lot owners. **Such refund shall include 5.5% interest per annum from the date of the filing of the final plat.**"

6. Smoking Lounges

Because of recent applicant interest in the establishment of a smoking lounge business in the city, specifically, a hookah lounge, Staff has drafted an amendment creating a new principal use within the Indoor Recreation Use Category. Because the expected late evening operating hours of such an establishment would have a similar impact on an area as bars, pubs, or taverns, Staff recommends that this use not be allowed in Neighborhood Commercial or Office districts, but rather, that it be allowed in Commercial Resort, Commercial General, Commercial Intensive, Central Business District, and Business Park zoning districts.

Staff recommends the following UDC text amendment:

UDC Article 1 "General Provisions", section 1.11 "Definitions", Subsection 1.11.3 "Defined Terms" is amended by adding the following language that is underlined **(added)** and deleting the language that is stricken **(deleted)** as delineated below:

1.11.3. Defined Terms

Smoking Lounge: a business establishment that is dedicated, in whole or in part, to the smoking of tobacco products, electronic cigarettes, or other substances, including but not limited to establishments known variously as cigar lounges, hookah lounges, tobacco clubs, tobacco bars, etc.

UDC Article 4 "Base Zoning Districts", Section 4.5 "Commercial Districts", Table 4.5.2 "Permitted Uses (Commercial Zoning Districts)" is amended by adding the following language that is underlined **(added)** and deleting the language that is stricken **(deleted)** as delineated below:

P = Permitted Use L = Subject to Limitations SUE = Special Use Exception SP = Special Permit [blank cell] = Not Permitted	CN-1	CN-2	ON	CR-1	CR-2	CR-3	CG-1	CG-2	CI	CBD	BP	Standards
Commercial Uses												
Commercial Parking Uses [5.1.4.A]	P	P	P	P	P	P	P	P	P	P	P	
Indoor Recreation Uses [5.1.4.B] except:	P	P	S P	P	P	P	P	P	P	P	P	
Bar, tavern or pub				L	L	L	L	L	L	L	L	5.2.7
<u>Smoking Lounge</u>				<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	

UDC Article 5 “Use Regulations”, Section 5.1 “Use Categories”, Subsection 5.1.4 “Indoor Recreation” is amended by adding the following language that is underlined (added) and deleting the language that is stricken (~~deleted~~) as delineated below.

Characteristics: General commercial uses, varying in size, providing daily or regularly scheduled recreation-oriented activities in an indoor setting.		
Principal Uses	Accessory Uses	Uses Not Included
Auditorium Bar, tavern or club Exposition building Indoor entertainment activities such as billiard halls, bowling alleys, pool halls, dance halls, indoor firing ranges, movie or other theaters, and skating rinks Membership club or lodge Natatorium <u>Smoking Lounge</u> Sexually oriented business	Associated offices Concessions Food preparation and dining areas Off-street parking Satellite dish antenna under 3.2 feet*	Aquarium (see Community Service) Art gallery (see Community Service) Athletic or health club (see Retail Sales and Service) Library (see Community Service) Museum (see Community Service) Senior centers (see Community Service) Youth club facilities (see Community Service)

ALTERNATIVES:

Recommendation of approval, approval with alteration, or denial of the proposed text amendments.

OTHER CONSIDERATIONS:

Not applicable.

CONFORMITY TO POLICY:

The proposed text amendments conform to City policy.

EMERGENCY/NON-EMERGENCY:

Non-emergency

DEPARTMENTAL CLEARANCES:

Legal and Planning Commission

FINANCIAL IMPACT:

☐ Operating

☐ Revenue

☐ Capital

☒ Not applicable

Fiscal Year: 2017-2018	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS
Line Item Budget				
Encumbered / Expended Amount				
This item				
BALANCE				

Fund(s):

Comments: None

RECOMMENDATION:

Staff recommends approval of the amendments.

LIST OF SUPPORTING DOCUMENTS:

Ordinance

Presentation