



**PLANNING AND ZONING COMMISSION MEETING
TRAINING ROOMS A & B
757 North Galloway Avenue
Mesquite, Texas
August 10, 2020 - 7:00 P.M.**

MEETING PARTICIPATION INSTRUCTIONS

In accordance with the Governor's suspension of various provisions of the Texas Open Meetings Act issued pursuant to his state disaster authority, and guidance issued on the suspension by the Attorney General's Office:

1. A quorum of the Planning and Zoning Commission will participate in the meeting by telephone or by being physically present at the meeting location.
2. Members of the public, applicants and interested parties may attend the meeting in person or participate by telephone conference.
3. All persons present at the meeting location must observe social distancing by remaining a minimum of six (6) feet from other meeting participants and are strongly encouraged to wear a covering over their nose and mouth.
4. Applicants and/or members of the public desiring to participate in the meeting by telephone conference may do so by dialing the following local number on Monday, August 10, 2020, before, at, or after 7:00 p.m. central time.

Telephone Conference Number: 888-475-4499
Participation Code (Meeting Id): 876 5140 5170
To view presentation: <https://us02web.zoom.us/j/87651405170>

Persons may press *9 to be recognized to speak during the public comment or public hearing portion of the meeting.

5. The meeting will be audible to all in-person and telephone participants and will allow for their two-way communication. Comments may be made during the meeting upon recognition by the Chairperson or may be made in writing before 3:00 p.m. on August 10, 2020, to the following email address: glangford@cityofmesquite.com.
6. An electronic copy of the agenda packet will be posted online at the City of Mesquite's website (www.cityofmesquite.com).

The meeting will be recorded and made available to the public.

AGENDA

Page 1 of 3

Pursuant to Section 551.071 of the *Texas Government Code*, the Planning and Zoning Commission may meet in a closed executive session to consult with the City Attorney regarding matters authorized by Section 551.071, including matters posted on this Agenda.

COMMISSION BUSINESS

1. ROLL CALL.

2. INSTRUCTIONS.

City staff shall give verbal instructions for participation in the meeting.

PUBLIC COMMENTS

3. Any individual desiring to address the Planning and Zoning Commission regarding an item on the CONSENT AGENDA shall do so on a first-come, first-served basis. Comments are limited to three (3) minutes, except for a speaker addressing the Planning and Zoning Commission through a translator will be allowed six (6) minutes.

CONSENT AGENDA

All items on the Consent Agenda are routine items and may be approved with one motion; however, should any member of the Planning and Zoning Commission or any individual wish to discuss any item, said item may be removed from the Consent Agenda by a motion of the Planning and Zoning Commission.

4. MINUTES.

Discuss and consider approval of the minutes for July 27, 2020, Planning and Zoning Commission.

PUBLIC HEARINGS

The City Council may approve a different zoning district than the one requested, except that the different district will not: (1) have a maximum structure height or density that is higher than the one requested; or (2) change the uses to solely nonresidential uses when the request is for solely residential uses or vice versa.

5. ZONING TEXT AMENDMENT 2020-05

Conduct a public hearing and consider zoning text amendments to Mesquite Zoning Ordinance, Section 3-203, Schedule of Permitted Uses; Section 3-507, Coin-Operated Amusement Devices, Section 6-102, Definitions; all pertaining to new and revised regulations for amusement devices, game machines, video games, and similar devices. (**Tabled from the June 22, 2020, and July 27, 2020, Planning and Zoning Commission meetings.**)

6. ZONING TEXT AMENDMENT 2020-07

Conduct a public hearing and consider zoning text amendments Section 1-302, Nonconforming Uses; Section 1-303, Nonconforming Structures and Premises; Section 1-603, Special Exceptions; Section 1-702, Accessory Telecommunications Facilities; Section 1A-403, Application to Remove Protected Tree; Section 2-201, General Use Regulations; Section 2-305, Special Exceptions; Section 2-603, Permitted Modifications – Specific Structures; Section 2-604, Special Exceptions; Section 3-201, General Use Regulations; Section 3-403, Special Exceptions; Section 3-702, Permitted Modifications – Specific Structures; and Section 3-703, Special Exception of the Mesquite Zoning Ordinance pertaining to the applicable approval criteria for Special Exceptions.

DIRECTOR'S REPORT

7. DIRECTOR’S REPORT.

Director’s Report on recent City Council action taken on zoning items at their meeting on August 3, 2020.

[NOTE: Commission action, *if any*, shall not be taken regarding the Director’s Report until Public Comments have been received.]

PUBLIC COMMENTS

- 8. Any individual desiring to address the Planning and Zoning Commission regarding the DIRECTOR’S REPORT or ANY OTHER MATTER not listed on the Agenda shall be allowed to speak for a length of time not to exceed three (3) minutes on a first-come, first-served basis. Citizens addressing the Planning and Zoning Commission through a translator will be allowed six (6) minutes.

At the conclusion of business, the Chair shall adjourn the meeting.

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Conforme a la Sección 30.06 del Código Penal (entrada ilegal de persona titular de licencia con arma de fuego oculta), personas con licencia segun el Sub- capitulo H, Capitulo 411, Código de Gobierno (ley de permiso para portar arma de fuego), no deben entrar a esta propiedad portando un arma de fuego oculta.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

Conforme a la Sección 30.07 del Código Penal (entrada ilegal de persona titular de licencia con arma de fuego a la vista), personas con licencia segun el Sub- capitulo H, Capitulo 411, Código de Gobierno (ley de permiso para portar arma de fuego), no deben entrar a esta propiedad portando una arma de fuego a la vista.

Pursuant to Section 551.007 (c) of the Texas Government Code any member of the public wishing to address the Planning and Zoning Commission through the use of a translator is granted at least twice the amount of time as a member of the public who does not require the assistance of a translator.

Conforme a la Sección 551.007 (c) del Código de Gobierno de Texas, cualquier miembro del público que desea dirigirse a la Comisión través del uso de un traductor se le otorga al menos el doble de tiempo como miembro del público que no requiere la asistencia de un traductor.

CERTIFICATE

I, Garrett Langford, Manager of Planning and Zoning for the City of Mesquite, Texas, hereby certify that the attached Agenda for the Planning and Zoning Commission meeting to be held August 10, 2020, was posted on the bulletin boards at the Municipal Center and City Hall by August 7, 2020, before 6:00 p.m. and remained so posted until after the meeting. This notice was likewise posted on the City’s website at www.cityofmesquite.com for a minimum of 72 hours prior to the meeting.



Garrett Langford, AICP
Manager of Planning and Zoning
City of Mesquite, Texas

**MINUTES OF THE PLANNING AND ZONING COMMISSION MEETING, HELD AT
7:00 P.M., JULY 27, 2020, 757 NORTH GALLOWAY AVENUE, MESQUITE, TEXAS**

Present: Chairwoman Yolanda Shepard, Vice-Chair David Gustof, Claude McBride, Sherry Williams, Debbie Anderson, Sheila Lynn, Alternate Mildred Arnold

Absent: Ronald Abraham

Staff: Manager of Planning & Zoning Garrett Langford, Planner Lesley Frohberg, Planner John Chapman, Principle Planner Johnna Matthews, City Attorney David Paschall, Senior Administrative Secretary Devanee Winn

Alternate Mildred Arnold was seated in place of Ronald Abraham.

COMMISSION BUSINESS

1. ROLL CALL

Manager of Planning & Zoning Garrett Langford called on each Commissioner for the record. Chairwoman Shepard called the meeting to order and declared a quorum present.

2. INSTRUCTIONS

Mr. Langford gave verbal instructions for participation in the meeting.

3. PUBLIC COMMENTS.

There were no public comments.

CONSENT AGENDA

4. MINUTES.

Discuss and consider approval of the minutes for July 13, 2020, Planning and Zoning Commission.

A motion was made by Ms. Williams to approve the minutes as presented. Mr. McBride seconded. The motion passed 7-0.

PUBLIC HEARINGS

5. ZONING TEXT AMENDMENT 2020-05

Conduct a public hearing and consider zoning text amendments to Mesquite Zoning Ordinance, Section 3-203, Schedule of Permitted Uses; Section 3-507, Coin-Operated Amusement Devices, Section 6-102, Definitions; all pertaining to new and revised regulations for amusement devices, game machines, video games, and similar devices. (Tabled from the June 22, 2020, Planning and Zoning Commission meeting.)

Manager of Planning & Zoning Garrett Langford briefed the Commission. Staff is proposing to amend the Mesquite Zoning Ordinance to better address concerns with game machines, including eight-liners. Mr. Gustof would like to see data on how eight liners are having an adverse impact. City Attorney David Paschall stated that the Texas Legislators have taken away a lot of control from local municipalities to regulate the eight-liner game machines. One way to control the eight-liners is through the amendments suggested by staff. Chairwoman Shepard opened the public hearing. No one was there in person to speak or by conference call. A motion was made by Vice-Chair

Gustof to table to a date certain of August 10, 2020, and to leave the public hearing open. Ms. Williams seconded. The motion passed 7-0.

6. DIRECTOR'S REPORT.

Director's Report on recent City Council action taken on zoning items at their meeting on July 20, 2020.

Manager of Planning & Zoning Garrett Langford briefed the Commission on the zoning actions taken at the July 20, 2020, City Council Meeting. The actions are as follows;

1. Application No. Z0620-0141, for a change of zoning from Agricultural to Planned Development - Agricultural to allow a single-family residential development (Berkshire Estates), located southwest of FM 2932 and County Road 214 was approved by Ordinance No. 4791.
2. Zoning Text Amendment No. 2020-04 to Mesquite Zoning Ordinance Section 3-203, Schedule of Permitted Uses; Section 3-508, Reception Facilities; and Section 6-102, Definitions; pertaining to new and revised regulations for major reception facilities, minor reception facilities and accessory reception facilities was postponed until the August 3, 2020, City Council Meeting.
3. Council received a briefing regarding a possible text amendment allowing for a new overlay district called an "established neighborhood overlay district" (ENO) to be requested and created for certain established neighborhoods within the City. The item will come before the Commission for their consideration in the near future.

[NOTE: Commission action, *if any*, shall not be taken regarding the Director's Report until Public Comments have been received.]

PUBLIC COMMENTS

7. **Any individual desiring to address the Planning and Zoning Commission regarding the DIRECTOR'S REPORT or ANY OTHER MATTER not listed on the Agenda shall be allowed to speak for a length of time not to exceed three (3) minutes on a first-come, first-served basis. Citizens addressing the Planning and Zoning Commission through a translator will be allowed six (6) minutes.**

No Public Comments.

Chairwoman Shepard called the meeting adjourned at 7:48 P.M.

Chairwoman Yolanda Shepard



MEMORANDUM

TO: Planning & Zoning Commission

FROM: Garrett Langford, Manager of Planning and Zoning

DATE: August 7, 2020

SUBJECT: ZTA 2020-05 – Game Machines

Staff proposes amending the Mesquite Zoning Ordinance (MZO) to establish new and revised regulations regarding coin-operated amusement devices, game machines, video games, and similar devices, including eight-liners.

Coin-operated amusement devices such as eight-liners can have adverse effects on nearby property, compromising the quality of life, property values, and the character of surrounding neighborhoods. Staff is proposing to amend the MZO to better adequately address the concerns with these devices. For the current year, the City's Tax Office has issued a license to 335 coin-amusement devices. There are 218 eight-liners, which accounts for 65% of all licensed game devices, while there are 117 non-eight-liner games. 82% of all eight-liners are located in convenience stores (55%) or tobacco stores (27%). 91% of all non-eight-liner games are located in two businesses (Peter Piper Pizza or Celebration Station).

The MZO classifies the devices described above as an accessory use when there are four or less and as a principal use when there are more than four. As an accessory use (four or less), the MZO permits it with no separation requirements. When there are more than four game machine devices, the MZO requires a Conditional Use Permit with a 100-ft separation from residential. All game machines are required to get an annual license (sticker) from the City's Tax Office. To better address the concerns with game machines, staff proposes the following amendments to the MZO:

- **Establish a separation requirement.** The Texas Occupations Code expressly authorizes a city to restrict the exhibition of coin-operated amusement machines within 300 feet of a church, school, or hospital. The measurement would be measured from the building with the game machine to the property line of a church, school, or hospital. Separation requirements would apply to accessory use or as a principal use. Staff will verify the
-

separation by requiring an applicant to submit an affidavit of measurement where the applicant will need to provide a survey showing that they will meet the separation requirement.

- **Identify when game machines are permitted as an accessory use.** The MZO defines an accessory use as an “activity conducted in conjunction with a principal use which constitutes only an incidental or subordinate part of the total activity and which is commonly associated with the principal use.” Staff proposes that the City codify the MZO on which principal uses a game machine may be associated with as an accessory use. The proposed list of principal uses is shown in Attachment 1. If a principal use that is not on this list wishes to have a game machine, then they would need to request a Conditional Use Permit.
- **Reduce the number of game machines permitted as an accessory use.** Currently, the MZO permits up to four game machines as an accessory use. Given the possible negative impacts that game machines may have on surrounding properties and neighborhoods, staff believes it is prudent to reduce the number from four to two game machines as an accessory use. If a business wishes to have more than two game machines, then they can request a Conditional Use Permit where City Council can evaluate the potential negative impacts on the community.
- **Establish Effect Date and Retrofit to implement changes.** Staff proposes establishing a date on which existing businesses with game machines must comply with the proposed text amendments. Staff suggests allowing one year from the date of the ordinance for businesses to come in compliance. Any new Certificate-of-Occupancy that includes game machines will be required to comply with the proposed amendments. The amendments described in the above would not apply to businesses that already have a Conditional Use Permit that authorizes game machines.

Attachment 1 – Strikethrough (language removed) and Underline (language added)



Garrett Langford, AICP
Manager of Planning and Zoning

Proposed Text Amendment

Section 3-203.I. Services

SIC CODE	USE DESCRIPTION	O	GR	LC	THN	CV	MU	CB	SS	C	I	PKNG STND	SPECIAL CONDITIONS
7993	Coin-operated Amusement Gameroom (More than 4 <u>2</u> Machines)		C	C			C	C		C	C	11	Requires building to be located at least 300 feet from any church, school, or hospital and 100 feet from any residential district; Requires one customer restroom each for male and female; Requires licensing. <u>Requires compliance with 3-507. Requires one customer restroom each for male and female. Requires licensing.</u>

Section 3-203.L. Accessory Uses and Structures

SIC CODE	USE DESCRIPTION	O	GR	LC	THN K20 NGTC 1	CV	MU	CB	SS	C	I	PKNG STND	SPECIAL CONDITIONS
7	Coin-operated Amusement Devices	P	P	P			P	P	P	P	P		Permits a maximum of four <u>two</u> machines. Requires licensing. <u>Requires compliance with 3-507.</u> Classify more than four <u>two</u> machines as <u>a</u> primary use under 7993.

3-507 COIN-OPERATED AMUSEMENT DEVICES

Ord. 4215 / 06-04-2012

In addition to the requirements of Section 3-203, an establishment that includes coin-operated amusement devices, either as a primary use with an approved conditional use permit or as an accessory use permitted-by-right, shall comply with the following regulations:

A. OPEN GAMEROOMS

All gamerooms or other areas of an establishment where coin-operated amusement devices are located and offered for the use and enjoyment of patrons or invitees of the establishment shall be kept open and accessible during business hours. It shall be unlawful and an offense for the proprietor, operator or any on-duty manager of the establishment to close, conceal or prevent, or attempt to close, conceal or prevent, any person from entering or looking with a direct line of sight into a gameroom or other such area by the use of a human or electronic sentinel, or the use of doors, curtains, partitions, walls, counters or other physical or visual obstructions.

B. PRIMARY USE TO BE MAINTAINED

An establishment that includes coin-operated amusement devices as an accessory use permitted-by-right shall at all times actively conduct and maintain the primary use of the establishment as declared on the approved certificate-of-occupancy. The failure to actively conduct and maintain the primary use shall create a rebuttable presumption that the coin-operated amusement devices no longer constitute an accessory use of the premises and the certificate-of-occupancy shall be subject to revocation. For purposes of this Section, “actively conduct and maintain” means to occupy not less than fifty percent (50%) of the floor space of the establishment, exclusive of restrooms and storage areas, with displays, racks or shelves stocked with goods, wares, unexpired food or other merchandise for sale to customers or with equipment or furniture necessary for producing goods or providing services to clients in accordance with the approved certificate-of-occupancy. Coin-operated Amusement Devices shall only be permitted as an accessory use to the following principal uses:

SIC	Use
<u>539</u>	<u>Miscellaneous General Merchandise Stores</u>
<u>541</u>	<u>Grocery Stores</u>
<u>549a</u>	<u>Convenience Stores</u>
<u>5812</u>	<u>Restaurants</u>
<u>7215</u>	<u>Coin-Operated Laundries/Dry Cleaning</u>

7832	Movie Theaters
793	Bowling Centers
7999b	Indoor Amusement and Recreation Facilities
864a	Civic, Social, Fraternal Organizations that include Indoor Amusement

C. RETROFITTING REQUIRED

An establishment with coin-operated amusement devices in use on the effective date of this ordinance shall modify or retrofit the premises to comply with the requirements of this Section no later than ~~July 15, 2012~~ [\(new date to be entered\)](#).

D. LOCATOIN NEAR CHURCHES, SCHOOLS OR HOSPITALS

All coin-operated amusement devices are prohibited within 300 feet of a church, school, or hospital, measured from the closest point of the structure where the coin-operated amusement device is located to the nearest property line of the church, school or hospital.



MEMORANDUM

TO: Planning & Zoning Commission

FROM: Lesley Frohberg, Planner

DATE: August 4, 2020

SUBJECT: ZTA 2020-07 – Special Exception

Staff proposes amending Section 1-302, Nonconforming Uses; Section 1-303, Nonconforming Structures and Premises; Section 1-603, Special Exceptions; Section 1-702, Accessory Telecommunications Facilities; Section 1A-403, Application to Remove Protected Tree; Section 2-201, General Use Regulations; Section 2-305, Special Exceptions; Section 2-603, Permitted Modifications – Specific Structures; Section 2-604, Special Exceptions; Section 3-201, General Use Regulations; Section 3-403, Special Exceptions; Section 3-702, Permitted Modifications – Specific Structures; and Section 3-703, Special Exception of the Mesquite Zoning Ordinance (MZO) pertaining to the applicable approval criteria for Special Exceptions.

The purpose of the text amendment is to correct references pertaining to Section 5-200 of the MZO that City Council recently amended and to provide clarity to all applicable approval standards for various types of residential and nonresidential Special Exceptions.

A handwritten signature in black ink, appearing to read "Lesley Frohberg", is positioned above a horizontal line.

Lesley Frohberg
Planner, Planning & Zoning Division

Enclosed:
Attachment 1 – Strikethrough (language removed) and Underline (language added)

Mesquite Zoning Ordinance

Part 1. – General Provisions

* * *

1-300 – NONCONFORMING SITUATIONS.

* * *

1-302 – Nonconforming uses.

B. **Special exceptions for substitution of use.** The Board of Adjustment may authorize ~~the following a~~ special exceptions regarding nonconforming uses.

~~1. Substitution of Use: To~~ to allow the substitution of a less objectionable use for the existing nonconforming use where the Board determines that:

- (1) the substitute use will have less adverse impacts on the adjacent properties; and
- (2) the substitute use will be more compatible with the surrounding neighborhood;

Note: The special exception approval standards identified in Section 5-206 (L) are not applicable to special exceptions for substitution of use.

When a substitution has been authorized, only the substituted use retains nonconforming status.

1-303 – Nonconforming structures and premises.

* * *

B. **Special exceptions.** The Board of Adjustment may authorize the following special exceptions regarding nonconforming structures and/or premises.

1. *Major Improvements and Enlargement of a Nonconforming Structure on Nonconforming Premises.*

~~To~~ The Board may grant a special exception to allow major repair, alteration, renovation, enlargement, or extension of a nonconforming structure in situations when all nonconformity in the premises will not be eliminated where the Board determines that:

The elimination of the nonconformity is not reasonably possible because it cannot be accommodated (because of one or more of the following):

- (1) without adding additional land; or
- (2) without moving a substantial structure on a permanent foundation; or
- (3) without creating an unacceptable situation regarding practical and reasonable utilization of the property, particularly in regard to access and circulation; or
- ~~(1)~~(4) _____ without creating a health or safety hazard.

Note: The special exception approval standards identified in Section 5-206 (L) are not applicable to this sub-section.

2. *Major Reconstruction.*

~~To~~ The Board may grant a special exception to allow the major reconstruction of a structure with dimensional nonconformity on the existing foundation where the Board determines that:

- (1) the structure previously existed without substantial impact on the adjacent properties; and
- (2) that the reconstruction will not create more adverse impacts.

Note: The special exception approval standards identified in Section 5-206 (L) are not applicable to this sub-section.

* * *

1-600 – TEMPORARY USES AND STRUCTURES

* * *

1-603 – Special Exceptions.

The Board of Adjustment may authorize the following Special Exceptions for temporary uses. ~~where it determines that such approval can be accommodated without creating adverse impacts on adjacent properties or the surrounding neighborhood. The Board may impose time limitations upon the approval of Special Exceptions for Special Exceptions for temporary uses and may set out conditions for the termination or extension of such uses.~~ In accordance with Section 5-206, the Board may require that a special exception be: (1) revocable; (2) effective for a specified time period; or (3) subject to one or more conditions.

A. Temporary classrooms buildings.

~~To~~ The Board may grant a special exception to allow the use of temporary classroom buildings by elementary and secondary schools, churches, boy/girl scouts, and similar organizations where the Board determines that the approval standards identified in Section 5-206 (L) are met. ~~Approval shall be for no more than a three-year period, provided that the Board may specify conditions under which the approval period may be extended.~~

NOTE: When considering the approval standards identified in Section 5-206 (L), ~~Such~~ such temporary classroom buildings shall be considered “compatible with the surrounding neighborhood” if the following criteria are met:

1. *Permanent Site.*

A temporary building is prohibited unless it is to be located on a site where an existing permanent building housing an authorized main use is located. For purposes of this requirement, an authorized main use is one for which a valid certificate of occupancy has been issued. The use of the temporary building shall be limited to the main use for which a certificate of occupancy has been issued or an authorized use accessory to that main use.

2. *Proposed Construction.*

The applicant shall submit a proposed schedule and a plan of construction/expansion of permanent facilities that eliminate the need for the long-term use of the temporary buildings.

3. *Alternate Space.*

There are no reasonable alternatives for providing needed space in a functional manner.

4. *Site Adequacy.*

Parking, circulation, electrical and utility connections, drainage, fire protection and all other health and safety considerations can be accommodated and provided for with the addition of temporary buildings in an orderly and safe manner.

5. *Adjacent Properties.*

The placement of the temporary buildings on the site will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted.

6. *Setbacks.*

The placement of the temporary buildings on the site will comply with all setback requirements.

Approval of temporary classroom buildings shall be for no more than a three-year period, provided that the Board may specify conditions under which the approval period may be extended.

B. *Temporary residences.*

~~To~~ The Board may grant a special exception to permit placement and occupancy of a temporary residence, which may be a mobile home, under the following enumerated circumstances listed below: ~~Approval may be for no more than one year, provided that the Board may specify conditions for extension. Temporary residences shall be approved only on a building site of a size sufficient to accommodate such residence and the related construction so as to meet required setbacks and which will not substantially injure the use and enjoyment of other property in the immediate area.~~

1. *Emergency Residence.*

A temporary residence located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by persons displaced by such disaster during the reconstruction of the permanent residence.

2. *Construction Residence – Nonresidential.*

A temporary residence located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such site.

The special exception approval standards identified in Section 5-206 (L) are not applicable for said temporary residences. A special exception for temporary residences identified in this sub-section shall be approved where the Board determines that:

1. the building site is of a size sufficient enough to accommodate such temporary residence and the related construction so as to meet required setbacks; and
2. the temporary residence will not substantially injure the use and enjoyment of other property in the immediate area.

Approval may be for no more than one (1) year, provided that the Board may specify conditions under which the approval period may be extended.

* * *

1-700 – TELECOMMUNICATIONS TOWERS AND ANTENNAS

* * *

1-702 – Accessory telecommunications facilities.

The following situations shall be classified as accessory telecommunication facility uses and shall be permitted in all zoning districts in accordance with the following conditions. All other telecommunications facilities shall be classified as principal uses and shall be regulated by subsequent sections of this regulation.

A. Amateur Radio Station Operators/Receive Only Antennas.

* * *

2. *Special Exception for oversized antenna.*

The Board of Adjustment, in accordance with the approval standards in Section 5-2005-206 (L), may authorize the erection of a facility which exceeds 75 feet in height, ~~where it determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.~~

* * *

PART 1A. – LANDSCAPING, BUFFERING AND SCREENING, AND TREE PRESERVATION

* * *

1A-400 – TREE PRESERVATION.

* * *

1A-403 – Application to remove protected tree.

Except as otherwise provided herein, no person, corporation, or governmental agency shall remove or cause the removal of any protected tree without first submitting appropriate application and securing approval in accordance with the following procedures and criteria.

* * *

G. *Special exception for tree preservation:* Where removal of a protected tree would become unnecessary if the development standards required by zoning were modified, the application for removal shall be denied and an application to the Board of Adjustment shall be initiated at no fee. The Board shall be authorized to approve a Special Exception for Tree Preservation, which may modify the development standards required, where the Board determines that:

- (1) the approval standards for a special exception identified in Section 5-206 (L) are met; and
- (2) the Board shall consider the value and benefit of tree preservation, ~~and~~

~~may approve such modifications to development standards where it determines that such modification can be accommodated without creating adverse impacts on adjacent properties and that such modification is compatible with the surrounding neighborhood.~~

* * *

PART 2. – RESIDENTIAL DISTRICTS

2-200 – USE REGULATIONS.

* * *

2-201 – General use regulations.

No land shall hereafter be used and no structure shall hereafter be erected, altered, or converted in a residential district which is arranged, designed or used for any use other than a use specified in 2-203 as permitted in the district in which it is located, except as otherwise permitted herein or as specified in Section 4-1500.

* * *

C. S – Special Exceptions.

Principal or accessory uses indicated as "S" (Special Exception) in 2-203 may be permitted in the districts specified if expressly authorized by the Board of Adjustment in accordance with the procedures set out in ~~5-200~~ Section 5-206, or as otherwise authorized by this Zoning Ordinance.

* * *

2-300. – DEVELOPMENT STANDARDS

* * *

2-305 – Special exceptions – minimum unit size.

~~The Board of Adjustment may authorize the following Special Exceptions where it determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.~~

~~A. Minimum Unit Size.~~

~~To~~ The Board of Adjustment may grant a special exception to allow construction of a single family residence which does not comply with the required minimum unit size. This Special Exception may be considered in neighborhoods where existing residences were predominantly constructed smaller than the currently required minimum size. The special exception may be granted by the Board where the Board determines that the approval standards identified in Section 5-206 (L) are met.

* * *

2-600 – ACCESSORY STRUCTURE REGULATIONS

* * *

2-603 – Permitted modifications – Specific structures.

* * *

J. **Game courts.** Game courts with permanently installed nets, poles, other apparatus, or paving shall not be permitted in the required front yard, provided however that basketball hoops installed over an existing driveway shall be permitted. Lighted game courts shall require approval as a Special Exception in accordance with Section 5-206.

* * *

N. **Accessory dwelling units.** Accessory dwelling units may be approved by Special Exception, in accordance with Section 5-206, and shall comply with all of the following criteria, unless modified:

1. Minimum lot size shall be 21,780-square feet (one-half acre).
2. The accessory dwelling unit must share utility meter/connections with the primary structure.
3. The property must have a minimum of four off-street parking spaces that are located behind the front and exterior side building lines. All four spaces must be arranged such that four parked vehicles can exit the property without having to move another parked vehicle.
4. The property owner must live on the property.
5. The accessory dwelling unit shall not be rented or sold separately.
6. The accessory dwelling unit must meet the same setback requirements as the primary structure, provided that the rear setback requirement shall be a minimum of 10 feet.
7. The accessory dwelling unit shall not exceed the height of primary structure or 15 feet, whichever is less.
8. Maximum area of the accessory dwelling unit shall be 500-square feet, provided that on lots exceeding one acre and zoned Agriculture, the maximum area shall be 1,000 square-feet.
9. The accessory dwelling unit must be located in the rear yard and behind the rear façade of the primary structure.
10. No property shall have more than one accessory dwelling unit.

2-604 – Special exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards identified in Section 5-206 (L), and any additional criteria set forth in this section for any specific Special Exception. ~~where it determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.~~

A. Oversize Accessory Structure.

~~To~~The Board may grant a special exception to allow an oversize accessory structure, which shall be any detached structure which exceeds the height, size, or coverage limits set out in 2-602. An existing accessory building shall not become an oversize structure due to the attachment of a minor building with separate entrances. Buildings exceeding 10% of the lot area are generally considered to be incompatible.

* * *

C. Front or Exterior Porch Covers.

1. A porch cover encroaching into the front or exterior side yard setback may be approved as a Special Exception if the Board determines that the porch cover meets the approval standards contained in Section 5-206 (L). ~~would be compatible with the neighborhood.~~ Porch covers exceeding 1/3 of the façade width and/or having a depth of more than eight feet are generally considered to be incompatible in the absence of other beneficial characteristics. A porch cover approved by a Special Exception shall comply with the design standards prescribed in Section 2-603.B.
2. The Board may approve a porch cover with a flat roof and a metal exterior if the Board determines that a flat roof and a metal exterior would be compatible with the surrounding neighborhood. When making its determination, the Board shall consider, among other things, the same characteristics enumerated in subsection B.2 of this Section. If approved, the porch cover shall comply with the design standards prescribed in subsection B.3 of this Section.

* * *

PART 3. – NONRESIDENTIAL DISTRICTS

* * *

3-200 – USE REGULATIONS

3-201 – General use regulations.

No land shall hereafter be used and no structure shall hereafter be erected, altered, or converted in a nonresidential district which is arranged, designed or used for any use other than a use specified in 3-203 as permitted in the district in which it is located, except as otherwise permitted herein.

* * *

- C. **S – Special exceptions.** Principal or accessory uses indicated as "S" (Special Exception) in 3-203 may be permitted in the districts specified if expressly authorized by the Board of Adjustment in accordance with the procedures set out in ~~5-200~~ Section 5-206, or as otherwise authorized by this Zoning Ordinance.

* * *

3-400 – OFF-STREET PARKING AND LOADING REGULATIONS

* * *

3-403 – Special Exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards contained in Section 5-206(L); and where it finds that the peculiar nature of the use, the shape or size of the property, or other exceptional conditions would justify such action, ~~and could be accommodated without adverse impacts on adjacent properties or the surrounding neighborhood.~~

- A. **Off-site parking.** ~~To~~ A special exception may be granted by the Board to allow required parking spaces to be provided on a building site other than that of the use for which the spaces are required. In general, such exception may be considered for employee parking or for institutional type uses such as hospitals, churches, or other uses where longer term parking is common. A permanent and irrevocable easement of the parking facilities in favor of the premises to be benefited thereby shall be dedicated and recorded in Dallas County records as a condition of such use.
- B. **Joint use parking.** ~~To~~ A special exception may be granted by the Board to allow joint use or collective parking. Joint use parking shall mean that required spaces provided for one use may also be credited as required spaces for a complementary use. A permanent and irrevocable easement of the parking facilities in favor of the use to be benefited thereby shall be dedicated and recorded in Dallas county records as a condition of such use.

The following definitions and examples shall be used as guidelines in considering requests for special exceptions for joint use parking:

* * *

C. Parking reduction. The Board may approve a reduction in required parking if the use meets the approval criteria for a special exception, as contained in Section 5-206(L) ~~5-203(A)~~, and the Board finds that the reduction in parking will not adversely impact parking on adjacent properties, the provision of public safety, or unreasonably impede the public right-of-way. As a guideline for evaluating a mixed-use development, the Board may consider the Shared Parking Factors in Section 4-9 and the availability of public parking within proximity of the site.

* * *

3-700. – Accessory Structure Regulations

* * *

3-702 – Permitted modifications – Specific structures.

* * *

D. Antenna, Aerials, Flagpoles.

Antenna, aerials and associated masts shall comply with the requirements of 1-700. Flagpoles shall comply with the requirements of 3-701, except as otherwise permitted herein, provided however, that a total maximum height of 75 feet shall be permitted. When flagpole is taller than 30 feet, the required setbacks from the side and rear property lines shall be increased by one foot for each foot in height over 30 feet. Flagpoles over 75 feet in height shall require approval as a Special Exception in accordance with the approval standards contained in Section 5-206 (L).

3-703 – Special exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards contained in Section 5-206(L), and any additional criteria set forth in this section for any Special Exception. ~~where it determines that the exception can be accommodated without creating adverse impact on adjacent properties and that it will be compatible with the general character of development in the area.~~

A. Oversize Accessory Buildings.

~~The Board may grant a special exception to~~ allow an oversize accessory building, which shall be an accessory structure which exceeds the height and/or size limits set out in 3-701. This provision shall apply only to structures which are clearly accessory and shall not be used to exclude a principal structure from the requirements for exterior fire-resistant construction.

B. Oversize Antenna, Flagpoles.

~~The Board may grant a special exception to~~ allow a flagpole which exceeds 75 feet in height.

C. Reverse Vending Machines.

~~The Board may grant a special exception to~~ allow placement of reverse vending machines which are totally enclosed and self-contained when operated for recycling purposes.