

ARTICLE 269.

PD 269.

SEC. 51P-269.101. LEGISLATIVE HISTORY.

PD 269 was established by Ordinance No. 19532, passed by the Dallas City Council on April 29, 1987. Ordinance No. 19532 amended Ordinance No. 10962, Chapter 51 of the Dallas City Code, as amended. Ordinance No. 19532 was amended by Ordinance Nos. 20409, passed by the Dallas City Council on August 9, 1989; Ordinance No. 21195, passed by the Dallas City Council on February 12, 1992; and Ordinance No. 22752, passed by the Dallas City Council on May 8, 1996. (Ord. Nos. 10972; 19532; 20409; 21195; 22752; 25423; 26369)

SEC. 51P-269.102. PROPERTY LOCATION AND SIZE.

PD 269 is established on property generally bounded by the T. & P. Railroad right-of-way on the north, Parry Avenue on the East, R.L.Thornton Freeway on the south, and North Central Expressway on the west. The size of PD 269 is approximately 273.64 acres. (Ord. Nos. 19532; 25423; 26369)

SEC. 51P-269.103. ESTABLISHMENT OF TRACTS.

The Deep Ellum/Near East Side District is divided into three tracts: Tract A, Tract A-1, and Tract B. The boundaries of these three tracts are described in the Exhibit B attached to and made a part of Ordinance No. 19532. (Ord. Nos. 19532; 25423; 26369; 28594)

SEC. 51P-269.104. DEFINITIONS AND INTERPRETATIONS.

(a) Interpretations. Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51.

(b) Measurement of distances between body piercing studios and tattoo studios.

(1) The distance between body piercing studios and tattoo studios is measured in a straight line on either side of the street where the uses are located, without regard to intervening structures or objects, between the nearest boundaries of the building sites on which the uses are located (this means that body piercing studios and tattoo studios on the same side or opposite sides of a street must be spaced from each other, but the spacing requirement does not apply to body piercing studios and tattoo studios that are on different streets).

(2) If two uses are in a permissible location except for the spacing between the two uses, the use that was first established and continually operated at a particular location is the conforming use and the later-established use is the nonconforming use for purposes of the spacing requirement.

(c) Definitions. Unless otherwise stated, the definitions in Chapter 51, apply to this article. In this article:

(1) BED AND BREAKFAST means a lodging use that has no more than five guest rooms; provides accommodations for periods not to exceed five nights; serves no meals other than breakfast; and is a member of, or certified by, a recognized bed and breakfast association such as the National Bed and Breakfast Association (NBBA) or Historic and Hospitality Accommodation of Texas.

(2) BOARD means the board of adjustment.

(3) BODY PIERCING STUDIO means a facility in which body piercing is performed. BODY PIERCING means the creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.

(4) CALIPER means the diameter of the trunk measured six inches above ground level up to and including four inch caliper size, and measured 12 inches above ground level if the measurement taken at six inches above ground level exceeds four inches. If a tree is of a multi-trunk variety, the caliper of the tree is the average caliper of all of its trunks.

(5) CANOPY TREE means a species of tree which normally bears crown foliage no lower than six feet above ground level upon maturity.

(6) COMMERCIAL PARKING GARAGE means a multi-story facility for vehicle parking that is operated as a business enterprise by charging a fee for parking.

(7) COMMERCIAL PARKING LOT means an at-grade parking lot that is operated as a business enterprise by charging a fee for parking.

(8) COMMUNITY GARDEN means an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or ornamental crops for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

(9) CONSTRUCTED means that a certificate of occupancy has been issued by the city signifying completion of the building, or that the building has otherwise been approved by the building official as completed and in compliance with all applicable codes and ordinances of the city.

(10) DANCE HALL means a dance hall as defined in Chapter 14 of the Dallas City Code, as amended.

(11) DEEP ELLUM/NEAR EAST SIDE CONCEPTUAL PLAN means Exhibit 269A.

(12) DIRECTOR means the director of sustainable development and construction or the director's representative.

(13) ECONOMICALLY INFEASIBLE means that:

(A) the property owner certifies that preservation of the building will require an unreasonable expenditure of funds; and

(B) the director agrees with the certification.

(14) FAR means floor area ratio.

(15) FACING A STREET means parallel to or within 45 degrees of being parallel (excluding ornamental features) to a street, and marking the extent of a front yard.

(16) FLUORESCENT COLOR means any color defined by the Munsell Book of Color as having a minimum value of eight and a minimum chroma of ten.

(17) FLOOR AREA RATIO means the ratio of building floor area to lot area. (Note: A 1:1 FAR is stated as "1.0," 2:1 is stated as "2.0," 2.5:1 is stated as "2.5," etc.)

(18) FRONT LOT LINE means any lot between a front yard and the primary street.

(19) HAZARDOUS WASTE MANAGEMENT FACILITY means a facility for which a person is required to obtain a hazardous waste permit from the Texas Water Commission pursuant to the Texas Solid Waste Disposal Act (Chapter 361 of the Texas Health and Safety Code). The term "hazardous waste permit" means that permit required to be obtained from the Texas Water Commission pursuant to Section 361.082 of that Act for the processing, storage, or disposal of hazardous waste.

(20) LARGE TREE means a tree of a species which normally reaches a height of 30 feet or more upon maturity.

(21) LIVE MUSIC VENUE means an inside commercial amusement use primarily for the performance of live (not recorded) music for an audience. A use having a dance hall license pursuant to Chapter 14 of the Dallas City Code, as amended, is not a live music venue.

(22) MANUFACTURED BUILDING SALES LOT means a facility for the display, service, and retail sale of manufactured housing or preassembled storage buildings.

(23) MARKET GARDEN means an area of land used to raise or harvest agricultural crops, such as vegetables, fruit, trees, grain, field forage, and other plant crops intended to provide food or fiber; or aquaponics facilities that include crop and fish production.

(24) MICROBREWERY, MICRODISTILLERY, OR WINERY means an establishment for the manufacture, blending, fermentation, processing, and packaging of alcoholic beverages with a floor area of 15,000 square feet or less that takes place wholly inside a building. Floor area dedicated to retail sales and on-site consumption is not included in the 15,000 square foot maximum floor area calculations. A facility that only provides tasting or retail sale of alcoholic beverages is not a microbrewery, microdistillery, or winery use.

(25) NEWLY CONSTRUCTED BUILDING means a building that is not an original building.

(26) OPENING means a door, window, passageway, or any other feature through which light or solid objects may pass.

(27) ORIGINAL BUILDING means a building constructed on or before June 27, 1984, the floor area of which has not since June 27, 1984, been increased by more than:

(A) 150 percent if the increase is 5,000 square feet or less; or

(B) 100 percent if the increase is more than 5,000 square feet. An original building damaged or destroyed on or before June 27, 1984, other than by the intentional act of the owner or his agent, may be restored after that date without losing its original building status.

(28) PLACEMENT OF FILL MATERIAL means the placement or deposit of fill material, which is composed of nonhazardous earth material. This does not include industrial or municipal waste as defined in Chapter 18 of the Dallas City Code, as amended or solid waste as defined in 51A-2.102 of the Dallas Development Code, as amended.

(29) PRIMARY SIDE means the side of a building facing the primary street.

(30) PRIMARY STREET means the public street that is adjacent to the lot. If there is more than one street adjacent to the lot, the property owner shall designate the primary street.

(31) REFRIGERATED means normally kept at a temperature of 45 degrees or less.

(32) RESTORED means the act of putting back substantially into a former or original state of appearance, as determined by the director.

(33) RETAIL-RELATED USES means any of the following:

- (A) Any permitted use listed in Section 51-4.211, "Retail Uses."
- (B) Barber and beauty shop.
- (C) Health studio.
- (D) Custom cleaning shop.
- (E) Commercial cleaning shop.
- (F) Commercial laundry or dry cleaning.
- (G) Laundry or dry cleaning pickup and receiving station.
- (H) Key shop.
- (I) Shoe repair.
- (J) Tailor, custom sewing, and millinery.
- (K) Travel bureau.
- (L) Handcraft bookbinding.
- (M) Photography studio.
- (N) Handcrafted art work studio.
- (O) Art gallery.
- (P) Instructional art studio.

(34) SCREENING means a visual barrier provided by using one or more of the following three methods to separately or collectively attain a minimum height of two feet above the parking surface:

(A) Brick, stone, or concrete masonry, stucco, concrete, or wood wall or fence.

(B) Earthen berm planted with turf grass or ground cover recommended for local area use by the director of parks and recreation. The berm may not have a slope that exceeds one foot of height for each three feet of width. The earthen berm may be used in combination with a wall or fence as described in Subparagraph A.

(C) Evergreen plant materials recommended for local area use by the director of parks and recreation. The plant materials must be located in a bed that is at least three feet wide with a minimum soil depth of 24 inches. Initial plantings must be capable of obtaining a solid appearance within three years. Plant materials must be placed a maximum of 24 inches on center over the entire length of the bed unless the building official approves an alternative planting density that a landscape authority certifies as being capable of providing a solid appearance within three years.

(35) SECONDARY SIDE means the side of a building facing the secondary street, if any.

(36) SECONDARY STREET means a public street that is adjacent to a lot, but not a primary street. There is no secondary street unless the lot has frontage on more than one street. If the lot has frontage on three or more streets, the property owner shall designate the secondary street.

(37) SERVICE AREA means the area for all off-street occupancy support services, including but not limited to areas for delivery, loading, and trash removal.

(38) SKATE PARK means an indoor or outdoor recreation area used for skateboarding, inline skating, and bicycling.

(39) STREETScape IMPROVEMENTS means plant materials recommended for local area use by the director of parks and recreation, tree grates, and pedestrian furniture.

(40) STRUCTURALLY UNSOUND means that:

(A) a structural engineer has provided a written opinion to the city certifying that the building cannot support or withstand a major renovation; and

(B) the building official agrees with the written opinion.

(41) SUP means specific use permit. See Section 51-4.219.

(42) TATTOO STUDIO means an establishment in which tattooing is performed. TATTOOING means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment.

(43) THIS DISTRICT means the Deep Ellum/Near East Side District.

(44) TREEScape AREA means the portion of the lot between the front lot line and the vertical plane parallel to the front lot line containing the point or points in the front building wall that are closest to the front lot line. (Ord. Nos. 19532; 21195; 25423; 26369; 26408; 29357)

SEC. 51P-269.104.1.

EXHIBITS.

The following exhibits are incorporated into this article:

- (1) Exhibit 269A: Deep Ellum/Near East Side conceptual plan.
- (2) Exhibit 269B: boundaries of parking subdistricts. (Ord. 28594)

SEC. 51P-269.105.

USE REGULATIONS AND DEVELOPMENT STANDARDS FOR TRACTS A AND A-1.

(a) Use regulations. The uses listed in this section are the only uses permitted. Except for current and traditional uses, special uses, and other uses defined in this article, the definitions of uses contained in Chapter 51 apply to the uses listed in this section.

- (1) Current and traditional uses.

(A) Current uses. This use is defined as a use not listed in this article as a permitted use or a prohibited use which, in the opinion of the director, legally existed on Tracts A and A-1 on June 27, 1984. This use is permitted by right on Tracts A and A-1.

(B) Traditional use. This use is defined as a use not listed in this article as a permitted use or a prohibited use which, in the opinion of the director, did not legally exist on Tracts A and A-1 on June 27, 1984, but which did legally exist on Tracts A and A-1 during the 10-year period between June 27, 1974 and June 27, 1984. A traditional use is permitted by right on the same building sites where it legally existed during the 10-year period, but requires an SUP to locate on any other building site on Tracts A and A-1.

(C) Definitions required. If the director determines that a use is a current or traditional use, he shall define the use as specifically as possible in writing and send a copy of the written definition to both the building official and the city secretary. The city secretary shall keep copies of all definitions received pursuant to this paragraph in the same file with Ordinance No. 19532, as amended.

(2) Special uses. Unless otherwise indicated, the following special uses are permitted by right on Tracts A and A-1:

(A) Auto body rebuilding shop (outside/with screening). This use is defined as a facility for restoring or refinishing auto bodies, with outside display and repair permitted. This use must have a visual screen of at least six feet in height which consists of solid masonry or concrete.

(B) Cold storage, freezer storage, and ice manufacturing establishment. This use is defined as an establishment for the refrigerated storage of ice, dairy products, or foodstuffs and the manufacture of ice, and includes all indoor processes required for or related to the manufacture of ice, dairy products, or foodstuffs.

(C) Commercial mailboxes. This use is defined as an establishment offering mailboxes for rent and private postal services.

(D) Commercial parking garage. Commercial parking garages must comply with the additional requirements in Section 51P-269.110.

(E) Commercial parking lot.

(i) An original building that meets the design standards test set out in Subsection (I)(3) of this section may not be destroyed or removed to make room for this use unless:

(aa) the building is structurally unsound; or

(bb) preservation of the building is economically infeasible.

(ii) Commercial parking lots must comply with the additional requirements in Section 51P-269.110.

(F) Drive-in restaurant with sound system [SUP]. This use is defined as an establishment offering food service to customers in automobiles for consumption on the premises, and which uses an outdoor public address or paging system between the hours of 6:30 p.m. and 8:00 a.m.

(G) Drive-in restaurant without sound system. This use is defined as an establishment offering food service to customers in automobiles for consumption on the premises, and which does not use an outdoor public address or paging system between the hours of 6:30 p.m. and 8:00 a.m. This use is permitted by right.

(H) Exhibits or decoration manufacturing, design, sales, or rental establishment. This use is defined as an establishment for the manufacture, design, sales, or rental of exhibits or decorations and includes any indoor processes required for or related to the manufacture of exhibits or decorations.

(I) Food processing, manufacturing, or packaging establishment. This use is defined as an establishment for the manufacture, processing, or packaging of foodstuffs from raw materials.

(J) Municipal service center. This use is defined as a local government center or development complex for the storage of local government equipment and the distribution and delivery of local government services, and includes any indoor processes required for or related to the delivery of those services.

(K) Sign manufacturing establishment. This use is defined as an establishment for the manufacturing of signs and includes any indoor processes required for or related to the manufacture of signs.

(L) Soap manufacturing establishment. This use is defined as an establishment for the manufacturing of soap products and includes any indoor processes required for or related to the manufacture of soap.

(M) Sound equipment manufacturing and assembly establishment. This use is defined as an establishment for the manufacturing, fabrication, assembling, and testing of sound equipment and includes any indoor processes required for or related to the manufacture of sound products.

(N) Tool or machinery manufacturing establishment. This use is defined as an establishment for the manufacturing of tools or machinery, and includes indoor processes required for or related to the manufacture of tools or machinery.

- (3) Agricultural uses.
 - (A) Community garden.
 - (B) Market garden.
- (4) Animal related uses.
 - (A) Animal clinic without outside run.
 - (B) Kennel without outside run.
 - (C) Kennel with outside run. *[SUP]*
 - (D) Veterinarian's office.
- (5) Bar and restaurant uses.
 - (A) Bar, lounge, or tavern. *[SUP]*
 - (B) Catering service.
 - (C) Microbrewery, microdistillery, or winery. *[SUP]*
 - (D) Private club. *[SUP]*
 - (E) Restaurant with alcoholic beverages and/or entertainment.
 - (F) Restaurant without drive-in service.
- (6) Commercial uses.
 - (A) Appliance fix-it shop.
 - (B) Building repair and maintenance shop.
 - (C) Computer service center.
 - (D) Custom commercial engraving.
 - (E) Custom furniture construction, repair, or upholstery shop.
 - (F) Custom print shop.
 - (G) Design or decorative center.
 - (H) Diamond and precious stone sales. *[Wholesale only]*
 - (I) Duplication shop.
 - (J) Flea market.
 - (K) Garden shop, plant sales, or greenhouse.

- (L) Gummed label printing.
- (M) Job printing, lithographer, printing, or blue-printing plant.
- (N) Machine or welding shop [*Includes sheet metal fabrication*].
- (O) Machinery sales and services.
- (P) Plumbing, electrical, air conditioning, and heating shops.
- (Q) Tool and equipment rental [*Inside display only*].
- (R) Venetian blind or window shade repair, assembly, and sales.

(7) Community service uses.

- (A) Community, welfare, or health center.
- (B) Day care center.
- (C) Foster home.
- (D) Post office.

(8) Educational uses.

- (A) Business school.
- (B) College, university, or seminary.
- (C) Institution for special education.
- (D) Library, art gallery, or museum.
- (E) Public, denominational, or private school. [*SUP*]
- (F) Technical school.

(9) Industrial and manufacturing uses.

- (A) Bedspread, drapes, and headboard manufacturing.
- (B) Clothing manufacturing.
- (C) Corrugated cardboard box fabrication.
- (D) Light fabrication and assembly.
- (E) Manufacturing laboratory. [*SUP*]

[SUP]

- (10) Medical uses.
 - (A) Ambulance service.
 - (B) Establishment for care of alcoholic, narcotic, or psychiatric patients.
 - (C) Hospital.
 - (D) Medical appliance fitting and sales.
 - (E) Medical clinic.
 - (F) Medical or scientific laboratory.
 - (G) Nursing home.
 - (H) Optical shop.
 - (I) Residence home for the aged.
- (11) Motor vehicle related uses.
 - (A) Auto glass, muffler, or seat cover shop.
 - (B) Auto parts sales (inside).
 - (C) Auto repair garage (inside).
 - (D) Auto painting or body rebuilding shop (inside).
 - (E) Automobile or motorcycle display, sales, and service (inside).
 - (F) Bus or truck repair/parking garage.
 - (G) Car wash.
 - (H) Engine or motor repair shop.
 - (I) Service station.
 - (J) Steam cleaning of vehicles and machinery.
- (12) Professional, personal service, and custom crafts uses.
 - (A) Bank or savings and loan office (with drive-in windows).
 - (B) Bank or savings and loan office (without drive-in windows).
 - (C) Barber and beauty shop.

(D) Body piercing studio. *[SUP. Must be located at least 300 feet from all other tattoo studios or body piercing studios. A body piercing studio must be treated as a separate main use, and cannot be an accessory use.]*

(E) Broadcast or recording studio.

(F) Commercial cleaning shop.

(G) Commercial laundry or dry cleaning.

(H) Custom cleaning shop.

(I) Handcraft bookbinding.

(J) Handcrafted art work studio.

(K) Health studio.

(L) Instructional art studio.

(M) Key shop.

(N) Laundry or dry cleaning pickup and receiving station.

(O) Office.

(P) Photography studio.

(Q) Safe deposit boxes.

(R) Self service laundry or dry cleaning.

(S) Shop repair.

(T) Tailor, custom sewing, and millinery.

(U) Tattoo studio. *[SUP. Must be located at least 300 feet from all other tattoo studios or body piercing studios. A tattoo studio must be treated as a separate main use, and cannot be an accessory use.]*

(V) Temporary construction or sales office.

(W) Trade center.

(X) Travel bureau.

(13) Recreation and entertainment uses.

(A) Country club with private membership.

(B) Game court center.

(C) Inside commercial amusement. *[SUP required for arcades, billiard halls, bingo parlors, dance halls, and live music venues. Dance halls and live music venues must be treated as a separate main use, and cannot be an accessory use.]*

(D) Private recreation club or area.

(E) Public park or playground.

(F) Skate park. *[By right if wholly enclosed in a building; otherwise, by SUP.]*

(G) Theatre.

(H) Wax museum.

(14) Religious uses.

(A) Church.

(B) Convent or monastery.

(C) Establishment of a religious, charitable, or philanthropic nature. *[SUP]*

(D) Rectory.

(15) Residential uses.

(A) Bed and breakfast.

(B) Duplex.

(C) Handicapped group dwelling unit.

(D) Hotel and motel.

(E) Lodging or boarding house. *[SUP]*

(F) Multiple-family.

(G) Single-family.

(16) Retail uses.

(A) Antique shop.

(B) Bakery or confectionery store.

(C) Beverage store.

(D) Book and stationery store.

(E) Camera shop.

- (F) Cigar, tobacco, and candy store.
- (G) Clothing store.
- (H) Drug store.
- (I) Feed store.
- (J) Florist store.
- (K) Furniture store.
- (L) Hardware or sporting goods store.
- (M) Home improvement center.
- (N) Hobby and art supplies store.
- (O) Liquor store.
- (P) Paint and wallpaper store.
- (Q) Pet shop.
- (R) Retail food store.
- (S) Retail stores other than listed.
- (T) Secondhand store.
- (U) Swimming pool sales and supply.

(17) Storage and waste disposal uses.

- (A) Mini-warehouse.
- (B) Warehouse.

(18) Transportation uses.

- (A) Bus passenger shelter.
- (B) Passenger bus station and terminal.
- (C) Railroad passenger station.
- (D) Helistop. [SUP]

(19) Utility and service uses.

- (A) Electrical energy generating plant.
- (B) Electrical substation.

- (C) Local utilities.
- (D) Telephone exchange, switching, and transmitting equipment.
- (E) Tower antennae for cellular communications. *[SUP]*

(20) Accessory uses.

- (A) Amateur communication tower.
- (B) Community center (private).
- (C) Game court (private).
- (D) Home occupation.
- (E) Occasional sales (garage sales).
- (F) Open storage.
- (G) Private street or alley.
- (H) Swimming pool (private).
- (I) Any other use that is customarily incidental to a permitted main use.

(b) Prohibited uses. The following main uses are specifically prohibited on Tracts A and A-1. If there is a conflict between this subsection and Subsection (a) above, this subsection controls.

- (1) Airport or landing field.
- (2) Aluminum collection center.
- (3) Animal pound.
- (4) Auto painting or body rebuilding shop (outside/without screening).
- (5) Bail bonding service.
- (6) Building mover's, temporary storage yard.
- (7) Carnival or circus.
- (8) Cemetery or mausoleum.
- (9) Class E dance hall, as defined in Chapter 14 of the Dallas City Code, as
- (10) Commercial stable.
- (11) Contractor's maintenance yard.

amended.

- (12) Drag strip, go-cart track, or commercial racing.
- (13) Drive-in theatre.
- (14) Extended stay hotel or motel.
- (15) Fairgrounds.
- (16) Group residential facility.
- (17) Halfway house.
- (18) Hatchery and breeding operations.
- (19) Hazardous waste management facility.
- (20) Helicopter base.
- (21) Inside salvage and reclamation.
- (22) Labor hall.
- (23) Livestock auction pens or sheds.
- (24) Manufactured building sales lot.
- (25) Manufactured home park, manufactured home subdivision, and campground.
- (26) Motor freight hauling and storage.
- (27) Open storage with visual screening.
- (28) Open storage without visual screening.
- (29) Outside commercial amusement.
- (30) Outside salvage or reclamation.
- (31) Overnight general purpose shelter.
- (32) Pathological waste incinerator.
- (33) Pawn shop. *[Certain pawn shops may be allowed to relocate. See Section 51A-4.210(22) of the Dallas City Code, as amended.]*
- (34) Permanent concrete or asphalt batching or recycling plant.
- (35) Petroleum products storage and wholesale.
- (36) Placement of fill material.
- (37) Private stable.

- (38) Public golf course.
- (39) Radio, television, or microwave tower.
- (40) Railroad freight terminal.
- (41) Railroad team track.
- (42) Railroad yard, roundhouse, or shops.
- (43) Refuse transfer station.
- (44) Rendering plant.
- (45) Residential hotel.

(46) Retail use deriving 10 percent or more of its gross revenue from the sale of firearms. *[A person owning or operating a use selling firearms shall, upon request, supply the building official with any records needed to document the percentage of gross revenue on an annual basis derived from the sale of firearms.]*

- (47) Rodeo.
- (48) Sand, gravel, or earth sales, and storage.
- (49) Sanitary landfill.
- (50) Sewage pumping station.
- (51) Sewage treatment plant.
- (52) Sexually-oriented business, as defined in Chapter 41A of the Dallas City Code,
as amended.
- (53) Slaughterhouse.
- (54) STOL aircraft port.
- (55) Stone, sand, or gravel mining.
- (56) Temporary concrete or asphalt batching plant.
- (57) U-cart concrete system.
- (58) Vehicle storage lot.
- (59) Water reservoir, well, or pumping station.
- (60) Water treatment plant.
- (61) Zoo.

(c) Maximum building heights. Except as provided in this subsection, maximum permitted height for all buildings is 200 feet. Any portion of a building above 75 feet in height may not have a floor plate greater than 30,000 square feet.

(d) Special height provision. The following structures located on top of a building may project a maximum of 18 feet above the height specified in Subsection (c):

(1) A mechanical room that covers no more than one-third of the roof.

(2) An elevator penthouse that covers no more than one-third of the roof.

(e) Building setback requirements. There are no front, side, or rear yard setback requirements except as may be required under the building and fire codes and other applicable ordinances.

(f) Lot coverage. There are no lot coverage requirements.

(g) Maximum floor area ratio.

(1) Generally. Maximum permitted FAR is 4.0.

(2) Bonus provisions. FAR on a building site may be increased from 4.0 to a maximum of 6.0 if:

(A) one additional square foot of floor area for nonresidential use is added for each additional square foot of floor area for residential use; or

(B) the FAR for residential uses on the building site is equal to or greater than 2.0; or

(C) development rights are transferred to the building site pursuant to Section 51P-269.108 of this article.

(3) In no event may FAR exceed 6.0 regardless of the use mix or transfer of development rights.

(4) For purposes of this article, the floor space of a refrigerated closed storage area in a building is excluded in the calculation of floor area ratio.

(h) Reflective glass. The maximum permitted daylight reflectance of glass used as an exterior building material varies depending on where the glass is used on the building. The daylight reflectance of glass used on the exterior of the first two stories of a building may not exceed 15 percent. The daylight reflectance of exterior glass used above the first two stories of the building may not exceed 27 percent. The above restrictions do not apply to exterior glass that, in the opinion of the director, continues the architectural integrity of an original building.

(i) Off-street loading requirements. Off-street loading for all uses in newly constructed buildings must be provided as required by Section 51-4.303.

(j) Off-street parking requirements.

(1) Number required. Except as provided in this subsection, consult the use regulations in Division 51-4.200 for the specific off-street parking requirements for each use. The following off-street parking requirements apply to uses as indicated below:

(A) Single-family and duplex uses. None required.

(B) Multiple-family uses.

(i) For an original building used for or converted to a multiple-family use, no off-street parking is required for the first five units. Thereafter, one off-street parking space must be provided for every two units.

(ii) For new construction multiple-family uses (not renovation or conversions) and existing multiple-family uses not in an original building, one off-street parking space per dwelling unit is required. "Resident only parking" may not be counted toward off-street parking requirements.

(C) Office uses. One off-street parking space for each 385 square feet of floor area is required.

(D) Retail uses. One off-street parking space for each 275 square feet of floor area is required.

(E) Bar, lounge, or tavern and private club uses.

(i) Except as provided in this subparagraph, one off-street parking space for each 100 square feet of floor area is required.

(ii) No off-street parking spaces are required for the first 2,500 square feet of floor area in a ground level use that has a separate certificate of occupancy if the use is located in an original building.

(iii) Delta credits, as defined in Section 51A-4.704(b)(4)(A), may not be used to meet the off-street parking requirement.

(iv) If an outdoor seating area with a non-permeable cover is within 20 feet of, and has direct access to a street, sidewalk, or publically accessible open space, the outdoor seating area is not included in the parking requirement calculations for up to 25 percent of the size of the interior floor area.

(v) An outdoor seating area that is uncovered or has a permeable cover is not considered floor area and is not included in the required off-street parking calculations.

(F) Restaurant uses.

(i) Except as provided in this subparagraph, one off-street parking space for each 100 square feet of floor area is required.

(ii) No off-street parking spaces are required for the first 5,000 square feet of floor area in a ground level use that has a separate certificate of occupancy if the use is located in an original building.

(iii) If an outdoor seating area with a non-permeable cover is within 20 feet of, and has direct access to a street, sidewalk, or publically accessible open space, the outdoor seating area is not included in the parking requirement calculations for up to 25 percent of the size of the interior floor area.

(iv) An outdoor seating area that is uncovered or has a permeable cover is not considered floor area and is not included in the required off-street parking calculations.

(G) Library, art gallery, or museum uses. None required.

(H) Handcrafted art work studio uses. None required.

(I) Special uses.

(i) Generally. One off-street parking space for each 500 square feet of floor area is required.

(ii) Drive-in restaurant uses. One off-street parking space for each 50 square feet of floor area is required; a minimum of 12 off-street parking spaces is required.

(iii) Commercial parking garage and commercial parking lot uses. None required.

(K) Inside commercial amusement.

(i) For inside commercial amusement uses other than dance hall uses, no off-street parking spaces are required for the first 2,500 square feet of floor area in a ground level use that has a separate certificate of occupancy if the use is located in an original building.

(ii) For a dance hall, one off-street parking space per 25 square feet of dance floor and one space per 100 square feet of floor area for the remainder of the use is required. Delta credits, as defined in Section 51A-4.704(b)(4)(A), may not be used to meet the off-street parking requirement.

(iii) If an outdoor seating area with a non-permeable cover is within 20 feet of, and has direct access to a street, sidewalk, or publically accessible open space, the outdoor seating area is not included in the parking requirement calculations for up to 25 percent of the size of the interior floor area.

(iv) An outdoor seating area that is uncovered or has a permeable cover is not considered floor area and is not included in the required off-street parking calculations.

(L) Microbrewery, microdistillery, or winery.

(i) Except as provided in this subparagraph, the following off-street parking is required:

(aa) one space per 1,000 square feet of storage area;

(bb) one space per 200 square feet of retail sales area;

(cc) one space per 100 square feet of bar or restaurant area;

and

(dd) one space per 600 square feet of remaining floor area.

(ii) No off-street parking spaces are required for the first 5,000 square feet of floor area in a use that has a separate certificate of occupancy if the use is located in an original building.

(iii) An outdoor seating area covered by a non-permeable covering that is within 20 feet of, and has direct access to a street, sidewalk, or publically accessible open space is not included in the parking requirement calculations for up to 25 percent of the interior floor area of that use.

(iv) An outdoor seating area which is either not covered, or has a permeable covering, is not included in required parking calculations.

(M) Retail-related uses or professional, personal service, and custom crafts uses. No off-street parking spaces are required for the first 5,000 square feet of floor area in a retail-related use or professional, personal service, and custom crafts use that has a separate certificate of occupancy if the use is located in an original building.

(N) Skate park. One off-street parking space for each 300 square feet of floor area is required.

(O) Special exceptions and parking reductions. The board of adjustment may grant a special exception to authorize a reduction of the number of off-street parking spaces required for a use in this district in accordance with Section 51A-4.311(a), as amended; or the Director may grant an administrative parking reduction in accordance with Section 51A-4.313, as amended. Special exceptions for parking reductions and Director authorized parking reductions may not be combined. In considering a special exception or a parking reduction, the board of adjustment and the Director shall also consider the intent of this article to reduce parking to promote a viable, pedestrian-friendly, walkable mixed use community.

(2) Location of off-street parking.

(A) Definitions. In this subsection:

(i) SPECIAL PARKING includes packed parking, remote parking, and shared parking as those terms are defined in Section 51-4.321.

(ii) WALKING DISTANCE means the distance from the nearest point of the parking lot to the nearest public entrance of the main use, measured along the most convenient pedestrian walkway.

(B) In general. Except as specifically provided in this subsection, required off-street parking must be provided on the lot occupied by the main use.

(C) Remote parking.

(i) Remote parking may be located on a separate lot that is within the following walking distances of the use served by the remote parking:

(aa) 800 feet if the use served is located in a newly constructed building.

(bb) 1,200 feet if the use served is located in an original building.

(ii) The walking distance for remote parking may be extended by license as set out in Division 51-4.320.

(iii) Section 51A-4.328(a) does not apply in this district. An agreement authorizing remote parking for a use may be based on a lease of the remote parking spaces only if the lease:

(aa) is in writing on a form obtained from the building official;

(bb) contains legal descriptions of the properties affected;

(cc) specifies the special parking being provided and the hours of operation of any use involved;

(dd) is governed by the laws of the State of Texas;

(ee) is signed by all owners of the properties affected;

(ff) signed by all lienholders, other than taxing entities, that have an interest in or an improvement on the properties;

(gg) is for a minimum term of three years; and

(hh) provides that both the owner of the lot occupied by the use benefitting from the parking and the owner of the remote parking lot shall notify the building official in writing if there is a breach of any provision of the lease, or if the lease is modified or terminated.

(iv) The remote parking provisions in this subparagraph or Division 51A-4.320 shall not affect or cause the reduction of delta credits.

(D) Special parking. Except as expressly modified in this article, the special parking regulations in Division 51-4.320 apply to all uses in Tracts A and A-1. If special parking is used to satisfy off-street parking requirements, an agreement must be signed and filed in accordance with Section 51-4.328. If there is a conflict between this article and the special parking regulations, this article controls.

(3) Cash in lieu of required parking.

(A) A property owner may make a one-time cash payment in lieu of providing required off-street parking spaces for a use in an original building in accordance with this section. The amount of the payment required is calculated by taking three-fourths of the cost of constructing a parking garage space and multiplying that cost by the number of parking spaces that will not be required by reason of the cash payment.

(B) The cost of a parking garage space is calculated by using the following formula:

$$\text{National Median Cost/Sq. Ft.} \times 350 \text{ square feet} \times \text{Dallas Cost Index}$$

where National Median Cost/Sq. Ft. is the national median cost per square foot of a parking space in a parking garage. Both the National Median Cost/Sq. Ft. and the Dallas Cost Index must be derived from the most recent issue of Building Construction Cost Data, published by the Robert Snow Means Company, Inc., of Kingston, Massachusetts, unless another comparable publication is designated by the director.

(4) Parking subdistricts.

(A) Tracts A and A-1 are subdivided into four parking subdistricts as shown on the map titled "Parking Subdistricts" (Exhibit 269B).

(B) Payments in lieu of required parking shall be paid to special parking subdistrict accounts and used to finance the construction of parking garages or other parking improvements to serve uses in the parking subdistrict which contains the property for which the payment in lieu of required parking is located, pursuant to the requirements of all applicable rules, regulations, and ordinances of the city.

(5) Parking reduction for proximity to DART stations. The off-street parking requirement for uses located within one-fourth mile of a DART light-rail station may be reduced by 10 percent.

(6) Parking reduction for on-street parking. Except as provided in this subsection, any on-street parking spaces may be counted toward the parking requirement of the use adjacent to the on-street parking space.

(A) An on-street parking space may not be used to reduce the required parking for more than one use, except that an on-street parking space may be used to reduce the combined total parking requirement of a mixed-use project.

(B) An on-street parking space that is not available to the public at all times of the day may only be counted as a partial parking space in proportion to the amount of time that it is available. For example, a parking space that is available to the public only eight hours per day will be counted as one-third of a parking space ($8 \div 24 = \text{one-third}$). The total of the limited availability parking spaces will be counted to the nearest whole number, with one-half counted as an additional space.

(7) Uses may charge for required parking. Section 51A-4.301(a)(8), which requires that required off-street parking must be available as free parking or contract parking on other than an hourly or daily fee basis, does not apply in this district.

(k) Nonconforming uses and structures.

(1) Generally. Except as provided in this subsection, nonconforming uses are not subject to the compliance regulations for nonconforming uses contained in Dallas Development Code Section 51A-4.704(a).

(2) Rebuilding or renovating damaged or destroyed nonconforming structures. A person may repair, renovate, rebuild, or enlarge a nonconforming structure without board of adjustment approval if the work does not increase the degree of nonconformity.

(3) Automatic termination of nonconforming rights for certain uses.

(A) The city council finds that certain nonconforming uses have an adverse effect on nearby properties. The purpose of this subsection is to eliminate these nonconforming uses and to make them comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(B) The right to operate a nonconforming bar, lounge, or tavern use; nonconforming private club use; nonconforming tattoo studio use; nonconforming body piercing studio use; or nonconforming dance hall shall automatically terminate on December 14, 2007 or one year after the use became nonconforming, whichever is later.

(C) An owner of a nonconforming bar, lounge, or tavern use; nonconforming private club use; nonconforming tattoo studio use; nonconforming body piercing studio use; or nonconforming dance hall may request an extension of the compliance deadline in Subparagraph (B) by filing an application with the director on a form provided by the city for that purpose. The application must be filed at least 30 days before the deadline in Subparagraph (B). If a fee is required, the application shall not be considered filed until the fee is paid. Failure to timely file a complete application for extension shall constitute a waiver of the right to contest the reasonableness of the deadline in Subparagraph (B).

(D) Upon the filing of a complete application for extension, the board of adjustment shall, in accordance with the law, determine whether it is necessary to extend the compliance deadline for the nonconforming use. The board shall consider the factors listed in Section 51A-4.704(a)(1)(D) in determining whether to grant the request for extension.

(E) If, based on evidence presented at the public hearing, the board of adjustment finds that additional time is needed to recoup the owner's actual investment in the use before the use became nonconforming, the board of adjustment shall grant the request for extension and establish a new compliance deadline consistent with its determination of a reasonable amortization period; otherwise, the board of adjustment shall deny the request. If the board of adjustment denies the request, the right to operate the nonconforming use shall automatically terminate on the deadline in Subparagraph (B), or 30 days after the date of the board of adjustment's decision to deny, whichever is later.

(l) Development plan review. The following development plan review procedure applies to Tracts A and A-1:

(1) Preapplication conference. A person desiring to develop property on Tracts A or A-1 should consult with the director to discuss whether the project is consistent with the Deep Ellum/Near Eastside Conceptual Plan and the requirements of this article.

(2) Review of project by director.

(A) General procedure. Upon receipt of an application for a permit for the construction or exterior modification of any building or structure on Tracts A or A-1, the building official shall refer the application and plans to the director for review to determine whether the project involves an original building, new construction, or renovation, and whether it is residential or nonresidential in character. The director shall also determine the parking requirements for the project and the project's eligibility for incentive programs. The director shall evaluate the project in accordance with the design standards test and prohibitions set forth below. The director shall complete his review within 30 days from the date of submission of the completed application to the building official, or the application shall be deemed to be approved.

(B) Demolition review. Upon receipt of an application for a permit for the demolition of any building or structure on Tract A, the building official shall refer the application and plans to the director. All demolition permit requests referred to the director for review in accordance with this subsection must be accompanied by a statement expressing the need for demolition and describing what, if anything, is planned to replace the demolished building. The director shall encourage alternatives to demolition and careful consideration of adaptive reuse of the property. The director shall complete his review within 30 days from the date of submission of the completed application to the building official. After completion of the review by the director, this subsection does not act to delay or prohibit any demolition.

(3) Design standards test and prohibitions. All projects referred to the director for review in accordance with Paragraph (2)(A) above must be evaluated against the test set forth in this subsection. Plans for newly constructed buildings must score at least 65 points for the primary side and at least 50 points for the secondary side. Plans for original buildings must score at least 65 points for the primary side and at least 50 points for the secondary side, or the same score for those sides that the original building scored on the date the completed permit application was submitted, whichever is less. If a building was constructed prior to June 27, 1984, and the remodeling, reconstruction, renovation, or expansion of the building constitutes a continuation of an architectural theme already established for the building, the primary and secondary side will not be required to score more than the same score those sides scored on the date the completed building permit was submitted.

(A) Design points. Design points are awarded to projects in accordance with the following criteria:

(i) Public art or streetscape improvements. (Total possible points = 5) One point is awarded for each one-tenth of a percent of the value of improvements stated in the building permit application that is allocated to public art or to streetscape improvements, but not both, up to a maximum of five points. In order to qualify for public art points, the public art must be visible from a public right-of-way at all times, or located in the first floor lobby of a structure and accessible to the public during normal business hours.

(ii) Elimination of front yard setback. (Total possible points = 20) One point is awarded for each two and one-half percent increment greater than 50 percent of total building facade area that is contained between the following vertical planes:

(aa) The vertical plane passing through the front lot line.

(bb) The vertical plane set back 15 feet from the front lot line and parallel to the plane described in Subparagraph (ii)(aa).

(iii) Tree plantings. If any of the points available for elimination of the front yard setback are not awarded to a project, these unused points may be awarded for planting a large tree of at least a three-inch caliper in the treescape area, according to the following scale:

<u>No. of square feet of treescape area per tree</u>	<u>Points</u>
400 or less	10
484	8
576	6
676	4
784	2

(iv) Awnings and arcades. To qualify for points under this paragraph, an arcade must have a minimum depth of six feet, a minimum height of seven feet, and a maximum height of 20 feet. An awning must have a minimum height of seven feet, and a maximum height of 14 feet. For the purpose of this subparagraph, awning and arcade height is the vertical distance between the ground or pavement directly beneath the awning or arcade and the lowest point of the awning or arcade.

(aa) For newly constructed buildings, one point is awarded for each 10 percent of front lot line linear footage of awning or arcade width. (Total possible points = 10)

(bb) When renovating or remodeling an original building, one point is awarded for each ten percent of front lot line linear footage of awning width. No points are awarded for arcades. (Total possible points = 10)

(cc) When arcades extend over public rights-of-way, the minimum depth requirement of the arcade may be reduced from six feet to the maximum depth permitted under the necessary agreement with the city.

(dd) Sections 43-29, "Awning Posts," and 43-30 "Extending Over Public Property," of the Dallas City Code, as amended, apply in this district. It is the intent of this subparagraph to encourage awnings supported solely by the building to which they are attached, provided the requirements of all applicable ordinances, rules, and regulations are satisfied.

(v) Building materials. (Total possible points = 20) One point is awarded for each three percent increment greater than 40 percent of total building front facade area, excluding openings, incorporating stone, brick, glass block, tile, cast metal, cast stone, concrete masonry (split or polished face only; no unfinished units or cinder block), or a combination of those materials as facade materials.

(vi) Front facade openings. (Total possible points = 20) For purposes of this subparagraph, "front facade" means any facade facing a primary or secondary street. For purposes of awarding design points to a multi-story building under this subparagraph, the percentage of front facade area occupied by doors and windows is determined by averaging the percentages of the first and second stories. Points are awarded for the percentage of front facade occupied by doors and windows in accordance with the following scale:

<u>Percent</u>	<u>Points</u>	<u>Percent</u>	<u>Points</u>
21 or 79	1	31 or 69	11
22 or 78	2	32 or 68	12
23 or 77	3	33 or 67	13
24 or 76	4	34 or 66	14
25 or 75	5	35 or 65	15
26 or 74	6	36 or 64	16
27 or 73	7	37 or 63	17
28 or 72	8	38 or 62	18
29 or 71	9	39 or 61	19
30 or 70	10	40-60	20

(vii) Retail-related uses.

(aa) One point is awarded to both the primary side and the secondary side (if any) of the building for each four percent of first story floor area excluding halls, restrooms, utilities, and other public spaces, allocated to retail-related uses. (Total possible points = 25 for each side)

(bb) In Tract A-1, points are awarded, according to the criteria in the front facade opening standards in Item (vi), if the first story is constructed to a minimum height of 15 feet. The height of the story is measured from the top of the finished floor to the top of the finished floor above or, if there is no floor above, to the midpoint of the vertical dimension of the roof. Points are awarded regardless of whether the floor area is used for retail uses. (Total possible points = 25 for each side)

(cc) One point is awarded to both the primary side and the secondary side (if any) of the building for each 20 percent of basement or second story floor area, excluding halls, restrooms, utilities, and other public spaces, allocated to retail-related uses. (Total possible points = 5 for each side)

(viii) Sidewalk cafes. To qualify for points under this subparagraph, a sidewalk café must have a minimum depth of four feet. Sidewalk cafes must have a minimum three-foot-high railing at the perimeter. A minimum of six feet of open sidewalk must be maintained between the sidewalk café to the curb. For the purpose of this subparagraph, sidewalk café depth is the horizontal distance between the railing and the façade of the adjacent building. One point is awarded for each 20 square feet of sidewalk café. (Total possible points = 10)

(ix) Private license granted.

(aa) The city council hereby grants a non-exclusive revocable license to the owners or tenants (with written consent of the owner) of all property within this district for the exclusive purpose of authorizing use of the public right-of-way for public art, landscaping, awnings, arcades, and sidewalk cafes and other streetscape improvements. An owner or tenant is not required to pay an initial or annual fee for a license for landscaping, although a fee may be charged for issuance of a streetscape improvement permit. An owner or tenant is required to pay an initial and annual fee of \$25 a license for public art, awnings, arcades, and other streetscape improvements, in addition to any fee for issuance of a streetscape improvement permit. An owner or tenant is required to pay an initial and annual fee of \$150 a license for sidewalk cafes, in addition to any fee for issuance of a streetscape improvement permit. This private license will not terminate at the end of any specific time period; however, the city council reserves the right to terminate this license at will, by resolution passed by the city council, at any time such termination becomes necessary. The determination by the city council of the need for

termination is final and binding. The city shall become entitled to possession of the licensed area without giving any notice and without the necessity of legal proceedings to obtain possession when, in its judgment, the purpose or use of the licensed is inconsistent with the public use of the right-of-way or when the purpose or use of the license is likely to become a nuisance or threat to public safety. Upon termination of the license by the city council, each owner or tenant shall remove all improvements and installations in the public rights-of-way to the satisfaction of the director of public works and transportation.

(bb) A property owner or tenant is not required to comply with any streetscape improvement requirement to the extent that compliance is made impossible due to the city council's revocation of a streetscape improvement permit or the revocation of the private license granted under this subsection.

(cc) Upon the installation of streetscape improvements in the public right-of-way, the owners or tenants shall procure, pay for, and keep in full force and effect commercial general liability insurance coverage with an insurance company authorized to do business in the State of Texas and otherwise acceptable to the city, covering, but not limited to, the liability assumed under the private license granted under this subsection, with combined single limits of liability for bodily injury and property damage of not less than \$1,000,000 for each occurrence, and \$2,000,000 annual aggregate. Coverage under this liability policy must be on an occurrence basis and the city shall be named as additional insured. Proof of such insurance must be sent to: Office of Risk Management, City of Dallas, 1500 Marilla, Dallas, Texas 75201, and the policy must provide for 30 days prior written notice to the Office of Risk Management of cancellation, expiration, non-renewal, or material change in coverage. All subrogation rights for loss or damage against the city are hereby waived to the extent that they are covered by this liability insurance policy.

(dd) Each owner or tenant is responsible for maintaining the streetscape improvements and the premises safe and in good condition and repair, at no expense to the city, and the city is absolutely exempt from any requirements to maintain streetscape improvements or make repairs. The granting of a license for streetscape improvements under this subsection does not release the owner or tenant from liability for the installation or maintenance of streetscape improvements in the public right-of-way.

(x) Permit required.

(aa) It is the responsibility of the property owner to apply for and obtain a streetscape improvement permit ("permit") before locating streetscape improvements in the public right-of-way. An application for a permit must be made to the director. The application must be in writing on a form approved by the director and accompanied by plans or drawings showing the area of the public right-of-way affected and the construction and planting proposed.

(bb) Upon receipt of the application and any required fees, the director shall circulate it to all affected city departments and utilities for review and comment. If, after receiving comments from affected city departments and utilities, the director determines that the streetscape improvements proposed will not be inconsistent with and will not unreasonably impair the public use of the right-of-way, the director shall issue the permit to the property owner; otherwise, the director shall deny the permit.

(cc) A permit issued by the director is subject to immediate revocation upon written notice if at any time the director determines that the use of the right-of-way authorized by the permit is inconsistent with or unreasonably impairs the public use of the right-of-way.

(dd) the issuance of a permit under this section does not excuse the property owner, his agents, or employees from liability in the installation or maintenance of streetscape improvements in the public right-of-way.

(xi) Work in the public right-of-way. Except as otherwise provided for public art and streetscape improvements, all use of the public right-of-way must be approved in accordance with the requirements of Article VI, "License for the Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks," of the Dallas City Code, as amended.

(B) Special screening requirements. Except for driveways and accessways at points of ingress and egress, off-street parking for newly constructed buildings that is adjacent to sidewalks, public rights-of-way, or other public areas must be screened. Service areas for newly constructed buildings that are adjacent to sidewalks or open areas intended for pedestrians must be screened, except where the director determines that such screening would:

- (i) not reasonably accomplish any useful purpose; or
- (ii) create a safety hazard.

(C) Facade prohibitions.

- (i) Fluorescent exterior colors are prohibited.
- (ii) Facades incorporating wooden siding, wooden sheets, or extruded metal with openings less than one inch square are prohibited if the area covered by those materials totals more than 50 percent of the total facade area. This restriction does not apply to materials that, in the opinion of the director, would continue the architectural integrity of an original building.
- (iii) Buildings with total facade opening areas of less than 10 percent or more than 90 percent are prohibited.
- (iv) Facades made of more than 80 percent glass, excluding glassblock, are prohibited.

(D) Special lighting requirement. Sodium, mercury vapor, and exposed fluorescent lighting sources must be oriented onto the property they light and generally away from adjacent residential properties.

(E) Sidewalks. Except as otherwise provided in this subparagraph, sidewalks must be a minimum of eight feet wide. All sidewalks must be clear and unobstructed for a minimum of four feet in width within the area of the required eight-foot-width. The requirement of a sidewalk only becomes applicable to a lot when an application is made for a building permit for construction work that results in any increase in street level floor area. In the event the proposed construction increases the street level floor area of an existing main building, the sidewalk width requirement for the portion of the building site that provides street frontage for the existing building is the width available, up to eight feet, between the back of the street curb and the face of the existing main building. In no event should the sidewalk width provisions of this subparagraph be construed to require the relocation of the facade of an existing main building.

(4) Return of application to the building official. Once the director makes his determination and evaluation, he shall refer the permit application, plans, all other relevant information, and his recommendation to the building official. If the director determines that sufficient points have been accumulated under the design standards test and all mandatory provisions of this article have been met, he shall recommend approval. Otherwise, he shall recommend denial. If the recommendation is for denial, the director shall state the grounds for denial in writing to the applicant, and the building official shall not issue the permit unless the director's recommendation is overturned upon appeal. If the recommendation is for approval and the building official determines that all requirements of the construction codes and all other applicable ordinances have been met, the building official shall issue the permit. (Ord. Nos. 19532; 21195; 22752; 25423; 26369; 26408; 28594; 29357; 29558)

SEC. 51P-269.106. USE REGULATIONS AND DEVELOPMENT STANDARDS FOR TRACT B.

(a) Use regulations.

(1) The following uses are permitted on Tract B:

- (A) Any use permitted in the Central Area-2 (CA-2) District.
- (B) Liquor store.
- (C) Tattoo studio. *[SUP. Must be located at least 300 feet from all other tattoo and body piercing studios. A tattoo studio must be treated as a separate main use and cannot be an accessory use.]*
- (D) Body piercing studio. *[SUP. Must be located at least 300 from all other tattoo and body piercing studios. A body piercing studio must be treated as a separate main use and cannot be an accessory use.]*

(2) The following main uses are specifically prohibited on Tract B. In the event of a conflict between this subsection and Subsection (1) above, this subsection controls.

- (A) Bail bonding service.
- (B) Reserved.
- (C) Class E dance hall, as defined in Chapter 14 of the Dallas City Code, as amended.
- (D) Labor hall.
- (E) Motor freight hauling and storage.
- (F) Overnight general purpose shelter.
- (G) Pawn shop. *[Certain pawn shops may be allowed to relocate. See Section 51A-4.210(22) of the Dallas City Code, as amended.]*

(H) Retail use deriving 10 percent or more of its gross revenue from the sale of firearms. (A person owning or operating a use selling firearms shall, upon request, supply the building official with any records needed to document the percentage of gross revenue on an annual basis derived from the sale of firearms.)

(I) Sexually-oriented business, as defined in Chapter 41A of the Dallas City Code, as amended.

(b) Development standards. Except as otherwise provided in this section, the development standards contained in Chapter 51, including the off-street parking and loading regulations, applicable to a Central Area-2 (CA-2) District, apply to this tract.

(c) Building materials. Reflective glass may not be used as an exterior building material except in accordance with Section 51P-269.105(h).

(d) Setback requirements along Good Latimer Expressway.

(1) Any portion of a building over 120 feet in height must be set back at least 20 feet from Good Latimer Expressway.

(2) Any portion of a building over 170 feet in height must be set back at least 30 feet from Good Latimer Expressway.

(e) Development plan review. The following development plan review procedure applies to Tract B:

(1) A person desiring to develop property on Tract B should consult with the director to discuss whether the project is consistent with the Deep Ellum/Near East side Conceptual Plan and the requirements of this article.

(2) Upon receipt of an application for a permit for the construction, modification, or demolition of any building or structure in this district, the building official shall refer the permit applications and plans to the director for review to determine whether the project involves an original building, new construction, or renovation, and whether the structure or project is residential or nonresidential. The director shall also determine the parking requirements for the project, the project's eligibility for incentive programs, and the extent to which the project is consistent with the Deep Ellum/Near East side Conceptual Plan. The review must be conducted so that the decision on the issuance of the building permit can be completed no later than 30 days from the date of submission of the completed application to the building official.

(3) Once the director makes his determinations in accordance with Paragraph (e)(2) of this section, he shall refer the permit application, plans, and all other relevant information to the building official, who shall issue the permit if all requirements of the construction codes and other applicable ordinances have been met.

(f) Nonconforming uses and structures.

(1) Generally. Except as provided in this subsection, nonconforming uses are not subject to the compliance regulations for nonconforming uses contained in Dallas Development Code Section 51A-4.704(a).

(2) Rebuilding or renovating damaged or destroyed nonconforming structures. A person may repair, renovate, rebuild, or enlarge a nonconforming structure without board of adjustment approval if the work does not increase the degree of nonconformity.

(3) Automatic termination of nonconforming rights for certain uses.

(A) The city council finds that certain nonconforming uses have an adverse effect on nearby properties. The purpose of this subsection is to eliminate these nonconforming uses and to make them comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(B) The right to operate a nonconforming bar, lounge, or tavern use; nonconforming private club use; nonconforming tattoo studio use; nonconforming body piercing studio use; or nonconforming dance hall shall automatically terminate on December 14, 2007 or one year after the date the use became nonconforming, whichever is later.

(C) An owner of a nonconforming bar, lounge, or tavern use; nonconforming private club use; nonconforming tattoo studio use; nonconforming body piercing studio use; or nonconforming dance hall may request an extension of the compliance deadline in Subparagraph (B) by filing an application with the director on a form provided by the city for that purpose. The application must be filed at least 30 days before the deadline in Subparagraph (B). If a fee is required, the application shall not be considered filed until the fee is paid. Failure to timely file a complete application for extension shall constitute a waiver of the right to contest the reasonableness of the deadline in Subparagraph (B).

(D) Upon the filing of a complete application for extension, the board of adjustment shall, in accordance with the law, determine whether it is necessary to extend the compliance deadline for the nonconforming use. The board shall consider the factors listed in Section 51A-4.704(a)(1)(D) in determining whether to grant the request for extension.

(E) If, based on evidence presented at the public hearing, the board of adjustment finds that additional time is needed to recoup the owner's actual investment in the use before the use became nonconforming, the board of adjustment shall grant the request for extension and establish a new compliance deadline consistent with its determination of a reasonable amortization period; otherwise, the board of adjustment shall deny the request. If the board of adjustment denies the request, the right to operate the nonconforming use shall automatically terminate on the deadline in Subparagraph (B), or 30 days after the date of the board of adjustment's decision to deny, whichever is later. (Ord. Nos. 20409; 22752; 25423; 26369)

SEC. 51P-269.107.

WAIVER OF CERTAIN REQUIREMENTS.

The provisions of Section 51-4.702, "Planned Development (PD) District Regulations," relating to the PD preapplication conference, site plan procedure, site analysis, conceptual plan, development plan, development schedule, and amendments to the development plan do not apply to this district. (Ord. Nos. 19532; 25423; 26369)

SEC. 51P-269.108.

TRANSFER OF DEVELOPMENT RIGHTS.

(a) Generally. The transfer of development rights in this district is governed by this section. For purposes of this section, "development rights" eligible for transfer means the difference between the actual floor area of structures on a building site and the maximum permissible floor area as determined by the floor area ratio of the building site. The minimum amount of development rights that may be transferred under this section is:

- (1) 1,000 square feet if the building site contains a city landmark building; and
- (2) 10,000 square feet in all other cases.

(b) Eligibility for transfer.

(1) Tracts A and A-1. Development rights in a building site on Tracts A and A-1 may only be transferred to another building site on Tracts A and A-1.

(2) Tract B.

Generally. Development rights may not be transferred from a building site on Tract B unless:

- (A)
- (i) the building site contains a city landmark building;
 - (ii) the building has been restored within the five-year period immediately preceding the date of the application for transfer; and
 - (iii) the total cost of the restoration exceeded 50 percent of the assessed value of the building immediately prior to the restoration.

(B) Special provision. Only that restoration for which a building, electrical, plumbing, or other permit was issued by the city may be counted in determining whether the cost exceeded 50 percent of the assessed value.

(c) Transfer process.

(1) An owner who wishes to transfer development rights shall submit to the director the following information in a form approved by the director and suitable for filing in the county deed records:

- (A) Names and addresses of the owners of the development rights.
- (B) Street address, lot and block number, and legal description of the property from which the development rights are to be transferred.
- (C) Street address, lot and block number, and legal description of the property to which the development rights are to be transferred.
- (D) The floor areas of the buildings and the lot areas of the building sites to be affected by the transfer.
- (E) The amount of development rights to be transferred.

(2) Within 30 days from the date of submission of the form, the director shall check the information supplied on the form and sign the form if the applicant has complied with the requirements of this section.

(3) When the director has signed the form, the applicant shall file the form in the county deed records and supply the director and the building official with a copy of the filed document.

(4) The recipient of transferred development rights may transfer those rights to another building site in the tract by following the procedure outlined in this section.

(d) Transfer limitations.

(1) The maximum amount of development rights that may be transferred from a building site is three times the area of that building site. No development rights may be transferred from a building site if such a transfer would have the practical effect of reducing the maximum FAR on that site to less than 1.0.

(2) An increase in FAR acquired through the residential bonus provisions of Sections 51P-269.105(g)(2)(A) and (B) of this article may not be transferred. (Ord. Nos. 19532; 25423; 26102; 26369; 28594)

SEC. 51P-269.109.

GENERAL REQUIREMENTS.

(a) All newly paved areas, permanent drives, streets, and drainage structures, if any, shall be constructed in accordance with standard city specifications and the same may be done to the satisfaction of the director of public works and transportation. No streets shall be widened, closed, or narrowed or a change made in the direction of traffic without proper public hearing of the city plan commission and the city council. This section does not apply to the recommended narrowing of Main Street within this district, nor does it apply to Pacific Avenue, Virgil Street, Clover Street, or July Alley Street within this district.

(b) The building official shall not issue a building permit or certificate of occupancy for a use in this PD until there has been full compliance with this article, the Dallas Development Code, the construction codes, and all other ordinances, rules, and regulations of the city. (Ord. Nos. 19532; 25423; 26102; 26369)

SEC. 51P-269.110.

ADDITIONAL REQUIREMENTS FOR COMMERCIAL PARKING GARAGES AND COMMERCIAL PARKING LOTS.

(a) Intent. The intent of this section is to create a distinct boundary between public space and private parking facilities, raise the aesthetic standards for parking facilities, and improve the quality of right-of-ways.

(b) Definitions. In this section:

(1) CORNER LANDSCAPING AREA means an area of any shape abutting the intersection of two right-of-ways equal to the area on a commercial parking lot covered by a triangle formed by connecting together the point of intersection of adjacent right-of-way lines and points on each of the right-of-way lines 12.5 percent of the length of the commercial parking lot's right-of-way frontage from the intersection, but in no case to exceed 225 square feet.

(2) PARKWAY means the portion of a right-of-way located between the street curb and the property line of an adjoining commercial parking garage or commercial parking lot.

(3) RIGHT-OF-WAY means an area dedicated to public use for pedestrian and vehicular movement, but does not include alleys.

(4) SELF-PARK SPACE means a parking space where a customer parks his vehicle and it remains there until a customer drives it away. It does not include a space where an attendant parks a customer vehicle.

(5) STRIP LANDSCAPING AREA means an area 1.5 feet in width abutting the parkway (or right-of-way if there is no parkway) and extending the length of the street frontage of a commercial parking lot, excluding the corner landscaping area and openings for pedestrian and vehicular access.

(6) WROUGHT IRON includes metal that resembles wrought iron in appearance.

(c) Site plan.

(1) When required. A site plan must be submitted to and approved by the building official in accordance with this subsection before a building permit or certificate of occupancy may be issued.

(2) Requisites. The site plan must include the following information:

(A) The number of existing and proposed parking spaces on the property.

(B) The location and dimensions of the property.

(C) The location and dimensions of all existing and proposed off-street parking and loading areas, parking bays, aisles, driveways, pedestrian access openings, and attendant booths.

(D) The location and type of all existing and proposed landscaping, fencing, trash receptacles, lighting, and signs.

(E) Any other reasonable and pertinent information that the building official determines to be necessary for site plan review.

(3) Development. If a site plan is approved by the building official, development of the property must be in accordance with the site plan.

(d) Construction.

(1) Slope. The entire surface of a commercial parking lot may not deviate more than seven degrees from the horizontal plane. No portion of the surface may deviate more than 12 degrees from the horizontal plane.

(2) Driveways. No more than one two-way driveway or two one-way driveways may be maintained for each 300 feet, or fraction thereof, of frontage of a commercial parking lot. This provision does not require the closure or relocation of driveways existing as of June 14, 2006.

(3) Pervious surface. The use of pervious surfacing materials for commercial parking lots is encouraged.

(e) Striping. All self-park spaces must be clearly and permanently identified by stripes. All self-park spaces for compact cars must be at least 7.5-foot wide stalls and must be clearly and permanently marked "compact car only." All other self-park spaces must be at least eight-foot wide stalls. Except as specified in this provision, these spaces must be provided and striped in accordance with Section 51A-4.301(d)(1).

(f) Lighting.

(1) Requirement. The following must be lighted between one-half hour after sunset and 2:30 a.m. and between 6:00 a.m. and one-half hour before sunrise:

(A) A commercial parking lot.

(B) The first story of an above-grade commercial parking garage.

(C) All other portions of a commercial parking garage that are accessible to pedestrians or vehicles during the time between one-half hour after sunset and one-half hour before sunrise.

(2) Intensity. The intensity of required lighting on the surface where vehicles are parked must be:

(A) an average of at least two footcandles, initial measurement, and at least one footcandle on a maintained basis; and

(B) a minimum at any point of at least 0.6 footcandle initial, and at least 0.3 footcandle maintained or one-third of the average footcandle measurement for the lighted area, whichever is greater.

(3) Type of fixtures. Light sources must be indirect, diffused, or shielded-type fixtures, installed to reduce glare and the consequent interference with boundary streets. Bare bulbs or strings of lamps are prohibited.

(4) Location of fixtures for commercial parking lots. Fixtures must be attached to buildings or mounted on permanent poles. Fixtures may be located on adjoining property. This requirement does not apply to commercial parking garages.

(5) Height of fixtures for commercial parking lots. Fixtures on commercial parking lots must be at least 20 feet above the lot surface. This requirement does not apply to commercial parking garages.

(6) Reconciliation. This subsection controls over Section 51A-4.301(e).

(g) Trash receptacles. At least one trash receptacle must be provided for each commercial parking garage or commercial parking lot. Trash receptacles must not have a fluorescent color.

(h) Attendant booths. An attendant booth may not be constructed of flammable materials or have a fluorescent color.

(i) Access openings.

(1) Access openings for commercial parking lots may not exceed:

- (A) 30 feet in width for a two-way drive.
- (B) 20 feet in width for a one-way drive.
- (C) 10 feet in width for pedestrian access openings.

(2) At least one pedestrian access opening must be provided for each commercial parking garage and commercial parking lot. The spacing between pedestrian access openings must be from 30 feet to 150 feet.

(3) This subsection does not require the closure or relocation of access openings existing as of June 14, 2006.

(j) Fencing.

(1) Fencing must be provided:

(A) For commercial parking lots, along an abutting right-of-way, excluding openings for pedestrian and vehicular access. Fencing may be located behind a corner landscaping area.

(B) For commercial parking garages, to eliminate openings not intended for pedestrian and vehicular access in the first story above grade where the garage abuts the right-of-way.

(C) Fencing is not required along a DART right-of-way if DART has provided fencing along the right-of-way.

(2) Commercial parking lots in the middle of a block with buildings on both adjoining lots and less than 100 feet of frontage and all commercial parking garages must have wrought iron fencing.

(3) All other commercial parking lots must have:

(A) a wrought iron fencing;

(B) bollards;

(C) post-and-cable fencing; or

(D) other fencing that is in keeping with the intent of this paragraph, as determined by the director.

(4) If a wrought iron fence is provided:

(A) it must be at least 36 inches in height;

(B) its bars must be spaced no more than eight inches apart; and

(C) it may have a foundation that does not exceed twelve inches in height.

(5) If bollards are provided, each bollard must be:

(A) constructed of concrete, brick, or stone;

- (B) at least eight inches in width or diameter;
- (C) at least 30 inches in height;
- (D) no more than seven feet from another bollard, unless connected by a metal chain, in which case they may be no more than nine feet from another bollard.

(6) If post-and-cable fencing is provided, the posts must:

- (A) be finished metal with caps;
- (B) have a minimum diameter of two-and-one-half inches;
- (C) be spaced no more than 18 feet apart; and
- (D) be connected with stainless steel tension cable.

(k) Landscaping.

(1) Parkway landscaping requirement for commercial parking garages and commercial parking lots. Unless a parkway landscape permit is denied or revoked, one tree or shrub must be provided in the adjoining parkway for each 30 feet along the frontage abutting the right-of-way. This provision does not apply to commercial parking garages or commercial parking lots existing as of June 14, 2006.

(2) Perimeter landscaping requirement for commercial parking lots. The corner landscaping area must be planted with a combination of ground cover, shrubs, and trees. The strip landscaping area must be planted with a combination of ground cover, shrubs, and trees. Car bumpers may overhang the strip landscaping area.

(3) Exemption along certain DART right-of-ways. Landscaping is not required along a DART right-of-way if DART has provided landscaping along the right-of-way.

(4) Exemption for certain small commercial parking lots. Landscaping is not required for commercial parking lots with a total area of 10,000 square feet or less, unless two or more contiguous lots have an aggregate area of 10,000 square feet or more.

(5) Alternative landscape plan.

(A) The director may approve an alternative landscape plan if compliance with this paragraph is not possible, the inability to comply is not self-created, and the alternative landscape plan is in keeping with the intent of this paragraph. An alternative landscape plan may include placement of landscaping in alternative locations. An alternative landscape plan may reduce the square footage of landscape area if additional trees or shrubs are provided.

(B) The director may approve an alternative landscape plan if compliance with this paragraph is not possible due to the location of the commercial parking garage or commercial parking lot underneath a highway. An alternative landscape plan may include placement of landscaping in alternative locations. An alternative landscape plan may reduce the square footage of landscape area if additional trees or shrubs are provided. An alternative landscape plan may allow the use of non-plant (hardscape) materials.

(6) Trees. All trees provided must be recommended for local area use by the director. Each tree planted must have a caliper of at least two-and-one-half inches.

(7) Shrubs. All shrubs provided must be recommended for local area use by the director. Each shrub provided must be at least 30 inches in height.

(8) Minimum tree clearance. All portions of a tree above street pavement must be at least thirteen-and-one-half feet in height.

(9) Tree grates. Tree grates conforming to state and federal standards and specifications adopted to eliminate, insofar as possible, architectural barriers encountered by aged, handicapped, or disabled persons, and of a size adequate to permit healthy tree growth must be provided for all trees planted within a public sidewalk.

(10) Private license granted. The city council hereby grants a private license to the owners of all commercial parking garages and commercial parking lots in this district for the exclusive purpose of authorizing compliance with the parkway landscaping requirements of this section. A property owner is not required to pay an initial or annual fee for this license. This private license shall not terminate at the end of any specific time period, however, the city council retains the right to terminate this license whenever in its judgment the purpose or use of this license is inconsistent with the public use of the right-of-way or whenever the purpose or use of this license is likely to become a nuisance. A property owner is not required to comply with any landscaping requirement of this subparagraph if compliance is made impossible due to the termination of this license. This provision controls over Article VI, "License for Use of Public Right-of-Way," of Chapter 43, "Streets and Sidewalks," of this code. Note: This private license does not eliminate the need for a parkway landscape permit or commercial general liability insurance.

(11) Parkway landscape permit. A parkway landscape permit must be obtained from the director of development services for all landscaping in the parkway required by this section.

(A) An application for a parkway landscape permit must be in writing on a form approved by the director of development services and accompanied by plans or drawings showing the area of the parkway affected and the planting proposed.

(B) Upon receipt of the application, the director of development services shall circulate it to all affected city departments, utilities, and other franchise holders for review and comment. If, after receiving those comments, the director of development services determines that the construction and planting proposed will not be inconsistent with and will not unreasonably impair the public use of the right-of-way, he shall issue a parkway landscape permit to the property owner; otherwise, he shall deny the permit.

(C) A parkway landscape permit issued by the director of development services is subject to immediate revocation upon written notice if at any time he determines that the use of the parkway authorized by the permit is inconsistent with or unreasonably impairs the public use of the right-of-way.

(D) The issuance of a parkway landscape permit under this subparagraph does not excuse the property owner, his agents, or employees from liability in the installation or maintenance of trees or shrubs in the right-of-way.

(12) Xeriscape. The use of xeriscape is encouraged.

(13) Landscape islands. For Tracts A and A-1, strip landscape areas abutting rights-of-way may be converted into landscape islands if the landscape island area is a minimum of 60 square feet in area. The total combined landscape island square footage including the converted strip landscape area must be equal to or greater than the required strip landscape area.

(l) Additional regulations. All commercial parking garages and commercial parking lots must comply with Subsection (e), "Wheel Guards and Barriers," Subsection (f), "Passenger Unloading Zone Required in Certain Cases," and Subsection (g), "Stacking Space Required in Certain Cases," of Section 51A-4.306, "Off-Street Parking in the Central Business District."

(m) Compliance. All commercial parking garages and commercial parking lots must comply with this paragraph before July 1, 2007.

(n) Maintenance.

(1) Any improvements required by this section must be properly maintained in a state of good repair and neat appearance at all times.

(2) Plant materials required by this section must be maintained in a healthy, growing condition at all times.

(o) Special exception.

(1) In general. The board of adjustment may grant a special exception to any requirement of this section if the board finds, after a public hearing, the special exception will not adversely affect the other properties within the district and strict compliance with the requirement would result in unnecessary hardship. If the board grants a special exception, it must specify the length of time the special exception is effective.

(2) Lighting. The board shall not grant a special exception to a lighting requirement unless the board also finds, after a public hearing, that the special exception will not compromise the safety of persons using the parking. In determining whether to grant this special exception, the board shall consider:

(A) the extent to which the parking will be used after dark;

(B) the crime statistics for the area;

(C) the extent to which adequate lighting may be provided by light sources located on adjacent property; and

(D) the extent to which the commercial parking garage or commercial parking lot will be secured by fences, gates, and chains. (Ord. Nos. 26369; 29357)