

153: LAND DEVELOPMENT CODE
Updating sections for compliance with ADA language.

The three dots “...” represent text that is not being changed.

153.083 STANDARDS FOR SPECIFIC USES.

(A) Residential care facility or residential care home. When permitted as a conditional use, the facilities shall be subject to the following conditions and limitations:

(5) Appropriate ~~handicapped~~ facilities and access for people with disabilities shall be provided and/or installed as recommended by the appropriate local, county or state officials.

Section 153.093 (B), (C) & (E)(1) shall be amended as follows:

153.093 OUTDOOR MERCHANDISING.

(B) Prohibition. Except as otherwise approved by the ~~city~~reviewing authority, all commercial uses ~~in the commercial zones~~ shall be conducted entirely within a completely enclosed building, except that the outdoor storage display, sale or rental of merchandise or services may be permitted where the standards of division (D) of this section are met.

(C) The following uses and activities, subject to applicable conditions and division (E) of this section, are exempt from the prohibition set forth in division (B) of this section.

(1) The sale of living plants and plant materials.

(2) Outdoor seating common to a use permitted within the applicable zone.
~~in conjunction with a restaurant.~~

(3) Christmas tree sales lot.

(4) Vehicle charging stations and/or ~~The~~ dispensing of gasoline fuel and
~~other automotive supplies~~ at a service stations.

(5) Newspaper vending. ~~machines subject to division (E) of this section.~~

(6) Sales of food items, arts and handicrafts by a nonprofit organization.
~~subject to division (E)(2).~~

(7) Automatic teller machines, subject to the design review requirements set forth in this subchapter.

~~(8) Telephone booths, subject to the design review requirements set forth in this subchapter.~~

~~(89)~~ Outdoor displays of merchandise common to a use permitted within the applicable zone such as retail store fronts, automobile sales, boat sales, building materials, farm and other heavy equipment, hardware and the like, when such is approved as an integral component of an approved use within the applicable zone.

~~(910)~~ Outdoor sales of goods and materials as a part of a business community sidewalk, patio or other promotional sales event.

~~(1011)~~ Community outdoor sales events and activities in association with a community event such as a 4th of July celebration, fair, rodeo, centennial and the like.

(1112) Garage, patio and yard sales on an individual or group basis, including community sponsored flea or farmers markets.

(1213) Outdoor sales or goods and materials authorized pursuant to Ch. 110.

(E) The following additional requirements are applicable to certain types of outdoor merchandising.

(1) ~~Newspaper vending machines. Newspaper vending machines,~~ Displays or merchandise placed on a public or private sidewalk, walkway or path shall be located so that the use of the ~~sidewalk area~~ by ~~handicapped people with disabilities~~ persons is not impeded. This standard shall be met by maintaining the a minimum requirements of the Adults with Disabilities Act (ADA) as amended, ~~unobstructed sidewalk width of 4 feet.~~

Section 153.095(F)(4)(a) & (5) shall be amended as follows:

153.095 MANUFACTURED HOMES; MOBILE HOMES; RV'S.

(F) Recreational vehicles and Manufactured homes: temporary residence for care of an elderly or infirm person; or person with disabilities ~~relative.~~

(4) As a temporary special use permit in every zone in which residential uses are permitted, the City Planning Official, as a type I conditional use permit, may approve 1 manufactured home or RV in conjunction with a primary dwelling unit with the following findings and limitations.

(a) That the unit is necessary to give care for or provide custody of an elderly, ~~handicapped~~ or infirm person; or person with disabilities ~~relative~~ who a medical doctor certifies is in need of this special kind of care or custody.

(b) The applicant and permit holder is the owner and resident of the primary dwelling and is the care provider for the ~~infirm relative~~ person for which the special use permit is granted.

(5) A temporary special use permit granted under this subsection shall be null and void when the elderly, ~~handicapped~~ or infirm person; or person with disabilities ~~relative~~ who is the subject of the permit moves to another residence or is absent from the residence for more than 120 days, or leaves the residence with no likelihood of returning. Exception to the 120-day limit may be approved because of extraordinary circumstances such as extended hospitalization, but in any case, the subject unit shall not be occupied by any other person(s) other than originally intended and approved for.

Purpose: The primary purpose of these code revisions is to update terms to meet current Federal ADA language.

When reviewing the land use sections it was found that other aspects of these sections should also be updated to reflect current realities.

Outdoor merchandising language was modified to require all outdoor displays on public and private areas to meet clear path of travel requirements. Items in section (C) were added and removed.

Temporary residence language was modified to remove the requirement of a caregiver to be a relative.

Updating review process for ADUs & Partitions.

Section 153.035 shall be amended as follows:

153.035 RESIDENTIAL USE TABLE

RESIDENTIAL / ACCESSORY USES

Accessory Dwelling	T10	T10	T10	T10	0	153.080
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Purpose: State law requires Accessory Dwellings (ADUs) to be allowed per single family home. We currently process ADUs as Type 1 conditional uses that require notice like any other land use action. However based on the requirement and new requirements for duplexes they should be approved without notice, as a development action, just like any other single family home, duplex or accessory structure.

Section 153.160(D), (E) & (I) shall be amended as follows:

153.160 LAND PARTITIONING

(D) Exemption. Partitions resulting in the following are not subject to the land partitioning requirements or applicable zoning regulations set forth by this chapter. However a final plat map shall be required in accordance with State law.

(1) The partitioning of property for the purpose a tract of land in which not more than 1 parcel is created and the parcel is being transferred of transferring property or properties to a public or semi-public agency for ~~the purpose of~~ a public road, street, railroad, electric substation, canal, utility right-of-way, public park, school, recreation facility, trail, bikeway, natural area or other similar public purpose.

Purpose: Remove the limitation of “not more than one parcel” Partitions can result in at least 3 parcels that may transfer to different public entities.

(E) Filing procedures and requirements. Any person proposing a land partitioning, or the authorized agent or representative thereof, shall prepare and submit ~~a10~~ copies of the tentative plan as specified under (E)(4) of this section for a major partitioning requiring a hearing and 3 copies for a minor partitioning, together with a digital copy and the prescribed application form and required filing fee, to the City Planning Official.

(1) Minor partitioning. The ~~Planning Official~~ reviewing authority shall take action to either approve the application as submitted, approve with modifications or conditions, ~~or deny the application,; or, the Planning Official may~~ refer the subject application to the Planning Commission for review and action thereon. Review of a minor partition shall follow the procedures and policies for a land use action applications, hearings and decisions set forth in sections 153.2504 through 153.256 et seq.

(2) Major partitioning. With an application and tentative plan for a major partitioning, the application shall be referred to the Planning Commission for ~~the initial hearing for~~ review and action if 1 or more objections are received in writing during the required ~~10-14~~ day notice period for a land use action. The Planning Commission may

approve the application as submitted, approve with modifications or conditions or deny the application.

(3) Series partitioning. Any division of land resulting in a series partitioning ~~shall~~ may be ~~subject-referred~~ to review and approval by the Planning Commission for review and approval. Applications for any series partitioning shall be made and processed in the same manner as a ~~major~~ minor partitioning. Approval requirements shall be the same as for any partitioning, however, the ~~Commission reviewing authority~~ shall deny any such series partitioning when it is determined that the partitioning ~~is~~ are done for the purpose of circumventing applicable subdivision regulations.

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Purpose: These sections are out of date and do not reflect language or some of the processes the City currently uses. The language in the first two sentences of the series partition section are specifically contradictory. Most partitions are series partitions, as most properties have been partitioned or subdivided in the City. Series partitions should be processed as a minor partition unless it qualifies as a major partition or is clearly trying to subvert subdivision requirements or platting procedures. However, partition and subdivision requirements are virtually the same. Requesting partitions in consecutive years would be a red flag.

~~(I) Partitioning for financial purposes.~~

~~(1) Upon application to the City Planning Director, the person may grant a special permit authorizing creation of a security interest or leasehold in a parcel of land. A filing fee as may be established by the City Council shall be required.~~

~~(2) Permits issued under the authority of this division (H) shall be subject to the following limitations and restrictions.~~

~~(a) A parcel possessed by a person under the terms of a lease or a security interest, and the remaining parcels, must remain in the legal use(s) that the parcels were at the time the interest become possessory; except as may be the basis of the security interest, no additional structure or improvement may be added to any parcel by the authority of the permit authorized pursuant to this division (H).~~

~~(b) A permit authorized by this division (H) shall only be valid for the time of the lease or the life of the security interest; except when there is a default and foreclosure upon a security interest.~~

~~(c) At the end of the life of the security interest, if there is no default or foreclosure, or in the case of leaseholds at the end of the lease, the parcels shall be rejoined into a contiguous unit of land under one ownership and, if possible, shall be reunited or combined into a single tax lot. The owner of the property shall be in violation of this chapter if he has not, within 30 days of the permit becoming void, made written application to the County Assessor for the combination of the parcels into a single tax lot.~~

~~(3) A permit issued pursuant to the provisions of this division (H) shall be immediately void if the owner of the property attempts any transfer of the subject parcels, except as provided by the terms of the permit.~~

Purpose: To my knowledge this section has never been used and may not be legal anymore. It would also be difficult to manage if it was. Interest in property can be done through lease agreement or by deed without City involvement. Tax lots can also be created by the assessor outside of the land use process. This allows for separate tax bills but does not create a legal lot.