

**CHAPTER 23**  
**ZONING, PLANNING & ZONING COMMISSION, AND BOARD OF ADJUSTMENT**

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Subchapt. 23.100                      GENERAL PROVISIONS

1. Interpretation. The provisions of this Chapter, shall be interpreted and applied as the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this Chapter to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued and which are not in conflict with any of the provisions of this Chapter; or which shall be adopted or issued pursuant to law relating to the use of building on premises, and are not in conflict with its Ordinance. It is not intended by this Chapter to interfere with or abrogate or annul any easement, covenants or other agreements between parties; except that, if this Chapter imposes a greater restriction, this Chapter shall control.

2. Adoption. This Chapter shall be in full force and effect from and after its passage and publication as provided by law.

3. City Council's Authority. The City Council may from time to time amend, repeal or change by ordinance the boundaries of the districts or the regulations herein established. (Ord. No. 58, 8/14/67)

Subchapt. 23.200                      TITLE

This Chapter shall be known and may be cited as "The Zoning Ordinance of the City of Windcrest, Texas."

Subchapt. 23.300                      PURPOSE

The purpose of this Chapter is to provide for the orderly, safe and healthful development of the areas within the City and to

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promote the health, safety, morals and general welfare of the community; and to prescribe an orderly process for future planning. (changed by Council Action, 2/14/01)

### Subchapt. 23.400 STATUTORY AUTHORITY

This Chapter is adopted under the authority of the Constitution and laws of the State of Texas, particularly Title 7 et seq. of the Local Government Code, as heretofore and hereafter amended. (Ord. No. 311, 9/15/97)

### Subchapt. 23.500 DEFINITIONS

For purposes of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, the plural the singular. The word BUILDING shall include the word STRUCTURE, the word LOT shall include the word PLOT, and the word SHALL is mandatory and not merely permissive or directory.

1. ACCESSORY BUILDING AND USE: A lesser building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

2. ALLEY: A subordinate public right-of-way dedicated or deeded to public use, not intended to provide the primary means of access to abutting lots. It is used primarily for vehicle access to the back or sides of properties fronting on a street. (Ord. No. 311, 9/15/97)

3. APARTMENT: A room or suite of rooms in a multiple dwelling, or in a building in which more than one living unit is established above or on the same floor as non-residential uses, which room or suite is intended or designed for use as a residence by one family and which includes culinary accommodations.

4. APARTMENT HOUSE: A building or portion thereof used or designed as a residence for three (3) or more families living independently of each other, and doing their own cooking in said building, including apartments and apartment hotels.

5. BUILDING: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

6. BUILDING SETBACK LINE: The line within a property defining the minimum horizontal distance between a building and the adjacent street line.

7. CITY: The City of Windcrest, Texas.

8. CLINIC: An office or group of offices for one or more physicians, dentists, practitioners of veterinary medicine or other health care providers engaged in treating illness, injury, or dental disease to include preventive dentistry, but not including rooms for the housing of patients, with the exception of small animals. (changed by Council Action, 2/14/01)

9. CUL-DE-SAC: A street having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

10. CURB-LEVEL: The level of the established curb in front of the building measured with the center of such front. Where no curb has been established, the City Building Permit Officer shall establish such curb or the equivalent for the purpose of this Chapter.

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11. DEAD-END STREET: A street, other than a cul-de-sac, with only one outlet.
12. DELETED USE: Any building lawfully occupied by a permitted use at the time of passage of this Chapter or amendment thereto, which is subsequently deleted as an itemized permitted purpose (use) in either Subchapters 23.800, 23.900, 23.1000, or 23.1100 of this Chapter.
13. DISTRICT: A section or sections of the City of Windcrest, Texas, for which regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform
14. DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.
  - A. DWELLING, SINGLE FAMILY: A building having accommodations for and occupied exclusively by one (1) family.
  - B. DWELLING, TWO FAMILY OR DUPLEX: A building having accommodations for and occupied exclusively by two (2) families.
  - C. DWELLING, MULTIPLE: A building having accommodations for and occupied exclusively by more than two (2) families.
15. ENGINEER: A person duly authorized and properly registered under the provisions of the Texas Engineering Registration Act, as amended, to practice the profession of engineering.
16. FAMILY: One or more individuals living together as a single housekeeping unit, in which not more than two (2) individuals are unrelated by blood, marriage or adoption. (Ord. No. 58CCC, 12/14/92)
17. FAMILY HOME: Has the meaning set forth in Chapter 202, Texas Property Code, and Article 1011 of Tex. Rev. Civ. Stat. Ann. (Ord. No.311, 9/15/97)
18. FRONTAGE: All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.
19. GARAGE, PRIVATE: An accessory building or portion of the main use building, designed for or used for the housing of motor-driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located. Not more than one (1) of the vehicles may be a vehicle of not more than one and three-quarter (1-3/4) ton capacity.
20. GRADE:
  - A. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
  - B. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.
  - C. For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

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Any wall approximately parallel to and not more than five feet (5') from the street line shall be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the City Building Inspector.

21. HEIGHT OF BUILDING: The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

22. HOME OCCUPATION: Any business, profession, trade or occupation conducted within a dwelling or an accessory structure as defined and limited in Chapter 15, Business Registration and Miscellaneous Permits, Sec. 15.103 of the Code of Ordinances. (Ord. No. 311, 9/15/97; Changed by Council Action, 2/14/01)

23. LOT: A tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

24. LOT, CORNER: A lot abutting upon two (2) or more streets at their intersection.

25. LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines.

26. NON-CONFORMING USE: Any building or land lawfully occupied by a use at the time of passage of this Chapter or amendment to it, which does not conform after the passage of this Chapter or amendment to it with the use regulations of the district in which it is situated.

27. PARKING SPACE: An open or enclosed area intended for the parking of vehicles and containing not less than one hundred eighty (180) square feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveways shall be durably surfaced and so arranged to permit satisfactory ingress and egress of a motor vehicle.

28. PAVEMENT WIDTH: The portion of a street available for vehicular traffic; where curbs are laid, it is the portion between the face of curbs.

29. PERSON: Any individual, entity, partnership, association, firm, corporation, governmental agency, or political subdivision.

30. PLAT: A complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the County Clerk for recording.

31. RESIDENTIAL USE: Property used for the housing of individuals or families. (Ord. No. 311, 9/15/97)

32. SEXUALLY ORIENTED BUSINESS: A sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

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33. STORY: That portion of a building, other than a basement included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it then the space between the floor and the ceiling next above it.

34. STREET: A public right-of-way, however designated, which affords the principal means of vehicular access to abutting property.

A. An "Arterial Street" is a street which primarily provides access, egress and vehicular traffic through the City. (added by Council Action, 2/14/01)

B. A "Secondary Street" primarily provides vehicular circulation to various sections of the City.

C. A "Collector Street" primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.

D. A "Marginal Access Street" is a street which is parallel to and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.

E. A "Minor Street" is one used primarily for access to abutting residential property.

35. STRUCTURAL ALTERATIONS: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or exterior walls.

36. STRUCTURE: Anything constructed or erected, the use of which requires permanent or temporary location on the ground or attachment to something having a permanent or temporary location on the ground, including, but without limiting the general inclusiveness of the foregoing, advertising signs, billboards, poster boards, fences and pergolas.

37. SUBDIVIDER: Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.

38. SUBDIVISION: A division of any tract of land situated within the corporate limits of the City, into two (2) or more parts for the purpose of dividing the tract of land, or for laying out suburban lots, building lots or other lots, and streets, alleys, or other parts of the tract intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. Subdivision includes re-subdivision, but does not include the division of land for agricultural purposes and parcels or tracts of five (5) acres or more and not involving any new street, alley or easement of access.

39. SURVEYOR: A licensed State Land Surveyor or Registered Professional Land Surveyor, as authorized by the State statutes to practice the profession of surveying.

40. UTILITY EASEMENT: An interest in land granted to the City, to the public generally, and/or to a private or public utility corporation for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

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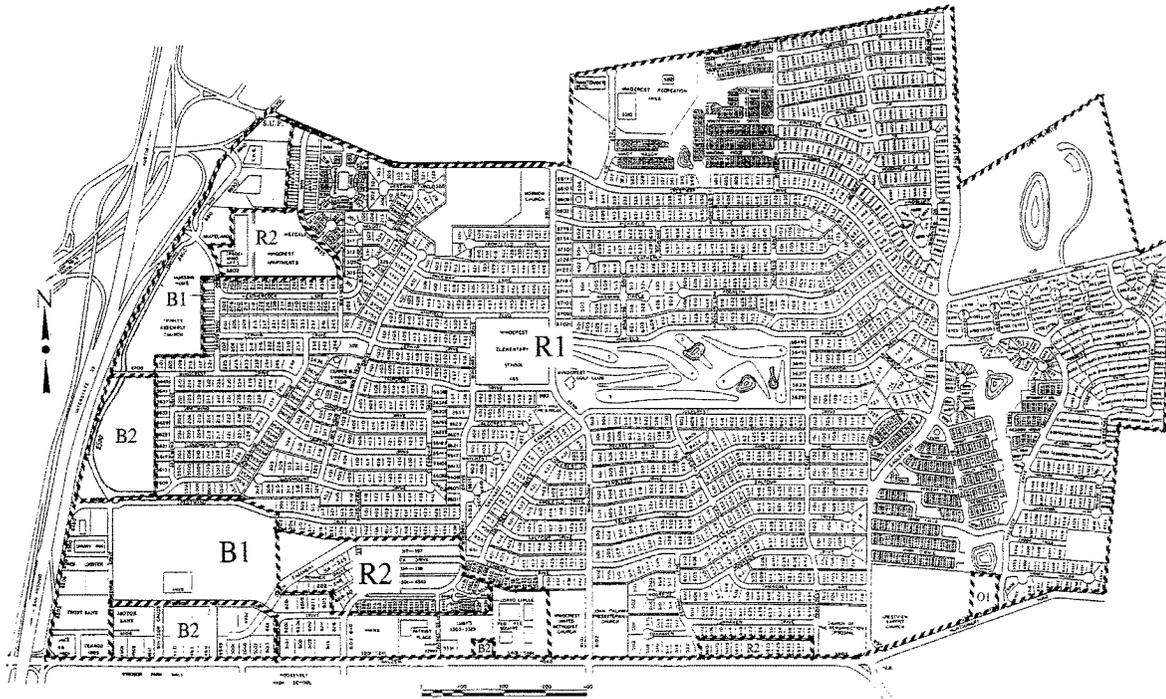
41. YARD: An open space on the same lot with a building which is not occupied or obstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard or the depth of a rear yard, the horizontal distance between the lot line and the main building shall be used.

A. YARD, FRONT: A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projection of the usual steps, unenclosed balconies or open porch. On corner lots, the front yard shall be the street frontage determined by the Developer, as shown on a plat that has been approved by the City Council. (Ord. No. 216, 9/11/89)

B. YARD, REAR: A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projection other than steps or unenclosed porches. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of a lot from the front yard, as defined in Subparagraph 41 above. (Ord. No. 216, 9/11/89)

C. YARD, SIDE: A yard between the main building and the side line of the lot, and extending from the front lot line to the rear lot line.

42. ZONING MAP: The zoning district map is the map incorporated into this Chapter as a part hereof by reference. All lands within the corporate limits of the City of Windcrest are zoned R-1, One-Family District except as shown on the Zoning Map on this page.



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<u>Subchapt.</u>	<u>23.600</u>	<u>SPECIAL REGULATIONS</u>
Sec.	23.601	ENFORCEMENT

The City Council has the duty to enforce the provisions of this Chapter. The Council shall refuse to issue any permit for any building, or for use of any premises which would violate the provisions of this Chapter. If any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of this Chapter, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Chapter or standards referred to herein with respect to any violation thereof which occurs within the City.

Sec. 23.602                      PENALTY FOR VIOLATION

Any person violating any of the provisions of this Chapter or failing to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with Section 1.301 of this Code.

The owner or owners of any building or premises, or part thereof, in violation of this Chapter and any architect, engineer, builder, contractor, agent or person who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as herein before provided.

<u>Subchapt.</u>	<u>23.700</u>	<u>PLANNING AND ZONING COMMISSION</u>
Sec.	23.701	POWERS

All the powers and authority granted to cities by any an all State Laws relating to planning and zoning regulations are hereby adopted. (Ord. No. 54, 10/9/67)

Sec. 23.702                      CREATION

1. A Planning and Zoning Commission is hereby created and established for the City of Windcrest. The Commission shall be composed of seven (7) resident citizens who are taxpayers, real property owners and qualified voters of the City of Windcrest who shall hold no other position in City government with compensation for services set by the City Council. These members shall be appointed by the City Council upon recommendation from the Mayor. Appointments shall be for a three (3) year term with staggered annual dates of completion. The City Secretary and Mayor shall be ex-officio members of this Commission.

2. The Commission shall select from its membership a Chairman and Vice Chairman, and other Officers as deemed necessary by the Planning and Zoning Commission. The Chairman and Vice-Chairman shall serve for a period of one year, and thereafter until their successors are duly appointed by the Commission. (changed by Council Action, 2/14/01 and 11/19/01, Ord. No. 387) The Commission shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. At least one (1) meeting per month shall be held, and additional meetings may be held from time to time upon the call of the chairman. Vacancies occurring in the Commission shall be filled within thirty (30) days by the City Council for the unexpired term. (Ord. No. 54, 296; 10/9/67, 3/18/96; Ord No. 249 repealed 3/18/96) On occasion it may be necessary for the Planning and Zoning Commission to hold joint meetings with the City Council to provide for the expeditious handling of Planning and Zoning matters. When these joint meetings are held, the Mayor of the City of Windcrest will be in charge of the meeting, in accordance with Texas Law. (Ord. No. 311, 387; 9/15/97, 11/19/01)

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## Sec. 23.703 FUNCTIONS AND DUTIES

1. LAND DEVELOPMENT PLANNING: It shall be a function and duty of the Commission to develop and recommend a comprehensive plan for the development of land within the City (hereinafter referred to as the "Land Development Plan") which, in the opinion of the Commission, bears a relation to the planning of the City and to recommend changes in, additions to, or extensions of such a plan. The Land Development Plan, with the accompanying maps, plats, charts, descriptive and explanatory matter, shall show the Commission's recommendations for the development of said land and may include the following information: general location, character and extent of streets, bridges, parks, waterways, and other public ways, grounds, places and spaces; the general location and extent of public utilities, whether publicly or privately owned, for water, light, sanitation, transportation, communication, power, heat, fuel and other purposes; and the removal, relocation, widening, extension, narrowing, vacating, abandonment or change of use of such existing or future public ways, grounds, places, spaces, buildings, property or utilities. The Land Development Plan shall also include a Zoning Plan. (Ord. No. 54, 10/9/67; changed by Council Action, 2/14/01)

2. LAND DEVELOPMENT PLAN, AUTHORITY TO ADOPT: The Commission may adopt the Land Development Plan as a whole by a single resolution, or may by successive resolutions adopt the successive parts of the Land Development Plan which correspond to major geographical sections of the City or to functional divisions of the subject matter of the Land Development Plan, and may adopt any amendment or extensions thereof or addition thereto. Before the adoption of the Land Development Plan or any such part, amendment, extension, or addition, the Commission shall hold at least one public hearing thereon, after at least fifteen (15) days general public notice, which notice may be brief and informal but shall state the general purpose of the hearing. The adoption of the Land Development Plan, extension or addition, shall be by resolution carried by the affirmative vote of not less than a majority of the Planning and Zoning Commission. The resolution shall refer expressly to the maps, descriptive materials, and other matter intended by the Commission to form the whole or part of the Land Development Plan, and the action taken shall be recorded on the map, Land Development Plan and descriptive matter by the Chairman and the Secretary of the Planning and Zoning Commission. (Ord. No. 54, 10/9/67; changed by Council Action, 2/14/01)

### 3. COMMUNITY PLANNING:

A. It shall be the responsibility of the Planning and Zoning Commission to initiate planning which in the Commission's judgment can or will have impact on the City's future. In addition to the Commission's responsibility for development of a comprehensive plan for the development of land within the City, the Commission shall conduct an annual review (hereinafter referred to as the "Community Plan") pertaining to the following areas:

- (1) All elements which are, or can, impact community infrastructure;
- (2) External and internal social impacts on the community;
- (3) Safety and security of the community;
- (4) Environmental and cultural programs which can impact the quality of living in the community; and
- (5) Elements which can impact the development of

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the business area and business environment.

B. The Commission shall also review annually the City's Long Range (or Five Year) Plan and recommend changes, as needed, to the City Council. Recommendations shall address three areas:

(1) Changes and improvements for the next budget year;

(2) Changes and improvements for the second through the fifth fiscal year; and

(3) Changes and improvements beyond five years

C. The Commission shall finalize and forward the above recommendations to the City Council by 1 April of each year to allow the Council and Commission to review the recommendations and include them in the budget planning process for the following fiscal years. (added by Council Action, 2/14/01)

### Sec. 23.704 MISCELLANEOUS POWERS

1. The Planning and Zoning Commission shall have power:

A. To promote public interest in and understanding of the Land Development Plan and the Community Plan;

B. To consult with and advise public officials and agencies, public utilities, civic, educational, professional and other organizations and with citizens in relation to protecting or carrying out the Land Development Plan, Community Plan or of other special planning reports;

C. To request from any public officials, within a reasonable time, any available information as it may reasonably require for its work; and

D. To enter upon any land in the performance of its functions, and make examinations and surveys and place and maintain necessary monuments and marks thereon.

2. Plat Approval: All plats shall be forwarded to the Planning & Zoning Commission for review and recommendations to the City Council. The Planning and Zoning Commission shall make recommendations to the City Council. The City Council shall be the platting board of the municipality and shall control the platting or subdividing of land within the City.

3. Subdivision Regulations: The Commission shall recommend to City Council adoption rules and regulations governing platting and subdividing of land.

4. Zoning Plan: The Commission shall recommend to the City Council for adoption a zoning plan, and recommend or disapprove proposed changes in such plan subject to the provisions of any existing ordinance covering zoning.

5. Building Plans: The Planning and Zoning Commission shall be responsible for reviewing and recommending approval or disapproval of all building plans for the erection, siting, construction, alteration, reconstruction, enlargement, or finish-out of a structure, building, or parking lot (area) in the "R-2", "B-1", "B-2" and "O-1" Zoning Districts. Such responsibility includes:

A. The review of all building plans, elevations and

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construction and materials specifications for compliance with reasonable, recognized and acceptable safety and construction standards;

B. Consideration of the general appearance and arrangement of the structure or structures and their overall compatibility with nearby existing or proposed structures;

C. Verification of compliance, where appropriate, of such plans with any restrictions, conditions or requirements which may have been engrossed by the City Council upon the approved plat or land use plan of the area wherein the building is to be erected or sited; and

No building permit may be issued for the erection, siting construction, alteration, reconstruction, enlargement, or finish-out of a structure, building, or parking lot (area) in the "R-2","B-1","B-2" and "O-1" Zoning Districts unless and until the plans have been reviewed by the Planning and Zoning Commission and approved by the City Council.

It shall not be necessary for the Planning and Zoning Commission to review building plans for the finish-out of a structure or building which do not alter the exterior appearance or the structural integrity of the building. Finish-outs which do not alter the exterior appearance of a structure or its structural integrity may be approved by the City Permits Officer.

6. Inspection of Building Construction: The Planning and Zoning Commission shall also have the responsibility for reviewing inspection reports of all building construction within said "R-2", "B-1", "B-2" and "O-1" Districts to assure compliance with all standards and specifications contained in the approved building plans pertaining thereto. (changed by Council Action, 2/14/01)

7. Other Duties. The Planning and Zoning Commission shall perform such other duties as the City Council shall from time to time prescribe that relate to land development and community planning. (Ord. No. 54, 10/9/67; Subchapter Renumbered and Changed by Council Action, 2/14/01)

Subchapt. 23.800                    DISTRICTS, GENERAL ZONING

For the purpose of regulating and restricting the height and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, residence or other purposes, the City of Windcrest, Texas, is hereby divided into district of which there shall be five (5) classes in number, and which shall be known as:

- "R-1" One-Family Dwelling District
- "R-2" Duplex and Apartment District
- "O-1" Professional Office District
- "B-1" Neighborhood Business District
- "B-2" Business District

Sec. 23.801                    GENERAL REQUIREMENTS

1. Vacated Public Areas. Whenever any street, alley or other public way is lawfully vacated by the City of Windcrest, Texas, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacated area and thereafter all land

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included in said vacated area shall be subject to all applicable regulations of the extended districts.

2. Temporary "R-1" Zoning. After the effective date of this Chapter, all territory annexed to the City of Windcrest, Texas, shall be classified as "R-1" One-Family Dwelling District until permanently zoned by the governing body of the City of Windcrest, Texas. The Planning and Zoning Commission shall as soon as practicable, after annexation of any territory to the City of Windcrest, Texas, institute proceedings on its own motion to give the newly annexed territory permanent zoning, and the procedure to be followed shall be the same as is provided by law for adoption of original zoning regulations, except as provided in this Chapter.

3. Use Regulations. No building shall be erected, converted, enlarged, reconstructed, or structurally altered, and no building or land shall be used for any purpose that is not permitted in the district in which the building or land is situated.

4. Building Height Regulations. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is situated.

5. Yard Regulations. The minimum yards and other open spaces, including lot area per family, required by this Chapter for each and every building existing at the time of the passage of this Chapter, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space required for any other building. No lot area shall be reduced to an area less than the district requirements of this Chapter. The provisions of this Section shall not apply to any community unit plan processed in accordance with the provisions of Subchapter 23.1600 of this Chapter.

6. One Building for One Lot. Every building hereafter erected, converted, enlarged, reconstructed or structurally altered shall be on one lot. Each lot shall have been formally platted in the manner provided for subdivisions under Chapter 19 of this Code, and approved by the Planning and Zoning Commission and the City Council. No more than one (1) main building shall be located on one (1) lot, except as otherwise provided in this Chapter.

7. Masonry Requirement. No building (except for those detached accessory buildings located in R-1 Zoning Districts of the City of Windcrest specifically described in Chapter 5, Subchapter 5.1200, Section 5.1201, shall be erected, converted, enlarged, reconstructed, or structurally altered unless at least ninety percent (90%) of its first story exterior walls shall be of masonry construction. (Ord. No. 192, 3/9/87)

8. Fence Height Regulation. No fence shall be erected, converted, enlarged, reconstructed, or structurally altered to an overall height of more than eight feet (8'), when constructed to separate or enclose garden homes or similar units having a sideline building setback of less than ten feet (10'), and in all other cases, no fence shall be erected, converted, enlarged, or reconstructed or structurally altered to an overall height of more than six feet (6') unless otherwise required by this Code. (Ord. No. 311, 9/15/97)

9. Golf Course. The golf course and golf club area presently situated within the corporate limits of the City of Windcrest, Texas, and being Block 111, Lot 1, Windcrest Unit 27, according to plat thereof recorded in Volume 7200, pages 161 and 162, Real Property Records of Bexar County, Texas, is hereby designated an area of cultural importance and significance, and no construction, alteration, reconstruction, or razing of buildings and other structures shall be made or permitted thereon without prior specific approval by

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the City Council of the City of Windcrest, Texas.

10. Additional Regulations. The applicable portions of Chapter 4, Signs, and Chapter 22, Yards (Fences, Pools, Sprinklers, Satellite Dish Antennas, Amateur Radio Antenna Towers, and Wireless Cable Television Antennas), shall apply to the placing and construction of signs, fences, pools, sprinklers, satellite dish antennas, Amateur Radio Antenna Towers, and wireless cable television antennas. (Ord. No. 213, 271, 11/14/88, 7/6/94)

Subchapt. 23.900 "R-1" ONE-FAMILY DWELLING DISTRICT

The following regulations shall apply to the "R-1" One-Family Dwelling District:

Sec. 23.901 USE REGULATIONS

A building or premises shall be used only for the following purposes:

- 1. Single-family dwellings. (Ord. No. 58, 8/14/67)
- 2. Church (except temporary revival) (Ord. No. 58, 8/14/67), to include normal functions such as schools, child care and bazaars. (Ord. No. 58RR, 8/13/82).
- 3. School, public or private, having a curriculum equal to a public elementary, high school, or institution of higher learning. (Ord. No. 58, 8/14/67)
- 4. Public parks, playgrounds, swimming pools (public or private), golf courses (except miniature golf) and golf clubs (public or private and related golf pro shops, residential tennis courts, tennis courts and clubs (public or private) and related tennis pro shops, arts and crafts shops and/or facilities (public or private), public recreation and community buildings. (Ord No. 58RR, 9/13/82)
- 5. Municipal buildings, non-profit libraries or museums, police and fire stations.
- 6. Customary home occupations set forth in Subchapter 23.500-22 of this Chapter.
- 7. Country clubs. (Ord. No. 58RR, 9/13/82)
- 8. Water tanks and towers. (Ord. No. 58, 8/14/67)
- 9. Accessory buildings and accessory uses, customarily incident to the above uses when located on the same lot, including a private garage for one or more cars, and/or bona fide servant's quarters not for rent or used for commercial purposes. (Ord. No. 58, 8/14/67)
- 10. Signs authorized in accordance with Chapter,4 of the Code.

Sec. 23.902 HEIGHT REGULATIONS

- 1. No building shall exceed two and one-half (2-1/2) stories or thirty-five feet (35') in height, except as provided in Section 23.1403 hereof. (Ord. No. 212, 11/14/88)
- 2. A ground installed Amateur Radio Antenna Tower shall not

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exceed 65 feet in height. (Ord. No. 213, 11/14/88)

3. Wireless television cable system structures will not extend more than 10' above the highest roof line of a structure. (Ord. No. 271, 7/6/94)

### Sec. 23.903 YARD REGULATIONS

1. Front Yard: There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five feet (25').

2. Side Yard: There shall be a side yard on each side of a building of not less than ten percent (10%) of the width of the lot, but such side yard shall not be less than ten feet (10').

### Sec. 23.904 INTENSITY OF USE

Every lot or tract of land shall have an area of not less than ten thousand (10,000) square feet and an average width of not less than ninety feet (90'), except that if a lot or tract should have less area or width than is herein required and its boundary lines along their entire length should touch lands under other ownership on the effective date of Ordinance No. 58 and shall not have been changed since said date, such parcel of land may be used for a single-family dwelling.

### Sec. 23.905 ADDITIONAL REGULATIONS

Additional use, height, and area regulations and exceptions are found in Subchapter 23.1400 of this Chapter. (Ord. No. 58, 8/14/67)

### Sec. 23.906 PARKING REGULATIONS

For purposes of this section, the terms motor vehicle, large motor vehicle, front yard, rear yard and side yard shall have the meaning stated in Section 20.1202 of the Windcrest Code of Ordinances. It shall be lawful to park one (1) motor vehicle twenty-two (22') or less in length and seven feet (7') or less in height for each licensed driver residing in a residence, plus one additional motor vehicle or boat. If the additional motor vehicle or boat is greater than twenty-two feet (22') in length or seven feet (7') in height, it must be parked in the rear yard of the residence. All motor vehicles and boats shall be parked on permanently maintained parking areas constructed of concrete, asphalt or gravel with barriers or permanent curbing to define the parking area. Rear yard parking areas must be constructed in the same areas in which accessory buildings are authorized.

The following exceptions to the limitations imposed on the parking of large motor vehicles in the preceding paragraph shall apply:

1. A resident may park a large motor vehicle in the front or side yard of a residence each week for the limited purposes of preparing, loading and unloading such vehicle for weekend use between the hours of noon on Friday and noon on the following Saturday and between the hours of noon on Sunday and noon on the following Monday, plus a resident may park a large motor vehicle in the front or side yard of a residence for the limited purposes of preparing, loading and unloading such vehicle for two (2) additional trips per calendar month, with the total preparation, loading and unloading time for each additional trip to be limited to forty-eight (48) hours for each trip. While such large motor vehicles are lawfully parked in front or side yards of a residence, normal preparation for the use of such vehicles is authorized, including cleaning and

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washing, changing fluids and minor repairs. (Ord. No. 332, 12/21/98)

2. A bonafide guest or visitor of a resident may park a large motor vehicle in the front or side yard of such residence for not more than seven (7) days during any calendar month.

3. The owner of a large motor vehicle parked in the front or side yard of a residence at the date of the adoption of this Chapter may continue to park such large motor vehicle in the same location until March 23, 1999. This exception shall expire upon the disposition of such large motor vehicle, the disposition of the residence by the owner of the large motor vehicle, or at the time the owner of the large motor vehicle vacates the residence, whichever event occurs first, provided that under no circumstances shall the exception continue after March 23, 1999.

It shall be unlawful for any person to park, or allow same to be parked, any motor vehicle or boat in a residential district of the City except as authorized in this section. It shall be unlawful to use a motor vehicle or boat in a residential district of the City for dwelling, sleeping, business or entertainment purposes, or to connect a motor vehicle or boat to sanitary sewer facilities. No motor vehicle or boat may be parked within five (5) feet of the front or side curb line of a residence. No major maintenance or repair work shall be performed on a large motor vehicle in a residential district of the City, such as but not limited to, replacement or modification of mechanical and interior components and any work which requires lifting or raising of the vehicle. (Ord. No. 332, 12/21/98)

Sec. 23.907 PARKING AREAS

A permanently maintained parking area which connects a garage or carport to a street or alley may not be wider than twenty feet (20') when adjacent to a two car garage or thirty feet (30') when adjacent to a three car garage. Permanently maintained parking areas wider than twenty feet (20') and constructed prior to the effective date of the Code of Ordinances, shall be exempt from the twenty feet (20') limitation set forth above. However, after the effective date of this Code of Ordinances, no building permit shall be issued by the City Building Permit Officer for the erection, siting, construction, alteration, reconstruction or enlargement of permanently maintained parking area in excess of twenty feet (20') for a two car garage or thirty feet (30') for a three car garage unless it is first approved by the City Council after a showing by the applicant of a special need for such granter width due to the size of or topography of the lot, the design of location of the residence, or other good reason approved by the City Council in its sole and absolute discretion. (Ord. No. 327, 9/21/98)

Subchapt. 23.1000 "R-2" DUPLEX AND APARTMENT DISTRICT

The following regulations shall apply to "R-2" Duplex and Apartment District:

Sec. 23.1001 USE REGULATIONS

A building or premises shall be used for the following purposes:

1. Any use permitted in the "R-1" One-Family Dwelling District.
2. Two-Family or Duplex Dwellings. (Ord. No. 58, 8/14/67)

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3. Apartment Houses or Multiple Family Dwellings (Ord. No. 58, 8/14/67), including condominiums, Chapter 82, Texas Property Code. (Ord. No. 311, 9/15/97)

4. Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business. (Ord. No. 58, 8/14/67)

5. Institution of a religious, educational or philanthropic nature.

6. Signs authorized in accordance with Chapter 4 of the Code.

### Sec. 23.1002 HEIGHT REGULATIONS

No building or structure shall exceed two and one-half (2-1/2) stories or thirty-five feet (35') in height, except as provided in Section 23.1403 hereof.

### Sec. 23.1003 YARD REGULATIONS

1. Front Yard: There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five feet (25'). (Ord. No. 58, 8/14/67)

2. Side Yards: There shall be a side yard on each side of a building of not less than ten percent (10%) of the width of the lot, but such side yard shall not be less than ten feet (10').

### Sec. 23.1004 INTENSITY OF USE

Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated, or reconstructed, shall be located on lots containing the following areas:

1. A lot on which there is erected a single-family dwelling shall contain an area of not less than ten thousand (10,000) square feet.

2. A lot on which there is erected a two-family dwelling shall contain an area of not less than ten thousand (10,000) square feet.

3. A lot on which there is erected an apartment house or multiple-family dwelling shall contain an area not less than one thousand eight hundred (1,800) square feet of land per dwelling unit.

4. Where a lot or tract has less area than herein required and its boundary lines along their entire length touched lands under other ownership on the effective date of this Chapter and have not since been changed, such parcel of land may be used for a single-family dwelling. (Ord. No. 58, 8/14/67)

### Sec. 23.1005 PARKING REGULATIONS

The parking regulations and parking area requirements of the "R-1" District shall apply. Furthermore, whenever a structure is erected, converted, or structurally altered for a two-family or multiple-family dwelling, two (2) parking spaces shall be provided and maintained on the lot for each dwelling unit in the building. Such parking space shall be on the lot and so arranged as to permit satisfactory egress and ingress of an automobile, and such parking area shall be in addition to driveways. (Ord. No. 58G, 327; 10/11/71, 9/21/98)

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Sec. 23.1006 ADDITIONAL REGULATIONS

Additional use and height and area regulations and exceptions are found in Subchapter 23.1400 herein. (Ord. No. 58, 8/14/67)

Subchapt. 23.1100 "O-1" PROFESSIONAL OFFICE DISTRICT

The following regulations shall apply to the "O-1" Professional Office District:

Sec. 23.1101 USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in the "R-1" and "R-2" Districts.
2. Offices for physicians, dentists, architects, insurance agents, attorneys, real estate appraisers, and other office uses having similar characteristics.
3. Signs authorized in accordance with Chapter 4 of the Code.
4. No merchandise of any type may be displayed, leased, exchanged or sold. (Ord. No. 58TT, 6/13/83)
5. Disposal of infectious waste shall be in accordance with current guidelines required by the Occupational Safety and Health Administration and the Texas Natural Resource and Conservation Commission. (added by Council Action, 2/14/01)

Sec. 23.1102 HEIGHT REGULATIONS

No building or structure shall exceed two and one-half (2-1/2) stories or thirty-five feet (35') in height, except as provided in Section 23.1403 hereof. (Ord. No. 58TT, 6/13/83)

Sec. 23.1103 YARD REGULATIONS

1. Front Yard: There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five feet (25') from the front lot line. (Ord. No. 58TT, 6/13/83)
2. Side Yards:
  - a. For uses permitted in the "R-1" District, the side yard regulation for that District shall apply.
  - b. For uses permitted in the "R-2" District, the side yard regulations for that District shall apply.
  - c. For additional uses permitted in the "O-1" District, the side yard regulations shall be ten feet (10'). When abutting either an "R-1" or "R-2" Zone, the side yard regulation shall be twenty-five feet (25'). (Ord. No. 58TT, 6/13/83)

Sec. 23.1104 INTENSITY OF USE

1. For uses permitted in the "R-1" and "R-2" Districts, the

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applicable minimum lot area and minimum lot width for such District based on permitted use shall apply. (Ord. No. 58TT, 6/13/83)

2. For additional uses permitted in the "O-1" District, the minimum lot area shall be eighteen thousand (18,000) square feet and the minimum lot width shall be one hundred fifty feet (150'). (Ord. No. 58TT, 6/13/83)

### Sec. 23.1105 PARKING REGULATIONS

1. The parking regulations for uses permitted in the "R-1" and "R-2" Districts shall be the same as those in the "R-2" District. (Ord. No. 58TT, 6/13/83)

2. For the additional uses permitted in the "O-1" District, one parking space for each three hundred (300) square feet or a portion thereof of gross floor area. (Ord. No. 58TT, 6/13/83)

### Sec. 23.1106 ADDITIONAL REGULATIONS

Additional use, height and area regulations and exceptions are found in Subchapter 23.1400 herein. (Ord. No. 58TT, 6/13/83)

### Sec. 23.1107 SCREENING OF REFUSE STORAGE AREAS

All offices shall screen areas wherein garbage containers and other refuse are stored with a permanent type masonry or wooden enclosure on all sides exposed to public view with a concrete base and apron. (Ord. No. 58TT 6/13/83)

### Sec. 23.1108 PLATTED LOTS

Platted lots used for office purposes may contain one (1) or more buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this Chapter. (Ord. No. 58TT, 6/13/83)

### Sec. 23.1109 SCREENING OF AIR CONDITIONING ELEMENTS

All offices shall screen air conditioning elements with a permanent type masonry, metal or wooden screen on all sides which are open to public view. (Ord. No. 58TT, 6/13/83)

### Sec. 23.1110 GREEN BELT

A minimum of ten feet (10') of landscaped green belt area must be dedicated and maintained as a buffer zone between the "O-1" District and either the "R-1" or "R-2" Districts wherever the Districts' lines are adjacent. This ten feet (10') may be part of the twenty-five (25) foot side yard mentioned in Section 23.1003-2C. (Ord. No. 58TT, 6/13/83)

### Subchapt. 23.1200 "B-1" NEIGHBORHOOD BUSINESS DISTRICT

The following regulations shall apply to "B-1" Neighborhood Business District:

#### Sec. 23.1201 USE REGULATIONS

A building or premises shall be used only for the following purposes:

1. Any use permitted in "O-1" Professional Office District.

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(Ord. No. 58, 8/14/67)

- Code.
2. Signs authorized in accordance with Chapter 4 of the Code.
  3. Automobile parking lots. (Ord. No. 58, 8/14/67)
  4. Bakery, employing not more than five (5) persons. (Ord. No. 58, 8/14/67)
  5. Bank. (Ord. No. 58, 8/14/67)
  6. Beauty Parlor. (Ord. No. 58, 8/14/67)
  7. Barber Shop. (Ord. No. 58, 8/14/67)
  8. Cleaning, pressing, and dyeing plants employing not more than five (5) persons each.
  9. Clinic. (Ord. No. 58, 8/14/67)
  10. Hotels and motels. (Ord. No. 58UU, 9/12/83)
  11. Laundries, employing not more than five (5) persons on the premises.
  12. Laundries, self-service. (Ord. No. 58, 8/14/67)
  13. Job printing, provided total mechanical power use in operation of such printing plant shall not exceed five (5) horsepower. (Ord. No. 58, 8/14/67)
  14. Lodge halls. (Ord. No. 58, 8/14/67)
  15. Offices. (Ord. No. 58, 8/14/67)
  16. Radio repair and sale shops. (Ord. No. 58, 8/14/67)
  17. Radio studios. (Ord. No. 58, 8/14/67)
  18. Restaurant, cafes and cafeterias. (Ord. No. 58, 8/14/67)
  19. Stores and shops for sale of products at retail only, but not to include second hand clothing stores, flea markets and similar establishments, public saloons, taverns or bars. The storage and/or sale of motor vehicle fuel at wholesale or retail is prohibited (Ord. No. 58II, 9/14/81)

If a permit has first been obtained from the City, the business which currently occupies the permanent structure on the premises from which the business is conducted may display and sell goods, wares and merchandise outside its permanent structure which are customarily displayed and sold by it inside its permanent structure. The outdoor display and sale of such merchandise shall be classified as temporary (thirty [30] days or less) or permanent (more than thirty [30] days).

A temporary permit may be issued by the City for the display and sale of goods, wares and merchandise upon a showing by a business that the outdoor display and sale of such merchandise will not interfere with parking and access and that such activity will be safe and compatible with adjoining businesses and the neighborhood.

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A permanent permit may be issued by the City for the display and sale of goods, wares and merchandise upon a showing by a business that the outdoor display and sale of such merchandise will not occur in parking areas, driveways and required landscape areas, and that such activity will be safe and compatible with the adjoining businesses and the neighborhood. (Ord. No. 311, 9/15/97)

20. Studio (art, photo, music). (Ord. No. 58, 8/14/67)

21. Recreation and entertainment facilities, (theaters, bowling alleys, billiard parlors, skating halls, gymnasiums and health or exercise centers and similar activities) excepting public saloons, taverns, or bars. (Ord. No. 58W, 213, 4/12/76, 12/12/88)

### Sec. 23.1202 HEIGHT REGULATIONS

No building or structure shall exceed two and one-half (2-1/2) stories or thirty-five feet (35') in height except for antennas in 23.80 and certain signs in Chapter 4. (Ord. No. 58, 8/14/67)

### Sec. 23.1203 YARD REGULATIONS

1. Front Yard: There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty feet (20'). (Ord. No. 58, 8/14/67)

2. Side Yards: For uses permitted in the "R-2" District, the side yard regulations for that District shall apply. For additional uses permitted in the "B-1" District, no side yards are required except that on a corner lot the side yard on the street side shall be twenty feet (20'). Where a lot is used for any of the commercial purposes permitted in this District and abutting on the side of a lot in an "R-1" or "R-2" District, there shall be a side yard not less than twenty-five feet (25').

### Sec. 23.1204 INTENSITY OF USE

For uses permitted in the "R-2" District, the minimum lot area and minimum width regulations for that District shall apply. There are no minimum lot area or lot width requirements for other uses. (Ord. No. 58, 8/14/67)

### Sec. 23.1205 PARKING REGULATIONS

1. The parking regulations for dwelling are the same as those in the "R-2" District. (Ord. No. 58, 8/14/67)

2. Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this Subchapter, off-street parking spaces shall be provided, whether on the same lot with structure or on an area within three hundred feet (300') thereof, in such number as the City Council shall deem adequate, based on such factors as the nature of proposed business use, expected customer density and rate of customer turn-over. Generally, parking space requirements shall be based on the gross floor area of the structure to be served and shall conform to the respective requirements set forth in the Table of Off-Street Parking Requirements contained in Section 42-94, 1970 Zoning Ordinance of the City of San Antonio, Texas, which Table is, by this reference, hereby expressly adopted for the City of Windcrest as a planning guide only. The City Council may require more parking spaces for any specific business structure than are indicated in said adopted Table, but no plan providing for less than the number of parking spaces therein indicated shall be approved, in the absence of clear and convincing evidence that the number of

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parking spaces indicated in the Table will not reasonably be required by the proposed business use. Two or more building owners may join together in providing a common parking area, but the total number of parking spaces therein shall be sufficient to satisfy the combined individual use parking space requirements herein stated for all structures that are proposed to be open for business at the same time. The minimum size for a parking space will be 9' x 18'. (Ord. No. 243, 4/8/91)

TABLE OF OFF-STREET PARKING REQUIREMENTS

<u>USES</u>	<u>PARKING REQUIREMENTS</u>
Churches, Theaters, Gymnasiums	One space for each four seats
Clinics	One space for each 200 sq. ft. gross floor area
General business, commercial & personal service establishments	One space for each 200 sq. ft. of gross retail/sales service area and one space per 800 sq. ft. gross storage area, or one space per 400 sq. ft. of combined retail sales/service area with no dedicated warehousing area.
General office	One space for each 300 sq. ft. of gross floor area
Hotels, Motels	One space for each guest room or trailer space and one space for each two employees (associated commercial or retail areas require additional spaces)
Nursing, rehabilitation and assisted living facilities	One space for each four beds
Clubs, lodges	One space for ea. 300 sq. ft. of gross floor area
Multi-family dwellings	Two spaces for each family dwelling unit
Restaurants, cafeterias	One space for ea. 100 sq. ft. of gross floor area
Schools, elementary	Two spaces for each classroom plus two spaces for each office
Schools, junior	Three spaces for each classroom plus three spaces for each office
Schools, secondary	Six spaces for each classroom plus six spaces for each office
Single-family dwellings	Two spaces for each dwelling unit
Skating rinks and commercial amusement	One space for each 100 sq. ft. gross floor area. For uses not requiring a building, one space for each 800 sq.

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ft. of ground area shall be provided  
(Table changed by Council Action, 2/14/01)

### Sec. 23.1206 ADDITIONAL REGULATIONS

Additional use, height, and area regulations and exceptions are found in Section 23.1400 of this Chapter. (Ord. No. 58, 8/14/67)

### Sec. 23.1207 SCREENING OF REFUSE STORAGE AREAS

All commercial establishments shall screen areas wherein garbage containers and other refuse are stored with a permanent type masonry or wooden enclosure on all sides exposed to public view with a concrete base and apron. (Ord. No. 58Q, 4/8/74)

### Sec. 23.1208 PLATTED LOTS

Platted lots used for commercial purposes may contain on (1) or more main buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this Chapter. (Ord. No. 58I, 1/8/73)

### Sec. 23.1209 SCREENING OF AIR CONDITIONING ELEMENTS

All commercial establishments shall screen air conditioning elements with a permanent type masonry, metal or wooden screen on all sides open to public view. (Ord. No. 58Q, 4/8/74)

### Sec. 23.1210 LANDSCAPING

1. Landscaping and appropriate irrigation systems are required when B-1 and B-2 properties are developed.

2. Where B-1 and B-2 property abuts tracts zoned (for residential use (R-1, R-2), the required width of the landscape area shall be a minimum of fifteen (15) feet and require privacy screening of 8' masonry fencing in combination with shrubs and trees.

3. Landscaping within a triangular area formed by intersecting street lines shall comply with the requirements of section 23.1103.2.

4. An eight-foot wide landscape area must be provided along the entire length of each property line bordering streets. Not more than fifty (50) percent of each landscape area shall receive impervious cover. Where a sidewalk is in place, the landscape area will not be less than four (4) feet between sidewalk and parking.

5. Landscaping shall not obstruct the view between the street and the access drives and parking aisles near the front yard entries and exits, nor shall any landscaping which creates an obstruction of view be located within the radius of any curb return. (Sec. 23.1404, 5c)

### Subchapt. 23.1300 "B-2" BUSINESS DISTRICT

The following regulations shall apply to the "B-2"  
Business District:

### Sec. 23.1301 USE REGULATIONS

A building or premises shall be used only for the

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following purposes:

1. Any use permitted in "B-1" Neighborhood Business District; Outdoor sales are restricted as in Sec. 23.1101.

2. Automobile sales and service facilities including sales, service, and installation of automobile parts, components and accessories, provided that such service and installation shall be performed completely indoors, within the retail sales establishment which has sold those items. Storage or sale of motor vehicle fuel is prohibited.

### Sec. 23.1302 HEIGHT REGULATIONS

No building or structure shall exceed two and one-half (2 1/2) stories or thirty-five feet (35') in height.

### Sec. 23.1303 YARD REGULATIONS

1. Front Yard: There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty feet (20')

2. Side Yard: For uses permitted in the "R-2", "O-1" and "B 1" Districts, the side yard regulations for that District shall apply. For additional uses permitted in the "B-2" District, the side yard regulations for the "B-1" District shall apply.

### Sec. 23.1304 INTENSITY OF USE

For uses permitted in the "R-2" District, the minimum lot area and minimum width regulations for that District shall apply. There are no minimum lot area or lot width requirements for other uses.

### Sec. 23.1305 PARKING REGULATIONS

1. For parking regulations in the "R-1", "R-2", "O-1" and "B-1" Districts, parking regulations for such Districts based on permitted use shall apply.

2. For parking regulations in the "B-2" District, the parking regulations and table of off-street parking requirements for the "B-1" District shall apply.

### Sec. 23.1306 ADDITIONAL REGULATIONS

Additional use, height, and area regulations and exceptions are found in Section 23.1400 of this Chapter.

### Sec. 23.1307 SCREENING OF REFUSE STORAGE AREAS

All commercial establishments shall screen areas wherein garbage containers and other refuse are stored with a permanent type masonry or wooden enclosure on all sides exposed to public view with a concrete base and apron.

### Sec. 23.1308 PLATTED LOTS

Platted lots used for commercial purposes may contain on (1) or more main buildings provided the buildings are situated in substantial compliance with the comprehensive plan created by this Chapter.

### Sec. 23.1309 SCREENING OF AIR CONDITIONING ELEMENTS

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All commercial establishments shall screen air conditioning elements with a permanent type masonry, metal or wooden screen on all sides open to public view. (Ord. No. 205, 8/8/88)

Sec. 23.1310 LANDSCAPING

Landscaping requirements are the same as in 23.1210.

Subchapt. 23.1400 PARKS AND OTHER AREAS FOR PUBLIC USE

The public policy of the City of Windcrest is to encourage the dedicating of a reasonable percentage of the tract for use as a community playground and recreational area. Specific requirements for dedication of such areas shall be as provided in the Parks and other Public Use Areas Ordinance in effect, if any, at the time such dedication is made.

Subchapt. 23.1500 ADDITIONAL USE, HEIGHT, AND AREA REGULATIONS AND EXCEPTIONS

Sec. 23.1501 USE REGULATIONS

No accessory building shall be constructed upon a lot until the construction of the main use building has been actually commenced. No accessory building shall be used unless the main use building on the lot is also being used. (Ord. No. 58, 8/14/67)

Sec. 23.1502 HOTELS AND MOTELS

1. Swimming Pools. Motels and Hotels maintaining and operating swimming pools shall post rules regulating behavior, and other rules necessary to ensure the safety of the patrons. All hotels and motels must conform to Ordinances of the City of Windcrest regulating the use of swimming pools and the requirements of the Public Health Statutes of the State of Texas. (Ord. No. 58UU, 9/12/83)

2. Smoke Detectors. Each hotel or motel must install and maintain in good working order a smoke detector, as that term is defined in Tex. Rev. Civ. Stat. Ann. Art. 4596d (Vernon), in each guest room, corridor, kitchen, business office, restaurant, mechanical room, and in any and all other common and/or public areas. The smoke detectors shall be installed, operated, and maintained so that they are at all times physically connected to a central fire alarm system which shall be physically located within the structure (hotel or motel) and which shall be monitored twenty-four (24) hours a day. The central fire alarm system shall include a manually operated alarm that, upon activation by the monitor of the system, emits an audible signal capable of being heard by all occupants of the structure instantaneously notifying them to immediately vacate the premises. These requirements are in addition to, and an expansion of, any and all requirements as found in the Life Safety Code, the Uniform Building Code, the Uniform Fire Code, and/or any other applicable Windcrest City Ordinance and/or State Law. In the event of a conflict between this Subsection and any such law, this subsection shall control. (Ord. No. 58YY, 2/11/85)

3. Fire Extinguishing System. All hotel and motel guest rooms, corridors, kitchens, business offices, restaurants, coffee shops, mechanical rooms, etc., and any and all other common and/or public areas, shall be protected by an automatic fire extinguishing system. Such an automatic fire extinguishing system shall be designed, installed, maintained, and serviced in accordance with current National Fire Protection Association Standards. In addition, the automatic fire extinguishing system shall be installed, operated, and thereafter, maintained so that it is at all times physically connected to the central fire alarm system. These requirements are in addition to, and an

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expansion of, any and all requirements as found in the Life Safety Code, the Uniform Building Code, the Uniform Fire Code, and/or any other applicable Windcrest City Ordinance and/or State Law. In the event of a conflict between this Subsection and any such code or law, this subsection will control. (Ord. No. 58YY, 2/11/85)

4. Vehicular Access. Hotels and motels shall have an unobstructed paved vehicular access lane around the outside perimeter of the main structure. (Ord. No. 58UU, 9/12/83)

### Sec. 23.1503 HEIGHT REGULATIONS

1. Buildings. Public buildings, semi-public service buildings, institutions or schools and structures necessarily associated therewith, when permitted in a district, may be erected to a height not exceeding sixty feet (60'); and churches, temples and structures necessarily associated therewith, may be erected to a height not exceeding seventy-five feet (75'), if the building and/or structure is set back from each yard line at least one foot (1') for each two feet (2') additional height above the height limit otherwise provided in the District in which the building or structure is located. (Ord. No. 58, 8/14/67)

### Sec. 23.1504 AREA AND DENSITY REGULATIONS

1. Commercial/Residential Combination Uses. In a district in which commercial buildings are built with one (1) or more stories for residential purposes above the commercial uses, no side yards will be required for the residential portions of the building, provided that the part of the building intended for residential use is not more than two (2) rooms deep from front to rear.

2. Accessory Buildings, Ornamental Features. No yard or other open space provided about any building for the purposes of complying with the provisions of these regulations shall again be used as a yard or an open space for another building. Every part of a required yard shall be open to the sky and unobstructed by buildings [except for accessory buildings in the rear yard and except the ordinary projections of skylights, sills, belt course, cornice, and other ornamental features which may project into such yards a distance of not more than two feet (2')]. (Ord. No. 58, 8/14/67)

3. Front Yard Restrictions. Open, unenclosed porches, platforms, or landing places not covered by a roof or canopy may extend or project into the front yard for a distance not exceeding six feet (6').

4. Side Yard Restrictions. Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three feet (3') above the floor level of the ground (first) story may project into a required side yard provided these projects be distant at least two feet (2') from the adjacent side lot line.

#### 5. Front Yard:

A. Where forty percent (40%) or more of the frontage on one side of a street between two (2) intersecting streets is developed with buildings that have been built with (with a variation of five feet (5') or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.

B. Where forty percent (40%) or more of the frontage on one side of a street between two (2) intersecting streets is developed with

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buildings that have not been built with a front yard as described above, then,

(1) Where a building is to be erected on a parcel of land that is within one hundred feet (100') of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings on the two sides, or

(2) Where a building is to be erected on a parcel of land that is within one hundred feet (100') of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

(3) In determining such front yard depth, buildings located entirely on the rear one-half (1/2) of a lot shall not be counted. (Ord. No. 58, 8/14/67)

C. Vision Clearance. No wall, fence, sign or other structure, hedge, or shrub planting shall be permitted or maintained higher than two feet (2') above the curb level on any corner lot within a triangular area formed by the street curb lines and a line connecting them at points twenty-five feet (25') from the intersection of the curb lines extended. A corner lot containing a town or garden house the corner of which would project into the triangular area as above defined, the restricted area shall be defined as that triangular area formed by the street curb lines and a line tangent to the corner of said town or garden house, connecting the street curb lines at points equidistant from the intersection of the street curb lines extended. No tree shall be permitted or maintained within such triangular areas, as herein defined unless the foliage is maintained at sufficient height to prevent obstruction of sight lines across the restricted area at all normal vehicular height levels.

### 6. Side Yards:

A. The minimum width of a side yard of a corner lot in the "R-1" and "R-2" Districts shall be not less than ten feet (10'). If the street side line of a corner lot is in the same block frontage with a lot or lots, whose street line is a front of such lot and lots, the side yard shall extend to the average alignment of the buildings along the same side of the street, unless such buildings are more than twenty-five feet (25') back from the street line, in which case, the said yard need not be more than twenty-five feet (25'). (Ord. No. 58, 8/14/67)

B. A side yard of not less than twenty-five feet (25') on the side of the lot adjoining on an "R-1" or "R-2" District shall be provided for all schools, libraries, churches, community houses, clubs and other public or semi-public buildings hereafter erected or structurally altered.

C. Garages detached or attached to the main use building entering on the side street or a corner lot shall maintain a side yard of twenty feet (20') from the front of the garage to the curb and in no case less distance than the primary structure to the curb.

Subchapt.	23.1600	NON-CONFORMING AND DELETED USES
Sec.	23.1601	NON-CONFORMING USE OF BUILDINGS

Except as otherwise provided in this Section, the non-conforming use of a building existing at the time this Chapter becomes effective may be continued, and the use of a non-conforming building may be changed to another use of the same or more restricted classification. Where such use is changed to a more restricted classification, it shall not thereafter be changed back to a use of a less restricted classification. A non-conforming building which is or may hereafter become vacant and which shall remain

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unoccupied or its non-conforming use discarded for a continuous period of one (1 year shall not thereafter be occupied except by a use which conforms to regulations of the District in which it is located. A non-conforming building may be maintained or kept in good repair except as otherwise provided in this Section. No existing non-conforming building may be enlarged, extended, reconstructed or altered unless its use is changed to a use permitted in the District in which such building is located except in the event such enlargement, extension, reconstruction or alteration is required by court decision, law or ordinance. No non- conforming building shall be moved in whole or in part to any other location on the lot unless every portion of such building is made to conform to all the regulations of the District in which it is located. A non-conforming building which is damaged by fire, or the public enemy, earthquake, explosion, flood, wind, other calamity or act of God, to the extent of fifty percent(50%)or more of its reasonable value may not be restored except in conformity with the regulations of the District in which it is located. (Ord. No. 58, 8/14/67)

Sec. 23.1602 DELETED USES

1. Deleted Use of Land and Buildings. The use of land or a building may continue in such previously permitted use for a reasonable period of time to allow the owner or lessee, as appropriate, to recover its existing investment, as of the date the use is deleted, all under such terms and conditions as the City Council may determine from time to time. (Ord. No. 58SS, 1/24/83)

2. Maintenance, Enlargement, Reconstruction or Remodeling. Until terminated as provided in this Code, a deleted use building may be:

A. Maintained and kept in good repair, or

B. Enlarged, reconstructed or remodeled under such terms and conditions as the City Council may require, provided such enlargement, reconstruction or remodeling is part of a city, state, regional and/or nationwide modernization or remodeling program of the deleted use building owner or lessee. (Ord. No. 58SS, 1/24/83)

3. Termination of Deleted Use. The City, upon reasonable notice to the owner and lessee, if any, of a deleted use building and/or land, may schedule a public hearing, the purpose of which is to set a future date by which such previously deleted use must be terminated. Upon the affirmative vote of a majority of the Council to terminate such deleted use, such deleted use will cease effective the date set in the Council's action. (Ord. No. 58SS, 1/24/83)

Subchapt. 23.1700 COMMUNITY UNIT PLAN

Sec. 23.1701 PLANS TO BE SUBMITTED TO COMMISSION

If an owner of any tract of land in the City of Windcrest, Texas, desires to develop the property as a residential community unit that does not conform in all respects to the district regulations of the district in which the property is located, then in conjunction with the submission of a preliminary plat in accordance with Chapter 19 of the Code, the owner shall submit to the City Planning and Zoning Commission for its study and report, a Community Unit Plan, specifically detailing therein how the Plan meets the requirements of this Subchapter. (Ord. No. 189, 12/08/86)

Sec. 23.1702 REQUIREMENTS FOR APPROVAL

The recommendations and report by the Planning & Zoning Commission shall contain specific evidence and facts showing whether or not the proposed project meets the following conditions:

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1. The property adjacent to the area included in the plan will not be adversely affected. In this regard traffic and property values will be considered.

2. The plan is consistent with the intent and purposes of this Subchapter to promote public health, safety, morals, and general welfare. (Ord. No. 58, 8/14/67)

3. The buildings will be used only for purposes provided for in "R-1" and "R-2" Districts.

4. The area of the tract is to be of sufficient size to permit effective common or coordinated planning with respect to street design, building placement and grouping of green or open spaces, as distinguished from conventional, unrelated, single lot development. In the absence of special factors, any tract considered for community unit planning should be large enough to avoid creating an unreasonable number of widely diversified areas of residential development within the City or any portion thereof. (Ord. No. 58, 8/14/67)

5. If the City Council approves the plan in conjunction with the platting process set forth in Chapter 19, building permits may be issued even though the use of the land, the location of the buildings to be erected, and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located. (Ord. No. 189, 12/8/86)

<u>Subchapt.</u>	<u>23.1800</u>	<u>REQUESTS FOR ZONING CHANGES</u>
Sec.	23.1801	GENERAL REQUIREMENTS

The regulations, restrictions, and boundaries set forth in this Chapter may from time to time be amended, supplemented, changed, modified, or repealed by the City Council. The procedures, notices, and hearing established by Article 1011a et seq. of the Texas Revised Civil Statutes Ann., as hereafter amended, shall be followed.

Sec.	23.1802	PROCEDURE FOR INDIVIDUAL REQUESTS
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Any individual(s) requesting a zoning change shall file an application in writing with the City Secretary. Such application shall specify in detail:

1. The regulation, restriction, and/or boundary set forth in this Chapter that the applicant desires to be changed, and

2. The reason for such a change, and how such a change will better promote the health, safety, morals, and/or general welfare of the community.

Sec.	23.1803	FEES
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No application for a zoning change shall be processed by the City Secretary unless the applicant has first paid to the City Secretary a fee in the amount of five hundred dollars (\$500.00); provided, however, one-half (\$250.00) of such fee shall be refunded the applicant if the application is denied or withdrawn prior to the City Council's final action.

<u>Subchapt.</u>	<u>23.1900</u>	<u>SPECIAL USE PERMITS</u>
Sec.	23.1901	GENERAL

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The City Council may authorize the issuance of Special Use Permits in any zoning district of the City except residential zoning districts. Special Use Permits are amendments to the zoning code which authorize the establishment of one or more specified uses of particular property without changing the zoning of the property. A Special Use Permit may be issued when the City Council determines that the Special Use Permit will not adversely affect the character of the area or neighborhood in which it is located, that it will not substantially reduce the value of the adjacent and nearby property, that it will be in keeping with the spirit and intent of the zoning code, and that it will not adversely affect traffic, public health, public utilities, public safety or the general welfare of the City.

### Sec. 23.1902 APPLICATION

Special Use Permit applications shall be submitted to the City Secretary with a proposed site plan and the same fees required for zoning changes. The proposed site plan should include at least the following:

1. Detailed explanation of the proposed use requiring the Special Use Permit.
2. Location of buildings and proposed uses of each.
3. Ingress and egress to all public streets.
4. Visual screening and/or fencing if applicable.
5. Landscape and irrigation designs.
6. Listing of all property ownership within 200' of the property upon which the Special Use Permit is requested.
7. Impact of on-site and off-site drainage.
8. Off-street parking and loading facilities as applicable.

### Sec. 23.1903 REVIEW PROCEDURE

Special Use Permits shall be processed in the same manner as zoning changes. The Planning and Zoning Commission shall conduct a public hearing on the Special Use Permit application and make its recommendation to the City Council. Notices of the Planning and Zoning Commission public hearing and City Council public hearing shall be furnished as required by this zoning code and applicable state law.

The Planning and Zoning Commission and the City Council shall consider, among other matters, the following:

1. Location and design of ingress and egress to public streets;
2. Interior traffic circulation patterns;
3. Off-street parking and loading facilities;
4. Sidewalks;
5. Drainage;
6. Signage;

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7. Lighting;
8. Landscaping and irrigation designs;
9. Fencing or other means of protective screening to protect adjacent and nearby property owners;
10. Protective measures to safeguard the use, value and desirability of adjacent or nearby property such as limits on noise, litter, lighting, hours of operation and provisions to insure continued proper maintenance.

Approval of Special Use Permit by the City Council shall be evidenced by an ordinance which shall include all special requirements to be included in the Special Use Permit and all agreements or other documents between the City and the applicant shall be incorporated in the ordinance by reference.

### Sec. 23.1904 ISSUANCE OF SPECIAL USE PERMIT

After approval by the City Council, an applicant shall agree in writing, in such form as may be approved by the City Attorney, to be bound by and comply with the terms of the permit. Any conditions imposed upon the applicant must be complied with prior to issuance of the Certificate of Occupancy based upon the Special Use Permit.

### Sec. 23.1905 AMENDMENT OF SPECIAL USE PERMIT

Any of the following shall necessitate an amendment of an existing Special Use Permit:

1. Any change in the Ownership of the property;
2. Structural alteration of any building/s on a lot/site for which a Special Use Permit has been previously granted;
3. Any change to the location or design of ingress and/or egress to public street or alley;
4. Any change of site drainage;
5. Any change to interior traffic circulation patterns or off-street parking or loading facilities;
6. Any change in landscaping, fencing, or any type of buffering of adjacent properties;

Interior remodeling of structures existing under a Special Use Permit shall not require an amended Special Use Permit. If an amendment to a Special Use Permit is required, an applicant must follow all of the procedures provided in this subchapter for the possible issuance of a Special Use Permit.

### Sec. 23.1906 TERMINATION OF SPECIAL USE PERMIT

Any change of use of property from that authorized in a Special Use Permit shall terminate the existing Special Use Permit. If no building permit has been applied for and the designated work not begun within one hundred eighty days (180 days) after the date of approval by the City Council of a Special Use Permit, the Special Use Permit shall automatically expire. The City Council may extend the termination date as long as the designated work shall

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not exceed three hundred sixty-five days 365 days) after the date of approval for the Special Use Permit. An application for an extension of time shall be accompanied by the fee required for such applications by the City Council.

Sec. 23.1907 BOARD OF ADJUSTMENT WITHOUT JURISDICTION

The Board of Adjustment shall have no jurisdiction with regard to Special Use Permits. (Ord. No. 268, 3/14/94)

Subchapt. 23.2000 SEXUALLY ORIENTED BUSINESSES  
Sec. 23.2001 SEXUALLY ORIENTED BUSINESSES

Notwithstanding any other provision of the Zoning Code, no sexually oriented business, as defined in the Local Government Code, shall be established or maintained within 1500' of any school, regular place of religious worship or residence. Measurements shall be made in a straight line from the nearest boundary of the property used for a school, regular place of religious worship or residence to the nearest part of the building in which such sexually oriented business is conducted. (Ord. No. 269, 3/14/94)

Subchapt. 23.2100 BOARD OF ADJUSTMENT  
Sec. 23.2101 ESTABLISHMENT

A Board of Adjustment is hereby established. (Ord. No. 58, 8/14/67)

Sec. 23.2102 ORGANIZATION

The Board of Adjustment shall consist of five (5) member who are property owners in the City of Windcrest, Texas, each to be appointed for a term of two (2) years by the City Council, and removable for cause by the City Council upon written charges and after public hearing. A vacancy on the Board shall be filled for the unexpired term. The City Council shall appoint two (2) alternate members of the Board of Adjustment who shall serve in the absence of one or more regular members. These alternate members, when appointed, shall serve for the same period as the regular members, and any vacancies shall be filled in the same manner, and shall be subject to removal as the regular members. Members of the City Council shall not be appointed to said Board.

Effective with the August 13, 1998 appointment of member to the Board of Adjustment the City Council shall appoint three (3) members and one (1) alternate for a term of three (3) years and two (2) members and one (1) alternate for a term of two (2) years. Thereafter each appointment shall be for a two (2) year term. (Ord. No. 311, 9/15/97)

The City Council shall select from the Board of Adjustment membership a chairman and vice-chairman and such other officers as it may deem necessary. Such election shall be for a period of one (1) year. (Ord. No. 233, 8/13/90)

Sec. 23.2103 MEETINGS AND RULES

Meetings of such board shall be held at the call of the Chairman and at such other times as the Board may determine. The Board shall keep records of its examinations and other official actions, all of which shall be filed in the office of the City Secretary and shall be a public record. All cases to be heard by the Board of Adjustment shall always be heard by a minimum number of four (4) members. The concurring vote of four (4) members of the Board shall be necessary to reverse any order requirement, decision, or determination of the City Building Permit Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to

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effect any variation in such ordinance. (Ord. No. 58, 8/14/67)

### Sec. 23.2104 APPEALS TO THE BOARD

Appeals to the Board of Adjustment may be made by any person aggrieved or affected by a decision of an administrative official or by any officer, department or board of the City of Windcrest affected by the decision. Such appeal must be filed within a reasonable time by filing with the official from whom the appeal is taken and with the Board of Adjustment, a notice of appeal specifying the grounds thereof, and by paying a filing fee of thirty-five dollars (\$35.00) for Residential ("R-1" or "R-2") District Lots or one hundred and fifty dollars (\$150.00) for Commercial ("O-1", "B-1" or "B-2") District Lots to the City Council at the time the notice is filed. The fee shall be credited to the General Fund of the City of Windcrest, Texas. An administrative official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by court of record on application. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. (Ord. No. 58 8/14/67)

### Sec. 23.2105 POWERS OF THE BOARD

The Board of Adjustment shall have the following powers:

1. Hearing of Appeals. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the City Building Permit Officer in the enforcement of this Chapter.

2. Granting Variance for Hardship. The Board of Adjustment may approve a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the required findings, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who own property within 200 feet of the property of which the variance is requested and the probable effect upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. Provided, however, in no instance shall such variance authorize the operation of a use other than those uses specifically authorized for the District in which the property for which the variance is sought is located. No variance shall be granted unless the Board finds: (changed by Council Action, 2/14/01)

a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his land; and

b. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and

c. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and

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d. That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Chapter. (changed by Council Action, 2/14/01)

3. Granting Variance for Special Conditions. The Board may authorize a variance where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property of record at the time of the adoption of this Chapter or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of a provision of this Chapter would result in peculiar and exceptional practical difficulties and particular hardship upon the owner of property and amount to a practical confiscation of property as distinguished from a mere inconvenience to the owner, provided the variation can be granted without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this Chapter. (Ord No. 58, 8/14/67)

4. Such findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official Minutes of the Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the sub-divider, standing alone, shall not be deemed to constitute unnecessary hardship. (added by Council Action, 2/14/01)

### Sec. 23.2106 SPECIAL EXCEPTIONS

When in its judgment the public convenience and welfare will not be substantially or permanently injured, the Board of Adjustment may in a specific case, after notice and hearing and subject to appropriate conditions and safeguards, authorize special exceptions to the regulations herein established as follows:

1. To permit a transitional use between a business and a dwelling district where the side of a lot in a one-family district or a two-family district abuts a lot zoned for business or industrial purposes as follows:

a. On a lot in a single-family dwelling district which sides upon a lot zoned for business purposes, the Board may permit a two-family dwelling.

2. To permit the extension of a building or use into a more restricted district, immediately adjacent thereto, but not more than fifty feet (50') beyond the boundary line of the district in which such building or use is authorized.

3. To permit such modification of yard, open spaces, lot area or lot width regulations as may be necessary to secure an appropriate improvement of a parcel of land if such parcel is separately owned at the time of the original passage of this Chapter or subsequent annexation of the City and is of such restricted area that it cannot be appropriately improved without such modifications.

4. To determine in cases of uncertainty the classification of any use not specifically named in this Chapter.

5. To grant a permit for the extension of a use, height, or

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area regulation into an adjoining district, where the boundary line of the district divided a lot in a single ownership at the time of the adoption of this Chapter.

6. To permit as an accessory use a parking area for passenger automobiles on a lot or lots in a single-family, duplex, or apartment house district adjoining or across a street of not more than fifty feet (50') in width from an "R-1" or "R-2" District, subject, however, to the following provisions:

a. The area shall be properly enclosed with a hedge, screen, fence, wall or other suitable enclosure having a height of not less than three feet (3') nor more than six feet (6'). Such fence or enclosure shall conform to the front yard regulations of the District in which it is located.

b. The area shall be paved.

c. No parking of vehicles shall be permitted, within six feet (6') of any adjoining lot on which is located a single-family residence duplex or multiple dwelling.

d. One sign, not exceeding two and one-half (2-1/2) square feet in area, may be erected identifying the lot.

e. No charges may be made for parking and no other business use may be made of the lot.

f. Any light used to illuminate said parking area shall be so arranged as to direct the light away from an adjoining premises used for residential purposes.

7. In any instance where a variance is sought to build or add to a structure to a height greater than thirty-five feet (35') or two and one-half (2-1/2) stories, the Board of Adjustment shall have the additional power of including, but is not limited to, requiring the installation of an automatic fire extinguishing (water) system in the structure. (Ord. No. 58UU, 9/12/83)

### Sec. 23.2107 EXPIRATION OF VARIANCE OR APPEAL

All variances or appeals granted by the Board of Adjustment shall lapse and be of no further force or effect, unless the construction authorized by said variance or appeal is commenced within ninety (90) days from the day the variance or appeal was granted by the Board of Adjustment. In the event of a conflict with Chapter 5 of the Code, the time limits set forth herein shall control. (Ord. No. 58QQ, 8/9/82)

### Sec. 23.2108 ASSIGNMENT PROHIBITED

A variance or appeal granted by the Board of Adjustment may not be assigned by the applicant without the prior written approval of the Board of Adjustment after a public hearing. The Board of Adjustment is not required to approve the assignment. (Ord. No. 58QQ, 8/9/82)

### Sec. 23.2109 TIME LIMITATION FOR REFILEING OF APPEALS

Notwithstanding the above, it is further provided that the following time limitations shall be imposed so that no application for a variance or exception shall be received or filed with the Board of Adjustment:

1. If within the previous six (6) month period an application for a variance or exception was received, considered, and denied on the same lot, lots or blocks of land.

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2. If within the previous six (6) month period an application for a variance or exception was withdrawn from consideration by the applicant or his representative before the Board of Adjustment.

The time limitations under this subsection may be waived only if new substantial evidence is presented to the Board of Adjustment and, then, only after the request for waiver has received four (4) affirmative votes in support thereof. If granted, a new application shall be filed in the Office of the City Building Permit Officer in accordance with the procedures outlined in Section 23.2104.

### Sec. 23.2110 AUTHORITY OF BOARD

In exercising the aforementioned powers such Board may in conformance with the provisions of Article 1011a through 1011j, Revised Civil Statutes of Texas, 1925, as amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. (Ord. No. 58, 8/14/67)

### Sec. 23.2111 DUTY OF BOARD

In considering all appeals and all proposed variances under this Chapter the Board shall, before making any finding, in a specific case, first determine that the proposed variance will not impair an adequate supply of light and air to adjacent property, or materially increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City of Windcrest, Texas, or constitute any enlargement of the uses applying to the property affected as herein provided. (Ord. No. 58, 8/14/67)