

Cleanup Amendments Round 2

Planner: Pam Thompson

Request: Consideration of amending Chapter 51 and Chapter 51A to clarify language regarding light poles, handicap ramps, air conditioning units, and generators in required front, side, and rear yards as applicable; clarification of associated noise regulation standards; and pedestrian skybridges.

1) Handicap ramps, light poles, air conditioning units, and generators in setbacks

These changes are being requested by staff in Building Inspection and the City Attorney's Office.

Background - handicap ramps:

People who experience mobility issues often need to install a ramp to provide access to their home. Depending on the location of the house on the lot, it can be difficult or impossible to build the needed ramp to meet both federal standards and the front, side, or rear yard setback requirements of City Code. Ramps are considered structures, and structures are not currently allowed in required yards.

Code currently provides relief in Section 51A-1.107(b)(1): "The board of adjustment shall grant a special exception to any regulation in this chapter if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term 'handicapped person' means a person with a 'handicap,' as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended."

However, going to the Board of Adjustment creates an extra procedural step and a delay for handicapped persons when a ramp must be located within the required setbacks.

The proposed changes to 51A would allow ramps to be placed in the required front, side, or rear setbacks at the discretion of the building official. (This section of Chapter 51 is call-forwarded.)

Background – light poles:

Pedestrian lighting encourages walkability by supporting pedestrian safety at night. The Dallas Development Code currently does not allow lighting to be placed in the required front or side yards, and the city requires a license for additional pedestrian lighting in the right of way. This conflict becomes a disincentive to providing adequate lighting near sidewalks. The proposed changes to Chapter 51 and 51A would allow additional lighting to be installed in the required front and side yards.

Background – air conditioning units and generators:

A portion of Section 51A-4.402 regulates the location and noise levels for air conditioning units. However, the current language refers to an outdated rating method.

Currently, Section 51A-4.402(a)(3) refers to SRN (sound rating number) designations to regulate noise levels generated by air conditioning units. Modern units are now much quieter, and sound levels are measured in decibels. The quietest units fall into the 50–60 decibel range, approximately the level of a quiet conversation. The proposed change removes the outdated language. It also removes the exception for air conditioning units in Section 6.102(a)(5) of the noise regulations, ensuring that an exceptionally loud air conditioner will continue to be regulated by code.

In addition, electrical generator placement is not specifically addressed in the code. In the absence of regulation, Building Inspection staff has been treating electrical generators as accessory structures in residential districts. The proposed change will codify this practice and ensure that the generators, if installed, are placed to the rear of the lot.

Proposal – handicap ramps, light poles, air conditioning units, and generators:

▪ Front yards:

Section 51-4.401 and Section 51A-4.401 (wording is the same)

(a) General provisions.

(1) Required front yards must be open and unobstructed except for fences and light poles 20 feet or less in height. Except as otherwise provided in this section, ordinary projections of window sills, belt courses, cornices, and other architectural features may not project more than 12 inches into the required front yard. A fireplace chimney may project up to two feet into the required front yard if its area of projection does not exceed 12 square feet. Cantilevered roof eaves and balconies may project up to five feet into the required front yard. A wheel chair ramp that is in compliance with the Federal Fair Housing Amendments Act of 1988 may project into the front yard.

▪ Side yards:

Section 51-4.402 and Section 51A-4.402 (wording is the same)

(a) General provisions.

(1) Required side yards must be open and unobstructed except for fences and light poles 20 feet or less in height. Except as otherwise provided in this section, ordinary projections of window sills, belt courses, cornices, and other architectural features may not project more than 12 inches into the required side yard. A fireplace chimney may project up to two feet into the required side yard if its area of projection does not exceed 12 square feet. Roof eaves may project up to three feet into the required side yard. Balconies may not project into the required side yard. A wheel chair ramp that is in compliance with the Federal Fair Housing Amendments Act of 1988 may project into the side yard.

(2) The side yard setback is measured from the side lot line of the building site, except when a front yard is treated as a side yard, the setback is measured from the lot line or the required right-of-way as determined by the thoroughfare plan for all thoroughfares, whichever creates the greater setback. On minor streets, the setback is measured from the lot line or the existing right-of-way, whichever creates the greater setback.

(A) When city council by ordinance establishes a specific right-of-way line for a street, the required setback is measured from that right-of-way line.

[51A-4.402(a) (3) Reserved.]

[51-4.402(a)(3) addresses urban form setback]

(4) A unitary air conditioning unit ~~which has a standard sound rating number (SRN) designation of 20 or less according to the Air Conditioning and Refrigeration Institute~~ may be located in the required side yard, but not nearer than three feet to the property line ~~as follows:~~

~~—(A) No more than three units with a SRN designation of 18 or less and with a minimum separation of 10 feet between units.~~

~~—(B) No more than two units with a SRN designation of 19 or less with a minimum separation of 10 feet between units; or~~

~~—(C) No more than one unit with a SRN designation of 20.~~

~~—(5) The minimum side yard requirements in a planned development district are controlled by the planned development district regulations.~~

(b) Side yard provisions for residential districts.

(3) In a residential district, a person need not provide a side yard setback for a structure accessory to a residential use, including a generator, if the structure:

(A) does not exceed 15 feet in height; and

(B) is located in the rear 30 percent of the lot.

▪ Rear yards:

Section 51-4.403 (a) and Section 51A-4.403 (a) General provisions. (wording is the same)

(1) Required rear yards must be open and unobstructed except for fences. Except as otherwise provided in this section, ordinary projections of window sills, belt courses, cornices, and other architectural features may not project more than 12 inches into the required rear yard. A fireplace chimney may project up to two feet into the required rear yard if its area of projection does not exceed 12 square feet. Roof eaves may project up to three feet into the required rear yard. Balconies may not project into the required rear yard. A ramp may be installed in the required rear yard as necessary to afford a handicapped person A wheel chair ramp that is in compliance with the Federal Fair Housing Amendments Act of 1988 may project into the rear yard.

(2) The rear yard setback is measured from the rear lot line of the building site.

[51A-4.403(a)(3) Reserved.]

[51-4.403(a)(3) addresses urban form setback]

(4) The minimum rear yard requirements in a planned development district are controlled by the planned development district regulations.

(b) Rear yard provisions for residential districts.

(1) Reserved.

(2) In a residential district, a person need not provide a full rear yard setback for a structure accessory to a residential use, including a generator, if the structure does not exceed 15 feet in height. Where the rear yard is adjacent to an alley, a three-foot setback must be provided. Where the rear yard is not adjacent to an alley, no setback is required.

- Section 51-6.102 and SEC. 51A-6.102. NOISE REGULATIONS. (worded the same in 51 and 51A)

(a) General provisions.

(1) A person may not conduct a use that creates a noise level that exceeds the levels established in Subsections (b) through (e) or that exceeds the background level by five dB(A), whichever is greater.

(2) A sound level meter that meets the standards of the American Standards Association must be used to determine whether the level of noise violates this section. The instrument must be maintained in good working order. A calibration check should be made prior to and following any noise investigation.

(3) Traffic, aircraft, and other background noises are not considered in measuring noise levels except when the background noise level is being determined.

(4) For purposes of this section, any identifiable portion of a planned development (PD) district governed by a distinct set of use regulations is considered to be a separate zoning district. If the PD district or a portion of the district is limited to uses permitted in an expressly stated zoning district, the PD district or portion of the district is considered to be that zoning district; otherwise it is considered to be:

(A) an MF-3(A) zoning district if it is restricted to residential uses and those nonresidential uses permitted in a residential district; otherwise

(B) an IM zoning district if it allows one or more uses that are only permitted in that district; otherwise

(C) an IR zoning district if it allows one or more uses that are only permitted in a CS, LI, or IR district; otherwise

(D) if it does not fit into one of the above categories, an MU-3 district.

~~—(5) The requirements of this section do not apply to:~~

~~—(A) the side yard placement of a unitary air conditioning unit which complies with the requirements in Section 51A 4.402(a)(4);~~

2) Pedestrian skybridges

Background:

Pedestrian skybridges are allowed as an accessory use in all of the base zoning districts except the P and P(A) Parking districts. Currently, however, skybridges face some regulatory hurdles staff recommends removing.

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- The current regulations do not allow skybridges in required yards. This requirement does not pose a problem if the skybridge is in a zoning district that has no required yard. However, because setbacks begin at ground level and go to an infinite height, a skybridge in a district with a required yard will, by its nature, need to be placed in the required yard. The proposed change allows skybridges to be placed in a required yard.
 - The current regulations do not allow skybridge supports to be placed in the right of way. Some skybridges are long enough that a support in the right of way is necessary for the construction of the skybridge. Staff recommends removing the prohibition of supports in the right of way but continuing to require approval from Transportation staff and application of a license to be considered by the City Council.
 - Current regulations require that if a skybridge cannot meet a strict interpretation of the regulations, the developer must request a special exception from the Board of Adjustment. The proposed change simplifies the process by allowing the developer to request waiver from the Council as part of the SUP process.

Taken together, these current regulations unintentionally make skybridges difficult or impossible to construct without some relief.

The proposed changes also include two clarifications.

- The current regulations use “block” to mean “blockface” in the section that says, “No more than one pedestrian skybridge may be located within any block or 700 feet of frontage, whichever is less.” The proposed change clarifies that the number of skybridges should be limited along the frontage of a single side of a block, not within the area of a block nor the entire perimeter of a block.
- The proposed changes also correct “sky bridge” to “skybridge” as needed, thereby making the spelling consistent throughout Chapter 51 and 51A.

The proposed changes 1) allow skybridges to cross required yards, 2) allow supports to be placed in the right of way, 3) remove “special exception” and create a waiver that can be approved by a three-quarters vote of the Council, 4) change “block” to “blockface,” and 5) make the spelling of “skybridge” consistent and correct “right of ways” to “rights of way”.

Proposal:

Modify **Section 51A-4.217 (b) (12) Pedestrian skybridges** and the associated sections of Chapter 51 as follows below.

- Section 51A-4.217 (b) (12) Pedestrian skybridges.
 - (A) Definition: Use of a structure constructed above grade primarily to allow pedestrians to cross a city right-of-way. A pedestrian skybridge use does not include use of a structure constructed primarily for automobiles.
 - (B) Purpose. The purpose of this section is to promote the health, safety, and general welfare of persons and property within the city by providing for the structural integrity of pedestrian skybridges over public rights-of-ways; preventing visual obstruction of public rights-of-ways and urban landscapes; facilitating the flow of traffic; encouraging use of public skybridges by

pedestrians through well designed additions to the existing pedestrian system; minimizing the negative impact of pedestrian skybridges on adjoining properties, communication and utility company facilities, and public street lighting and safety facilities; and establishing standards for construction and maintenance of pedestrian skybridges.

(C) Districts permitted. A pedestrian skybridge is permitted in any district by SUP. An SUP is required for pedestrian skybridges in planned development (PD) districts. A license or abandonment from the city of Dallas is also required to cross a city right-of-way. Provisions concerning licenses for use of the public right-of-way are contained in Chapter 43, "Streets and Sidewalks," of the Dallas City Code. Provisions concerning abandonment of the public right-of-way are contained in Chapter 2, "Administration," of the Dallas City Code.

(D) Application. An application for an SUP for a pedestrian skybridge must contain a statement outlining the need for the pedestrian skybridge and how the pedestrian skybridge will enhance the welfare of the area of request and adjacent properties.

(E) Specific use permit procedure. The provisions concerning specific use permits contained in Section 51A-4.219 apply except as modified by this subsection.

(i) Notification. The director shall send written notice of a public hearing on an application for an SUP for a pedestrian skybridge to all owners of real property lying within 750 feet of the properties on which the skybridge will be located.

(ii) Protest. For purposes of the protest provisions, the area of request is the properties on which the skybridge will be located.

(iii) Residential adjacency. An SUP for a pedestrian skybridge must be approved by the affirmative vote of three-fourths of all members of the city council if the pedestrian skybridge is within 750 feet of a residential zoning district or planned development district that allows residential uses or is sited within a planned development district that is adjacent to residential districts.

(iv) Term. The term of an SUP for a pedestrian skybridge must coincide with the term of any related license.

(F) Mandatory pedestrian skybridge standards. Additional provisions concerning construction of pedestrian walkways are contained in Section 509 of Chapter 53, "Dallas Building Code," of the Dallas City Code. Pedestrian skybridges must be constructed and maintained in accordance with the following regulations:

(i) ~~Pedestrian sky-bridges~~ skybridges must be properly maintained at all times. If a pedestrian skybridge connects two buildings which are separately owned, an operating agreement assigning maintenance and liability responsibilities is required.

(ii) No more than one pedestrian skybridge may be located within any ~~block~~ blockface or 700 feet of frontage, whichever is less.

(iii) ~~Pedestrian sky-bridges~~ skybridges must have clearance above the public right-of-way of at least 18 feet above grade.

(iv) If the pedestrian skybridge has a length of less than 150 feet, the interior passageway must be no less than 10 feet and no greater than 20 feet in width. If the pedestrian skybridge has a length equal to or greater than 150 feet, the interior passageway must be no less than 12 feet and no greater than 20 feet in width.

(v) The interior height of the passageway must be at least 7 1/2 feet. The interior height at the springline of vaulted ceilings must be at least 7 1/2 feet.

~~(vi) Supports must not be located within the public right-of-way.~~

~~(vii vi)~~ A sign must be posted within the adjoining structures indicating whether the skybridge is open to the public, the location of the pedestrian skybridge, and where the pedestrian skybridge leads.

~~(viii vii)~~ Pedestrian sky-bridges must meet state and federal standards for accessibility to and usability by individuals with disabilities.

~~(ix viii)~~ Pedestrian ~~sky-bridges~~ skybridges connected to structures with air conditioning must be enclosed and air conditioned.

~~(x ix)~~ Any change in slope of the pedestrian skybridge greater than one percent must be over private property or concealed within the pedestrian skybridge.

~~(xi x)~~ Pedestrian ~~sky-bridges~~ skybridges must not diverge from a perpendicular angle to the right-of-way by more than 30 degrees.

~~(xii xi)~~ At least 70 percent of the side walls must be open, or glass or transparent material with a light transmission of not less than 36 percent and a luminous reflectance of not more than 6 percent. "Light transmission" means the ratio of the amount of total light to pass through the material to the amount of total light falling on the material and any glazing. "Luminous reflectance" means the ratio of the amount of total light that is reflected outward by a material to the amount of total light falling on the material.

~~(xiii xii)~~ Minimum artificial lighting of 15 foot candles must be provided. Lighting must not produce glare of an intensity that creates a nuisance for motor vehicles or pedestrians.

~~(xiv xiii)~~ No exterior signs, other than government signs, may be applied to or suspended from any pedestrian skybridge.

~~(xv xiv)~~ Pedestrian ~~sky-bridges~~ skybridges must not be located within 300 feet of an historic overlay district.

~~(xvi xv)~~ Pedestrian ~~sky-bridges~~ skybridges must be designed to prevent people from jumping or throwing objects from the pedestrian skybridge.

~~(xvii xvi)~~ Structural materials must be durable and easily maintained. Construction must comply with the City of Dallas Building and Fire Codes.

~~(xviii xvii)~~ Pedestrian ~~sky-bridges~~ skybridges must not interfere with or impair use of the right-of-way by existing or proposed communication and utility facilities.

~~(xvix xviii)~~ The applicant must post bond for the estimated cost to the city to remove the pedestrian skybridge if it becomes a public nuisance.

(xvix) Skybridges may be placed in the required front, side, or rear yard.

(G) Recommended pedestrian skybridge standards. Pedestrian skybridges are recommended to be constructed and maintained in accordance with the following guidelines:

(i) Pedestrian ~~sky-bridges~~ skybridges which are open to the public should penetrate the second story of the adjoining structures, or, if not possible, as close as possible to the street level.

(ii) Pedestrian ~~sky-bridges~~ skybridges should penetrate the adjoining structures as closely as possible to escalators or elevators having access to the entire structure and the street.

(iii) Free-standing pedestrian skybridges and pedestrian skybridges connected to structures without air conditioning should have a roof, wind breaks, and adequate ventilation that maximize the comfort and safety of pedestrians. A pedestrian skybridge should be open only when the adjoining structures are open.

(iv) If the length of the pedestrian skybridge exceeds 250 feet, the passageway should be interrupted by interior visual breaks, such as turns, courts or plazas.

(v) Primary lighting sources should be recessed and indirect. Accent lighting is encouraged. Natural lighting should be used in addition to artificial lighting.

(vi) The pedestrian skybridge should be designed so as to coordinate with the adjoining structures to the extent possible. Where coordination is not possible, the pedestrian skybridge should be of a neutral color, such as brown or grey.

(H) ~~Special-exception Waiver. The board of adjustment~~ The City Council may, by a three-fourths vote, grant a special-exception waiver to the pedestrian skybridge standards contained in this paragraph if the ~~board~~ Council finds that:

(i) strict compliance with the requirements will unreasonably burden the use of either of the properties;

(ii) the ~~special-exception waiver~~ will not adversely affect neighboring property; ~~and~~

(iii) the ~~special-exception waiver~~ will not be contrary to the public interest; and

(iv) the waiver will not be contrary to the public health, safety, or welfare.

(I) Compliance regulations. Pedestrian skybridge uses are not subject to the compliance regulations contained in Section 51A-4.704.