

**CITY OF St. Hedwig, TEXAS
ORDINANCE NO. 1404**

**AN ORDINANCE REPEALING ORDINANCE NO. 0909 , REVISING THE CITY
OF ST.HEDWIG'S LAND USE REGULATIONS AND ZONING PROCEDURES;
PRESERVING RIGHTS IN PENDING LITIGATION UNDER EXISTING
ORDINANCES; REPEALING CONFLICTING ORDINANCES; AND PROVIDING
FOR AN EFFECTIVE DATE.**

WHEREAS, the City of St. Hedwig is a Type A general law municipality and is authorized by Chapter 211 of the Texas Local Government Code to establish zoning districts and permissible land use regulations within those districts and throughout the incorporated limits of the City of St. Hedwig; and

WHEREAS, the City of St. Hedwig adopted its original comprehensive Zoning Ordinance in 2003 and made amendments thereto in 2009 and has since determined that certain revisions to the City's Zoning regulations are necessary to reflect and address the growth of population within the City Limits

WHEREAS, the City of St. Hedwig's Planning and Zoning Commission has met for numerous months and held public meetings regarding amending the City's existing comprehensive Zoning Regulations for the City of St. Hedwig; and

WHEREAS, based on their studies and their meetings the Planning Commission has created a preliminary report of comprehensive Zoning Regulations, which includes standards and use regulations for various zoning designations ; and

WHEREAS, public hearings were held by the Planning and Zoning Commission on the 24th day of April, 2014 and by the City Council on the 10th day of July, 2014, on such dates preliminary policy discussions were conducted and at which all members of the public were given an opportunity to appear and express their opinion concerning the proposed comprehensive Zoning Regulations and after consideration of all such testimony, the Planning and Zoning Commission made a final report recommending the amendments of the comprehensive Zoning Regulations to the City Council; and

WHEREAS, the City Council of the City of St. Hedwig has given appropriate and reasonable consideration to the zoning regulations as most appropriate for the City and has determined that these revisions to the City's zoning ordinance are necessary in order to more accurately reflect the will of the citizens of St. Hedwig in the City's administration of its zoning regulations; and

WHEREAS, the City of St. Hedwig has determined that it is in the best interest of the city to continue to have a zoning Board of Adjustment, but that certain revisions to the ordinance's provisions governing the Board of Adjustment are also necessary; and

WHEREAS, the St. Hedwig City Council finds that the zoning ordinance, as amended, represents the best interest of all citizens of St. Hedwig and promotes the aesthetics, health, safety, general welfare and convenience of the people.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. HEDWIG, TEXAS:

A.

REPEAL OF INCONSISTENT ORDINANCES RELATING TO PLANNING AND ZONING AND BOARD OF ADJUSTMENT

Ordinances No 0909 is hereby repealed. All other ordinances previously adopted or sections therein that are in conflict with the provisions of this ordinance are also hereby repealed.

B.

ZONING REGULATIONS

THE CITY OF ST. HEDWIG HEREBY ADOPTS THE FOLLOWING ZONING REGULATIONS:

I. TITLE AND PURPOSE

This ordinance, together with all subsequent amendments thereto, shall hereby be referred to as the "Zoning Ordinance of the City of St. Hedwig, Texas."

This ordinance is prepared under the authority of V.T.C.A. (Vernon's Texas Civil Statutes, Annotated), Chapter 211 of the Texas Local Government Code, to promote health, safety, morals, and for the general welfare of the community. These zoning regulations are made in accordance with the spirit of the city's comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the general welfare to the community; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. These regulations are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

II. ADMINISTRATION

A. ADMINISTRATION

The City Council shall designate an administrative official to supervise the administration and enforcement of these regulations. The city council may appoint an administrative official to assist the designated administrative official with the general administration and enforcement duties required for the implementation of this zoning ordinance.

If the designated administrative official finds that any of the provisions of this ordinance are being violated, the designated administrative official shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The designated administrative official shall order the discontinuance

of any illegal use of land, buildings or structures, the removal of any illegal buildings or structures or any illegal additions, alterations or structural changes, the discontinuance of any illegal work being performed; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of these regulations.

B. INTERPRETATION AND APPEALS

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the designated administrative official, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the administrative official(s), and that recourse from the decisions of the board of adjustment shall be to the state district court as provided by law.

C. CITY COUNCIL DUTIES

The city council shall consider and adopt, modify, or reject proposed amendments to this ordinance, or its repeal. In addition, the city council shall establish a schedule of fees and charges as stated in subsection D below.

D. FEES

The city council shall, by ordinance or resolution, establish a schedule of fees and charges for the permits, certificates of occupancy, zoning change requests, and other matters governed by this ordinance. The schedule of fees and charges may be altered or amended only by action of the city council. Until all applicable fees and charges have been paid in full, no action shall be taken on any zoning application or appeal.

E. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

1. No building permit shall be issued by the City of St. Hedwig for any structure unless the structure conforms to the provisions of this ordinance.
2. A certificate of occupancy shall be required for any non-residential building which is hereafter erected, changed, converted or altered in its use or structure. Application for this certificate of occupancy shall be made at the same time as the application for a required building permit. The certificate of occupancy shall not be issued unless the building or land conforms to the requirements of this ordinance in addition to all other building codes adopted by the City.

Use or occupancy, or allowing the use or occupancy, of such a building without having obtained a certificate of occupancy as required herein shall be deemed a violation of this ordinance and shall be punishable by fine in addition to any other legal remedies available to the City by law.

3. Once issued, a certificate of occupancy is not a perpetual instrument for the specified use for which issued; should the building be changed, structurally altered, extended, or should a new use be initiated on the premises, a new and separate certificate of occupancy shall be required. However, the certificate of occupancy may be assigned upon the sale or inheritance of the property so long as the property is not changed, structurally altered, extended or modified in connection with the sale or inheritance of the property. In the event the law requires an alteration to the structure, no new certificate of occupancy is required.

4. Any person denied a certificate of occupancy under these provisions shall have the right to appeal the decision to the board of adjustment. Use or occupancy or allowing the use or occupancy of such a building without having obtained a certificate of occupancy as required herein shall be deemed a violation of this ordinance and shall be punishable by fine in additional to any other legal remedy available to the City.
5. A temporary certificate of occupancy may be issued by the city for a period not exceeding three (3) months during alterations or partial occupancy of a building pending its completion, provided that said temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public as determined by the City's designated Building Inspector .
6. Building permits and/or certificates of occupancy issued on the basis of plans and applications approved by the City of St. Hedwig authorize only that specific use, structural arrangement, or construction as set forth in such approved plans and applications. Any other use, arrangement, or construction shall be deemed a violation of this ordinance and shall be punishable by fine in additional to any other legal remedy available to the City. The City of St. Hedwig shall maintain a public record of all certificates of occupancy.
7. Whenever a building permit or certificate of occupancy has been granted in error by an administrative official of the City of St. Hedwig, the permit or certificate may be voided by the city council. Prior to such action by the city council, the affected party shall be given an opportunity in a hearing before the city council to show why such permit or certificate should not be voided. Notice of such hearing shall be served upon the affected party at least ten (10) days prior to such hearing by personal service or by mailing such notice by certified mail, prepaid, return receipt requested, to his or her address as it appeared in the application filed for the building permit or certificate of occupancy. The city council shall give due consideration to the arguments of the affected party in determining whether to void the building permit or certificate of occupancy and shall render its decision after hearing and considering all such arguments.

III. ZONING DISTRICT MAP

A. OFFICIAL ZONING MAP

The city is hereby divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted and declared to be a part of this zoning ordinance. This map shall be kept on file in the office of the city secretary and shall be available for public inspection during regular office hours. The official zoning map shall be identified by the signature of the mayor and attested by the city secretary under the following words:

"This is the official zoning map as adopted by (ordinance number and date of adoption) by the City Council of the City of St. Hedwig, Texas."

When changes are made in any zoning district boundaries, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council. No zoning change shall become effective until after its approval by the city council.

B. ZONING MAP REPLACEMENT

The city council may, by ordinance, adopt a new official zoning map should the original official zoning map be damaged, destroyed, lost or become ambiguous because of the nature or number of changes and additions. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map or any subsequent amendment thereof. The new official zoning map shall also be identified by the signature of the mayor attested by the city secretary, and bearing the seal of the city under the following words:

"This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as a part of the zoning ordinance of the City of St. Hedwig, Texas."

C. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following shall apply:

1. Where the designation of the district map indicates that the various districts are bounded by a road or street line, the center line of such road or street shall be construed to be the district boundary line;
2. Where the district boundaries indicated follow platted lot or tract lines, the district boundaries shall be construed to follow such lot or tract lines.
3. Where the district boundaries indicated appear to follow city limit boundaries, the district boundaries shall be construed to follow the city limit boundaries.
4. Where district boundaries indicated as dividing a lot or tract, the district boundaries shall be construed as being located as shown on the Zoning District Map. Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the map.
5. Where district boundaries are disputed or not otherwise clearly designated, or where the physical or structural features are at variance with the official zoning map or in other circumstances not covered in this section, the designated administrator shall interpret the district boundaries.

IV. ZONING DISTRICTS GENERALLY**A. ESTABLISHMENT OF DISTRICTS**

For the purpose of this ordinance, the City of St. Hedwig, Texas, is hereby divided into six (6) zoning districts as follows:

"A-1R"	Agricultural Residential District
"R-2"	Single Family Residential District
"HD-1"	Historic Downtown District

"C"	Commercial District
"L1"	Light Industrial District

B. NEWLY ANNEXED TERRITORY

1. All territory hereafter annexed to the city shall be temporarily zoned as "A-1R" District, until permanent zoning is established by the city council, except as provided in paragraph (3) below. The procedure for establishing permanent zoning on newly annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations. However, nothing herein shall prevent the granting of permanent zoning at the time of annexation and zoning such territory other than an "A-1R District".
2. In an area temporarily classified as A-1R:
 - a. No person shall erect, construct or add to any building or structure or cause same to be done in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the city as required herein.
 - b. No building permit for the construction of a building or a certificate of occupancy shall be issued other than for the construction of a building or a use permitted in A-1R District(s).
3. Application(s) for permanent zoning of a newly annexed area may be considered by the city at the same time as the area is being considered for annexations, although annexation procedures must be completed prior to any final zoning actions by the city council.

C. GENERAL COMPLIANCE WITH DISTRICT REGULATIONS

The regulations established by this ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class and kind of structure or land, and in accordance with the following:

1. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, reconstructed, enlarged or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.
2. No building or other structure shall hereafter be erected, reconstructed, enlarged or structurally altered to exceed the height or to occupy a greater percentage of the lot area which is prescribed for the district in which it is located.
3. The regulations contained herein relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:
 - a. Chimneys, non-commercial television receiving antennas, and satellite dishes as part of a residential development or use are hereby excepted from the height regulations as established herein.

- b. Church steeples or spires, belfries, cupolas, cooling towers, tanks, water towers, microwave radio and television relay or broadcasting towers, mast or aerials and necessary mechanical appurtenances may exceed the height limitations established by this ordinance only upon the issuance of a special use permit or variance in accordance with the provisions of this ordinance
- c. When a lot has an area less than the minimum number of square feet, lot width or lot depth as required for the district in which it is located, and was of record as such at the time of the passage of this zoning ordinance, such lot may be continued to be occupied or used and nothing herein shall prohibit the erection a single family dwelling.
- d. An open, uncovered porch or paved terrace may project into a required front, back or side yard setback for a distance of not more than **seven (7)** feet, but shall not be interpreted to include or permit fixed canopies **and it shall not be permanently attached to initial part of primary structure.**

4. No part of a yard or other open space, off-street parking or loading space required in connection with any building for the purpose of complying with these zoning regulations shall be included as a part of a yard, open space, off-street parking or loading space similarly required for any other building.

5. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street; and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

6. Refuse containers or dumpsters shall not be located in the front or side yard of any business establishment or property zoned for non-residential, commercial or industrial use. This restriction shall not apply in cases where compliance would cause such containers to be inaccessible to refuse collection vehicles. For the purposes of this restriction, the designated administrator shall determine after reasonable investigation whether the container is accessible or not.

D. SCHEDULE OF DISTRICT REGULATIONS ADOPTED

The following table of district regulations is hereby adopted and shall be considered as part of each applicable zoning district regulation as hereafter described in this ordinance:

SCHEDULE OF DISTRICT REGULATIONS

	A-1R	HD-1	R-2	C	LI
Minimum Lot Area [sq. ft.]	5 acres	10,000	2.5 acres	12,000	5 acres
Minimum Lot Frontage Width [ft.] ^a	30	30	30	80	150
Maximum Lot Depth[ft.]	N/A	200	N/A	200	500

Front Yard Setback [ft.]	75	10	50	30	100
Rear Yard Setback [ft.] ^b	25	25	25	25	100
Side Yard Setback [ft.], Interior Lot	25	15	25	15	50
Side Yard Setback [ft.], Corner Lot [street side only]	25	15	25	15	50
Maximum Height [stories] [ft.]	2.5 35	2.5 35	2.5 35	2 35	2.5 35
Maximum Lot Coverage	50%	50%	50%	60%	60%
Masonry Requirement ^c		85%		none	none

- a Whenever any lot is located on a cul-de-sac, the lot width shall not be less than 80% of the required lot width at the building line.
- b Whenever any lot is located on a cul-de-sac, the rear yard setback shall be **ten (10)** feet.
- c For the purposes of this requirement, the following materials shall be considered "masonry": glass or natural stone, face brick or face tile, concrete, and split face concrete masonry units (hydite block), Hardee siding or decorative pattern concrete block masonry units. In determining the percentage of masonry required the surface of the exterior walls exclusive of the doors and windows shall be measured, up to the eave area or up to a maximum of 12 feet in height, whichever is less.

V. "A-1R" AGRICULTURAL RESIDENTIAL DISTRICT

A. PURPOSE

The "A-1R" Agricultural Residential District is established to be used primarily in areas where agricultural uses or open space should be retained. These lands should be continued to be used for agricultural or open space purposes until needed for urban purposes in conformity with the orderly growth of the city.

B. PERMITTED USES

The uses permitted in the "A-1R" District include those in the "Schedule of Uses" found in Section XI hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with Section XVI of this ordinance dealing with new and unlisted uses.

C. SPECIAL USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the City Council may, after following the procedures in Section XVIII for zoning amendments and making the appropriate findings under Section XII, authorize and grant the issuance of a special use permit as allowed in the "Schedule of Uses" in Section XI of this ordinance. The issuance of the permit shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the special use of the land and buildings granted.

D. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in Section IV-D hereof and any other applicable regulations as herein provided.

E. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking requirements found in Section XI hereof. Parking spaces for at least two motor vehicles shall be provided for any single family dwelling constructed after the date of adoption of this ordinance.

F. SALES DISPLAYS PROHIBITED

1. Garage sales shall be permitted in accordance with the St Hedwig Sign Ordinance.
2. It shall be unlawful for any person to display or allow to be displayed for sale or lease on any lot any motor vehicle, boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31, or camper shell designed for use of a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or persons shall at any time be permitted to display more than two, or combination thereof, of the following: motor vehicles; boats or other similar vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shells per lot. The restrictions herein shall not prevent the display for sale of tractors, plows, mowing equipment, or other implement of farming in the "A-1R" District provided that no more than two of any such items shall be displayed for sale at any given time.

G. EXTENDED FAMILY OR SERVANTS QUARTERS

1. Extended family quarters are not to exceed 1000sq ft. in gross floor area and are permitted for family use only. Servants' quarters are not to exceed 1000 sq ft. in gross floor area and are permitted for domestic employee use only. Extended family quarters or servants' quarters shall not be used as rental units. Only one attached or separate structure (per primary residence) for use as extended family or servants quarters is permitted. Travel trailers are not allowed for use as extended family or servants quarters.
2. Extended family quarters and servants' quarters are allowed as attached or separate structures to the primary residence. The height of such separate structures shall not exceed the height of the primary residence. The separate structure shall be located behind the location of the primary residence considering the public or private street to be the front, regardless of the orientation of the front of the primary residence. The extended family or servants quarters shall not have a separate address assigned to it.

H. ANIMALS

1. Commercial breeding or feeding of animals, birds, poultry, fish or reptiles is prohibited in this district. The operation of a commercial dairy, commercial dog boarding kennel, or veterinary hospital, or the operation of a commercial livery or commercial boarding stable for horses, a commercial riding academy or commercial rodeo or commercial roping arena is also prohibited.

I. HOME OFFICE/OCCUPATION

1. No business shall be conducted in a home office that would regularly cause clients or customers to come to the premise in a manner that unreasonably disturbs the peace and quiet of the surrounding neighbors and/or community. No continuous activity shall be permitted in a home office which would produce noise, odors, fumes, vibration, dust or electronic interference outside the premise, or which would cause the dwelling to be ineligible for normal residential water, electric or garbage collection rates. The entrance to the home office shall be within the dwelling, and no construction features that are not customarily found in a dwelling shall be permitted.

J. TEMPORARY RESIDENCES

1. Property owners may use a temporary structure as a residence for a period defined in the building permit by the City, but not greater than a period of three years. Temporary residences include but are not limited to trailers, motor homes, manufactured homes, basements, tents, garages, barns or other outbuildings.

VI. "R-2" SINGLE FAMILY RESIDENTIAL DISTRICT**A. PURPOSE**

The "R-2" Single Family Residential District is established to allow for large to medium sized single family dwellings on large lots. It is designed to protect the residential character of each district by prohibiting non-residential activities and by encouraging a suitable neighborhood environment for family life. In addition to purely residential purposes, parks and open space are permitted and encouraged in this district.

B. PERMITTED USES

The uses permitted in the "R-2" District include those listed in the "Schedule of Uses" found in Section XI hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with Section XVIII of this ordinance dealing with new and unlisted uses.

C. SPECIAL USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the City Council may, after following the procedures in Section XVIII for zoning amendments and having made the appropriate findings under Section XII, authorize and grant the issuance of a special use permit as allowed in the "Schedule of Uses" in Section XI of this ordinance. The issuance of the permit shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property,

use or neighborhood character, as well as insure the appropriate conduct of the special use of the land and buildings granted.

D. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in Section IV-D hereof and any other applicable regulations as herein provided.

E. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking requirements found in Section XI hereof. Parking spaces for at least two motor vehicles shall be provided for any single family dwelling constructed after the date of adoption of this ordinance.

F. SALES DISPLAYS PROHIBITED

1. Garage sales shall be permitted in accordance with of the St. Hedwig Sign Ordinance.
2. It shall be unlawful for any person to display or allow to be displayed for sale or lease on any lot any motor vehicle, boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31, or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or persons shall at any time be permitted to display more than two, or combination thereof, of the following: motor vehicles; boats or other similar vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shells per lot. The restrictions herein shall not prevent the display for sale of tractors, plows, mowing equipment, or other implements of farming in the "R-2" District provided that no more than two of any such items shall be displayed for sale at any given time.

G. OUTBUILDINGS

1. All dwellings in the residential districts may also include customary outbuildings. A detached outbuilding shall not exceed 1875 square feet (5 bays with dimensions of 15 feet by 25 feet) in the single family residential districts. Detached carports may be used instead of garages but shall conform to the size limitations of garages.

H. ANIMALS

1. Commercial breeding or feeding of animals, birds, poultry, fish or reptiles is prohibited in this district. The operation of a commercial dairy, commercial dog boarding kennel, or veterinary hospital, or the operation of a commercial livery or commercial boarding stable for horses, a commercial riding academy or commercial rodeo or commercial roping arena is also prohibited. This restriction shall not be construed to prohibit the keeping of a reasonable number of domestic animals for family enjoyment, but where domestic animals are kept, the premise shall be maintained in a clean condition and in a manner to avoid excessive noise, the breeding of flies or the production of noxious odors.

I. HOME OFFICE/OCCUPATION

1. No business shall be conducted in a home office that would regularly cause clients or customers to come to the premise in a manner that unreasonably disturbs the peace and quiet of the surrounding neighbors and/or community. No continuous activity shall be permitted in a home office which would produce noise, odors, fumes, vibration, dust or electronic interference outside the premise, or which would cause the dwelling to be ineligible for normal residential water, electric or garbage collection rates. The entrance to the home office shall be within the dwelling, and no construction features that are not customarily found in a dwelling shall be permitted.

J. TEMPORARY RESIDENCES

1. Property owners may use a temporary structure as a residence for a period defined in the building permit by the City, but not greater than a period of three years. Temporary residences include but are not limited to trailers, motor homes, manufactured homes, basements, tents, garages, barns or other outbuildings.

VIII. "HD-1" Historic Downtown District**A. PURPOSE**

The Historic Downtown District has been established to limit commercial uses and operations within enclosed buildings and prohibiting outside storage of new goods and materials, and new or used vehicles and equipment. This district is intended to accommodate the basic shopping and service needs of residents and to provide retail and office space for merchants and financial, administrative, government and business services. This section is not intended to prohibit the outside display of merchandise in the normal course of retail business.

B. PERMITTED USES

The uses permitted in the "HD-1" District include those listed in the "Schedule of Uses" found in Section XI hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with Section XVIII of this ordinance dealing with new and unlisted uses.

C. SPECIAL USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the City Council may, after following the procedures in Section XVIII for zoning amendments and having made the appropriate findings under Section XII, authorize and grant the issuance of a special use permit as allowed in the "Schedule of Uses" in Section XI of this ordinance. The issuance of the permit shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the special use of the land buildings granted.

D. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform to the provision of the "Schedule of District Regulations" found in Section IV-D and any other applicable regulations as herein provided.

E. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking schedule found in Section XI hereof. No enclosed or covered parking is specifically required.

F. ALL COMMERCIAL OPERATIONS AND SALES TO BE ENCLOSED; EXCEPTION

All commercial uses, operations, and sales, except for off-street parking and off-street loading facilities, shall be conducted within completely enclosed buildings. ***Sidewalk sales may be held on occupants' property.***

G. CONSTRUCTION REQUIREMENTS

1. Non-conforming structures built prior to the adoption of this ordinance will be exempt from these construction restrictions.

2. Due to the highly residential nature of this district, the City Council finds building footprints larger than 10,000 sq ft inappropriate and a use that does not conform to the character of this district. Therefore, structures with a building footprint exceeding 10,000 sq. ft. shall be prohibited in this district.

3. Front elevations on all new structures shall be constructed with brick, stone, fiber reinforced cementitious board (otherwise known as Hardiboard), other masonry material and wood material.

4. Unless it has the appearance of brick, stone, masonry or wood, metal materials will not be allowed on the front elevations as it distracts from the overall character of the Historic Downtown District.

5. Buildings with side street exposure will use the same materials on the side elevation facing the street as is required on the front elevation.

6. Mobile or modular manufactured homes will not be allowed in this district for non-residential use.

IX. "C" COMMERCIAL DISTRICT**A. PURPOSE**

The Commercial District has been established to limit commercial uses and operations within enclosed buildings and prohibiting outside storage of new goods and materials, and new or used vehicles and equipment. This district is intended to accommodate the basic shopping and service needs of residents and to provide retail and office space for merchants and financial, administrative, government and business services. This section is not intended to prohibit the outside display of merchandise in the normal course of retail business.

B. PERMITTED USES

The uses permitted in the "C" District include those listed in the "Schedule of Uses" found in Section XI hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with Section XVIII of this ordinance dealing with new and unlisted uses.

C. SPECIAL USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the City Council may, after following the procedures in Section XVIII for zoning amendments and having made the appropriate findings under Section XII, authorize and grant the issuance of a special use permit as allowed in the "Schedule of Uses" in Section XI of this ordinance. The issuance of the permit shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the special use of the land buildings granted.

D. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provision of the "Schedule of District Regulations" found in Section IV-D and any other applicable regulations as herein provided.

E. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking schedule found in Section XI hereof. No enclosed or covered parking is specifically required.

F. ALL COMMERCIAL OPERATIONS AND SALES TO BE ENCLOSED; EXCEPTION

All commercial uses, operations, and sales, except for off-street parking and off-street loading facilities, shall be conducted within completely enclosed buildings. ***Sidewalk sales may be held on occupants property.***

X. "LI" LIGHT INDUSTRIAL DISTRICT**A. PURPOSE**

The "LI" District is established to accommodate most industrial and manufacturing uses, provided such use is not noxious or offensive by reason of emission of odors, soot, dust, noise, fumes or vibrations.

B. PERMITTED USES

The uses permitted in the "LI" District include those listed in the "Schedule of Uses" found in Section XI hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with Section XVIII of this ordinance dealing with new and unlisted uses.

C. SPECIAL USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the City Council may, after following the procedures in Section XVIII for zoning amendments and having made the appropriate findings under Section XII, authorize and grant the issuance of a special use permit as allowed in the "Schedule of Uses" in Section XI of this ordinance. The issuance of the permit shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the special use of the land buildings granted.

D. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform to the provision of the "Schedule of District Regulations" found in Section IV-D and any other applicable regulations as herein provided.

E. PARKING REQUIREMENTS

The minimum off-street parking space requirements for manufacturing and industrial uses shall be one (1) space for each two (2) employees or one (1) space for each one thousand square feet of gross floor area of all buildings used for such manufacturing or industrial purposes, whichever is greater. Such off-street parking shall also be in accordance with Section XI hereof.

XI. STRUCTURAL REQUIREMENTS OF PLACES OF ASSEMBLY**A. LARGE PLACES OF ASSEMBLY:****1. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform to the provision of the "Schedule of District Regulations" found in Section IV-D and any other applicable regulations as herein provided.

2. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking schedule found in Section XI hereof. No enclosed or covered parking is specifically required

B. SMALL PLACES OF ASSEMBLY:**1. AREA; YARD; HEIGHT; LOT COVERAGE; AND BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform to the provision of the "Schedule of District Regulations" found in Section IV-D and any other applicable regulations as herein provided.

2. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking schedule found in Section XI hereof. No enclosed or covered parking is specifically required

XII. SCHEDULE OF USES AND OFF-STREET PARKING REQUIREMENTS

Land and buildings in each of the following classified districts may be used for any of the following listed uses but no land shall hereinafter be used and no building or structure shall hereinafter be occupied, used, erected, altered, removed, placed, demolished, or converted which is arranged or designed to be used for other than those uses specified for the district in which it is located as set forth by the following schedule of uses:

<u>X</u>	Designates use permitted in district
<u> </u>	Designates use prohibited in district
<u>S</u>	Designates use permitted with special use permit
NOTE:	g.f.a. = gross floor area

Residential Use:	A-1R	R-2	HD-1	C	LI	Parking
Single Family Dwelling	X	X	X	1	1	2/dwelling unit
Two-Family Dwelling						2/dwelling unit
Three-Family Dwelling						2/dwelling unit
Four-Family Dwelling						2/dwelling unit
Apartment or Multi-Family Bldg.	X	X	X			2.5/dwelling unit
Manufactured Home						2/dwelling unit
Manufactured Home Park						2/dwelling unit
Townhouse						2/dwelling unit
Condominium						2/dwelling unit
Trailer Camp or Park				X		1/dwelling unit
Boarding (Rooming) House					S	1/dwelling room
Special Residential Structure/Use					S	SPECIFIED BY SUP
Child Day Care Home			X			2/dwelling
Group Home	S	S	S			2/dwelling
Group Day Care Home	S	S	S			Specified by SUP
Halfway House						1/2 occupants
Guest House/Servant Quarters	X		X			1/dwelling unit
Accessory Building	X	X	X			None
Tennis Court (private)	X	X	X			None
Solar Panels (Residential)	X	X	X			
Swimming Pool (private)	X	X	X			None
Home Occupation	X	X	X			None
Wind Turbines (Residential)	X					

Agriculture/Ranch Uses:	A-1R	R-2	HD-1	C	LI	Parking
Exotic Animals	S			S	S	
Farm or Ranch	X			X	X	2/dwelling unit
Farmer's Market	S		S	X	X	2/stall
Feed Lot						None
Grainery or Gin					X	1/2000 site area
Orchard	X			X	X	1/employee
Produce Stand	S			X	X	1/200 g.f.a.
Rodeo Arena (Private)	X					None
Rodeo Ground, Arena (Public)						
Stable, Private	X			X	X	None
Stable, Public				X	X	1/2 stalls
Solar Panels (Agricultural)	X					
Wind Turbines (Agricultural)	X					
Utility/Solid Waste Uses:	A-1R	R-2	HD-1	C	LI	Parking
Cable TV Lines	X	X	X	X	X	None
Electric Substations	S			S	X	None
Gas Regulating/Gas Station	S			S	X	None
Microwave Tower	S			S	X	None
Radio and Television Tower	S			S	X	None
Railroad Freight Terminal					X	1 per employee
Railroad Yard					X	1 per employee
Recycling Collection Facility					S	1 per employee
Refuse Transfer Station					S	1 per employee
Sewer Lift Station					X	None
Telephone Exchange	S	S	S	X	X	None
Utility Poles and Lines	X	X	X	X	X	None
Utility Mains and Lines	X	X	X	X	X	None
Wastewater Treatment Plant				S	S	2 minimum
Water Pump Station	S			X	X	None
Water Storage Tank	S	S	S	X	X	None
Water Treatment Plant				S	X	2 minimum
Water Well	X	X	X	X	X	None
Government & Institutional Uses	A-1R	R-2	HD-1	C	LI	Parking
Athletic Field or Stadium				X	X	1/4 seats
Auditorium or Amphitheater				X	X	1/4 seats
Cemetery or Mausoleum	S	S	S	S	S	None
College or University			S	X	X	1/3 students
Community Center			X	X	X	1/200 g.f.a.
Convalescent Center			S	S	X	1/3 beds
Fire Station	X	X	X	X	X	2/bay
Government Office			S	X	X	1/300 g.f.a.
Hospital				X	X	1/bed

Library			X	X	X	1/300 g.f.a.
Museum or Art Gallery			S	X	X	1/200 g.f.a.
Park or Playground	X	X	X	X	X	1/2000 site area
Places of Assembly (Large)			S	X	X	1/4 seats
Places of Assembly (Small)	X	X	X	X	X	1/4 seats
Police Station	S	S	S	X	X	2 visitor spaces
Post Office	X	X	X	X	X	1/400 g.f.a.
Prison or Penitentiary						1/6 cells
Sanitarium						1/6 beds
School (nursery or kindergarten)	S	S	S	X	X	1/10 children
School (trade or business)				X	X	1/3 students
School (elementary or middle)	X	X	X	X	X	1/10 students
School (high school)	X	X	X	X	X	1/3 students
Swimming Pool (public)				X	X	10 minimum
Tennis Court (public)				X	X	2/court

Commercial Uses:	A-1R	R-2	HD-1	C	LI	Parking
Amusement Park (outside)					X	1/500 site area
Animal Shelter					X	1/500 g.f.a.
Antique Shop			X	X	X	1/200 g.f.a.
Apparel or Clothing Store		X	X	X	X	1/200 g.f.a.
Appliance Repair Shop				X	X	1/400 g.f.a.
Appliance Store (retail)				X	X	1/400 g.f.a.
Arcade				X	X	1/200 g.f.a.
Art Supply Store			X	X	X	1/300 g.f.a.
Athletic or Fitness Club				X	X	1/200 g.f.a.
Auction				X	X	1/200 g.f.a.
Audio Store (retail)		X	X	X	X	1/200 g.f.a.
Auto Inspection Station				S	X	2/service bay
Auto Paint & Body Shop					X	1/200 g.f.a.
Auto Parts Store				X	X	1/300 g.f.a.
Auto Rental				S	X	1.25/rental car
Auto Repair Garage				S	X	3/service bay
Auto Sales Lot				S	X	1/1000 site area
Bakery (retail)		X	X	X	X	1/200 g.f.a.
Bank or Financial Institution		X	X	X	X	1/300 g.f.a.
Bed & Breakfast Accommodation		X	X	X	X	1/guest room
Barber or Beauty Shop		X	X	X	X	3/chair
Bicycle Sales & Repair				X		1/300 g.f.a.
Boat Sales				X	X	1/400 g.f.a.
Boat Storage					X	1/1000 site area
Book Store		X	X	X	X	1/200 g.f.a.
Bowling Alley				X	X	6/lane
Building Materials/Lumber yard					X	1/500 g.f.a.
Bus terminal					X	1/300 g.f.a.
Business Office			X	X	X	1/300 g.f.a.
Cabinet Shop				X	X	1/400 g.f.a.
Camera Store (retail)			X	X	X	1/200 g.f.a.

Car Wash				S	X	1/wash bay
Carnival or Circus					S	SUP
Carpet Store (retail)				X	X	1/400 g.f.a.
Catering Shop			X	X	X	1/400 g.f.a.
Cemetery Monument Sales				X	X	1/400 g.f.a.
Child Care Center or Facility				X	X	1/6 children
Christmas Tree Sales				X	X	1/1000 site area
Computer Store (retail/service)			X	X	X	1/200 g.f.a.
Contractor yard (outside storage)					X	1/2000 site area
Dental Clinic or Office			X	X		1/200 g.f.a.
Department Store				X	X	1/200 g.f.a.
Electrical Sales & Service			X	X	X	1/400 g.f.a.
Electronics Store (retail)			X	X		1/200 g.f.a.
Employment Agency				X	X	1/200 g.f.a.
Farm Implement Sales				S	X	1/400 g.f.a.

Commercial Uses:	A-1R	R-2	HD-1	C	LI	Parking
Feed Store				X	X	1/400 g.f.a.
Feed Store with animal sales				S	S	1/400 g.f.a.
Fire Wood Sales	S			X	X	1/1000 site area
Florist Shop			X	X	X	1/300 g.f.a.
Flea Market (inside)					S	1/200 g.f.a.
Flea Market (outside)					S	1/1000 site area
Fraternity/Sorority Lodge				S	S	1/200 g.f.a.
Furrier				S	S	1/400 g.f.a.
Furniture Store (retail)				X	X	1/400 g.f.a.
Game Hall				X	X	1/100 g.f.a.
Gift or Novelty Shop			S	X		1/200 g.f.a.
Glass Sales			X	X		1/200 g.f.a
Go-Cart Track						1/go cart
Golf Course	S			S	S	2/green
Golf Course, miniature				S	X	1.5/hole
Golf Driving Range	S			S	S	1/driving tee
Grocery Store			S	X	X	1/200 g.f.a.
Gun Shooting Range (indoor)				S	X	1/500 g.f.a.
Gunsmith Shop			S	X	X	1/300 g.f.a.
Hardware store			S	X	X	1/400 g.f.a.
Health Food Store			X	X	X	1/400 g.f.a.
Heating/Ac Sales & Service			S	X	X	1/400 g.f.a.
Heavy Equipment Sales					X	1/1000 site area
Hobby Shop			X	X	X	1/200 g.f.a.
Hotel or Motel				S	X	1/guest room
Insurance Sales Office			X	X	X	1/400 g.f.a.
Interior Decorator Studio			X	X	X	1/400 g.f.a.
Jewelry Store			X	X	X	1/200 g.f.a.
Kennel				S	SX	1/400 g.f.a.
Laboratory, Medical or Dental				X	X	1/400 g.f.a.
Laundry or Dry Cleaners					X	1/400 g.f.a.
Lawnmower Sales & Service			S	X	X	1/400 g.f.a.

Leather Goods Shop (retail)			X	X	X	X	1/400 g.f.a.
Lithographic Shop			X	X	X	X	1/300 g.f.a.
Liquor/Wine Store			X	X	X	X	1/400 g.f.a.
Locksmith Shop			X	X	X	X	1/300 g.f.a.
Meat, Poultry & Fish Market			X	X	X	X	1/300 g.f.a.
Medical Clinic or Office			X	X	X	X	1/300 g.f.a.
Mini-warehouse					X	X	1/500 g.f.a.
Manufactured Home Sales Lot					X	X	1/1000 site area
Manufactured Home Storage					S	S	None
Massage Establishment					S	S	1/200 g.f.a.
Metal Building Sales					S	X	1/400 g.f.a.
Metal Supply						X	1/400 g.f.a.
Mortuary or Funeral Home					S	X	1/3 seats
Motorcycle Sales						X	1/200 g.f.a.
Movie Theater (drive-in)						X	1/employee
Movie Theater (indoor)						X	1/3 seats
Musical Instrument Store			X	X	X	X	1/200 g.f.a.
Newspaper Office			X	X	X	X	1/200 g.f.a.
Newsstand			X	X	X	X	1/200 g.f.a.
Nightclub or Dance Hall					S	X	1/100 g.f.a.

Commercial Uses:	A-1R	R-2	HD-1	C	LI	Parking	
Office Supply Store				X	X	X	1/200 g.f.a.
Optical Clinic or Office				X	X	X	1/200 g.f.a.
Optical Dispensary Store				X	X	X	1/200 g.f.a.
Paint Sales Store (retail)				X	X	X	1/200 g.f.a.
Paintball Sports/Survival Games						S	1/500 site area
Pawnshop					X	X	1/200 g.f.a.
Pet Grooming Shop					X	X	1/200 g.f.a.
Pet Shop					X	X	1/200 g.f.a.
Pharmacy or Drug Store				X	X	X	1/200 g.f.a.
Photography Studio				X	X	X	1/200 g.f.a.
Picture Framing Shop				X	X	X	1/200 g.f.a.
Plant Nursery				S	X	X	1/400 g.f.a.
Plumbing Sales & Service					X	X	1/400 g.f.a.
Pool or Billiard Hall					S	X	1/100 g.f.a.
Portable Metal Bldg Sales						X	1/400 g.f.a.
Portable Metal Container Sales						X	1/400 g.f.a.
Portable Metal Container Storage Facility							1/400 g.f.a.
Print Shop				X	X	X	1/400 g.f.a.
							1/100 g.f.a.
Professional Offices				X	X	X	1/300 g.f.a.
Racquetball Court					X	X	2/court
Race Track (All Types)						X	None
Real Estate or Leasing Office				X	X	X	1/300 g.f.a.
Recording Studio				X	X	X	1/300 g.f.a.
Recreational Vehicle Park						X	None
Recreational Vehicle Sales						X	1/400 g.f.a.

Recreational Vehicle Storage				X	S	1/400 g.f.a.
Rental Store				X	X	1/400 g.f.a.
Restaurant or Cafe(inside)				S	X	1/3 seats
Restaurant (drive-in)				S	X	1/100 g.f.a.
Restaurant (kiosk)				S	X	1/100 g.f.a.
Solar Farms					S	1/400 g.f.a.
Second Hand Store			X	X	X	1/200 g.f.a.
Service Station					S	4 minimum
Sexually Oriented Business					S	Specified by SUP
Shoe or Boot Store			X	X	X	1/200 g.f.a.
Shopping Center or Mall					S	1/200 g.f.a.
Sign Shop			X	X	X	1/400 g.f.a.
Skating Rink					S	1/400 g.f.a.
Snow Cone Stand			X	X	X	2 minimum
Sporting Goods Store			X	X	X	1/200 g.f.a.
Tack Store			X	X	X	1/400 g.f.a.
Tavern			X	X		
Tailor or Seamstress Shop			X	X	X	1/300 g.f.a.
Tanning Salon			X	X	X	1/200 g.f.a.
Tattoo Shop					S	1/200 g.f.a.
Taxidermist					S	1/400 g.f.a.
Tire Sales, Repair & Installation					S	1/400 g.f.a.
Title and Abstract Office			X	X	X	1/200 g.f.a.
Tobacco Sales			X	X	X	1/400 g.f.a.
Tool & Equipment Rental					S	1/400 g.f.a.
Trailer Sales & Rental					S	1/1000 site area
Travel Agency			X	X	X	1/300 g.f.a.
Trophy Sales			X	X	X	1/400 g.f.a.
Truck Rental					S	1/400 g.f.a.
Commercial Uses:		A-1R	R-2	HD-1	C	LI
Truck Repair					S	X
Truck Sales					S	X
Truck Wash					X	2/wash bay
Upholstery Shop				X	X	1/400 g.f.a.
Veterinary Clinic					S	X
Veterinary Hospital					S	S
Video Store			X	X	X	1/200 g.f.a.
Washateria (self-service)					X	1/wash machine
Wind Turbines					S	None
Industrial Uses:		A-1R	R-2	HD-1	C	LI
Airport					S	Specified by SUP
Ammonia Manufacturing						See Sec. X-E
Apparel Manufacturing					X	See Sec. X-E
Appliance Manufacturing					X	See Sec. X-E

Artificial Limb Manufacturing					X	See Sec. X-E
Asphalt Batching Plant					X	See Sec. X-E
Bakery, Commercial					X	See Sec. X-E
Bleach Manufacturing					X	See Sec. X-E
Bookbinding & Publishing					X	See Sec. X-E
Bottling Plant					X	See Sec. X-E
Box Manufacturing					X	See Sec. X-E
Brewery					X	See Sec. X-E
Brick or Tile manufacturing					X	See Sec. X-E
Canning Operation					X	See Sec. X-E
Carpet Manufacturing					X	See Sec. X-E
Chemical Storage or Mfg.						See Sec. X-E
Chlorine Manufacturing						See Sec. X-E
Cold Storage Plant					X	See Sec. X-E
Composite Manufacturing						See Sec. X-E
Composting (Commercial)						See Sec. X-E
Concrete Batching Plant						See Sec. X-E
Concrete Produce Casting Plant					X	See Sec. X-E
Contractor Yard-outside storage					X	See Sec. X-E
Creamery					X	See Sec. X-E
Creosote Manufacturing						See Sec. X-E
Distribution Center (small)					X	See Sec. X-E
Distribution Center (large)					X	See Sec. X-E
Distillation Plant					S	See Sec. X-E
Dyeing Plant					X	See Sec. X-E
Electrical Components Mfg.					X	See Sec. X-E
Electroplating					X	See Sec. X-E
Envelope Manufacturing					X	See Sec. X-E
Explosives Manufacturing						See Sec. X-E
Fertilizer Manufacturing					S	See Sec. X-E
Fiberglass Manufacturing						See Sec. X-E
Industrial Uses:	A-1R	R-2	HD-1	C	LI	Parking
Fireworks Manufacturing						See Sec. X-E
Food Processing					X	See Sec. X-E
Foundry					S	See Sec. X-E
Freight Terminal , Motor					X	See Sec. X-E
Freight Terminal, Railroad						See Sec. X-E
Furniture Manufacturing					X	See Sec. X-E
Garment Manufacturing					X	See Sec. X-E
Glass Manufacturing					X	See Sec. X-E
Glue Manufacturing					S	See Sec. X-E
Grainery or Gin					X	See Sec. X-E
Gypsum Manufacturing					S	See Sec. X-E
Heliport or Helistop					S	See Sec. X-E
Ice Cream Plant					X	See Sec. X-E
Ice Plant					X	See Sec. X-E
Incinerator						See Sec. X-E
Insecticide Processing						See Sec. X-E

Junkyard					S	See Sec. X-E
Laundry Plant					X	See Sec. X-E
Light Fabrication Plant					X	See Sec. X-E
Machine Shop					X	See Sec. X-E
Marble Manufacturing					X	See Sec. X-E
Mattress Manufacturing					X	See Sec. X-E
Meat, Poultry, & Fish Processing					X	See Sec. X-E
Metal Fabrication					X	See Sec. X-E
Metal Plating					X	See Sec. X-E
Metal Stamping and Extrusion					X	See Sec. X-E
Mining, Extraction Operation					S	See Sec. X-E
Monument Works					X	See Sec. X-E
Packaging Operation					X	See Sec. X-E
Paint Manufacturing						See Sec. X-E
Pallet Manufacturing					X	See Sec. X-E
Paper Mill						See Sec. X-E
Paper Products Manufacturing					S	See Sec. X-E
Pesticide Processing						See Sec. X-E
Petroleum Products (wholesale)					S	See Sec. X-E
Petroleum Refinery or Storage						See Sec. X-E
Pharmaceutical Manufacturing					X	See Sec. X-E
Planing Mill					X	See Sec. X-E
Plastic Product Manufacturing					S	See Sec. X-E
Pottery Manufacturing					X	See Sec. X-E
Radio Transmitting Station					X	See Sec. X-E
Recycling Processing Plant					S	See Sec. X-E
Rendering Plant						See Sec. X-E
Rock Crushing Plant						See Sec. X-E
Salvage Yard						See Sec. X-E
Industrial Uses:	A-1R	R-2	HD-1	C	LI	Parking
Smelter Plant						See Sec. X-E
Tanning Plant						See Sec. X-E
Television Transmitting Station					X	See Sec. X-E
Temporary Construction Office	S	S	S	S	X	None
Textile Manufacturing					X	See Sec. X-E
Tire Manufacturing					X	See Sec. X-E
Vehicle Conversion Facility					X	See Sec. X-E
Warehouse					X	See Sec. X-E
Welding Shop					S	See Sec. X-E
					X	

Notes to Schedule of Uses:

1--Allowed with mini-warehouse use only.

2--Home occupations are permitted when in accordance with Section XII. Home occupations not specifically permitted in Section XII may be permitted only with a special use permit.

3--Allowed until the development is sold out.

XIII. SPECIAL USE PERMITS AND HOME OCCUPATIONS

A. SPECIAL USE CRITERIA

No application for a special use permit shall be granted by the City Council unless the City Council finds all of the following conditions are present:

1. That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare;
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use;
3. That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. That adequate utilities, access roads, drainage and other necessary site improvements have been provided;
5. That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
6. That the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.

B. CONDITIONS AND GUARANTEES

Prior to the granting of any special use permit, the *city council* may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary to protect the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in Subsection A above. In all cases in which special use permits are granted, the City Council shall require such evidence and written guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

C. EFFECT OF DENIAL OF APPLICATION

No application for a special use permit which has been denied wholly or in part shall be resubmitted for a period of ninety (90) days from the date of said denial.

D. HOME OCCUPATIONS CRITERIA

The purpose of this section is to permit the conduct of home occupations which are not incompatible with the neighborhoods in which they are located. Such home occupations are permitted as an accessory use in the residential district and are subject to the requirements of that district in which the use is located, in addition to the following:

1. Only the person or persons residing in the dwelling shall be engaged in the home occupation;
2. The home occupation shall be conducted only within the enclosed area of the dwelling unit, garage, or accessory buildings. No storage or display of materials, goods, supplies, or equipment related to the operation of home occupation shall be visible outside any structure on the premises;
3. Not more than twenty-five percent (25%) of the living area of the principal building, up to a maximum of 300 square feet, shall be devoted to the home occupation;
4. There shall be no exterior alterations which change the character thereof as a dwelling or exterior evidence of the home occupation;
5. No home occupation shall create smoke, fumes, glare, noise, dust, vibration, electrical interference or any other nuisance not normally associated with the average residential use in the district;
6. No home occupation shall become a fire hazard;
7. The home occupation shall not create any significant increase in vehicular flow or parking and shall not create greater pedestrian traffic than normal for the residential district;
8. No home occupation shall cause a significant increase in the use of any utilities, or generate trash or refuse beyond the average of the residences in the neighborhood; and
9. No advertising sign may be placed on the premises.

A use considered not within the scope of these home occupation provisions shall be subject to the provisions of the commercial or industrial zones of this ordinance or require a special use permit.

E. QUALIFYING HOME OCCUPATIONS:

The following are home occupations which are permitted to be conducted in a residential zone provided it is in accordance with the section or other city ordinance or state and federal law. The following uses listed automatically qualify as a home occupation: music instruction, handicraft, dressmaking, preserving, accountant, artist, author, business or management consultant, individual tutoring, millinery, child care of no more than six (6) children, and home-based computer service businesses.

F. SPECIAL RESIDENTIAL USE REGULATIONS:

Special Residential Use authorized by a special use permit shall solely be for the purpose of providing residential facilities for the company's employees for use in relation or incidental to the primary function and needs of the company.

XIV. OFF STREET PARKING AND LOADING REQUIREMENTS GENERALLY

A. PURPOSE

To secure safety from fire, panic and other dangers; to lessen congestion in the streets; to facilitate the adequate provision of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land, minimum off-street parking and loading areas shall be provided as set forth in the following schedules and provisions.

B. GENERAL PROVISIONS FOR OFF-STREET PARKING

1. Off-street parking required by this zoning ordinance shall be on an all-weather surface and shall be connected by an all-weather surfaced driveway to an approved public or private street or alley. For new construction or development started after the effective date of this ordinance, an all-weather surface shall be either asphalt or concrete pavement, crushed rock, stone, gravel or other similar semi-permeable surface. For existing development and new residential development located on one or more acres started after the effective date of this ordinance, an all-weather surface shall be either asphalt or concrete pavement, crushed rock, stone, gravel or other similar semi-permeable surface.
2. No parking space shall be less than eighteen feet (18') in length (22' for parallel parking) and nine feet (9') in width. Exception: parking spaces may be reduced in length when a tire-stop curb is installed sixteen feet (16') from the maneuvering lane and a clear space of two feet (2') is provided for a vehicle overhang. The overhang is not permitted over public property or a setback in which parking is not permitted.
3. Required off-street parking for residential uses shall be provided on the lot or tract occupied by the principal use. Required off-street parking for non-residential uses shall be provided on the lot or tract occupied by the principal use; however, the city may permit either required or additional off-premise parking, as a special exception, under such regulations and conditions as the board of adjustment may deem advisable when the proposed parking is on a platted lot within three hundred feet (300') of the principal use property. In the case of churches, off-site parking may be permitted by the board; provided, it is located within one thousand (1,000) feet of the church building. The city council shall approve the location of entrances and exists to these parking facilities and may require screening devices along the parking facility boundaries.
4. In determining the required number of parking spaces, fractional spaces shall be counted to the nearest whole space. Parking spaces located in buildings used for repair garages or car washes shall not be counted as meeting the required minimum parking.
5. The floor area of structures devoted to off-street parking of vehicles shall be excluded in computing the floor area for off-street parking requirements.
6. Where a lot or tract of land is used for a combination of uses, the off-street parking requirements shall be the composite or sum of the requirements for each type of use and no off-street parking space provided for one type use shall be included in calculation of the off-street parking requirements for any other use or building except as prescribed by this zoning ordinance.

7. Head-in parking spaces so situated that the maneuverings of a vehicle in entering or leaving such spaces is done on a public street or within public right-of-way shall not be classified as off-street parking in computing any parking requirements herein. The construction of head-in parking facilities in existence at the same time of the enactment of this section are hereby declared to be a non-conforming use of land subject to the provisions of Section XVIII of this ordinance.
8. No off-street parking facility shall be located, either in whole or in part, in a public street or sidewalk, parkway, alley, or other public right-of-way.
9. No off-street parking shall be located, either in whole or in part, within any fire lane required by the city or within aisles, driveways or maneuvering areas necessary to provide reasonable access to any parking space.
10. Tandem parking is prohibited, unless specifically authorized by variance granted by the board of adjustment.
11. No required off-street parking facility shall be used for sales, non-vehicular storage, repair or service activities.
12. Lighting facilities, if provided, shall be so arranged as to be reflected away from property zoned or used for residential purposes.
13. For all multi-family and non-residential uses, parking spaces shall be striped or otherwise clearly designated on the parking facility surface, and shall not include any fire lane or other area necessary for aisles or maneuvering of vehicles.

C. PARKING IN YARDS PROHIBITED

No person shall park any vehicle or trailer in any front yard in any residential district except on all-weather parking surface which is provided to accommodate off-street parking.

D. HANDICAPPED PARKING REQUIREMENTS

The owner of private property open to the public for public purposes shall designate specific parking spaces for the disabled in conformance with the rules promulgated by the State Purchasing and General Services Commission. All such spaces shall be striped and designated by signs located where they will not be obscured.

E. OFF-STREET LOADING REQUIREMENTS

All commercial and industrial uses shall be provided with off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. Such off-street loading space may be adjacent to a public street or alley, private service drive, or may consist of a truck berth within the structure. No loading docks shall be constructed facing on any public street or highway unless said loading dock is at least seventy-five feet (75') inside the right-of way line of the street or highway on which said loading dock fronts.

Such off-street loading space or truck berth shall consist of a minimum area of ten feet by forty-five feet (10' x 45') and such spaces or berths shall be provided in accordance with the following schedule:

<u>Square Feet of Gross Floor Area in Structure</u>	<u>Minimum Required Spaces or Berths</u>
0 to 5,000	0
5,000 to 25,000	1
25,000 to 45,000	2
45,000 to 65,000	3
65,000 to 100,000	4
Each additional 50,000 or portion thereof	1

The existence of a twenty foot (20') alley adjacent to the property shall be construed as equivalent to one (1) berth. All off-street loading spaces shall have an all-weather surface of asphalt or concrete construction and shall be accessible by a street, driveway or alley.

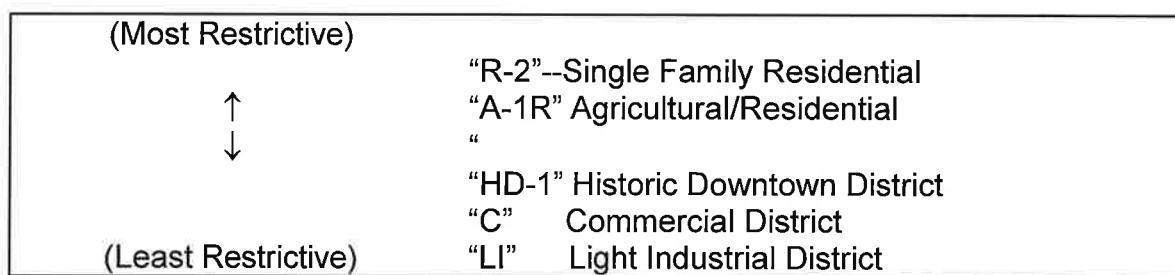
F. COUNTING PARKING AND LOADING SPACE TWICE PROHIBITED

No part of any off-street parking or loading space required in connection with any building for the purpose of complying with these zoning regulations shall be included as a part of any off-street parking or loading space similarly required for any other building.

XV. SCREENING REQUIREMENTS

A. SCREENING REQUIRED BETWEEN INCOMPATIBLE ZONING DISTRICTS

Insofar as practical, screening must be erected, placed, grown and maintained along the common boundary line of incompatible zoning districts before any use is made of the property. This screening requirement shall be the responsibility of the owner of the less restrictive district, with the spaced single family residential district (R-2) being the most restrictive and the light industrial district (LI) being the least restrictive district. This is illustrated by the following chart:



Such screening shall not be less than six feet (6') in height nor greater than eight foot (8') in height. However, no fence, wall, or hedge on a corner lot shall have a height in conflict with the regulations governing visibility at intersections as prescribed in Section IV-C-6 of this ordinance.

XVI. CLASSIFICATION OF NEW AND UNLISTED USES

It is recognized that new types of land uses will develop and forms of land use not anticipated may seek to locate in the city. In order to provide for such uses and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

- A. The applicant shall refer the question of any new or unlisted use to the Planning and Zoning Commission and request an interpretation as to the zoning classification into which such use may be placed. Such request shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, toxic material and vibration likely to be generated and the general requirements for public utilities and sanitation collection.
- B. The Planning and Zoning Commission shall then consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, and after public hearing, determine the zoning district or districts within which such use should be permitted.
- C. Following its decision, the Planning and Zoning Commission shall submit its recommendation to the city council **for final approval who shall follow** the same procedures as outlined in Section XVIII pertaining to amendments, including the public notice and hearing requirements, when considering any zoning classification request for a new or unlisted land use.
- D. The same procedures should be followed as outlined in Section XVIII pertaining to amendments, including the public notice and hearing requirements, when considering any zoning classification request for a new or unlisted land use.

XVII. NONCONFORMING USES

A. DEFINITION OF NONCONFORMING USE OR STRUCTURE

A use or structure shall be considered as a nonconforming when on the effective date of this zoning ordinance:

1. a use or structure does not conform to the regulations prescribed in the zoning district in which such use or structure is located but was in existence and lawfully operating prior to the adoption of this zoning ordinance, or
2. Should the owner or occupant of a legal nonconforming building or use as defined by this ordinance desire to change, alter, enlarge, or otherwise modify the nonconforming building or use, he or she shall be required to:
 - a. file an affidavit with the city stating that such building or land occupied by the nonconforming building or use was, to the best of the owner or occupant's knowledge, in lawful use and lawfully existing as of the date of adoption of this

ordinance. Said affidavit shall include a statement providing the basis for the person's knowledge of the statement made; and

- b. submit an application and certification that the nonconforming building or use was in existence as of the date of adoption of this ordinance, the city may issue a certificate of occupancy for the lawful nonconforming building or use in accordance with the rules and requirements for such issuance.

B. BUILDING ON NONCONFORMING LOTS OF RECORD

In any district in which residential, commercial or industrial buildings are permitted, buildings may be erected on any single lot of record, provided there is access to such buildings or houses from a street and it is in the same ownership as recorded on the effective date of this ordinance. This provision shall apply even though such lot or lots fail to meet the minimum requirements for area, width, or depth, for the district in which located; however, all other requirements shall still apply. No building or structure shall be constructed on multiple lots. Whenever construction is desired on multiple lots, the property owner or his/her agent shall replat the property into a single lot.

C. EXPANSIONS OR ENLARGEMENTS PROHIBITED

Repairs and alterations may be made to a legal nonconforming building, provided that no structural alterations shall be made except those required by law or ordinance, unless the building is changed to a conforming use. No nonconforming use or building may be expanded or increased beyond the lot or tract of land upon which such non-conforming use or structure is located after the passage of this ordinance except to provide off-street loading or off-street parking space facilities. However, the board of adjustment shall have the authority after a hearing to grant extension of a nonconforming building not to exceed 25% of the existing building area in case of hardship.

To avoid undue hardship, nothing in this section shall be deemed to require a change in the plans, construction or designated use of any building for which a building permit has been properly secured from the city.

D. WHEN DISCONTINUED, CONFORMANCE REQUIRED

The lawful use of a building or land existing at the date of enactment of this ordinance, although such use does not conform to the provisions hereof, may be continued. However, if the nonconforming use of any land is discontinued for a period of sixty (60) consecutive calendar days, it shall not thereafter be resumed and any future use of such land shall be in conformity with this zoning ordinance. If a nonconforming building or structure is discontinued for a period of six (6) consecutive calendar months, it shall not thereafter be resumed and any future use of such building or structure shall be in conformity with this zoning ordinance. Upon evidence of hardship, the board of adjustment shall have the power to extend the time limits for the non-conforming use, building, or structure not to exceed one (1) year.

E. CLASSIFICATION CHANGES

A nonconforming building changed to a conforming use or building may not thereafter be changed back to a non-conforming use or building. Also, whenever a nonconforming use

of a building or structure is changed to a use of a more restrictive classification, such use shall not thereafter be changed to a use of a less restricted classification. For the purpose of this regulation, the most restrictive zoning classification shall be specified in the chart located in Section XVI-A of this zoning ordinance.

F. WHEN RESTORATION ALLOWED

A nonconforming building or structure destroyed or damaged by fire, flood, wind, earthquake, explosion or other casualty, or by the public enemy, to the extent where the cost of restoration would amount to less than fifty percent (50%) of its assessed value may be restored. If the damage is in excess of fifty percent (50%) of its value, application for restoration shall first be made to the board of adjustment to permit such restoration. The board may grant or deny such restoration only after public hearing and taking into consideration the property owner's circumstances and the effect on the surrounding property. Homeowners, as shown by the city tax records on the effective date of this ordinance, shall be able to restore their property regardless of the extent of destruction, without making application to the board of adjustment. However, said restoration shall comply with all construction codes then in effect within the city and reconstruction must be started within six (6) months. The failure to start restoration or reconstruction within six (6) months shall forfeit the owner's right to restore to reconstruct the same unless as a conforming building or structure.

XVIII. AMENDMENTS

A. GENERAL

The zoning regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or replaced. Such amendments, supplements, changes, modifications or repeal shall be deemed to amend, supplement, change, modify or repeal the comprehensive plan of the city and shall become a part of such comprehensive plan.

An amendment to this ordinance may be initiated at the request of the owner, his/her agent, the designated administrative official, the planning and zoning commission or the city council on its own motion when it finds that the public may benefit from the consideration of such matter.

B. PROCEDURE

All requests for amendments to zoning district boundaries shall be submitted, together with required fees to the designated administrative official, whom shall ensure that proper procedures are initiated thereafter in accordance with state law and these regulations. These procedures shall be as follows:

1. Notice of the time and place of a public hearing at which parties in interest and citizens have an opportunity to be heard shall be published in an official newspaper or a newspaper of general circulation in the community at least 16 days before the date of the public hearing.
2. Notice of the proposed change in zoning classification shall be sent to each owner, as indicated by the most recently approved City of St. Hedwig municipal tax roll, of real

property within 200 feet of the property on which the change in classification is proposed at least 11 days before the date of the public hearing. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in the territory annexed to the municipality and is not included on the most recently approved tax roll, notice shall be given in the manner provided in Section B (1).

3. The Planning and Zoning Commission shall make a preliminary report on all proposed changes and hold public hearings thereon before submitting its final report to the City Council.
4. The City Council may not adopt the proposed zoning change until the 31st day after the date the notice required by Section B (2) is given.
5. In cases where the City Council deems it feasible to do so, public hearings provided for herein to be held before the Planning and Zoning Commission and the City Council respectively, may be held jointly before the Commission and the Council, and the City Council shall not take final action until it has received the final report of the Zoning Commission.
6. If a proposed change to a regulation or boundary is protested in accordance with this ordinance, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the City Council. The protest must be written and signed by the owners of at least 20 percent of either:
 - (a) the area of the lots or land covered by the proposed change; or
 - (b) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

In computing the percentage of land area under section B (4), the area of streets and alleys shall be included.

Requests for changes in zoning districts shall include the proposed designation or designations for the area concerned. Alternative proposals may be made at the time of filing the original request for amendment, however, all hearings and deliberations shall be limited to the request as submitted by the applicant at the time of original filing.

D. HEARINGS AND NOTICES During the hearing described in section B (1), the city council may make a report based on the input received from the hearing's attendees and may include in the minutes from the hearing a synopsis of the comments and questions posed by the public regarding the proposed zoning change. The city council shall take said input, comments and questions into consideration during the meeting at which final action is taken on the proposed zoning change.

XIX. PLANNING AND ZONING COMMISSION**A. CREATION**

1. There is hereby created a planning and zoning commission of the city.

B. MEMBERSHIP, APPOINTMENT, TERMS OF OFFICE AND REMOVAL FROM OFFICE

1. The commission shall consist of five members who shall serve without compensation and shall be appointed by the city council. Members shall be residents of the city, taxpayers, and qualified voters. If a member of the commission ceases to reside in the city, that person shall be deemed to have resigned from the commission as of the date of his residence change and the city council shall appoint a new commission member to fill the remainder of the resigning member's term. Administrative officials of the city may be appointed as ex-officio, nonvoting members of the commission.

2. The members of the commission shall serve four-year staggered terms with even-numbered positions being appointed in January of even-numbered years and odd-numbered positions appointed in January of odd-numbered years. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve a full term.

3. Unless otherwise required by state law, all members serve at the pleasure of the city council and may be removed at any time with or without cause.

C. POWER AND DUTIES OF THE COMMISSION. The planning and zoning commission shall serve in an advisory capacity to the mayor and city council and shall have the following authorities, powers and duties:

1. Develop, support, and recommend updates and amendments to the city's comprehensive plan for the orderly growth and development of the city at the direction and with the approval of the mayor and city council.

2. Develop, support, and recommend updates and amendments to various city ordinances to facilitate the implementation of the goals of the comprehensive plan.

3. Draft and recommend to the city council, for its action, an official zoning map of the city and recommend changes to such map.

4. On a continuing basis, review and make recommendations to the city council, for its action, policies with respect to annexation, capital improvements and other matters affecting the development of the city.

5. Recommend to the city council the hiring of a planner, engineer or consultant to assist in fulfilling any of the duties of the commission.

6. Perform such other duties and functions as the city council may, from time to time, grant to the commission for the purpose of promoting the health, safety, morals or general welfare of the city.

D.ORGANIZATION AND MEETINGS.

1. The commission shall have a chairperson and vice-chairperson elected from its membership to serve for a one-year term. Officers shall be elected annually at the first meeting in January by the commission. The chairperson shall preside over the commission and shall have the right to vote on all items before the commission. The vice-chairperson shall fulfill the duties of the chairperson when the chairperson is not available for any reason. The commission may elect other officers as necessary to conduct the business of the commission.

2. The commission may adopt and establish such rules, regulations or bylaws as necessary for the orderly conduct of its business, subject to the approval by the city council.

3. The commission will hold regularly scheduled quarterly meetings unless otherwise required and posted. All meetings shall be at a time and place established by the commission and shall be held in accordance with the Texas Open Meetings Act. Special meetings may be called by the city council, chairperson, administrative official, or upon the written request of any three commission members.

4. A quorum shall consist of a majority of the members of the commission, except that when a vacancy exists, a quorum shall consist of a majority of the members without regard to the vacancy. The concurring vote of a majority of members present is necessary to make a valid motion, decision, or recommendation of the commission. The commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.

5. Recognizing that members serve voluntarily and that the business of the commission is advisory in nature, and keeping a proper balance between those principles and the important nature of the public business entrusted to the commission, the following attendance policy shall apply to all members of the commission:

6. If a member is absent for three consecutive meetings, unless otherwise excused as indicated herein, his appointment shall be terminated. In addition, any member who misses an unreasonable number of meetings, which may not necessarily be consecutive but without excuse as set forth, may be removed by majority vote of the city council.

7. Absences may be excused if caused as a result of illness, death of a family member or close personal friend, scheduled vacation, business, travel, or other extraordinary circumstances. The chairperson of the commission shall be responsible for determining whether an absence may be excused.

8. Members shall strive to notify the chairperson or other appropriate officer of the commission in advance of any known or planned absence to enable the chairperson or

other officer to determine if a quorum will be present. Failure to give reasonable notice may be considered when determining whether an absence shall be excused.

9. A public record shall be kept of all transactions, findings, resolutions, determinations and actions of the commission as required by law. All public records shall be open to the public under the Open Meetings Act.

10. A commission member having any potential conflict of interest on any policy decision, or determination before the commission shall disclose such conflict, shall recuse themselves from discussion on the topic involving such conflict and shall abstain from voting on such policy, decision or determination and shall comply with the requirements of Chapter 171 of the Texas Local Government Code. The disclosure of a conflict of interest shall be recorded in the commission's minutes.

XX. BOARD OF ADJUSTMENT

A. MEMBERSHIP AND ORGANIZATION

There is hereby created a board of adjustment which shall consist of five (5) members who are residents of the city, or who reside in the city's extraterritorial jurisdiction, each to be appointed by the Mayor **with ratification by the City Council** for a staggered term of two (2) years. The Mayor shall designate one (1) member as chair. Members may be removed for cause following a public hearing. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause, in the same manner as the original appointment was made. City Council shall appoint two individuals as alternates to serve in the absence of one or more regular members when requested to do so by the Mayor or the City Manager. The alternates shall serve for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

Each member of the Board after being appointed by the Mayor shall attend a training on the authority and procedures of the Board of Adjustment. This requirement may be satisfied by attendance at a training session approved by the City Council, given by a person selected by the City Council or conducted by a person of the Board's choice so long as the person is qualified to provide the information necessary for the Board member to fulfill his or her duties under applicable law. Failure to satisfy this requirement within 90 days of appointment shall constitute cause for removal in accordance with section XIX - A.

The board shall adopt rules by a majority vote to govern its proceedings, provided that such rules are not inconsistent with state law or this ordinance. Meetings shall be held in accordance with the Texas Open Meetings Act, at the call of the chair and at such other times as the board may determine. All cases to be heard by the board shall be heard by at least 75 percent of its members. The chair, or in his/her absence, the vice-chair may administer oath and compel the attendance of witnesses. The board shall keep minutes of its proceedings, including the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other

official actions, all of which shall be immediately filed in the office of the city secretary and shall be a public record.

B. AUTHORITY OF THE BOARD

The Board of Adjustment may:

(1) hear and decide an appeal that alleges an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of Chapter 211 of the Local Government Code or this ordinance;

(2) hear and decide special exceptions to the terms of the zoning ordinance when the ordinance requires the board to do so;

(3) authorize in specific cases a variance from the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, off-street loading regulations, lot area, maximum height, or building, if the variance is not contrary to the public interest and due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done;

(4) Hear appeals on zoning boundary disputes;

(5) Initiate on its own motion or cause presented by interested property owner's action to bring about the discontinuance of a nonconforming use;

(6) Require the discontinuance of a nonconforming use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance;

(7) Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure beyond what is permitted by Section XIII; and

(8) hear and decide other matters authorized by the City's zoning ordinance.

In exercising its powers under this ordinance and the Local Government Code, the Board may reverse or affirm in whole or in part, or may modify an administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.

The concurring vote of 75 percent of the members of the board is necessary to:

(1) reverse an order, requirement, decision or determination of an administrative official;

- (2) decide in favor of an applicant on a matter on which the board is required to pass under the zoning ordinance; or
- (3) authorize a variation from the terms of this zoning ordinance as provided for herein.

C. LIMITATIONS ON POWER TO GRANT VARIANCES

1. Such variances will not be contrary to public interest.
2. Such variance will not authorize the operation of a use other than the one that is specifically authorized for the district in which the subject property is located.
3. Such variance will not substantially or permanently injure the appropriate use of adjacent or nearby conforming property in the same district.
4. Such variance will be in harmony with the spirit and purpose of this ordinance.
5. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.
6. The variance will not adversely affect the public health, safety or welfare.

D. BOARD PROCEDURES

Appeals to the board can be taken to the board by any person aggrieved by any decision of the city manager or his/her designated zoning administrator; or by any officer, department, board, or bureau of the City affected by the decision, with the exception of a member of the city council who also serves as a member of the board of adjustments.

The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. Such appeal shall be filed within fifteen (15) days after the decision has been rendered. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless, the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In such case, proceedings may be stayed only by a restraining order granted by the board or a court of record on application after notice to the official, if due cause is shown.

No appeal to the board for the same or related variance on the same piece of property shall be allowed prior to the expiration of one hundred eighty (180) days from a previous ruling of

the board on any appeal to such body unless other property in the immediate vicinity has, within the said 180 days period been changed or acted on by the board or city council so as to alter the facts and conditions on which the previous board action was based. Such change of circumstances shall permit the re-hearing of an appeal by the board, prior to the expiration of the one hundred eighty day period, but such conditions shall in no way have any force in law to compel the board, after a hearing, to grant a subsequent appeal such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

All appeals shall be set for a hearing before the board no later than 30 days after the date on which a notice of appeal has been filed. The board shall publish notice of the hearing to the public and to all parties in interest. At a public hearing relative to any appeal, a party may appear in person or by his or her agent or attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the board on any appeal or variance request. The board shall render a decision on the appeal within 30 days.

Any variance granted or authorized by the Board under the provisions of this ordinance shall authorize the issuance of a building permit or certificate of occupancy, as the case may be, for a period of 90 days from the date of the favorable action of the board unless said board shall have in its action approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit and/or certificate of occupancy shall not have been applied for within said 90 day period or such extended period as the board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

The board shall hold a public hearing on all requests for special use permits and variances and written notice of such public hearings shall be sent to the applicant and any other interested parties.

Fees

All applications for special use permits and variances shall be submitted along with the appropriate fee set forth in the City's schedule of fees described in Section II. D. of this ordinance.

E. SITE PLAN AND SUPPORTING DOCUMENTS REQUIRED--PETITION FOR ZONING DISTRICT CHANGE OR SPECIAL USE PERMIT

When, in the opinion of the designated administrative official, planning and zoning commission or the city council, greater information is required from the applicant concerning the nature, extent and impact of his or her request than supplied with his or her application for a change in zoning or special use permit request, in order to properly review and evaluate all relevant factors thereof, the planning and zoning commission and/or city council may require the applicant to submit a site plan and/or supporting documents

conforming with all or a portion of the requirements set forth in this section, prior to rendering a decision thereon.

The applicant is encouraged to meet with the designated administrative official in an informal work session to ascertain the exact extent of plans and documents required, if any, prior to the city initiating the advertisement for public hearing on the petition.

The general type and extent of plans and supporting documents which may be required of the petitioner include, but are not necessarily limited to:

1. Site Plan--Meeting all of the requirements of a "preliminary plat," as described in the city's subdivision regulations, except that topographic and drainage map information provisions may be waived by the reviewing body when the inclusion of such data would not materially contribute to the necessary evaluation of the project's petition. Additional site plan drawing information which the reviewing body may require include:
 - a. Existing and proposed zoning district;
 - b. A tabular summary schedule indicating:
 - (1) The gross acreage and percent of zoning category proposed;
 - (2) The gross acreage and percent of each type of land use proposed, with streets and open space categories listed separately, and residential uses further stratified as to type, i.e., single family, two-family, multi-family, townhouse, etc., including the total gross project acreage;
 - (3) The gross residential density of each type of residential land use proposed, expressed in dwelling units per acre; and based on net residential land use plus one-half (1/2) of any abutting street only;
 - (4) The quantitative number of dwelling units proposed for each residential dwelling type, i.e., single family, two-family, etc.; and
 - (5) Proposed maximum lot coverage by building and land use types, i.e., "A-1R", "R-2", "HD-1", "C", and "LI" expressed in terms of percent or floor area ratio of the lot or site;
 - c. General outline of extensive tree cover areas;
 - d. Drainage ways and 100-year flood plain limits;
 - e. Proposed treatment for screening the perimeter of the land embraced by the petition, including screening of internal separations of land use, where required;
 - f. Proposed internal non-vehicular circulation linkages, such as: pedestrian paths and hike trails; and equestrian bridle paths, where applicable, including their interrelationships with vehicular circulation systems and proposed handing of points of conflict; and .
2. Architectural Drawings--Elevations, concept sketches, or rendering depicting building types and other significant proposed improvements, including the treatment and use of open spaces, etc., where the submission of such drawings would more clearly portray the nature and character of the applicant's land use and development proposals; and

3. Written Document--In narrative form on 8-1/2" x 11" sheets, including:

- a. Statement(s) on planning objectives to be achieved in use/development proposal, including a narrative description of the character of the proposed development and rationale behind the assumptions and choices made by the applicant, including use and ownership of open spaces, etc.;
- b. Legal descriptions of the total site area proposed for rezoning, development, or conditional use permit;
- c. A development schedule indicating the approximate date(s) when construction of the proposed development, and subsequent stages or phases thereof, is any, can be expected to begin and be completed, to the best of the applicant's knowledge and belief;
- d. A statement as to the present and proposed ownership of the site or parcels thereof embraced by the application;
- e. Economic feasibility and/or market analysis studies, when deemed necessary by the reviewing body to adequately assess the necessity for zoning certain parcels to the sizes indicated by the applicant, or to evaluate the need for granting a conditional use permit;
- f. Environmental assessment statement, prepared pursuant to the National Environmental Policy Act of 1969, and any subsequent amendments thereto, when deemed necessary by the reviewing body to properly assess the impact of the proposed development/land use on the existing environment;
- g. Statement(s) as to how and when the applicant proposes to provide water, sewer **and gas** to the development; and
- h. Signature, title and date of the applicant, at the conclusion of the written documents certifying the information presented in the plans and supporting documents reflecting a reasonably accurate portray of the general nature and character of the proposals.

F. APPEAL OF BOARD ACTION

Any person or persons, jointly or severally aggrieved by any decision of the board, any taxpayer or any officer, department or board of the municipality may present to a district court, county court, or county court at law a verified petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within ten days after the decision of the board and not thereafter.

XXI. DEFINITIONS

For the purpose of this zoning ordinance, certain terms and words are defined and shall have the meanings ascribed in this ordinance unless it is apparent from the context that different meanings are intended.

Words used in the present tense include the future tense, words singular form include the plural, and words in the plural form include the singular. The word "building" includes the word "structure," except as otherwise specified. The term "use" means "used or intended to be used for, or arranged or designed for use." The word "shall" is mandatory not directory; the word "may" is permissive. The word "person" includes a firm, association, organization, partnership,

trust foundation, company or corporation as well as an individual. The word "including" means "including, but not limited to."

Accessory Building- A subordinate building which is incidental to that of the main building on the same lot. Accessory buildings in residential districts shall be limited to: attached or detached garages, carport, storage building, bath house, greenhouse, tornado, bomb or fallout shelter, stable, and barn.

Accessory Use- A subordinate use which is incidental to the main or primary use.

Adult Arcade- Any place which the public is permitted or invited wherein coin-operated, token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sexual activities or specified anatomical areas.

Adult Bookstore- A commercial establishment which as one its principal business purposes offers for sale or rental for any form of consideration books, magazines, periodicals or other printed matter which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Adult Cabaret- A nightclub, bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of nudity or give live performances which are distinguished or characterized by an emphasis on the exposure of specified anatomical areas or by an emphasis on specified sexual activities.

Adult Motel- A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or special anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
2. Offers a sleeping room for rent for a period of time that is less than ten hours; or
3. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten hours.

Adult Movie Theater- A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, video reproductions, slides or other visual representations are regularly shown which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Adult Video Store- A commercial establishment which as one its principal business purposes offers for sale or rental for any form of consideration photographs, films, motion pictures, video

cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Agricultural Use- The use of land for farming or raising livestock. To be classified as agricultural, the use must be consistent with agricultural use as defined by Bexar County Appraisal District.

Alley- A way which affords only a secondary means of access to abutting property.

Applicant- The legal or beneficial owner, or duly appointed owner's representative, of the land proposed to be included in the application. The holder of an option or contract to purchase, a lessee having a remaining term of not less than four (4) years, or other person having an enforceable proprietary interest in such land, shall be deemed to be an applicant for the purposes of this Ordinance. Applicant, if not the owner, must submit the written approval of the owner for the request.

Amusement Park- Any building, lot, tract, or parcel of land used in whole or part for the operation and maintenance of a circus, carnival, miniature golf course, golf driving range, batting cages, skating rinks, go-kart racing tracks and/or minstrel shows.

Animal Hospital or Clinic- A facility operated by a veterinarian for the purpose of examining and treating animals including outdoor facilities for caring for the animals and allowing the keeping of animals overnight.

Animal Shelter- A facility that keeps impounded stray, homeless, abandoned, or unwanted animals.

Apartment- A room or suite of rooms in an apartment building intended, designed, or occupied as a home or residence by a single family, individual, or group of individuals living together as a single housekeeping unit.

Apartment (Multi-Family) Building- Any building which is intended, designed, or occupied as the home or residence of three (3) or more families living independently of each other and maintaining separate cooking facilities.

Arcade- A public place of business where 50% or more of the gross sales are derived from amusement machines. The term amusement machine shall mean every machine of any kind of character whatsoever, when such a machine is capable of use or operations for amusement, other than for the purpose of vending merchandise, music, or a service such as telephone service, laundry service, etc. Included in the description of amusement machines, and all other machines which are designed for challenge, entertainment, or pleasure.

Art Gallery- An establishment for the display of works of art, including the sale of the items exhibited.

Asphalt, Concrete Batching Plant- A facility, permanent or temporary, which mixes asphalt or cement with various aggregates and water in large quantities for transport elsewhere.

Auto Repair Shop- A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

Auto Sales Lot- An open area or lot used for the display or sale of automobiles, where no repair work is done except minor reconditioning of the cars to be displayed and sold on the premise, and no dismantling of cars for sale or keeping of used car parts or junk on the premises.

Bakery, Retail- An establishment which produces bakery goods and various confectionery items, such as rolls, bread, etc. for direct sale to the consumer.

Bank-A financial institution, including a bank, savings bank, savings and loan, or other similar institution however designated, which transacts business with its customers in an interior-banking lobby. A bank may also include a drive-thru bank. An administrative office is one which is solely involved in managing the internal administration of a bank and which does not directly transact any business with the bank's customers.

Bar or Tavern-An establishment where liquors are sold to be consumed on the premises.

Basement- A story below the first story of a building.

Block- That property abutting on one side of a street and lying between the nearest intersecting or intersecting streets or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier to or gap in the continuity of development along such street.

Boarding (rooming) House- A dwelling wherein lodging or meals for three (3) or more persons, not members of the principal family therein, is provided for compensation, but not including a building in which ten (10) or more guest rooms are provided.

Buffer Area- An area of land together which specified planting and/or structures thereon, which may be required between land uses of different intensities to eliminate or minimize conflicts between such uses.

Building- Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

Building Area- Means the portion of the lot remaining after the required yards have been provided.

Building Height-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 for a gable and hip roof.

Building Materials and Lumber Yard- A business which stocks building materials, such as fencing, wire, bricks, cement, and lumber, for use in building construction and landscaping.

Business- Includes retail, commercial, personal services, excavation, manufacturing and industrial operations and uses.

Business Office- A room or group of rooms where the general administration and affairs of a business are carried on, but where no retail transactions are conducted.

Cabinet Shop- A building and/or premises used for the design and construction of cabinets, shelves and similar structures for subsequent sales, installation and use in homes, businesses and offices.

Car Wash- A building, or portion thereof, where automobiles or other motor vehicles are automatically or manually washed regularly as a business.

Cellar- A building story with more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

Cemetery- Land used or intended to be used for the burial of deceased humans, including mausoleums and mortuaries.

Certificate of Occupancy- An official certificate issued by the City of St. Hedwig which indicates conformance with or approved conditional waiver from the zoning regulations or building code regulations and authorizes the legal use of the premises for which it is issued.

Child Care Center or Facility- A facility that provides care or supervision for children who are not related by blood, marriage, or adoption to the owner or operator of the facility for less than twenty four (24) hours a day for more than twelve (12) children under the age of fourteen (14), whether or not the facility is operated for profit or charges for the services it offers.

Child Day Care Home- A facility, sometimes referred to as a "Registered Family Home," that regularly provides care in the caretaker's own residence for not more than six (6) children under the age of fourteen (14) years of age, excluding the caretaker's own children. When more than six (6) children are kept in the home, it shall be considered as either a "Group Day Care Home" or "Child Care Center."

Church or Rectory- A place of worship and religious training of recognized religions including the on-site housing of ministers, rabbis, priests, and nuns.

Clinic- A group of offices for one or more physicians, surgeons, opticians or dentists to treat patients who do not remain overnight.

Commercial- The land use or other activity involving the sale of goods or services for financial gain.

Commission-The Planning and Zoning Commission of the City of St. Hedwig.

Community Center- A building used for the social or recessional activities serving the city, neighborhood, or apartment complex.

Condominium- See "Townhouse."

Contractor Yard- A building and/or premises for the storage of materials, tools, products and vehicles used in the conduct of a construction business related to heating and air conditioning service, building construction, electrical service, landscaping service, plumbing service, utility service, etc.

Convalescent Center- Any building or structure used for or customarily occupied by persons recovering from illness or suffering from infirmities of age.

Country Club (Private)- An area of land containing either a golf course or tennis courts, or both, and a clubhouse and which is available to members only. Country clubs may contain adjunct facilities such as private club, dining room, swimming pool, and other similar recreational or service facilities.

Courtyard- An open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building; or the open space provided for access to a dwelling group.

Display- The exhibition of vehicles, trailers, boats, goods, wares, or merchandise for sale, rental or lease.

Distribution Center, Large- A building or group with cumulative storage space of over 5,000 square feet in area which is used for the storage of merchandise, goods, and wares which are intended to be distributed to other retail or wholesale establishments.

Dwelling or Dwelling Unit- A building or portion of a building which is arranged, occupied or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

Dwelling, Single Family- A detached building which is designed for or occupied as a home or residence by one (1) family.

Dwelling, Multi-Family- A building containing two (2) or more dwelling units which is designed for or occupied as a home or residence for two (2) or more families living independently of each other and maintaining separate cooking facilities.

Easement Ingress/Egress- The right of a property owner who has no street front to use a particular segment of the real property of another property owner to gain access to the public road.

Electrical Sales & Service- An establishment selling electrical supplies and parts an/or providing the servicing and installation of electrical equipment and fixtures.

Exotic animals- any animal that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. This term specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal, and Yak.

Extended Family-For the purposes of the extended family residence as referenced in this ordinance, extended family includes parents, children, siblings, cousins, grandparents, grandchildren, uncles, aunts, nephews and nieces.

Family- One or more persons living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption, but not including a group occupying a hotel, motel, boarding house, club, dormitory, fraternity or sorority house.

Farm- An area of two (2) acres or more which is used for the growing of farm products such as vegetables and grain as well as raising thereon of the usual farm poultry and farm animals such as horses, mules, cattle, pigs and sheep.

Farmer's Market- Two or more stands or stalls that are owned, leased, or rented for the display or vending of fruit, vegetables, and other garden or farm corp.

Feed Store- A commercial establishment which sells animal feed; feeding troughs; animal cages, pens, and gates; fencing materials; pesticides; seeds; and other gardening farming, and ranching supplies. The sale of baby chicks, rabbits, guinea pigs, and other similar small or domesticated animals may be permitted in accordance with all ordinances.

Fence- A masonry wall or a barrier composed of posts connected by boards, rails, panels or wire on or within property lines to identify and separate properties, and/or to prevent access or to confine. The term "fence" does not include retaining walls.

Fine Arts- Music, painting, sculpture, and including drawing, etchings, ceramics, inlays, needlework, knitting, weaving, and craftwork involving leather, wood, metal and glass.

Flea Market- A collection of two or more stalls, booths, tables or other similar arrangements, used by individual vendors, for the display and sale of various items of new or used personal property.

Flood Plain- The area outside of the floodway which may be inundated with flood water with an average frequency of occurrence in the order of once in one hundred years, normally referred to as the intermediate regional flood by the U.S. Corps of Engineers.

Floodway- The channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge flood waters.

Floor Area- The area of a building, including the walls thereof, but excluding all porches, open breezeways and garages.

Freight Terminal, Motor- A property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by motor truck, including the necessary warehouse space for storage of transitory freight.

Freight Terminal, Railroad- A property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by rail, including the necessary warehouse space for storage of transitory freight.

Frontage- The full length of a plot of land measured alongside the road onto which the plot or building fronts.

Game Hall- A facility open to the public and used for the playing of games of chance, skill, sport or amusement. Such games include but are not limited to the following: dominoes, cards, bingo, billiards, darts, and amusement machines.

Garage, Auto Repair- A building or portion of a building used for the general repair and/or painting of motor vehicles.

Garage, Parking- A building or portion of a building used for the parking and storage of motor vehicles, other than a private garage or an auto repair garage, in which any sale of gasoline, oil, and accessories is only incidental to the storage of the vehicles.

Garage, Private- An accessory building or portion of a main building on the same lot and intended to be used for the parking and storage of private passenger motor vehicles, boats, or other vehicles.

Garage Sale- Occasional sales at retail by residential owners or occupants conducted in the garage, patio, driveway or yard of the residential premises occupied by the person holding the sale, for the purpose of disposing surplus personal property accumulated incidentally in the regular course of residential occupancy.

Government Office- Any building or facility either owned or leased for use by local, state or federal governments and in which the affairs of the governmental body are carried on.

Grade- When used as a reference point in measuring height of building, the average elevation of the finished ground at the exterior walls of the main building.

Gross Floor Area- The total area of all floors as measured to the outside walls, excluding open porches, breezeways, balconies, and terraces. In computing the gross floor area of residential uses, garages and carports shall be excluded.

Group Day Care Home- A facility that regularly provides care in the caretaker's own residence of seven (7) to twelve (12) children under the age of fourteen (14) years of age, excluding the caretaker's own children.

Group Home- A residential facility licensed by the Texas Department of Human Resources to house up to six (6) handicapped and/or mentally retarded persons and two (2) supervisors.

Halfway House- A residential facility providing shelter, supervision and residential rehabilitative services for persons who have been inmates of any county, state, for federal correctional institution and released and require a group setting to facilitate the transition to a functional member of society.

Heating/Air Conditioning (AC) Sales & Service- An establishment selling heating and air conditioning units, supplies and parts and/or providing the servicing and installation of heating and air conditioning equipment.

Heavy Equipment Sales- A business offering for sale, and including the servicing and repair of, equipment as construction graders, earth movers, backhoes, cement mixer trucks, dirt moving trucks, etc.

Height (of Building)- The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the highest ridge board, for gable, hip and gambrel roof.

Hobby- The engagement of a person in an activity such as music, painting, sculpturing, drawing, etching, ceramics, needlework, knitting, weaving, craftwork involving leather, wood, metal and glass, etc. in his or her spare-time activity within his or her premises. No person shall be engaged in a hobby as a business. Such activity shall be carried on within an enclosed or screened area and shall not involve any activity that requires open storage. No activity which is obnoxious or offensive by reason of vibration, electrical interference, glare, noise, odor, dust, smoke or fumes shall be permitted.

Home Occupation- Any occupation or activity listed in Section X of this ordinance which is clearly incidental and secondary to the residential use of the premises and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises and which does not change the character thereof. However, such use will not be obnoxious or offensive due to vibration, smoke, dust, odor, heat, glare, noise or which increases traffic.

Hospital- An institution or place where sick or injured patients are kept overnight and given medical or surgical care.

Hotel Or Motel- A building or arrangement of buildings designed for and occupied as a temporary abiding place by transient guest who are lodged with or without meals for compensation.

House Trailer- A vehicle without automotive power designed for human habitation and for carrying persons and property upon its own structure and for being drawn by a motor vehicle.

Industrial Park- A parcel of land which has been planned and/or coordinated for a variety of industrial and related activities and business uses. This development may be on a one parcel or may be subdivided. The project is either owned, controlled or managed by a single entity and has its own master plan and/or covenants, conditions, and restrictions.

Industrialized Housing- A residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems. The term does not include any residential structure that is in excess of two (2) stories or thirty-five feet (35') in height as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to (a) housing constructed of sectional or panelized systems not utilizing modular components; or (b) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location of the purpose of selling it and moving it to another location.

Industrialized Building- A commercial or industrial structure that is constructed on one or more modules or constructed using one or more modular components built at a location other than the permanent site, and that is designed to be used as a commercial building when the modules or modular components are transported to the permanent commercial or industrial site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems. The term does not include any commercial structure that is in excess of two (2) stories or thirty-five feet (35') in height as measured from the finished grade elevation at the building entrance.

Junk- Copper, brass, iron, steel, rope, rags, batteries, paper, rubber, tires, pipe, plastic, debris, trash, rubbish, waste, metal, and ferrous or non-ferrous materials which are old, scrapped, discarded, second-hand, or otherwise used. Any worn out, cast off, discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use.

Junkyard- Any lot or tract of land upon which junk is kept, stored, bought, sold, or otherwise placed.

Kindergarten or Nursery School- Any facility, whether known or incorporated under such descriptive title or name as "Child Play School," "Child Development Center," "Early Childhood Center," and the like, where six (6) or more children are left for care, training, or education during the portion of the day and a fee is charged for this service.

Kennel- Any place or premise where four (4) or more dogs, cats, or other domestic animals at least four (4) months of age are raised, trained, boarded, or kept with or without charge, except for veterinary clinics, animal hospitals, and animal shelters.

Landscaping- Living plant material, including but not limited to grass, turf, trees, shrubs, natural land forms, water forms, planters; and other landscape features, including walks and plaza areas consisting of enhanced paving, which are a function of the building and not the streetscape.

Laundry- A building or place where clothes and linens are washed and thoroughly dried and pressed by the use of washing, drying, and ironing machines for fee basis and shall include the term "cleaners," and "dry cleaners."

Leather Goods, Retail- A commercial establishment which sells leather materials and supplies or leather goods.

Living Area- That portion of the dwelling unit which is used or designed for occupancy but does not include carports, garages, porches, breezeways, balconies, and terraces.

Loading Space- A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks, and having a minimum dimension of twelve (12) feet by thirty-five (35) feet and a vertical clearance of fourteen (14) feet.

Lot- A parcel of land occupied or intended to be occupied by a main building and its accessory buildings, or by a group of buildings and their accessory buildings, and having frontage on a dedicated street.

Lot, Corner- A lot located at the intersection of two (2) or more streets.

Lot Coverage- The percentage of the total area of a lot occupied by the first story or ground floor of all buildings located on the lot.

Lot Depth- The depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost point of the side lot lines in front and the rearmost points of the side lots lines in the rear.

Lot, Double Frontage- A lot having frontage on two (2) streets that do not intersect.

Lot, Interior- A lot other than a corner lot.

Lot of Record- A lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk, or a parcel of land, the deed for which was recorded in the office of the county clerk prior to passage of this ordinance.

Lot Width- The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty percent (80%) of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty percent (80%) requirement shall not apply.

Main Building- A building in which is conducted the principal use of the lot on which it is situated.

Manufactured Home- A structure that was constructed on or after June 15, 1976 and is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is 320 or more square feet, and which is build on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems. The definition does not include recreational vehicles as defined by Title 24 Code of Federal Regulations, section 3282.8(g).

Manufactured Home Lot- That part of a parcel of land in a manufactured home park which has been reserved for the placement of one (1) manufactured home unit.

Manufactured Home Park- A parcel of land which is owned by an individual, a firm, trust, partnership, public or private association or corporation, and has been developed for rental of lots to tenants with mobile homes.

Masonry or Masonry Units- That form of solid construction composed of stone, brick, concrete, **hardee siding**, gypsum, hollow clay tile or other similar building units or materials or combination of these materials which must be laid up unit by unit and set in mortar.

Massage Establishment- Any building, room, place, or establishment, other than a regularly licensed hospital, where manipulated massage or manipulated exercises are practiced upon the human body by anyone not a duly licensed physician, osteopath, chiropractor or a registered nurse or a doctor whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bathhouses. This term shall not include duly licensed beauty parlors or barber shops or a place wherein registered physical therapists treat only patients recommended by a licensed physician and operate only under such physician's direction.

Mini-warehouse - A building or group of buildings in a controlled access compound that contains individual, compartmentalized, and controlled access stalls or lockers of varying sizes not to exceed 5,000 square feet for the storage of merchandise, goods, and wares.

Mobile Home- A structure that was constructed before 15 June 1976, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when attached to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems.

Motel - See "Hotel".

Motor Vehicle - Every kind of motor driven or propelled vehicle whether required or not required to be registered or licensed under the laws of the State of Texas, including trailers, house trailers, and semi-trailers, and shall also include motorcycles, dirt bikes, or other off-road/all-terrain vehicles.

Neighborhood Convenience Center- Centers which carry convenience goods, such as groceries, drugs, hardware and some variety items, and also may include some service stores. The neighborhood convenience center may contain one or two small apparel or shoe stores, but it is clearly dominated by convenience goods, which are items of daily consumption and very frequent purchase. This neighborhood serving store group is within convenient walking distance of families served (within convenient driving range in low-density areas), with due consideration for pedestrian access and amenity of surrounding areas.

Nightclub or Dance Hall- An establishment operated as a place of entertainment, characterized by any of the following as a principal use of the establishment: Live, recorded or televised entertainment, including, but not limited to performances by magicians, musicians or comedians; dancing; or any combination of the above.

Nonconforming Use - The use of a building or land that does not conform to these zoning regulations and which lawfully existed at the time these zoning regulations became effective.

Nursing Home - See "Convalescent Home".

Orchard - An area of one acre or more which is used for the growing of fruit trees.

Off-street- Off the rights-of-way of a public street, court or place.

Park or Playground (Public) - An open recreation facility or park owned and operated by a public agency such as the city or the school district and available to the general public or neighborhood use.

Parking Lot- An unenclosed, all-weather surface area used exclusively for the temporary parking and/or storage of motor vehicles.

Parking Space- An area measuring at least 9 feet wide by 18 feet in length, surfaced with an all weather surface, enclosed or unenclosed, together with an all-weather surfaced driveway connecting the parking space with a street or alley permitting satisfactory ingress and egress. For computing off-street parking space requirements, parking spaces on public streets, alleys or rights-of-way shall not be used.

Paved Area- An area surfaced with asphalt, concrete or similar all-weather surface, not including gravel.

Person- An individual, firm, partnership or corporation, its or their successors or assignees, or the agent of any of those given before.

Personal Services- Businesses which provide services customized for an individual generally involving the care of the person or his or her apparel including, but not limited to barber and beauty shops, shoe and boot repair, dry-cleaning shops, laundries, reducing salons, and health clubs.

Plant Nursery- An establishment which grows and sells plants, flowers, shrubs, grass and other items typically used as and associated with outdoor landscaping or houseplants.

Places of Assembly (Large)-A building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, religious worship, entertainment, amusement, drinking or dining, or awaiting transportation.

Places of Assembly (Small) - A building or portion of a building used for the gathering together of 49 or less persons for such purposes as deliberation, education, instruction, religious worship, entertainment, amusement, drinking or dining, or awaiting transportation.

Planned Unit Development- A residential subdivision which includes private streets, landscaped areas and other facilities or amenities, all of which are developed as a unit and owned and maintained as common area property by a mandatory association of the property owners in the subdivision.

Plumbing Sales and Service- An establishment selling plumbing supplies and parts and/or providing the repair and installation of plumbing and fixtures.

Principal Use or Building-The main use or building on a lot that subordinates an accessory use or structure.

Print Shop- An establishment utilizing letter press, duplicating equipment, rotary presses or linotype equipment to produce in printed form orders for its clients or customers.

Private Club- Facilities where food, beverages (including alcoholic beverages), entertainment, or meeting space are provided to members only.

Produce Stand- A store, stand or stall used for the display or vending of fruit, vegetables, and other garden or farm crop.

Professional Office- A room or group of rooms occupied by a physician, optometrist, psychologist, chiropractor, dentists, attorney, engineer, survey, architect, accountant, planner, management consultant, or any other similar vocation. Veterinary clinics are specifically excluded from this definition.

Public Facilities- A facility publicly owned and operated to serve a need or needs of the general public with or without the payment of user fees. Public facilities may include but are not limited to a City Hall, Police Station, Fire Station, Park or Recreation Center.

Ranch- An area of 5 or more acres which is used for the keeping or raising of farm animals and livestock including, but not limited to horses, mules, sheep, goats, and cattle.

Recreational Vehicle- A vehicle or portable structure built on a chassis, used as a temporary dwelling, self-propelled or towed behind a motor vehicle that shall only be occupied in recreational vehicle parks.

Recreational Vehicle Park- A unified development designed to provide adequate parking spaces for recreational vehicles for limited periods of time.

Recycling Collection Facility- A facility designed to collect, sort, and package, by either manual or mechanical processes, recyclable items for transport to a processing plant.

Rental Store- An establishment which offers an array of items such as appliances, furniture, stereo equipment, televisions, etc. At a stated price for a fixed interval of time under a lease or rental agreement.

Restaurant- Any eating or drinking establishment where the preparation and serving of food is the primary business of such establishment including cafes, bistros, cafeterias, and other fast food and drive-in establishments.

Salvage- Shall necessarily include discarded, abandoned, junked, wrecked, dismantled, worn out or ruined motor vehicles (including automobiles, trucks, tractor, trailers, and buses) motor vehicle parts, boats, travel trailers, cranes, machinery or equipment, machinery or equipment parts, recreational vehicles and/or any junk.

Salvage yard- Any lot or tract of land upon which three or more discarded, abandoned, junked, wrecked, dismantled, worn out or ruined motor vehicles, or motor vehicles parts are kept, stored, bought, sold, recycled or otherwise placed, or are disassembled, dismantled, stripped, scrapped, recycled or cut up. This shall include automotive wrecking yard and automotive graveyard.

School - A place having a curriculum for the purpose of giving instruction, training or education in a service, art, trade or for general knowledge.

Screening (Device)- Any solid fence or wall constructed of metal, brick, masonry, concrete **or wood**; the vertical surface of which shall be without gaps, except opening for access or any dense, screening shrubs providing a visual barrier, provided such shrubs shall be maintained in a healthy growing condition.

Screening Shrubs, Large- Shrubs with an installed minimum height of three feet as identified below, or any other shrubs which, when mature, shall reach a minimum of six feet, provide a dense visual barrier, be drought resistant, and possess compact root systems posing minimum danger to integrity of public utilities. The large screening shrubs included on the following list are recommended to be planted to screen incompatible land uses, parking facilities and dumpsters by forming a visual barrier.

<u>Common Name</u>	<u>Botanical Name</u>
Photina	Photina Serrulata
Frasier's Photina	Photina Fraseri
Buford Holly	Ilex Cornuta Burfordi
Chinese Holly	Ilex Cornuta Rotunda
Waxmyrtle	Myrica Cerifera
Yaupon Holly	Ilex Vomitoria
Nellie R. Stevens Holly	Ilex Cornuta

Screening Shrubs, Small- Shrubs with an installed minimum height of two feet as identified below, or any other shrubs which, when mature, shall reach a minimum of two feet and provide a dense visual barrier. The small screening shrubs included on the following list are recommended to be planted to screen parking lots, playgrounds, ballfields, swimming pools and tennis courts by forming a visual barrier.

<u>Common Name</u>	<u>Botanical Name</u>
Compact Nandina	Nadina Compacta
Dwarf Abelia	Abelia Edeard Goucher
Dwarf Burford Holly	Ilex Cornuta Burfordii Nana
Dwarf Yaupon Holly	Ilex Vomitoria Nana

Seat- For the purposes of this ordinance, such sitting space as needed, or is designed to be used for one person to sit down and occupy.

Second Hand Store- An establishment specializing in the sale of previously used materials, goods and merchandise of less than twenty years of age and of that material, goods and merchandise over twenty years of age which do not derive their value as a result of their age.

Servant or Caretaker's Quarters- A secondary dwelling unit located on a lot with a main residential structure and used as living quarters for persons employed on the premises and not for rent or use as a separate domicile by persons other than those employed on the premises or their immediate family.

Service Station- A business establishment where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail, and the servicing of vehicles occurs, but not including the major overhaul of automobiles, body work, or repair of heavy trucks and equipment.

Setback - The required minimum distance between any structure and any street right-of-way line. Setbacks shall be measured perpendicular to lot lines. The terms "setback" and "required yard" shall mean the same and can be interchanged.

Sexually Oriented Business- Any commercial enterprise whose primary business 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. This includes, but is not limited to any love parlor, nude modeling studio, adult bookstore, adult movie theater, adult video arcade, adult video store, and adult motel.

Shopping Center or Mall- A planned and coordinated grouping of retail business and service uses on a single site or a combination of sites where special attention is given to on-site vehicular circulation, parking and building design and orientation.

Special Use- A use that may be allowed if it meets certain specified requirements or conditions and meets the approval of the **city council**.

Stable, Private- An accessory building used by the residents of the premises for sheltering and quartering horses owned by the occupants and for which no fee is charged for stabling the horses.

Stable, Public- A lot or tract of land used for the sheltering and quartering of horses for which a fee or charge is made for the stabling of the horses.

Story- That portion of a building, other than a basement, included between the surface of a floor and the surface of a floor next above it, or if there is not floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it.

Story, Half- The topmost story under a gable, hipped or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes shall be deemed a fully story.

Street- A public or private thoroughfare or road that affords the principal means of access to abutting property.

Structural Alteration- Any change, addition or modification in construction in the supporting members of a building, such as exterior walls, bearing walls, beams, columns, foundations, girders, floor joists, roof joists, rafters or trusses.

Structure- Anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

Swimming Pool, Private- A recreational facility used for swimming which is used by the owners, employees, or residents of the property and their guests.

Swimming Pool, Public- A recreational facility used for swimming which is open to the public and/or for which a membership is required, or a fee or charge is made for the use of the facility.

Tack Store- A commercial establishment which sells horse equipment such as saddles, bridles, blankets, riding accouterments, etc.

Television Satellite Dish- An earth-based station shaped like a dish which is used for the reception of satellite signals for television programs.

Temporary Construction Office- A building or trailer in which a person or persons perform administrative functions with a development or construction project that is placed at the site of the project and remains only with the approval of the designated administrative office of the City.

Tennis Court, Private- A concrete, clay or asphalt court which is used for the playing of tennis by the owners, employees, or residents of the property and their guests.

Tennis Court, Public- A concrete, clay or asphalt court which is used by the general public and/or for which membership is required or a fee or charge is made for the use of the facility.

Tool and Equipment Rental- An establishment which offers an array of tools and equipment and machinery such as cranes, backhoes, trucks, tractors, etc. At a stated price for a fixed interval of time under a lease or rental agreement.

Townhouse- A single family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party or common walls or are located immediately adjacent thereto with no visible separation between walls or roofs. This definition shall also include the term "condominium".

Trailer Camp or Park- An area designed, arranged or used for the parking or storing of one or more recreational vehicles, travel trailers, motor homes, motor coaches, pick-up campers, and camping trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

Turfs- The following list of turfs and any other turfs which can be demonstrated to the building official to be drought resistant.

<u>Common Name</u>	<u>Botanical Name</u>
Bermuda Grass	Cynodon Dactylon
Bermuda Grass hybrids	
St. Augustine	Stenotaphrum Secopndatum
Buffalo Grass	Buchloe Dectyloides
Fescue and combinations	Festuca Arundinacea

Underground Shelter- A metal or concrete structure designed for the protection of humans from tornadoes or from nuclear blast, heat or fall-out, the main portion of which is underground.

Utility-Any facility, other than an administrative office, of any agency which under public franchise or ownership or certificate of convenience and necessity provides the public with general public service, included but not limited to gas, electricity, water, sewerage, telephone, communication, cable television, or any other similar device.

Use- The purpose for which land or a building or structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.

Use, Accessory- A subordinate use on the same lot with the principal use and incidental and accessory thereto.

Variance- An adjustment to the application of the specific regulations of the zoning ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

Veterinary Clinic- An establishment for the care and medical veterinary practice on or for domestic household animals, conducted completely within an enclosed structure. This term shall also include "animal clinic".

Veterinary Hospital- An establishment for the care and medical veterinary practice on or for large animals and household domestic animals and at which animals may be boarded during treatment in outside pens, runs or stables. This term shall also include "animal hospital".

Video Arcade- An establishment containing a collection of video games that can be played by a customer for a fee.

Warehouse- A building or group of buildings used for the storage of merchandise, goods, and wares.

Washateria- A building or place where clothes and linens are washed and thoroughly dried on a self-service basis by the use of washing, drying and ironing machines.

Yard- An open space, other than a court, on the same lot with a building and which is not obstructed from ground level to the sky except for roof overhangs, fences, trees and shrubs.

Yard, Front- A yard extending across the full width of a lot and having a depth equal to the shortest distance between the front line of the lot and the nearest portion of the main building, including an enclosed or covered porch, provided that the front yard depth shall be measured from the future street line for a street on which a lot fronts, when such line is shown on the official map or is otherwise established.

Yard, Rear- A yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear line of the lot and the nearest portion of the main building.

Yard, Side- A yard between the side line of the lot and the main building extending from the front yard to the rear yard and having a width equal to the shortest distance between said side line and the main building.

Zoning Map- The map adopted as a part of this Ordinance which shows the various zoning districts in the City. The map shows the number of districts into which the City is divided, and the status and usage of each district.

XXII. ESTABLISHMENT OF PENALTIES

Any person violating any of the provisions of this zoning ordinance shall be fined, upon conviction, not more than two thousand dollars (\$2000.00), and each day any violation or noncompliance continues shall constitute a separate and distinct offense.

Additional Remedies: In case any structure is erected, constructed or reconstructed, altered, repaired, converted or maintained in violation of this ordinance, the City may institute any appropriate action or proceedings to prevent such use or action, to restrain, correct or abate such violation, or to prevent any illegal act, business or use in or upon such premise, including but not limited to, all remedies provided in Sections 211.012 and 54.012 of the Texas Local Government Code. In addition to the remedies enumerated above, the City may recover a civil penalty of one thousand dollars (\$1000.00) for each day's violation of this Ordinance. The imposition of any penalty hereunder shall not preclude the City from instituting any appropriate action or proceedings to require compliance with provisions of this Ordinance and with administrative orders and determinations made hereunder.

The penalty provided herein shall be cumulative of other remedies provided by state law and the power of injunction as provided in V.T.C.A., Local Government Code, Sections 211.012 and 54.012 as may be amended, may be exercised in enforcing this ordinance whether or not there has been a criminal complaint filed.

B. INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provision of this ordinance shall govern.

**C.
PRESERVING RIGHTS RE: PENDING LITIGATION AND EXISTING ORDINANCES**

By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized unless such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the existing zoning ordinance was hereby amended, shall be discharged or affected by such amendment; but the prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance has not been amended.

**D.
SEVERABILITY**

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

**E.
REPEALER**

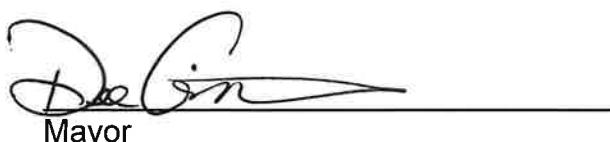
All ordinances or parts of ordinances in conflict herewith are, to the extent of any such conflict, hereby repealed.

**F.
EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage publication of the caption, as required by law.

PASSED and APPROVED by the City Council of the City of St. Hedwig on this the 7th day of August, 20 14

Approved:



Mayor

Attest:



City Secretary

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