

ORDINANCE NO. 6/8/11

AN ORDINANCE OF THE CITY OF FALLS CITY, TEXAS, ADOPTING ZONING REGULATIONS FOR THE REGULATION OF LAND WITHIN THE LIMITS OF THE CITY OF FALLS CITY AS AUTHORIZED BY CHAPTER 211 OF THE LOCAL GOVERNMENT CODE; PROVIDING FOR VIOLATIONS, PENALTIES AND INJUNCTION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING THE EFFECTIVE DATE.

WHEREAS, the City of Falls City is a Type A general law city operating under the provisions of the Texas Constitution and the Local Government Code; and

WHEREAS, Chapter 211 of the Local Government Code authorizes municipalities to establish zoning regulations within its corporate limits for the purpose of promoting the health, safety and welfare of the community; and

WHEREAS, The City Council of the City of Falls City now deems it necessary to adopt regulations to provide for the safe, orderly, healthful development of the City

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF FALLS CITY, TEXAS:

**SECTION 1
TITLE OF ORDINANCE**

This ordinance shall be known and may be cited as the "Zoning Ordinance of the City of Falls City, Texas"

**SECTION 2
INTERPRETATION AND PURPOSES**

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. The zoning regulations and districts as herein established, have been made in accordance with a comprehensive plan, for the purpose of promoting health, safety, morals and the general welfare of the City of Falls City; they have been designed, among other things to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and pure air; to avoid undue concentration of population, and to facilitate adequate provisions for transportation, water, sewer, schools, parking areas and other public requirements.

**SECTION 3
SCOPE**

It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, (except as the same may be specifically repealed by the terms of this ordinance) or with private restrictions placed upon property by covenant, deed, easement or other private agreement. Where this ordinance imposes a greater restriction upon land, buildings, or structures than is imposed or required by other laws, ordinances, deed, covenants or agreements, the provisions of this ordinance shall govern

SECTION 4 DEFINITIONS

For the purpose of this ordinance certain terms and words are herewith defined as follows:

Words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word "building" includes the word "structure", the word "shall" is mandatory, and not directory. The words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied". The word "lot" includes the words "plot" or "parcel".

ABUTTING, ADJACENT, ADJOINING -- Contiguous or sharing a common border or boundary with other property. Abutting, adjacent and adjoining shall include property immediately across an alley, but shall not include property across a street.

ACCESSORY BUILDING OR USE -- A subordinate building having a use customarily incident to and located on the same lot occupied by the main building; or a use customarily incident to the main or principal use of the property. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building

ADMINISTRATIVE OFFICIAL -- The official, or his designee, appointed by the Mayor to enforce and administer the terms of this Ordinance. The individual whose decisions and interpretations are appealed to the Zoning Board of Adjustment

ALLEY -- Public minor way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street or highway

ANIMAL UNIT -- the equivalent of one horse, one cow or steer, one mule, 4 emus or ostriches, 10 sheep, 10 goats, 100 poultry, or 100 rabbits, or an equivalent combination thereof

ANTENNA -- any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

APARTMENT -- A room or suite of rooms in an apartment house arranged, designed or occupied as a dwelling unit or residence by a single family, individual, or group of individuals.

APARTMENT HOTEL -- Any building larger than an apartment house designed or built as a series of separate apartments to be occupied by persons living independently of each other

APARTMENT HOUSE -- Any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied as three or more apartments or dwelling units or which is occupied as the home or residence of three or more families living independently of each other and maintaining separate cooking facilities

BLOCK -- An area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets, which intersect, said street on the said side. In cases where platting is incomplete or disconnected, the zoning administrative official shall determine the outline of the block

BOARD -- The Zoning Board of Adjustment as established in Section 13.

BUILDING AREA -- The portion of a lot remaining after required yards have been provided

BUILDING FOOTPRINT -- The area of the building in contact with the ground

BUILDING, HEIGHT OF -- The vertical distance measured from the curb level to the highest point of the roof surface, if a flat roof; to the deck line of mansard roof, and to the mean height level between eaves and ridge for a gable, hip or gambrel roof, provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building

BUILDING LINE -- A line parallel or approximately parallel to the street right-of-way line at a specific distance there from marking the minimum distance from the street right-of-way line that a building may be erected

BUILDING MARKER -- Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material

BUSINESS -- Includes local retail, commercial, industrial, and manufacturing uses and districts as herein defined

CARPORT -- An open-sided shelter for automobiles which may be formed by the extension of a roof from the side of a building and which have no more than one of its sides enclosed.

CERTIFICATE OF OCCUPANCY (OR PERMIT) -- An official certificate issued by the City through the administrative official which indicates conformance with or approved conditional waiver from the Building and Zoning Regulations and authorized legal use and occupancy of the premises for which it is issued

CITY COUNCIL -- The governing body of the City of Falls City, Texas

COLLECTOR STREET -- As defined by the City's latest approved Subdivision Ordinance.

COMPREHENSIVE PLAN -- The Comprehensive Plan of the City of Falls City, Texas, as adopted by the City Council of the City of Falls City

CONDITIONAL USE -- A use which would not be appropriate generally or without certain restrictions throughout a zoning district, but which, if controlled as to number, area, location or relation to the neighborhood would promote the health, safety and welfare of the community.

DISTRICT (ZONING) -- A section of the City of Falls City, Texas, for which the regulations governing the area, height, or use of the land and buildings are uniform

DWELLING, ONE FAMILY -- A detached residential dwelling unit, designed for and occupied by one family only.

DWELLING, TWO FAMILY -- A detached residential building containing two dwelling units, designed for occupancy by not more than two families

DWELLING, THREE FAMILY -- A detached residential building containing three dwelling units, designed for occupancy by not more than three families

DWELLING, FOUR FAMILY -- A detached residential building containing four dwelling units, designed for occupancy by not more than four families

DWELLING, MANUFACTURED HOME -- Means a structure: (i) constructed after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is

connected to the required utilities, (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and includes the plumbing, heating, air conditioning and cooling systems of a home.

DWELLING, MOBILE HOME – Means a structure (i) constructed before June 15, 1976, according to the rules of the United States Department of Housing and Urban Development; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet, and includes the plumbing, heating, air conditioning and cooling systems of a home

DWELLING, SUBSIDIARY -- A separate living quarters with separate kitchen facilities, which is in addition to the principal dwelling unit on a single-family lot

DWELLING UNIT -- One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities

ENHANCED PAVEMENT -- Any permeable or non-permeable decorative pavement material intended for pedestrian or vehicular use. Enhanced pavement includes brick or stone pavers, grass pavers and stamped or stained concrete

FENCE -- Any construction or hedge greater than thirty inches (30") in height and of any material the purpose of which is to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, or provide decoration. A wall shall be considered a fence. Dikes and retaining walls for the purpose of diverting water and retaining soil are not classified as a fence

FLOOD PLAIN -- An area identified by the Federal Emergency Management Agency as possibly being flood prone or below the intermediate flood line (100 year flood plain). The issuance of building permits for construction of any structure within such flood plain is regulated by separate specific ordinance governing the safeguards, preventive actions against flooding, types of uses permitted in flood prone areas, etc.

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 total (gross) square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, attics, porches, carports or garages that are not designed for residential or business occupancy

FLOOR AREA RATIO (FAR) -- An indicated ratio between the numbers of square feet of total floor area in the main building(s) on a lot and the total square footage of land in the lot; it is the number resulting from dividing the main building(s) floor area by the lot area.

FRONTAGE -- All the property abutting on one side of the street between two intersecting streets, measured along the street line

GARAGE, PRIVATE -- An enclosed accessory building for storage only of motor vehicles, boats, travel trailers, and household goods owned and used by the owners or tenants of the premises.

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 -- The measure of vertical and elevation above some reference point usually mean sea level. Grade is measured as follows:

- a. For buildings having walls adjoining one street only, it is the elevation of the sidewalk at the center of the wall adjoining the street;
- b. For buildings having walls adjoining more than one street, it is the average of the elevation of the sidewalk at the center of all walls adjoining the street;
- c. For buildings having no wall adjoining the street, it is the average level of the finished surface of the ground adjacent to the exterior wall of the building

Any wall approximately parallel to and not more than five feet (5') from a street line is to be considered as adjoining the street. Where no sidewalk has been constructed, the Administrative Official shall establish such sidewalk level or its equivalent for the purpose of these regulations

HEIGHT OF BUILDING -- The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to 1) the highest point of the roof's surface, 2) to the deck line of mansard roofs, or 3) to the mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten feet (10') in height. If the street grade has not been officially established, the average front yard grade shall be used for a base level

HEIGHT OF YARD OR COURT -- The vertical distance from the lowest level of such yard or court to the highest point of any boundary wall

HOBBY -- An accessory use housed in a dwelling or in an accessory building in which the residents of the premise engage in recreational activities, none of which shall disturb the neighbors on either side or in the rear thereof and from which no compensation, revenue, or value may be derived, and in which no goods may be publicly displayed, offered for sale or advertised for sale, nor any sign be used in connection therewith.

HOME OCCUPATION -- An occupation conducted in a dwelling unit, provided that:

- a. No person other than members of the family residing on the premises shall be engaged in such occupation;
- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than two hundred and fifty square feet (250 sq ft) of floor area of the dwelling unit shall be used in the conduct of the home occupation;
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation. No sign advertising a home occupation shall be placed on property where a home occupation is conducted.
- d. Contractors who work at other locations but use their home as a base of operations may store equipment and materials associated with their trade only within a totally enclosed building or otherwise screened from view from the street or from neighbors. All storage areas must be well maintained and kept free of weeds, litter, and debris. Parking for any employees (assistants, apprentices, etc) must be off the street on a paved surface, at the rear of the residence.

- e. There shall be no sales from the dwelling in connection with such home occupation; any sales shall be clearly secondary
- f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard
- g. No equipment, process or work shall be used or conducted in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment, process or work shall be used or conducted which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises
- h. The operation of beauty culture schools, beauty parlors, barbershops, or lawn mower or other small engine repair shall not be permitted as a home occupation
- i. No outdoor storage of any type shall be permitted with any home occupation.

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

LANDSCAPE AREA -- An area, which is covered by natural grass, ground cover, or other natural plant materials.

LEGAL NON-CONFORMING USE, BUILDING OR YARD -- A use, building or yard existing legally at the time of the passage of this ordinance which does not by reason of design, use, or dimensions conform to the regulations of the district in which it is situated. A use, building or yard established after the passage of this ordinance, which does not conform to regulations of the district in which it is situated, shall be illegal.

LIVING UNIT -- Same as Dwelling Unit

LOT -- An undivided tract or parcel of land having frontage on a public street, or upon an approved open space, having direct street access, and which is, or in the future may be, offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and which is identified by a tract

or lot number or symbol in a duly approved subdivision plat which has been properly filed or recorded. (See Lot of Record)

LOT COVERAGE -- The percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot, but shall exclude driveways and parking areas.

LOT FRONTAGE -- The length of street frontage between property lines

LOT LINES -- The lines bounding a lot as defined.

- a. **LOT LINE, FRONT** -- The boundary between a lot and the street on which it fronts.
- b. **LOT LINE, REAR** -- The boundary line, which is opposite and most distant from the front street line; except that in the case of uncertainty the Building Inspector shall determine the rear, line.
- c. **LOT LINE, SIDE** -- Any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on any alley or place or side street line.

LOT MEASUREMENT

- a. **Area** of the lot shall be the area of the lot within the lot lines, expressed in square feet or acreage, including easements, and shall not include portions of any public street or alley.
- b. **Depth** of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot line in the rear (the mean horizontal distance between the front and rear lot line)
- c. **Interior Area** is the area of the lot remaining after subtracting out the area included in the buffer yards.
- d. **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.

LOT TYPES

- a. **Corner Lot** -- A lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Administrative Official
- b. **Interior Lot** -- A lot other than a corner lot with only one street frontage and whose side lot lines do not abut upon any street
- c. **Through Lot** -- A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as "double frontage" lots.
- d. **Cul-de-Sac Lot** -- A lot whose frontage is along the turnaround portion of a street which has only one opening and terminates with a turnaround at the closed end

LOT OF RECORD -- A lot, which is part of a subdivision recorded in the office of the County Clerk.

MAIN (PRINCIPAL) BUILDING -- The building or buildings on a lot, which are occupied by the primary use

MASONRY OR MASONRY UNITS -- That form of solid construction composed of stone, brick, concrete, 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.

MOBILE HOME -- See "Dwelling, Mobile Home"

MOBILE HOME PARK OR SUBDIVISION -- A parcel of land upon which multiple mobile homes are placed or located for purposes of occupancy.

NON-CONFORMING USE -- A building, structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is situated.

OCCUPANCY -- The use or intended use of the land or buildings by proprietors or tenants.

OPEN SPACE -- Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves or porches

PARKWAY -- That area within the public right-of-way (ROW) between the back of curb or edge of pavement and the right-of-way line

PAVING SETBACK -- A line parallel or approximately parallel to the street right-of-way at a specified distance therefrom marking the minimum distance from the street right-of-way line that any pavement, including parking lots and necessary maneuvering areas, may be constructed, except for approved driveway and pedestrian access

PERMITTED USES -- Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PERSON -- "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity

PLANNING AND ZONING COMMISSION -- Either the City Council or an agency with members appointed by the City Council as an advisory body to it and which is authorized to recommend changes in the zoning ordinance and fulfill the functions authorized by the City Council and State Law. If no Planning and Zoning Commission is created, the City Council shall serve the function of the Planning and Zoning Commission.

PLAT -- A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Falls City and subject to approval by the Planning and Zoning Commission. Reference to a plat in this ordinance means an official plat of record, which has been approved by the Planning and Zoning Commission and filed in the plat records of Karnes County

PREMISES -- Land together with any buildings or structures occupying it

PRIVATE DRIVE (STREET OR PLACE) -- An open, unoccupied space, other than a paved street or alley, permanently established or reserved or dedicated in private ownership as the principal means of vehicular access to property abutting thereon

RECREATIONAL VEHICLE -- A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreational vehicle shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, and boats and boat trailers

RESIDENCE -- Same as dwelling, also when used with the word District, an area of residential regulations

REVERSED FRONTAGE -- Reversed frontage is a lot abutting two or more streets at their intersection. A reversed frontage lot shall be deemed to front on that street at which it has its greatest frontage unless otherwise specified by the Administrative Official

ROOM -- A building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities

SCREENING DEVICE -- A fence, wall, hedge or other device, which is solid, made of durable material and without holes, penetrations or other openings other than those required for passage and which is designed to prevent persons from seeing through. A screening device shall be at least six feet (6') in height but no more than eight feet (8') in height unless otherwise specifically permitted by the provisions of this ordinance or unless approved as a variance by the Board of Adjustment

SETBACK -- The distance from the property line to the nearest part of the building, structure or sign, measured perpendicularly to the property line. See also "Building Line."

SEXUALLY ORIENTED BUSINESS -- Any commercial enterprise whose primary business is the offering of a service of 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, adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or nude model studio.

SIGN -- A presentation of letters, numbers, figures, pictures, emblems, insignias, lines or colors or any combination thereof, displayed for the purpose of information, direction or identification, or to advertise or promote a business, service, activity, interest or product.

SPECIAL EXCEPTION -- A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would be wholly compatible with conditions affecting the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as special exceptions if approved by the Board of Adjustment (See Section 13).

STORY -- That part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four feet (4') above the curb level, established or mean street grade or average ground level

STREET -- A public way between two right-of-way lines, other than an alley or private drive, which has been dedicated or deeded to the public and accepted by the City for public use and affords a principal means of access (vehicular or otherwise) to property abutting thereon, as well as for utilities and sidewalks.

STREET FRONTAGE -- The distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street

STREET LINE -- The right-of-way of a street

STRUCTURE -- Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards, and poster panels

STRUCTURAL ALTERATIONS -- Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls, excepting such repair or replacement as may be required for the safety of the building, but not including openings in bearing walls as permitted by the City Building Code

SUBDIVISION ORDINANCE -- The latest approved ordinance providing for the division or redivision of land into two (2) or more lots, tracts, sites, or parcels for the purpose of development

TEMPORARY BUILDING -- A building of no more than 500 square feet that is not permanently attached to the property

THOROUGHFARE -- As defined in the City's latest approved Subdivision Ordinance

TOWER -- any structure that is designed and constructed primarily for the purpose of supporting one or more antennae, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, personal telecommunications towers and similar structures

TOWNHOUSE -- A single family dwelling facility constructed in a series, or group of units having common walls, each on a separate lot of record.

TRAVEL TRAILER -- A mobile vehicle built on a chassis and designed and used as a temporary place of dwelling and of such size and design as to be subject to licensing for towing on the highway by a passenger motor vehicle or other prime mover and not requiring a special permit for moving on the highway as contrasted to a mobile home

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

UTILITY FACILITIES -- Any water supply, water treatment, water pumping, water storage or other water facility; any sewerage treatment or pumping facility; any electrical generating facility, electrical transmission, switching facility, or electrical substation; any telephone exchange or other similar telephone communication facility; any natural gas pumping or storage facility; or any cable television receiving or transmission facility, when owned and operated by the City of Falls City, or any utility or communications concern operating under a franchise approved by the City Council.

VARIANCE -- A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Except as specifically authorized in Section 13, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. The establishment or expansion of a use otherwise prohibited shall not be allowed by variance except as provided in Section 13, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

YARD -- A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty inches (30") above the general ground level of the graded lot upward, provided however,

that fences, walls, poles, posts, and other customary yard accessories, ornaments, furniture, and roof overhangs not exceeding thirty inches (30"), may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility

YARD, FRONT -- A yard extending between side lot lines across the front of a lot adjoining a public street. (See Figure 1)

In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Administrative Official may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of the depths required for second front yards in the district shall be provided on the other frontage

In the case of corner lots with more than two frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations:

- a At least one front yard shall be provided having the full depth required generally in the district,
- b No other front yard on such lot shall have less than the minimum required second front yard for corner lots

Depth of required front yards shall be measured at right angles to the front lot line

YARD, SIDE -- A yard extending from the rear line of the required front yard to the front of the required rear yard, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required (See Figure 3)

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line

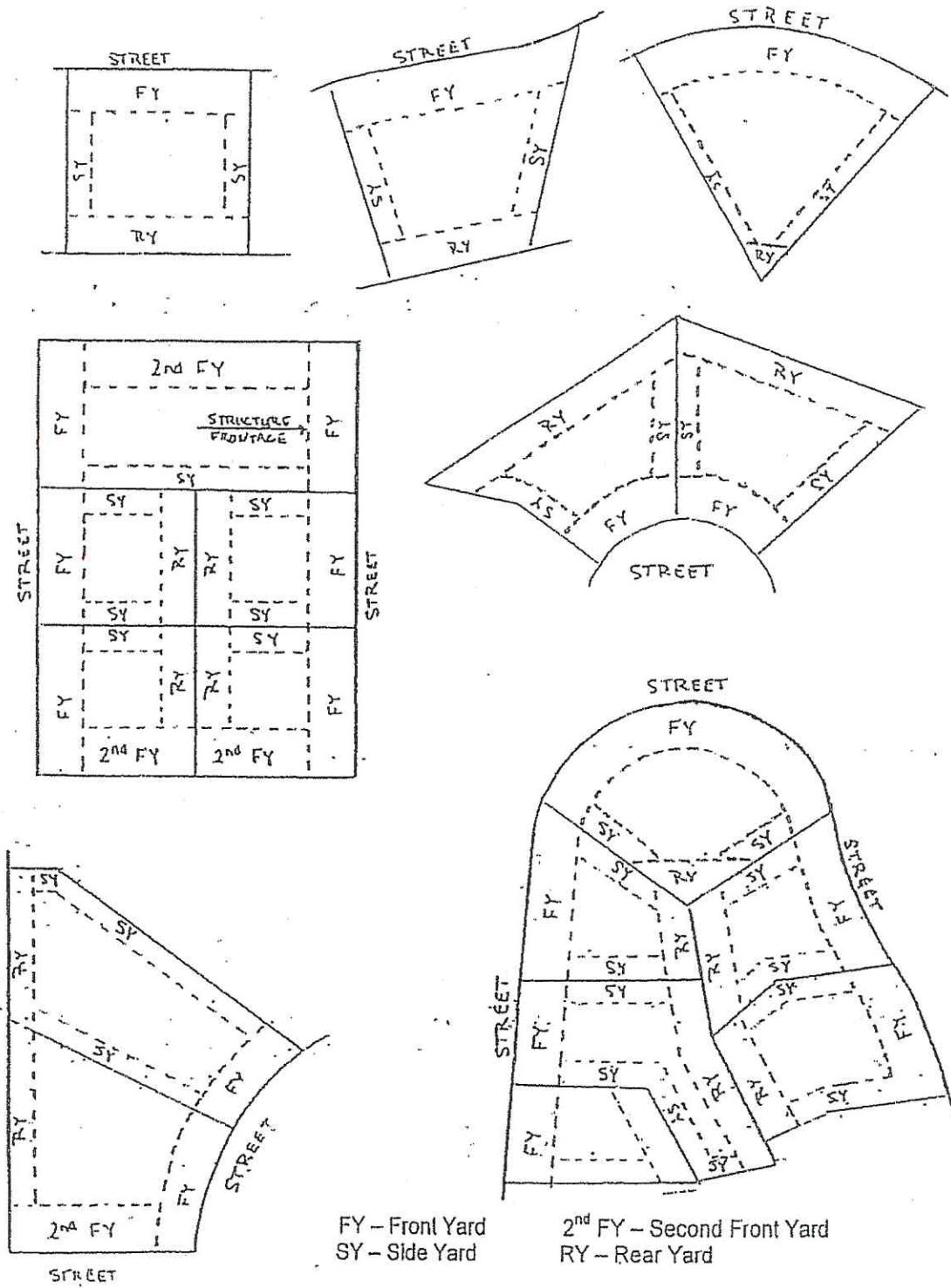
YARD, REAR -- A yard extending across the rear of the lot between lot lines. In the case of through lots there will be no rear yards, but only front and side yards. All other lots will have rear yard (See Figure 3)

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

In cases where a rear lot line is not evident, or if evident but not parallel to the front building line, the minimum rear yard requirement shall be the distance from the rear-most point of the lot along a line from that point drawn perpendicular to a line drawn from the foremost points of the two side lot lines, providing that the rear yard is parallel to at least one lot line along the rear of the lot

YARD, SPECIAL -- A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon

Figure 1
YARD ORIENTATION



SECTION 5 DISTRICTS AND DISTRICT BOUNDARIES

In order to regulate and restrict the location of trades and industries and the location of buildings erected, reconstructed, altered or enlarged for specified uses, to regulate and limit the height and bulk of buildings hereafter erected, reconstructed, altered or enlarged, to regulate and determine the area of yards and other open spaces and to regulate and limit the density of population, the City of Falls City is hereby divided into (4) four zoning districts to be known as follows:

"A"	Agricultural District, or District "A"
"R"	Residential District, or District "R"
"C"	Commercial District, or District "C"
"I"	Industrial District, or District "I"

The term "more restricted district" means one with fewer permitted uses and the term "less restricted district" means one with more permitted uses

The districts aforesaid, and the boundaries of such districts, shall be as hereinafter described, and as shown upon the map attached hereto and made a part of this ordinance, said map being designated "Zoning Map of the City of Falls City, Texas", and said map and all notations, references, and other information shown thereon shall be a part of this ordinance the same as if all such matters and information were fully described herein. Such uses as listed but not shown on the Zoning Map are provided for future growth and use. The original of said map shall bear the date with the passing of this ordinance and shall be signed by the Mayor and attested by the City Secretary, under the seal of the City of Falls City, Texas; said original map shall be kept in the office of the City Secretary in the Falls City City Hall, and a replica thereof shall be produced upon paper in such reduced scale as will permit its being attached to this ordinance

It shall be the duty of the City Secretary to keep the official maps and current copies up to date, by entering on such maps any changes that the City Council may from time to time order by amendments to the Zoning Ordinance and Map.

SECTION 6 "A" AGRICULTURAL/PREDEVELOPMENT DISTRICT

A. PURPOSE

The purpose of this district is for the general continuation of certain farm, ranching, residential uses and non-urban uses of land, which is not anticipated to be put to an urban-developed use in the immediate future. This district classification is to be used only in the outlying areas of the City's urban development, in newly annexed areas, or on major tracts of land containing ten (10) acres of land or more. Upon the subdivision of land within this district for sale or intended use other than those noted below, the appropriate zoning district and classification for which the land subdivision is intended shall be required

B. USE REGULATIONS

In the "A" Agricultural District no building or land shall be used and no building shall be hereafter erected, reconstructed, altered or enlarged, nor shall a certificate of occupancy be issued, except for one or more of the following uses.

a. PERMITTED USES

1. Farms, orchards, truck gardens, and nurseries for the growing of plants and similar agrarian activities, involving the growing of plants, provided that no operation shall be conducted which will be obnoxious or offensive
2. Animal lots and ranches for pasturing of horses, mules, cattle, sheep, goats, poultry, rabbits, or ratites (emus, ostriches, etc.)
3. Single-family dwellings clearly incidental to the operation of the above listed activities, including dwellings on the same farm or ranch used exclusively for the housing of employees living on the premises.
4. Principal and accessory buildings and structures clearly incidental to the above operations, including but not limited to private barns, private stables, equipment sheds, granaries, pump houses, and water tanks
5. Installations owned and operated by the City of Falls City, Karnes County, the State of Texas or Public Utility Companies, which installations are necessary for the public safety, governmental services, or the furnishing of utility services to or through the "A" Agricultural District
6. Antennae and towers not exceeding the maximum height allowed in the District (see paragraph C 1 below), antennae attached to existing structures and not increasing the overall height of the existing structure by more than ten feet (10'), and dish antennae not exceeding one meter (1 m) in diameter.
7. Accessory structures and uses customarily incident to the above uses and located on the same lot therewith, not involving the conduct of any business or commercial enterprise.
8. Allows compatible land, building and occupancy primary oriented to agricultural farming and ranch
9. Also serves as a designation of land in transition between open, sparse use and future more intensive urban use.
10. Newly annexed land usually automatically designated this category

b. CONDITIONAL USES

1. Utility facilities.
2. Antennae and towers exceeding the maximum height in the District and dish antennae exceeding one meter (1 m) in diameter, in order to protect community appearance from the negative visual effects of proliferation of large antennae. Conditional use permits shall be acted upon within 90 days of receipt of application. Persons aggrieved by a decision on a satellite dish antenna application may appeal to the Federal Communications Commission. Any new towers must also comply with the conditions of Section 11 M
3. Bed and Breakfasts

4. Commercial Barn or Stable or Riding arena
5. Churches

C. HEIGHT AND AREA REGULATIONS

In the "A" Agricultural District the height of buildings and structures, and the minimum dimensions of yards shall be as follows:

1. Height: No building or structure hereafter erected, reconstructed, altered or enlarged shall exceed three and one-half (3 1/2) stories nor shall it exceed sixty feet (60')
2. Maximum Lot Coverage: The maximum portion of the lot area, which may be covered by the main building and all accessory buildings, shall not exceed 25 percent.

**SECTION 7
"R" RESIDENTIAL DISTRICT**

A. PURPOSE

This zoning classification should be applied in areas of the City to conserve neighborhood character and value and buildings. It is not intended that this zoning district be the subject of major alterations except for a possible re-classification in minor areas for a less restrictive residential use for reasonable adjustment necessary for orderly development of vacant lots or the gradual transition from other districts.

B. USE REGULATIONS

In the "R" Residential District, no building or land shall be used and no building shall be hereafter erected, reconstructed, altered or enlarged, unless otherwise provided in this ordinance, except for one or more of the following uses:

a. PERMITTED USES

1. Single-family Dwellings
2. Hobbies or crafts, as an accessory use.
3. Temporary building to be used for construction purposes only, and which shall be removed upon completion or abandonment of construction work or removed upon request of the Administrative Official. Permits shall be issued for such temporary buildings for a period of six (6) months only, with a renewal clause for similar period
4. Family Day Care Homes (12 children or less)
5. Group homes as provided under State and Federal law
6. Antennae and towers not exceeding the maximum height allowed in the District (see paragraph C.2 below), antennae attached to existing structures and not increasing the overall height of the existing structure by more than ten feet (10'), and dish antennae not exceeding one meters (1 m) in diameter. Except for satellite dish antennae, no antennae or support structure shall be located within the required front, side or rear yard setback. To protect traffic safety and community appearance, no

satellite dish antennae or support structure shall be located within the required front or second front yard setback, unless the Zoning Board of Adjustment finds that such an encroachment is necessary to prevent impairment of installation, maintenance or reception and that a traffic sight restriction is not created.

- 7 Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency or non profit entity.
- 8 Public buildings, including libraries, museums, police and fire stations
- 9 Schools, public, elementary or high schools
- 10 Schools, private, with curriculum equivalent to that of a public elementary or high school
- 11 Duplex, fourplex, or townhomes
- 12 Apartments and condominiums up to twenty five (25) units per acre
13. HUD Code manufactured home (built after 1976 according to HUD standards)
14. Assisted Living Facility
- 15 Retirement Home
- 16 Modular Home

b. **CONDITIONAL USES**

- 1 Farms, truck gardens, orchards or nurseries for the growing of plants, shrubs and trees, provided no retail or wholesale business sales offices are maintained on the premises, and provided that no obnoxious fertilizer is stored upon the premises, and no obnoxious soil or fertilizer processing is conducted thereon
- 2 Uses customarily incident to any of the above uses when situated in the same dwelling and when not involving the conduct of a business or industry, except for home occupations as heretofore defined, such as the office of a physician, surgeon, dentist, or art gallery.
- 3 Real Estate sales office for property located within the subdivision in which it is located Sales offices shall require payment of an annual permit fee, to be established by the City Council. Use of a sales office shall cease within thirty (30) days of the sale of the last parcel within the subdivision. Field offices for the sale or rental of real estate shall be removed upon request of the Building Inspector. Sales offices shall not be used for the sale of property outside of the subdivision in which it is located
- 4 Any typically permitted secondary or accessory uses allowed in the district in the absence of the principal use, if after consideration of the layout, configuration and relationship to existing subdivisions and neighborhoods, the Administrative Official determines that re-platting of the principal and secondary lots into a single lot is not possible or desirable
- 5 Utility facilities

6. Antennae and towers exceeding the maximum height in the District and dish antennae exceeding one meter (1 m) in diameter, in order to protect community appearance from the negative visual effects of proliferation of large antennae. Conditional use permits shall be acted upon within 90 days of receipt of application. Persons aggrieved by a decision on a satellite dish antenna application may appeal to the Federal Communications Commission. Any new towers must also comply with the conditions of Section 11 M.
7. Subsidiary dwelling
8. Churches
9. Bed and breakfasts
10. Beauty and Flower Shops
11. Child Care Facilities
12. Cemetery
13. Home occupations (open to the public)
14. Lodges/Clubs
15. Golf Course
16. Health Clinics
17. Apartments and condominiums exceeding twenty-five (25) units per acre
18. Recreational vehicle camping area

c. **SPECIAL EXCEPTION USES**

1. Special exception uses authorized by the Board of Adjustment under the provisions of Section 19

C. HEIGHT AND AREA REGULATIONS

In the "R" Residential District, the height of buildings, the minimum dimensions of lots and yards, the minimum lot area, and the minimum floor space per family shall be as follows:

1. Floor Space: A single family residence shall contain a minimum of 1,000 square feet of livable floor space, exclusive of garage, porches and breezeways, and incidental storage area or a minimum of 880 square feet for residences built under the HOME grant program; a two-family dwelling shall contain a minimum of 750 square feet of livable floor space for each family to be housed in the dwelling; and other multi-family buildings shall contain an average 700 square feet of livable floor space, and a minimum of 550 square feet of livable floor space for each family to be housed in said buildings.

This minimum total floor area shall not apply to hotels, or apartment hotels, where no provision is made for cooking in any individual room, suite or apartment.

2. Height: No building hereafter erected, reconstructed, altered, or enlarged shall exceed three and one-half (3 1/2) stories nor shall it exceed thirty-five feet (60').
existing
3. Front Yard. There shall be a front yard of not less than twenty-five feet (25'), or the front yard indicated on a City-approved subdivision plat as filed in the Karnes County Plat Records, whichever is greater. Corner lots shall have a minimum side yard of fifteen feet (15') on the second front yard, the yard generally parallel to the street with the greatest frontage, unless reversed frontage is approved by the Administrative Official. If a building line shown on a City-approved subdivision plat as filed in the Karnes County Plat Records is greater than fifteen feet (15'), then the platted building line shall be required on the second front yard. Garage doors and gates meant for vehicle use shall be located no closer than 20 feet from the right-of-way
4. Rear Yard: There shall be a rear yard having a depth of not less than twenty feet (20'). The Building Inspector may authorize encroachments of up to twenty square feet (20 SF) for fireplaces and/or bay windows that do not restrict access for public safety and/or adjacent property
5. Side Yard. For single family residences, corner lots have a minimum side yard of ten feet (10') on side yards adjacent to interior lots. For multi-family uses when more than one main building is erected on a platted lot, the distance between buildings shall be not less than 20 feet. For buildings more than 2 1/2 stories in height shall have a minimum side yard of 15 feet. No accessory buildings shall project beyond the side set backs

Interior lots shall have a minimum side yard dimension of ten feet (10').

6. Width of Lot: The width of a lot shall be a minimum of seventy feet (70') at the building line, provided that where a lot of record and in separate ownership at the time of the passage of this ordinance has width less than herein required, this ordinance shall not prohibit the erection of a single-family dwelling
7. Lot Area: The minimum area of a lot shall be seven thousand square feet (7,000 sq. ft) for a single family residence and 8,400 square feet for a two family residence. Every other building or portion thereof hereafter erected, reconstructed, altered or enlarged shall provide a lot area of not less than 1,500 square feet per family

This lot area requirement shall not apply to hotels or apartment hotels where no provision is made for cooking in any individual room, suite or apartment.

8. Maximum Lot Coverage: The maximum portion of the lot area, which may be covered by the main building and all accessory buildings, shall not exceed 40 percent

D. REQUIRED CONDITIONS OF MANUFACTURED HOMES

1. Manufactured Homes shall be installed in accordance with the following criteria
 - a. Anchorage and foundation of the manufactured home shall be by a person licensed by the State of Texas in compliance with state law as outlined in the latest edition of *Manufactured Housing Rules: Administrative Rules of the Texas Department of Housing and Community Affairs 10 Texas administrative Code, Chapter 80*.

- b. Each manufactured home shall be totally skirted within thirty (30) days with metal, masonry, pressure-treated wood, or other nondegradable fire-retardant material, which is compatible with the design, and exterior materials of the primary structure.
- c. Exterior siding material, excluding skirting, shall be nonmetallic.
- d. The structure shall be of adequate quality and safe design, as certified by a label stating that the unit is constructed in conformance with the federal Manufactured Home Construction and Safety Standards in effect on the date of manufacture, or other such applicable standards as required by state or federal law
- e. The manufactured home shall be in sound and safe structural condition. Any structure that shows signs of fire damage will not be acceptable. The Building Official and/or Fire Marshall make the determination of the foregoing
- f. Electrical power shall be from a meter installation on the mobile home, or from a permanent meter pedestal
- g. Driveways and off-street parking shall be provided in accordance with the requirements for residential dwellings
- h. Garage and carport additions are permitted provided they meet the minimum building setback requirements, and have roof and siding material compatible with the primary structure
- i. Patio and porch covers are permitted provided they cover an improved patio, deck, or porch, and meet the minimum building setback requirements
- j. Living area additions are permitted, provided they meet the minimum building setback requirements, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as the primary structure
- k. All accessory structures and additions shall comply with all applicable city ordinances
- l. An adequate supply of potable water shall be supplied to each manufactured home through piping conforming with the City's plumbing code as may be amended, and an outdoor hydrant shall be installed at each manufactured home, at least four inches (4") above the ground
- m. Each manufactured home shall be provided with a sewer riser pipe of minimum of four inches (4") diameter
- n. Gas piping systems shall be installed underground in accordance with the applicable codes and regulations as may be amended. Natural gas shall be used except that a liquefied petroleum gas system may be installed if the available natural gas supply is not available to the lot.
- o. No mobile homes (those constructed prior to June 15, 1976) shall be allowed within the city limits

SECTION 8
"C" COMMERCIAL DISTRICT

A. PURPOSE

This district is a commercial category providing a uniform set of standards for retail shopping facilities and general commercial activities. It is intended that this zoning district be served by major thoroughfares and be of such size that all parking and traffic maneuvering can take place on the commercial site. It is expressly intended that no residential dwelling be erected in this commercial district and existing dwellings will remain as legal non-conforming dwellings.

B. USE REGULATIONS

In the "C" Commercial District, no buildings or land shall be used and no buildings shall be hereafter erected, reconstructed, altered or enlarged, unless otherwise provided in this ordinance, except for one or more of the following uses:

a. PERMITTED USES

1. Antique shops
2. Arcades, auditoriums, theaters, cinemas
3. Automobile parking areas.
4. Automobile parts, retail sales
5. Bakeries, providing that the floor area does not exceed three thousand square feet (3,000 sq ft)
6. Barber and beauty shops.
7. Bicycles and bicycle repair shops.
8. Blueprinting or photostating.
9. Book or stationary stores, or newsstands
10. Business colleges, trade schools, or private schools operated as a commercial enterprise
11. Temporary seasonal outdoor sales operations such as Christmas tree sales, firewood sales, crafts, and food sales when such temporary operation exceeds seventy-two (72) hours in a twelve (12) month period. Such temporary sales operations may be a principal use on a property or an outdoor operation in conjunction with and subordinate to any existing permitted permanent indoor retail establishment. Such temporary outdoor sales operations shall require the submittal of an operations site plan for approval by the City Planner prior to setting up operations. The operations site plan shall show the proposed location of sales areas, storage areas, parking areas, traffic flow and street access, fencing and signage in relation to existing improvements to the property. Portable signs may be

approved for the duration of the temporary outdoor sales operations when such sign is included in the approved operations site plan. A temporary outdoor sales operation on a single site shall not be approved for more than three (3) occurrences in a twelve-month period, the total of which shall not exceed one hundred twenty (120) days

- 12. Cigar or tobacco stores
- 13. Cleaning, dyeing and pressing works; laundry and washaterias, providing that the floor area does not exceed three thousand square feet (3,000 sq ft) for separate or combined uses
- 14. Commercial amusement centers and bowling alleys, indoor operations only.
- 15. Confectionery stores
- 16. Custom dressmaking or millinery shops
- 17. Dancing schools
- 18. Day Care Nurseries and Kindergartens
- 19. Department stores.
- 20. Dog and cat hospitals or small animal hospitals, if conducted wholly within a completely enclosed soundproof and air conditioned building, provided, that noise or odors created by activities within the building shall not be perceptible beyond the property line, and that no animals are kept outside the building at any time
- 21. Health Service Facilities. Clinics, offices of dentists, doctors and other practitioners of the healing arts licensed or similarly recognized under the laws of the State of Texas; offices for specialists in supportive health service fields such as physical, audio and speech therapy, podiatry and psychological testing and counseling; dental, medical and optical laboratories and blood banks; ambulance dispatch stations, prescription pharmacies and offices, stores and display rooms for the sale and rental of medical supplies and equipment
- 22. Drug stores
- 23. Dry goods and notions stores
- 24. Duplicating service, printing, lithographing, by mimeographing, multigraphing and offset printing, providing that the floor area does not exceed three thousand square feet (3,000 sq ft)
- 25. Electrical and gas appliances and supply sales, electrical and gas repair and installation services
- 26. Financial institutions
- 27. Florist or gift shops

28. Frozen food lockers for individual or family use, not including the processing of food except cutting or wrapping
29. Garages, storage only
30. Grocery stores and meat markets
31. Hardware, paint, wallpaper stores and other home improvement items
32. Health and physical fitness centers
33. Hotel, motel or motor hotel subject to the following restrictions:
 - a. No building or outside activities or facilities including dumpsters, mechanical, storage or maintenance buildings or equipment, or recreation areas, except surface parking shall be less than fifty feet (50') from any residential district
 - b. No building shall exceed three and one-half (3 1/2) stories nor shall it exceed sixty feet (60') within one hundred feet (100') of any residential zoned property
 - c. Any external lighting shall be mounted and maintained to not illuminate any adjacent residential zoned property
34. Household and office furniture, furnishings and appliances
35. Jewelry stores, optical goods
36. Golf course, including miniature course, driving tee, driving range and "Pitch and Putt" course. Lighting of any such use shall be directed away from residential areas
37. Leather and leather goods shops, providing that the floor area does not exceed three thousand square feet (3,000 sq. ft.) for separate or combined uses
38. Mortuaries, funeral homes and undertakers
39. Museums, libraries, fine arts centers, parks, playgrounds, community centers or recreational areas.
40. Medical Care Facilities. Nursing and care homes, hospitals with their related facilities and supportive retail and personal service uses operated by or under the control of the hospital primarily for the convenience of patients, staff and visitors.
41. Nursery yards or buildings for retail sales provided that all incidental equipment and supplies including fertilizer and empty containers are kept within a building
42. Offices
43. Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other public agency
44. Public buildings, including libraries, museums, police and fire stations.
45. Piano stores, musical instruments and supplies
46. Plumbing and heating appliances, repair and installation services. All storage of materials must be indoors
47. Radio and television sales and servicing
48. Restaurants, tearooms, cafeterias, fast food and "take-out" food restaurants.

49 Retail stores, businesses, pawn shops, or shops for custom work or the manufacturing of articles to be sold at retail on the premises, providing that in such manufacture the total mechanical power shall not exceed five horse power (5 HP) for the operation of any one machine provided that the space occupied by the manufacturing use permitted herein shall not exceed fifty percent (50%) of the total floor area of the permitted use and provided further that such manufacturing use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes, and all activities shall be conducted totally within the same building

50. Service stations, gasoline, oil, greasing, and tuning, not including fender or body repairs, major mechanical rear end, transmission, and engine overhaul Car washing as a secondary use No bay door or overhead door shall face any residential district when located less than one hundred feet (100') from any residential district

51 Showroom warehouse, subject to the following restrictions: All activities and storage shall be totally within an enclosed building, a maximum of eighty percent (80%) of the gross floor area of any unit or multiple unit facility shall be used for warehouse activity; no manufacturing fabrication or assembly operation shall be conducted in any part of any unit except for articles to be sold at retail on the premises providing that in such manufacture the total mechanical power shall not exceed five horse power (5 hp) for the operation of any one machine provided that the space occupied by the manufacturing use permitted herein shall not exceed fifty percent (50%) of the total floor area of the permitted use and provided further that such manufacturing use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or fumes, and all activities shall be conducted totally within the same building

52 Sporting goods including gun sales and repair

53 Studios for artists

54 Tailor, clothing or wearing apparel shops

55 Variety stores

56. Public, private, and parochial elementary and secondary schools whose curricula satisfy the requirements of the State Public School Laws and the requirements of the State Board of Education

57. Higher Education Institutions. Junior and senior colleges, universities, conservatories and seminaries, offering curricula recognized by collegiate, academic and professional organization accrediting boards

58 Religious institutions, churches and facilities for related activities including those of worship, fellowship and education

59. Radio, television, microwave broadcast, relay, transmission and retransmission facilities, satellite earth stations (home dish antennas) and any electronic emission equipment when operated in conformance with all Federal Communications Commission and other regulations, and provided the following additional conditions are met:

- a. No satellite dish shall exceed two meters (2) in diameter, and
- b. No portion of any such dish or other equipment, in any position, shall exceed the specified height regulation of this zoning district, and
- c. No portion of any ground-mounted antenna or other equipment, in any position, shall be less than five feet (5') from any property line, utility easement, or building, and
- d. No such dish or other antenna may be located in any required front yard or second front yard.

60. Accessory buildings and uses customarily incident to any of the above uses including air conditioners, ice and refrigerating plants purely incidental to the main activity permitted on the premises. No accessory use shall be construed to permit the keeping of articles or materials in the open or outside the building

61. Antennae and towers not exceeding the maximum height allowed in the District (see paragraph C 1 below), antennae attached to existing structures and not increasing the overall height of the existing structure by more than ten feet (10'), and dish antennae not exceeding two meters (2 m) in diameter. Except for satellite dish antennae, no antennae or support structure shall be located within the required front, side or rear yard setback. To protect traffic safety and community appearance, no satellite dish antennae or support structure shall be located within the required front or second front yard setback, unless the Zoning Board of Adjustment finds that such an encroachment is necessary to prevent impairment of installation, maintenance or reception and that a traffic sight restriction is not created

62. Automobile, motorcycle, truck, and trailer sales, or rental areas. No more than two vehicles may be offered for sale except by an authorized Motor Vehicle Dealer licensed or bonded by the Motor Vehicle Division of the Texas Department of Transportation. An existing business may offer up to two vehicles for sale provided that the premises contain an office that is occupied during regular business hours.

63. Boat sales, service and repair.

64. Automobile laundry and steam cleaning subject to the following restrictions:

- a. All automobile, laundry and steam cleaning uses shall be completely within a building having not less than two sides
- b. Vacuuming facilities may be outside the building, but shall not be in the front yard and shall not be closer than twenty-five feet (25') from "SF", "D", or "MF" Districts.

- c. The building surfaces shall be faced with masonry porcelainized steel, baked enamel steel or other material equal in durability and appearance.
- d. The building shall not be less than one hundred feet (100') from "SF", "D", or "MF" Districts
- e. The building set back shall be not less than zero feet (0') from the front property line
- f. Any lights used to illuminate the area shall be directed away from adjacent residential properties

65 Mini-Warehouse

66 Garages, public, for repairs or storage facilities for automobiles when such facilities and activities are maintained within a building, provided no painting or body or fender repairs shall be conducted on any premises. No bay door or overhead door shall face any residential district when located less than one hundred feet (100') from the residential district

67 Farm implement sales and service

68 Hotel, motel or motor hotel subject to the following restrictions:

- a. No building or outside activities or facilities including dumpsters, mechanical, storage or maintenance buildings or equipment, or recreation areas, except surface parking shall be less than fifty feet (50') from any residential district
- b. No building shall exceed two and one-half (2 ½) stories nor shall it exceed thirty-five feet (35') within one hundred feet (100') of any residentially zoned property.
- c. Any external lighting shall be mounted and maintained in a manner to not illuminate any adjacent residential zoned property

69 Recreational vehicle storage

70 Skating rinks, ice and roller

71 Printing, lithographing, or duplicating shops

72 Golf courses, including miniature golf, and driving ranges and batting cages.

73 Delicatessen shops

74 Photograph, portrait or camera shops and photo finishing

75 Taxidermist

76 Kennels (outdoor runs)

77 Stable

78 Public Works (except for sanitary sewer facility)

79 Farmer's Market

b. **CONDITIONAL USES**

1. Utility facilities.
2. Antennae and towers exceeding the maximum height in the District and dish antennae exceeding two meters (2 m) in diameter, in order to protect community

appearance from the negative visual effects of proliferation of large antennae. Conditional use permits shall be acted upon within 90 days of receipt of application. Persons aggrieved by a decision on a satellite dish antenna application may appeal to the Federal Communications Commission. Any new towers must also comply with the conditions of Section 11 M.

3. Outdoor commercial amusement enterprise
4. Light manufacturing and processing if the use is not noxious or offensive by reason of emission of odors, soot, dust, noise, fumes, or vibrations
5. Trailer/RV/manufacrtured home rental park
6. Sexually oriented business
7. Residential permitted uses

c. **SPECIAL EXCEPTION USES**

1. Special exception uses when authorized by the Board of Adjustment under the provision of Section 13

C. HEIGHT AND AREA REGULATIONS

In the "C" Commercial District, the height of the buildings, the minimum dimensions of lots and yards, the minimum lot area, and the minimum floor space per family shall be as follows:

1. Height: No building hereafter erected, reconstructed, altered, or enlarged shall exceed three and one-half (3 1/2) stories, nor shall it exceed sixty feet (60').
2. Front Yard: There shall be a front yard of not less than twenty-five feet (25'), or the front yard indicated on a City-approved subdivision plat as filed in the Karnes County Plat Records, whichever is greater. Corner lots shall have a minimum side yard of fifteen feet (15') on the second front yard, the yard generally parallel to the street with the greatest frontage, unless reversed frontage is approved by the Administrative Official. If a building line shown on a City-approved subdivision plat as filed in the Karnes County Plat Records is greater than fifteen feet (15'), then the platted building line shall be required on the second front yard. Garage doors and gates meant for vehicle use shall be located no closer than 20 feet from the right-of-way.
3. Rear Yard: There shall be a rear yard having a depth of not less than twenty feet (20').
4. Side Yard: There shall be a minimum side yard of not less than five feet (5'). Where a lot abuts upon the side of a residentially zoned lot, there shall be a side yard of not less than ten feet (10'). In a unified commercial development, interior side yard setbacks may be waived upon approval of the Planning and Zoning Commission at the time of platting or site plan approval.
5. Width of Lot: The width of a lot shall be a minimum of seventy feet (70') at the building line, provided that where a lot of record and in separate ownership at the time of the passage of this ordinance has less width than herein required, this ordinance shall not prohibit its use for commercial purposes.

D. DISTRICT RESTRICTIONS

1. Any lighting visible from outside the site shall be designed to reflect away from adjacent residential districts and shall not interfere with traffic safety. No noise, odor, or vibration shall be emitted such that it constitutes a nuisance by substantially exceeding the general level of noise, odor or vibration emitted by uses adjacent to or immediately surrounding the site. Such comparisons shall be made at the boundaries of the site
2. Outdoor storage of trash receptacles shall be at the side or rear of the site and shall be totally encircled or screened by a fence, planting or other suitable visual barrier

SECTION 9 "I" INDUSTRIAL DISTRICT

A. PURPOSE

The purpose of this district is to regulate those uses of the land that involve the manufacturing, assembly, processing, storage and/or distribution, sale and repair of materials, goods, parts, products, equipment, machinery, and other such operations incidental to industrial uses. It is not the intent of these regulations to allow the construction or development of residential uses within this district and those residential uses existing at the time of the adoption of this zoning ordinance and its zoning district map may continue but shall be classified as non-conforming uses. All proposed industrial uses shall be accompanied by a development site plan. Since the intended use may cause a detrimental change to the environment or substantially affect the municipally operated utility or thoroughfare systems, detailed descriptions of performance standards are included in these district regulations and are determined to be the maximum allowable within any single or combined industrial use or district

B. USE REGULATIONS

In the "I" Industrial District, no building or land shall be used and no buildings shall be hereafter erected, reconstructed, altered, or enlarged, unless otherwise provided in this ordinance, except for one or more of the following uses:

a. PERMITTED USES

1. Any industrial and/or commercial use meeting the included development site plan requirements and performance standards.
2. Antennae and towers not exceeding the maximum height allowed in the District (see paragraph D.1. below), antennae attached to existing structures and not increasing the overall height of the existing structure by more than ten feet (10'), and dish antennae not exceeding two meters (2 m) in diameter. Except for satellite dish antennae, no antennae or support structure shall be located within the required front, side or rear yard setback. To protect traffic safety and community appearance, no satellite dish antennae or support structure shall be located within the required front or second front yard setback, unless the Zoning Board of Adjustment finds that such an encroachment is necessary to prevent impairment of installation, maintenance or reception and that a traffic sight restriction is not created.
3. Public buildings, including libraries, museums, police and fire stations
4. Water supply reservoirs, plumbing plants, towers
5. Accessory structures and uses customarily incident to the above uses and located on the same lot therewith.

6. Churches
7. Manufacturing (all types)
8. Agricultural processing
9. Warehouses (bulk storage)
10. Welding shop
11. Contractor's yard
12. Salvage yard
13. Machine shop
14. Mining, oil & gas production
15. Transmitting towers
16. Sanitary sewer facilities

b. CONDITIONAL USES

1. Utility facilities
2. Antennae and towers exceeding the maximum height in the District and dish antennae exceeding two meters (2 m) in diameter, in order to protect community appearance from the negative visual effects of proliferation of large antennae. Conditional use permits shall be acted upon within 90 days of receipt of application. Persons aggrieved by a decision on a satellite dish antenna application may appeal to the Federal Communications Commission. Any new towers must also comply with the conditions of Section 11 M.
3. Outdoor commercial amusement enterprise.
4. Sanitary landfill.
5. All permitted and conditional uses under Residential and Commercial
6. Any use or category of use not otherwise listed in this ordinance

c. SPECIAL EXCEPTION USES

1. Special exception uses when authorized by the Board of Adjustment under the provision of Section 13.

C. DEVELOPMENT SITE PLAN

A development site plan shall be required for each building permit application, shall be submitted to the Administrative Official for approval and shall contain the following information:

- 1 A scale drawing showing the boundary of the tract and topography with a contour interval of not less than two foot (2') intervals, and drainage information
- 2 The location of each building and the minimum distance between buildings and between buildings and the property lines, street line and/or alley line shall be submitted. The plan shall include all dimensions, all easements, the legal description and zoning of the subject property and all adjacent property
- 3 A plan indicating the arrangement and provision of off-street parking, off-street loading, outside storage areas, method and location of storage area screening and points of entry from adjoining thoroughfares
- 4 A table showing net land area, ratio of building area and outside storage areas to net land area
- 5 A table of performance standards of the characteristics of the industrial activities to be conducted on the site, if required by the Administrative Official.
- 6 Scale, north arrow, and names and addresses of owners and/or developers with name(s) and address(es) of those responsible for preparation of the development plan.
- 7 For development projects influenced by or containing major drainage ways or containing areas flood prone by definition of the City Engineer, preliminary drainage plan shall become a part of the development site plan. This requirement may be waived only by the recommendation of the Administrative Official
- 8 Existing and proposed fire hydrants, sign information, and provisions for external illumination and trash collection

The Administrative Official shall review the development site plan for conformance with applicable ordinances, regulations and codes. The Administrative Official, in consultation with other City Officials, shall also review and evaluate the site plans for fire and safety concerns, traffic circulation, drainage, environmental constraints and impacts, landscaping, amenities and adequacy of buffers. If the proposed site plan conforms to applicable requirements and, in the opinion of the Administrative Official, provides adequate design features to reasonably mitigate adverse effects, the Administrative Official shall approve the site plan. An applicant may appeal a denial of site plan approval to the Planning and Zoning Commission for reconsideration at its next available agenda. The Commission prior to the meeting shall notify adjacent landowners potentially affected by the appeal in writing of the consideration.

D. HEIGHT AND AREA REGULATIONS

In the "I" Industrial District, the height of the buildings and the minimum dimension of yards shall be as follows.

1. Height: Buildings shall not be limited by height. All buildings more than sixty feet (60') in height shall be equipped with automatic sprinkler system as provided by the city's building code
2. Front Yard: There shall be a front yard of not less than thirty feet (30'), or the front yard indicated on a City-approved subdivision plat as filed in the Karnes County Plat Records, whichever is greater. Corner lots shall have a minimum side yard of fifteen feet (15') on the second front yard, the yard generally parallel to the street with the greatest frontage, unless reversed frontage is approved by the Administrative Official. If a building line shown on a

City-approved subdivision plat as filed in the Karnes County Plat Records is greater than fifteen feet (15'), then the platted building line shall be required on the second front yard Garage doors and gates meant for vehicle use shall be located no closer than 20 feet from the right-of-way

- 3 Side Yard: There shall be a side yard of not less than ten feet (10'), unless additional emergency access is required by the Fire Marshal
- 4 Rear Yard: There shall be a rear yard of not less than twenty feet (20'), unless additional emergency access is required by the Fire Marshal

E. PERFORMANCE STANDARDS

The following are maximum accepted levels of noise, vibration, and smoke, particulate matter and toxic and noxious matter allowable for industrial uses. If the proposed use results in the discharge of sanitary sewage effluent containing industrial wastes or other effluent into the City of Falls City's sanitary sewage system, a characterization of the effluent and a description of proposed methods of pretreatment (if any) must accompany the development site plan. No industrial facility may release waste into the City of Falls City's sanitary sewage system unless the waste is approved by the City. The performance standards report may be waived by the Administrative Official if the proposed use is considered not to produce the listed effects. Maximum levels of noise, vibration, smoke, particulate matter and visible emissions must be within state and federal standards as documented by permits for any such emissions. All operating permits from regulatory agencies must be filed with the City Office and they shall be updated within 30 days of receipt of renewal or amendment

Noise: The day-night average sound level at the property line shall not exceed eighty (80) decibels

Smoke, Particulate Matter and Visible Emissions: Smoke or visible emissions emitted from any vent, stack, chimney, skylight, or window shall not exceed an opacity of twenty percent (20%) averaged over a five (5) minute period not including water vapor. Any emission of air pollutant must be in accordance with the requirements of the State of Texas and Federal Government as detailed in The National Ambient Air Quality Standard (NAAQS).

Toxic and Noxious Matter: The handling, processing, storage and disposal of hazardous, toxic, or noxious materials within this District shall be in accordance with applicable State and Federal laws and regulations. All liquid hazardous materials stored in quantities that could cause harm to the environment shall be stored in such a manner as to prevent accidental runoff into public waterways or sewage treatment plants. All outdoor containment must be sized to hold the largest storage container plus ten percent (10%) freeboard. In addition, the Planning and Zoning Commission may establish additional performance standards, including setbacks, berms, and buffers, for the siting of facilities which handle, treat, store, or dispose of potentially hazardous or dangerous materials. Hazardous liquid materials must be stored in a contained area

Additional Standards: The Planning and Zoning Commission may establish additional performance standards to protect neighboring areas and land uses from potential industrial hazards and nuisances.

SECTION 10 CONDITIONAL USES

A. PURPOSE

The purpose of the Conditional Use procedure is to allow for review of uses which would not be appropriate generally or without certain restriction throughout a zoning district, but which, if controlled as to the number, area, location or relation to the neighborhood would promote the health, safety, and welfare of the community. The procedure is intended to allow broad public review and evaluation of the proposed development and to ensure adequate mitigation of potentially unfavorable impacts.

B. SUBMISSION REQUIREMENTS AND PROCEDURE

An application for a Conditional Use Permit shall be submitted to the Administrative Official, along with any applicable fee required by Section 22, in accordance with rules established by the Planning and Zoning Commission prior to the established application-filing deadline for the next regular meeting of the Planning and Zoning Commission (but in no event less than 30 days from filing the Application). The application shall include the same information required in Section 11 for a development site plan. The Administrative Official shall schedule a public hearing at a regular meeting of the Council and shall provide notice to property owners of real property lying within two hundred feet (200') of the property on which a conditional use is sought. Such notice shall be mailed to property owners no less than ten (10) days before the date set for the public hearing. Notice of the public meeting shall be posted at least seventy-two (72) hours prior to the public hearing in accordance with State law.

The Administrative Official shall review the application and submit a report to the City Council. This report shall be made available to the applicant prior to the public hearing.

The City Council shall review the application against the Review and Evaluation Criteria and decided approval, conditional approval, or denial of the Conditional Use Application.

C. REVIEW AND EVALUATION CRITERIA

The Conditional Uses application shall be reviewed and evaluated using the following criteria:

1. Conformance with applicable regulations and standards established by this Zoning Ordinance.
2. Compatibility with existing or permitted uses on abutting and nearby sites in terms of building height, bulk, scale, setbacks, open spaces, traffic, landscaping and site development, and access and circulation features
3. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use
4. Location, lighting, and type of signs; and relation of signs to traffic control and adverse effect on adjacent properties
5. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses anticipated in the area considering existing zoning and land uses

6 Location in or near flood hazard areas

D. LAPSE OF APPROVAL AND MODIFICATIONS

A Conditional Use Permit shall be valid for one (1) year from the date of approval unless prior to such expiration date a building permit is issued and construction occurs or the actual use, if not requiring a building permit, is commenced. The expiration date may be extended by the City Council upon application. The notification procedures specified in B SUBMISSION REQUIREMENTS AND PROCEDURE shall be followed for consideration of any requested continuance.

Approval of a Conditional Use Permit automatically expires upon change in ownership of the land, unless the Commission or City Council determines as part of its specific approval of a Conditional Use Permit, that transfer of the authorization to a subsequent owner is in the best interest of the City. The City Council may grant continuance of the conditional use upon application to the council. The notification procedure specified in B SUBMISSION REQUIREMENTS AND PROCEDURE shall be followed for consideration of any requested extension.

Minor modifications of a Conditional Use Permit may be made if the Administrative Official determines that such modifications will not change the intent and effect of the approval by the City Council.

**SECTION 11
SUPPLEMENTARY DISTRICT REGULATIONS**

- A No building shall hereafter be erected, reconstructed, altered or enlarged, nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located.
- B. No building shall hereafter be erected, reconstructed, altered or enlarged to exceed the height or bulk limit herein established for the district in which such building is located, nor shall any building be erected, reconstructed or altered as to provide a floor space smaller than the minimum prescribed by this ordinance.
- C. No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations herein established.
- D. Every building hereafter erected shall be located on a lot as herein defined, and in no case shall there be more than one building on one lot, except as herein provided.
- E. **Visibility at Intersections:** On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet (2 1/2') and ten feet (10') above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines thirty-five feet (35') from the point of intersection.
- F. **Accessory Building:** No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within five feet (5') of any other building.
- G. **Erection of More than One Principal Structure on a Lot:** In any district, no more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.

- H. **Exceptions to Height Regulations:** The height limitations contained in the Zoning District Regulations do not apply to spires, belfries, cupolas, receiving antennas (excluding dish antennas), water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy
- I. **Structure to have Access:** 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
- J. Any residentially-zoned lot having less area and/or width than herein required and which was platted of record and in separate ownership at the time of the passage of this ordinance may be occupied by not more than a one-family structure. Nothing in this ordinance shall prevent the residential use of any lot platted of record prior to the effective date of this ordinance provided that all front yard, side yard, rear yard, floor area, parking and all provisions other than lot area and/or lot width are met or exceeded
- K. All private driveways and parking areas shall be paved with a nonpermeable substance, such as concrete or asphalt
- L. In districts "C" and "I", not intended for residential use and where residential use is not a permitted use, living quarters may be provided for resident managers, resident security and maintenance personnel and the like provided that:
 - 1. The living quarters are clearly subordinate to the permitted use in "C" or "I" districts.
 - 2. The living quarters are only occupied by a manager, security, maintenance or other individual employed with full time duties on the site on which the living quarters are located. This is not intended to preclude the additional occupancy of the living quarters by family members of the full time individual employed on the site
 - 3. The living quarters are incorporated into the design of the permitted use in such a manner that the living quarters are not perceptible as such
 - 4. Two (2) off-street parking spaces are provided per living quarter in addition to the required parking for the permitted use
 - 5. Not more than one (1) such living quarter shall be authorized per platted lot without prior specific approval of the City Council as a conditional use following procedures established in 12

M. Standards for Telecommunications Towers and Antennae

The City of Falls City has a goal of minimizing the number of new telecommunications towers and antennae, while balancing the needs of telecommunication providers to establish a reasonable network to provide quality service

- 1. Before a conditional use permit is granted for a new telecommunications tower, the applicant must demonstrate a good faith effort to locate on an existing tower or other structure. Such effort shall be demonstrated by providing evidence that all potential existing structures were contacted and were determined unavailable, or engineering data showing that there were no acceptable existing structures that met the grid requirements

- 2 Any new telecommunications tower shall be designed to accommodate at least one additional antenna.
- 3 Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. If such antenna or tower is not removed within said ninety (90) days, the City may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower

SECTION 12 NON-CONFORMING USES

- 1 The lawful use of a "building" or fence existing at the time of this ordinance may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout the building provided no structural alterations, except those required by law or ordinance, are made therein. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. If such non-conforming building is removed, every future use of such premises shall be in conformity with the provisions of this ordinance.
- 2 Repairs and alterations may be made to a legal non-conforming 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 and provided that no additional dwelling units shall be added where the non-conforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located. The Board of Adjustment shall have the authority after a hearing to grant extension of a building non-conforming as to uses not to exceed twenty-five percent (25%) of the ground area of the same in case of evident hardship, subject to the yard restrictions herein provided.
- 3 The lawful use of "land" existing at the time of the passing of this ordinance, although such does not conform to the provisions hereof, may be continued, but if such non-conforming use is discontinued, any future use of said premises shall be in conformity with the provisions of this ordinance.
- 4 A legal non-conforming use, if changed to conforming use, may not thereafter be changed back to a non-conforming use. A legal non-conforming use, may not thereafter be changed unless to an equal or to a more restricted use.
- 5 A legal non-conforming use, when discontinued or abandoned, shall not be resumed, except that the existing yards for all single family residences existing at the time of the passage of this ordinance shall be deemed to be conforming. Discontinuance or abandonment shall be defined as follows:
 - a When land used for a legal non-conforming use shall cease to be used in a bona fide manner for one (1) calendar month
 - b When a building designed or arranged for a non-conforming use shall cease to be used in a bona fide manner as a legal non-conforming use for a continuous period of six (6) consecutive calendar months
 - c When a building designed or arranged for a conforming use shall cease to be used in a bona fide manner as a legal non-conforming use for a period of three (3) consecutive calendar months

6. Upon evidence of hardship, the Board of Adjustment shall have the power to extend the time limits in paragraph 5 above not to exceed six (6) months
7. If a building occupied by non-conforming uses is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform to provisions of this ordinance. In the case of partial destruction by fire or other causes, not exceeding fifty percent (50%) of its value, the Building Inspector may issue a permit for reconstruction. If greater than fifty percent (50%) and less than total, the Board of Adjustment may grant permit for repair after public hearing, having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated non-conforming use and the conservation and preservation of property
8. A certificate of occupancy shall be issued for all legal non-conforming uses.
9. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a legal building permit has been heretofore issued, provided such construction shall have been started and shall be diligently prosecuted to completion
10. The foregoing provisions of this section shall also apply to uses, yards, or buildings made non-conforming by subsequent amendments to zoning regulations.
11. Nothing herein contained shall require any change in the plans, construction, or designated use of a building actually under construction at the time of passage of this ordinance and which such entire building shall be completed within one (1) year from the passage of this ordinance. Nothing herein contained shall require any change in plan, construction, or designated use of a building for which a building permit has been heretofore issued and which entire building shall be completed within six (6) months from the date of passage of this ordinance. If any amendment to this ordinance is hereafter adopted changing the boundaries or districts, the provisions of this ordinance with regard to buildings or premises existing or building under construction or building permits issued in the area affected by such amendment at the time of the passage of such amendment shall not be affected.

SECTION 13 BOARD OF ADJUSTMENT

A. PURPOSE

It is the declared purpose of this ordinance that non-conforming uses be eliminated and be required to conform to the regulations prescribed in the preceding articles of this ordinance, having due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated non-conforming use and the conservation and preservation of property. The Governing Body shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any non-conforming use within the City.

B. ORGANIZATION

A Board of Adjustment shall be established and have all the powers and authority in accordance with Section 211 008, Local Government Code, as amended. The Board of Adjustment shall consist of five (5) voting members, appointed by the City Council. Board members shall serve two (2) year terms, with Places 1, 3, and 5 appointed in odd numbered years and Places 2 and 4 appointed in even numbered years. In addition, the City Council may appoint up to four (4) alternates to serve in the absence of any Board member. The Board shall elect a chairperson from its members. Any member or alternate of the Board of Adjustment may be removed for just cause by the City Council. "Just Cause" as that term is used herein shall include three (3) unexcused absences from meetings,

regular or special, of the Board of Adjustment. Vacancies shall be filled by appointment by the City Council of a suitable person to serve out the unexpired term of any person whose place on the Board of Adjustment, either as a member or as an alternate, has become vacant for any cause.

The Board of Adjustment may adopt rules to govern its proceedings, providing, however, that such rules are not inconsistent with the terms of this ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairman, who may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact and shall keep records of its examinations and other official actions, all of which shall be filed in the offices of the City Secretary and kept as public record.

C. JURISDICTION

The Board of Adjustment shall have all powers granted by and be organized and controlled by the provisions of Section 211-009, Local Government Code. The Board of Adjustment is hereby vested with power and authority, and in appropriate cases and subject to appropriate conditions and safeguards, to make such exemptions and exceptions to the terms of this ordinance in harmony with its general purposes and intent in accordance with general or special rules herein contained for the purpose of rendering full justice and equity to the general public.

D. APPEALS

Appeals to the Board of Adjustment can be taken by any person aggrieved by any officer, department, or board of the municipality or affected by any decision of the administrative officer. Such appeal shall be taken within fifteen (15) days time after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceeding of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed, otherwise, than by restraining order which may be granted by the Board of Adjustment or by a court of record on application, after notice to the officer from whom the appeal is taken on due case shown.

E. HEARING

The Board of Adjustment shall fix a reasonable time for the hearing of any appeal, variance, special exception, or other matter which the Board of Adjustment is authorized to review hereunder, give public notice thereof, as well as due notice to the parties and interests and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney or agent. The notice provided in this section shall be given by publication in the official city publication stating the time and place of such hearing, which shall not be earlier than ten (10) days from the day of such publication, and in addition thereto, the Board of Adjustment shall mail notices of such hearing to the petitioner and the owners of the property lying within two hundred feet (200') of any point of the lot or portion thereof, on an appeal, variance, exception or other action is proposed, and to all persons deemed by the board of Adjustment to be affected, such owners and persons shall be determined according to the current tax rolls of the City and substantial compliance therewith shall be deemed sufficient, provided, however, that the depositing of such written notice in the mail by the board of Adjustment shall be deemed sufficient compliance with the purpose of this matter.

Any special exceptions authorized by the Board of Adjustment, either under the provisions of this chapter, or under the authority granted to the Board of Adjustment under the Statutes of the State of Texas, shall authorize the issuance of a building permit for a period of ninety (90) days from the date of the favorable action on the part of the Board of Adjustment, unless said Board of Adjustment in its minutes shall, at the same time, grant a longer period. If a building permit shall not have been issued within said ninety (90) day period or as the Board of Adjustment may specifically grant the special exceptions shall be deemed waived, and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal to said Board of Adjustment in accordance with the rules and regulations regarding appeals.

The same appeal to the Board of Adjustment shall not be allowed on the same piece of property prior to the expiration of one (1) year from a ruling of the Board of Adjustment on any appeal to such body unless other property in the same zoned areas shall have, within such one (1) year period, been altered or changed by ruling of the Board of Adjustment, in which case such change of circumstance shall permit the allowance of an appeal but shall in no way have force in law to compel the Board of Adjustment after a hearing to grant such subsequent appeal, but such appeal shall be considered on its merits as in all other cases.

F. POWER

The Board of Adjustment shall have the following powers.

1 Variances

The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only conditions that it deems necessary or desirable to protect the public interest. In making its findings herein below required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the Board finds:

- a That there were special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance deprive the applicant of reasonable use of his land; and
- b That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- c That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
- d That the granting of a variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this ordinance

Such findings of the Board, together with the specific facts upon which it is based, shall be incorporated into the official minutes of the Board of Adjustment meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute undue hardship.

2 Special Exceptions

The Board of Adjustment may permit a special exception when such use or development is specifically authorized under paragraph I of this Section. In reaching its decision the Board of Adjustment shall determine that the requested exception will establish only those uses permitted under the ordinance, that the location of the proposed activities and improvements are clearly defined on the site plan filed by the applicant; that the exception will be wholly compatible with the use and permitted development of adjacent properties either as filed or subject to such requirements as the Board of Adjustment finds to be necessary to protect and maintain the stability of adjacent properties.

3. Appeals of Decisions of Administrative Officers

- a The Board of Adjustment may hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the administrative officer in the enforcement of this ordinance.
- b In exercising its power, the Board of Adjustment may, in conformity with the provisions of Chapter 211, Local Government Code, revise or reform, wholly or partly, or may modify the order, requirement, decision or determination as sought to be made and shall have all the powers of the officer from whom the appeal is taken, and may require such conditions and safeguards as the Board finds necessary to preserve the spirit and intent of this ordinance.

4 Non-Conforming Uses

- a The Board of Adjustment may permit the reconstruction; extension or enlargement of a building occupied by a pre-existing non-conforming use on the lot occupied by such building provided such reconstruction does not prevent the return of such property to a conforming use.
- b The Board of Adjustment may require the discontinuance of non-conforming uses under any plan whereby the full value of the structure or use 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.
- c The Board of Adjustment may determine whether an existing nonconforming animal lot, barn or stable may continue, with additional restrictions, or be discontinued if petitioned under the provisions of Section 14. In making its determination, the Board shall consider public health, animal welfare, and nuisance conditions, as well as the general character of the neighborhood.

G. CONCURRING VOTE

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative officer, or to decide in favor of the application on any matter upon which it is required to pass under this ordinance or to affect any variance in said ordinance.

H. GRIEVANCES

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Adjustment or any taxpayer or any officer, department or board of the City may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) days of the questioned decision of the Board of Adjustment, and not thereafter, and shall comply in all respects with the requirements set forth in Section 211.011 of the Local Government Code.

SECTION 14 CERTIFICATE OF OCCUPANCY

CERTIFICATE OF OCCUPANCY:

No vacant land shall be occupied or used, except for agricultural purposes, and no building hereafter erected, reconstructed, altered, enlarged, or vacated shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the building or proposed use of a building or premises complies with the building laws and the provisions of this ordinance.

Certificates of Occupancy shall be applied for coincident with the application for building permit, and shall be issued within ten (10) days after the erection or structural alteration of such building shall have been completed in conformity with the provisions of this ordinance and any other ordinance of the City and approval of all required inspections. Approval of the final building inspection by the City shall serve as a Certificate of Occupancy for all one family and two family residential dwelling units.

CERTIFICATE OF OCCUPANCY FOR A LEGAL NON-CONFORMING USE:

Certificates of Occupancy shall be required for all legal non-conforming uses. Application for Certificate of Occupancy for such non-conforming uses shall be filed within twelve (12) months from the effective date of this ordinance, accompanied by affidavits of proof that such non-conforming uses were not established in violation of this ordinance, or any previous zoning ordinance.

Certificate of Occupancy shall state that the building or proposed use of a building or land, complies with all building and health laws and ordinances and with the provisions of this ordinance. A record of all certificates shall be kept on file in the office of the City Secretary, and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected. (No fee shall be charged for a Certificate of Occupancy for a legal non-conforming use.)

SECTION 15 NEWLY ANNEXED TERRITORY

All territory hereafter annexed into the City of Falls City, Texas, shall be classified as "A" Agricultural District, until permanently zoned by the City Council of the City of Falls City. The Planning and Zoning Commission may, after annexation of any territory into the City of Falls City, institute proceedings on its own motion to give newly annexed territory a permanent zoning, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.

SECTION 16 BUILDING PERMITS

All applications for building permits shall be accompanied by a drawing or plat, in triplicate, showing the lot plan, the location of the building on the lot, accurate dimensions of building and lot and such other information as may be necessary to provide for the enforcement of these regulations. This plat shall be prepared after the lot has been staked by a licensed surveyor. A careful record of the original copy of such application and plats

shall be kept in the office of the City Secretary and a duplicate copy shall be at the building at all times during construction

SECTION 17 BOUNDARIES OF DISTRICTS

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the map accompanying and made a part of this ordinance, the following rules shall apply:

- 1 The district boundaries are either streets, alleys, creeks, pipe lines, electric transmission lines, railroads, or other natural or manmade features not likely to change, unless otherwise shown, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by street or alley lines, said street or alley shall be construed to be the boundary of such district.
- 2 Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by lot lines, said lot line shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map
- 3 In un-subdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by use of the scale contained on such map, unless dimensions are shown

SECTION 18 CHANGES AND AMENDMENTS

The City Council may from time to time amend, supplement, or change, by ordinance, the boundaries of the districts or the regulations herein established. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement, or change, notice of which hearing shall be given by publication one (1) time in the official paper of the City of Falls City, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the date of publication. If a protest against such amendment, supplement, or change has been filed with the City Secretary, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change or all property within two hundred feet (200') of all boundaries of the proposed change, such amendment, supplement, or change shall not become effective except by a favorable vote of three-fourth (3/4) of all members of the City Council.

Written notice of all public hearings on proposed changes in district boundaries shall be sent to, all owners of property, or to the person rendering the same for City taxes, located within two hundred feet (200') of any such reclassification not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the City tax roll and depositing the notice, postage paid, in the United States Post Office. This shall be the method of notice for all public hearings of the Planning and Zoning Commission and the Board of Adjustment.

SECTION 19 VIOLATION AND PENALTIES

Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, shall be fined not less than Two Hundred (\$200 00) nor more than Two Thousand Dollars (\$2,000 00) for each offense. Each day that a violation exists shall constitute a separate offense. This penalty should not be construed as exclusive, and the City is hereby

provided that any other remedy available to it, in law or in equity, is not intended to be, and is not, foreclosed by the provision of such penalty

SECTION 20 ENFORCEMENT

The provisions of this ordinance shall be administered by the Administrative Official or his duly authorized representatives. The Administrative Official or any duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspection of buildings or premises necessary to carry out the enforcement of this ordinance

SECTION 21 INJUNCTION; CIVIL PENALTIES

The City shall have and retain the right to seek injunctive relief and/or civil penalties against any person, firm or corporation who is in the process of or about to violate any section, paragraph or part of this ordinance. Such right for injunctive relief and/or civil penalties shall exist independent of the other penalty provisions of this ordinance and not in lieu thereof

SECTION 22 FEES, CHARGES, AND EXPENSES

The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, application for amendments, and other matters pertaining to this ordinance

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal

SECTION 23 SEVERABILITY

It is hereby declared to be the intention of the City Council that the sections, paragraphs, clauses and phrases of this ordinance are severable, and if any section, paragraph, sentence, clause or phrase of the 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.

SECTION 24 SAVING CLAUSE

All rights or remedies of the City of Falls City, Texas, are expressly saved as to any and all violations of this ordinance, or of any zoning ordinance or amendments thereto of said City of Falls City, Texas, that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, the Court shall have all the powers that existed prior to the effective date of this ordinance; and all existing violations of previous zoning or building ordinances which would otherwise become non-conforming uses under this ordinance, shall not become legal non-conforming uses under this ordinance but shall be considered as violations of this ordinance in the same manner that they were violations of prior zoning ordinances of the City of Falls City, Texas.

SECTION 25
REAPPLICATION

LIMITATION OF REAPPLICATION:

When the City Council has denied a proposal with prejudice, or when the applicant has withdrawn his proposal after notice of the City Council meeting thereon has been made, no reapplication requesting the same zoning classification shall be accepted by the City or scheduled for hearing by the City Council within a period of twelve (12) months of the Council's denial with prejudice or the applicant's withdrawal. Provided, however, on receipt of a request stating how conditions have changed substantially within the community since the prior denial with prejudice or withdrawal, the City Council may waive the mandatory delay period and authorize the acceptance of a new application

SECTION 26
EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and in accordance with the provisions of *Chapter 52 of the Texas Local Government Code*

SECTION 27
OPEN MEETINGS

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 511 of the *Texas Government Code*

PASSED AND APPROVED on this the 8th day of June, 2011
City of Falls City, Texas

Brent Houdmann
Mayor

ATTEST:

Leinen Shie
City Secretary