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Farmersville
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COMPREHENSIVE ZONING ORDINANCE

CITY OF FARMERSVILLE

DRAFT MARCH 2018

CITY OF FARMERSVILLE COMPREHENSIVE ZONING ORDINANCE

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Section 1 PURPOSE AND ENACTMENT

1.1 TITLE

That this ordinance of the City of Farmersville, Texas, shall be known as the Comprehensive Zoning Ordinance, and that it supersedes all previous zoning ordinances of the City of Farmersville.

1.2 PURPOSE

The zoning districts and regulations established in this chapter have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the city. They have been designed to regulate and restrict the height, number of stories and size of buildings and other structures; the percentage of the lot that may be occupied; the size of the yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land for business, residence and other purposes, and to lessen congestion in streets; to secure safety from fire, panic and other dangers; to provide adequate light and air, and prevent the overcrowding of land; to facilitate the adequate provision of transportation, water, sewer, schools, parks and other public requirements; and with a view of conserving the value of building and encouraging the most appropriate use of land through the city.

1.3 EMPOWERMENT TO ZONE

The Farmersville Zoning Ordinance is enacted pursuant to the powers granted and limitations imposed by laws of the State of Texas, including the statutory authority granted in Local Government Code (LGC) Chapters 211 and 212, and all other relevant laws of the State of Texas. Whenever any provision of this Code refers to or cites a section of the Texas Revised Statutes and that section is later amended or superseded, this Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.4 COMPLIANCE REQUIRED

All land, buildings, structures or appurtenances thereon located within the city which are hereafter occupied, used, erected, altered, removed, placed, demolished or converted shall be used, erected, altered, removed, or placed and demolished in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided.

1.5 CREATION OF BUILDING SITE

No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

- 1) The lot or tract is part of a plat of record, properly approved by the Planning and Zoning Commission and/or City Council and filed in the county plat records;

- 2) The site plot or tract is all or part of a site plan officially approved by the City Council in a planned development district following recommendation by the Planning and Zoning Commission, which site plan shall provide all utility and drainage easements, alleys, streets, and other public improvements necessary to meet the normal requirements for platting, including the designation of building areas and such easements, alleys, and streets required and properly dedicated and necessary public improvements provided;
- 3) The plot, tract or lot faced upon a dedicated street and was separately owned prior to January 23, 1998, or prior to the annexation of the property to the city, whichever is applicable, in which event a building permit for only one main building or accessory building may be issued on each such original, separately owned parcel without first complying with subsection 1.5.1 of this section.

1.6 CERTIFICATE OF OCCUPANCY

- 1) No building or land shall be used or occupied for any use or purpose for which a specific use permit or planned development has been granted nor shall a nonconforming use be changed to another nonconforming use without first obtaining a certificate of occupancy and compliance from the City Manager.
- 2) A record issued shall be maintained by the City Manager of all certificates of occupancy issued by the City and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the land or building covered by a specific use permit, planned development or nonconforming use.

1.7 COMPLETION OF BUILDING APPROVED OR UNDER CONSTRUCTION

Nothing herein contained shall require any change in the plans, construction or designated use of a building actually under construction at the time of the passage of the ordinance from which this article is derived, which entire building shall be completed within one year from the date of the passage of the ordinance from which this article is derived.

1.8 LOCATION OF DWELLING AND BUILDINGS

1.8.1 NUMBER OF BUILDINGS PER LOT

- 1) Single-family and Two-family Uses
Only one main building for single-family or two-family use with permitted accessory buildings may be located upon a lot or platted tract.
- 2) Multifamily and Nonresidential Uses
Where a lot is used for multifamily, retail, office, commercial, or industrial purposes, or a combination of same, or for a combination of retail and dwelling purposes, more than one main building may be located upon the lot, but only when such buildings conform to

all the open space, parking, and density requirements applicable to the uses and districts. No storage area or required open space for one building shall be computed as being the open space for any other dwelling or other use.

1.8.2 STREET FRONTAGE AND ACCESS

- 1)** Single-family and Two-family Uses
Every dwelling shall face or front upon a public street or approved place other than an alley.
- 2)** Multifamily and Nonresidential Uses
Whenever two or more main buildings or portions thereof, are placed upon a single lot or tract and such buildings will not face upon a public street, the same may be permitted when the site plan for such development is approved by the Planning & Zoning Commission.
- 3)** Religious facilities, independent living facilities, assisted living facilities, long-term care facilities, continuing care facilities, community centers, hospitals, colleges, universities, trade schools, and public, private, and parochial schools located in any residential district shall have access to a street with a minimum pavement width of 36 feet.
- 4)** Through lots are hereby prohibited.

Section 2 ADMINISTRATION AND PROCEDURES

2.1 PROCEDURAL STEPS OF ZONING PETITIONS AND AMENDMENTS

2.1.1 PROCESS REQUIREMENTS

- 1) The City Council may from time to time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established as provided by the state statutes.
- 2) Before taking action on any proposed amendments, supplement, or change, the City Council shall submit the same to the Planning and Zoning Commission for its recommendation and report. If the commission recommends that an amendment be denied, City Council will not hear the request unless the applicant requests council consideration in writing within ten days of the recommendation.
- 3) Any person or corporation having a proprietary interest in any property may initiate proceedings to consider a change in zoning on such property, or the Planning and Zoning Commission or City Council may, on its own motion, initiate proceedings to consider a change in zoning on any property. Any person or corporation may petition the City Council for a change or amendment to the provisions of this ordinance, or the Planning & Zoning Commission may, on its own motion or on request from the City Council, institute a study and propose changes and amendments in the public interest.

2.1.2 TWO TYPES OF ZONING AMENDMENTS

- 1) Zoning Map Amendment (Rezoning) – A zoning map amendment (rezoning) is a change or modification to the boundaries of any zoning district.
- 2) Zoning Text Amendment – A zoning text amendment is a change to the text of this Zoning Ordinance and does not include change or modification to the boundaries of any zoning districts.

2.1.3 PLANNING & ZONING COMMISSION RECOMMENDATION REQUIRES PUBLIC HEARING

- 1) The Planning and Zoning Commission shall hold a public hearing on any application for any amendment or change prior to making its recommendation and report to the City Council. Written notice of all public hearings before the Planning and Zoning Commission on a proposed amendment or change shall be mailed to all owners of real property as the ownership appears on the last approved city tax roll, lying within 200 feet of the property on which the change is requested. Such notice shall be given no less than ten days before the date set for hearing. Notice of such hearing shall also be given by publication in a newspaper of general circulation~~the official publication of the city~~, stating the time and place of such hearing, which time shall not be earlier than ~~four~~ten days from the date of publication.

- 2) Following the public hearing, the Planning & Zoning Commission may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the petition. If the petitioner accepts the recommendation of the Planning & Zoning Commission, subsequent public notice shall be written as approved. If the petitioner does not accept the recommendation of the Planning & Zoning Commission, the petitioner may continue his original request, and subsequent public notice shall be written as originally submitted; however, any part of the request not conforming to the Planning & Zoning Commission's recommendations shall be presumed to have been denied by the Planning & Zoning Commission. The Planning & Zoning Commission may table for study any zoning case for up to 90 days.
- 3) When a petition is denied by the Planning & Zoning Commission, the Planning & Zoning Commission should offer reasons to the petitioner for such denial.

2.1.4 CITY COUNCIL DECISION AND PUBLIC HEARING REQUIRED

- 1) If the zoning petition is approved, including denials in part, by the Planning and Zoning Commission, the City Secretary shall automatically schedule a public hearing regarding the petition to be held before the City Council, giving notice as required by the general laws of the State of Texas. However, if the petition is denied by the Planning and Zoning Commission, the petitioner may, within 30 days from the date of the Commission's action, file a written appeal for a public hearing be scheduled and held before the City Council regarding the petition. Upon the Planning Department's receipt of the written appeal, a public hearing on the petition shall be scheduled before the City Council, with notice provided as required by the general laws of the State of Texas.
- 2) A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. Notice of such hearing shall be given by publication in a newspaper of general circulation stating the time and place of such hearing, which time shall not be earlier than 15 days from the date of publication. The City Council's hearing must be within 60 days of the Planning and Zoning Commission's recommendation.
- 3) Prior to the opening of the public hearing, the petitioner may request withdrawal of the petition or tabling of the request to a specified future City Council meeting. City Council may approve the request for withdrawal or tabling, or open the public hearing and take appropriate action on the petition within the context of the public notice provided.
- 4) After a public hearing is held before the City Council regarding the zoning petition, the City Council may approve a change in zoning as appropriate within the context of the public notice provided. City Council may deny in whole or in part, table the petition, or refer it back to the Planning & Zoning Commission for further study. In the event the petition has been denied by the Planning & Zoning Commission or in the event a protest against the petition has been filed as more fully described in Sec. 2.1.5, then the petition shall not be approved except by three-fourths vote of the City Council.

2.1.5 THREE-FOURTHS CITY COUNCIL VOTE REQUIREMENTS

- 1) If the Planning & Zoning Commission has wholly or partially denied a proposed amendment, supplement, or change, or if sufficient protest as defined below is submitted against such change, the proposed change must receive the affirmative vote of at least three-fourths of all members of the City Council.
- 2) If a protest against such proposed amendment, supplement, or change has been filed with the city secretary, duly signed and acknowledged by the owners of 20 percent or more of the area of the lots or land included in such a proposed change, or those immediately adjoining the area and extending 200 feet therefrom or of those directly opposite thereto extending 200 feet from the area, such amendment shall not become effective except by a three-quarters vote of all the members of the City Council.
- 3) Written Protests
 - a. A protest of a proposed zoning change must be in writing and must be signed by the owner of the property in question or by a person authorized by power of attorney to act on behalf of the owner. For specific ownership types, the following shall apply:
 - i. Corporations -- The protest must be signed by the president, vice president, or by an attorney in-fact authorized to sign on behalf of the corporation.
 - ii. General or Limited Partnerships -- The protest must be signed by a general partner or by an attorney-in-fact authorized to sign on behalf of the general or limited partnership.
 - iii. Community Property -- The city shall presume the written protest of one spouse to be the protest of both.
 - iv. Condominiums -- Lots or land subject to a condominium declaration are presumed to be commonly owned in undivided interests by the owners of all condominium units and under the control of the governing body of the condominium. For such lots or land to be included in calculating the lots or land area protesting a proposed rezoning, the written protest must state that the governing body of the condominium has authorized a written protest in accordance with its bylaws, and that the person signing the protest is authorized to act on behalf of the governing body of the condominium.
 - b. In all cases where a protest has been properly signed pursuant to this section, the city shall presume that the persons whose signatures appear on the protest are valid.
 - c. A withdrawal of a protest must be in writing. If multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.

2.1.6 JOINT PUBLIC HEARING AND NOTICE

- 1) At its discretion, the City Council may conduct the public hearing on an amendment to the Zoning Ordinance jointly with a public hearing required to be held by the Planning &

Zoning Commission. The City Council may not take action in the matter until it receives the final report of the Commission.

- 2) Notice of the Planning and Zoning Commission public hearing may be combined with the notice of the City Council's public hearing, if time permits.

2.2 ZONING PETITION DETAILS

- 1) The zoning petition shall contain sufficient information relative to the amendment requested including, but not limited to, the following:
 - a. A key map showing all existing zoning within 200 feet of the subject property.
 - b. A location map showing existing and proposed thoroughfares, collector streets, and local streets on the subject property and within 200 feet of the subject property.
 - c. A statement reading as follows: "Approval of the zoning case associated with this exhibit shall not imply approval of any associated study, plat, or plan, approval of development standards shown hereon, or the initiation of the development process. Planning and Zoning Commission and/or City Council action on studies, plats, or plans relating to development of this property shall be considered as an action separate from action taken on this zoning case."
- 2) To ensure the submission of adequate information, the City Manager is hereby empowered to maintain and distribute a list of specific requirements for zoning petitions. Upon periodic review, the City Manager shall have the authority to update such requirements for zoning petition details.
- 3) The zoning petition shall be accompanied by the appropriate fee in accordance with the fee schedule established by City Council per each type of zoning requested on a tract of land, plus all publication and notification costs for new subdivisions and multiple lot annexations. Individuals who wish to annex individual lots into the city limits shall have the zoning fees waived and shall be zoned concurrently with annexation, provided that the requested zoning district is approved by the Planning and Zoning Commission and City Council.
- 4) Fees for rezoning and zone change applications, specific use permits, and appeals to the board of adjustments shall be charged in accordance with the fee schedule established by City Council per each type of zoning requested on a tract of land, plus all publication and notification costs.
- 5) The applicant requesting a proposed amendment must submit a legal description of the property on which change is requested.

2.3 FOLLOWING ZONING APPROVAL

- 1) If, after holding a public hearing, a zoning change, amendment, or supplement is approved by the City Council, no further petition may be considered for all or a part of the subject tract of land for a period of 2 years from the date of the City Council's action, unless it is determined that there are substantive reasons to permit the waiving of the 2-

year waiting period and the granting of a new hearing. The determination shall be made by the Planning & Zoning Commission, or on appeal, the City Council. The provisions of this subsection shall not apply to general text changes in the Zoning Ordinance.

- 2) Substantive reasons for waiving the 2 year period include, but are not limited to:
- a. Correction of an error.
 - b. A change of conditions affecting the property and which were not known at the time of zoning.
 - c. A change in public plans or policies as it affects the property.

2.4 PENDING ZONING APPLICATION

Any pending zoning petition shall automatically expire if no action of any kind has been taken on it by either the Planning & Zoning Commission or the City Council for a period of one year. If no ordinance granting zoning has been adopted within 6 months of the date on which the City Council voted approval of a zoning change, such zoning change shall be automatically placed on the City Council agenda for further consideration.

2.5 BOARD OF ADJUSTMENT

2.5.1 ORGANIZATION

As the city is a Type A general law municipality of the state, the city councilmembers are hereby granted the authority to act as a board of adjustment under V.T.C.A., Local Government Code Ch. 211.

2.5.2 PROCEDURE

The board shall adopt rules to govern its proceedings; provided, however, that such rules are not inconsistent with this article or state statutes. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board 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 immediately filed in the office of the board and shall be public record.

2.5.3 APPEALS

- 1) Appeals to the board of adjustment can be taken by any person aggrieved, or by an officer, department, or board of the municipality affected, by a decision of the City Manager under this ordinance. Such appeal shall be taken within 15 days after the decision has been rendered by the City Manager, 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 all the papers constituting the record upon which the action appealed from was taken.

- 2) An appeal shall stay all proceedings 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 a restraining order which may be granted by the board of adjustment or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of an appeal, give the public notice thereof by posting such notice in the mail addressed to all owners of real property located within 200 feet of the property to which the appeal applies and by publishing notice of such hearing in a newspaper of general circulation in the city. Both the posted and published notice shall be given at least ten days prior to the date set for the hearing. At the hearing, any party may appear in person or by attorney or by agent.

2.5.4 JURISDICTION

When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the board of adjustment may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize the following special exception to the regulations herein established.

- 1) Permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use of the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.
- 2) Permit such modifications of the height, yard, area, coverage, and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modification.
- 3) Require the discontinuance of nonconforming uses of land or structure under any plan whereby the full value of the structure and facilities 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 article. All actions to discontinue a nonconforming use of land and structure shall be taken with 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 nonconforming use and the conservation and preservation of property. The board 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 nonconforming use within the city.

- 4) To bring about the discontinuance of a nonconforming use under a plan whereby the owner's actual investment in the structures on the property prior to the time that the use became nonconforming can be amortized within a definite time period.

2.5.5 ACTION OF THE BOARD OF ADJUSTMENT

- 1) In exercising its powers the board may, in conformity with the provisions of V.T.C.A., Local Government Code Ch. 211, as amended, revise or reform, wholly or partly, or may modify the order, requirement, decisions, or determination appealed from and make such order, requirement, decisions, or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant.
- 2) The concurring vote of four members of the board shall be necessary to revise any order, requirements, decision or determination of the City Manager, or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance from which this section is derived or to affect any variance in such ordinance.
- 3) Any persons, jointly or severally, aggrieved by any decision of the board of adjustment or any tax payer or any officer, department or board of the municipality may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board and not thereafter.

2.6 DETERMINATION OF VESTED RIGHTS

2.6.1 VESTED RIGHTS PETITION

- 1) Purpose. The purpose of a vested rights petition is to determine whether one (1) or more standards of this zoning chapter should not be applied to a zoning permit application by operation of state law, or whether certain permits are subject to expiration.
- 2) Applicability. A vested rights petition may be filed with an application for a zoning permit. A vested rights petition may not be filed with a request to amend the text of the zoning regulations or the zoning map, or with a request for approval of a special use permit. A vested rights petition also may be filed to prevent expiration of certain zoning permits pursuant to section 2.7.
- 3) Effect. Upon granting of a vested rights petition in whole or in part, the zoning permit application shall be decided in accordance with the standards specified in the relief order based on prior ordinance requirements or development standards, or the permit otherwise subject to expiration pursuant to section 2.7 shall be extended.

2.6.2 PETITION REQUIREMENTS

- 1) Who may petition. A vested rights petition may be filed by a property owner or the owner's authorized agents, including the applicant, with any zoning permit application, or by the holder of a permit subject to expiration pursuant to section 2.7.
- 2) Form of petition. The vested rights petition shall allege that the petitioner has a vested right for some or all of the land subject to the zoning permit application under V.T.C.A., Local Government Code Ch. 245 or successor statute, or pursuant to V.T.C.A., Local Government Code § 43.002 or successor statute, that requires the city to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - a. A narrative description of the grounds for the petition;
 - b. A copy of each approved or pending zoning permit or other development application which is the basis for the contention that the city may not apply current standards to the zoning permit application which is the subject of the petition;
 - c. The date of submittal of the application for the permit, or of a development plan pursuant to which the permit was subsequently filed, if different from the official filing date;
 - d. The date the project for which the application for the zoning permit was submitted was commenced;
 - e. Identification of all standards otherwise applicable to the zoning permit application from which relief is sought;
 - f. Identification of the standards which the petitioner contends apply to the zoning permit application;
 - g. Identification of any current standards which petitioner agrees can be applied to the zoning permit application at issue;
 - h. A narrative description of how the application of current standards affect proposed use of the land, landscaping or tree preservation, open space, or park dedication, lot size, lot dimensions, lot coverage or building size shown on the development application for which the petition is filed;
 - i. A copy of any prior vested rights determination involving the same land; and
 - j. Where the petitioner alleges that a zoning permit subject to expiration under section 2.7 should not be terminated, a description of the events, including any zoning permit or other development applications on file that should prevent such termination.
- 3) Time for filing petition. A vested rights petition shall be filed with a zoning permit application for which a vested right is claimed, except that the petition may be filed before the date of expiration of any permit subject to expiration under section 2.7. Where more than one (1) zoning permit application is authorized to be filed by this zoning chapter, the petition may be filed simultaneously for each application.

2.6.3 PROCESSING OF PETITION AND DECISION

- 1) Responsible official. The official responsible for processing the zoning permit application shall process the vested rights petition. A copy of the petition shall be forwarded to the city attorney following acceptance.
- 2) Official's decision. If the responsible official is the decision maker on the zoning permit application, the official shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten (10) days of the date the vested rights petition is accepted for filing.
- 3) Decision by commission on petition. If the zoning permit application is to be decided by the planning and zoning commission, the planning and zoning administrator shall submit a report in the form of a recommendation to the decision maker. The commission shall render a decision on the vested rights petition in conjunction with its decision on the zoning permit application.
- 4) Appeal of decision on petition. The petitioner or any interested person may appeal the responsible official's or the commission's decision on the vested rights petition within ten (10) working days of the date of such decision to the city council. An appeal under this subsection stays acceptance of filing of any related development applications.
- 5) Decision by city council. Where the city council is the final decision maker on the zoning permit application, for any petition submitted pursuant to section 2.7, or upon appeal, the city council shall decide the vested rights petition. The request must be accompanied by a waiver of the time for decision on the application imposed under this zoning chapter pending decision by the council, which shall stay further proceedings on the application. The council shall decide the petition, after considering the responsible official's report and any decision by the planning and zoning commission with its decision on the zoning permit application or within thirty (30) calendar days of receipt of the responsible official's report, or the notice of appeal, whichever is later.

2.6.4 ACTION ON PETITION AND ORDER

- 1) Action on the petition. The decision-maker on the vested rights petition may take any of the following actions:
 - a. Deny the relief requested in the petition, and direct that the zoning permit application shall be reviewed and decided under currently applicable standards;
 - b. Grant the relief requested in the petition, and direct that the zoning permit application shall be reviewed and decided in accordance with the standards contained in identified prior regulations; or

- c. Grant the relief requested in part, and direct that certain identified current standards shall be applied to the zoning permit application, while standards contained in identified prior regulations also shall be applied; or
 - d. For petitions filed pursuant to section 2.7, determine whether the zoning permit(s) should be terminated, or specify the expiration date or the conditions of expiration for such permit(s).
- 2) Order on petition. The responsible official's report and each decision on the vested rights petition shall be memorialized in an order identifying the following:
 - a. The nature of the relief granted, if any;
 - b. The approved or filed zoning permit or other development application(s) upon which relief is premised under the petition;
 - c. Current standards which shall apply to the zoning permit application for which relief is sought;
 - d. Prior standards which shall apply to the zoning permit application for which relief is sought, including any procedural standards;
 - e. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition;
- 3) For petitions filed pursuant to section 2.7, determine whether the zoning permit(s) should be terminated, and specify the expiration date or the conditions of expiration for the permit(s).

2.6.5 CRITERIA FOR APPROVAL

- 1) Factors. The decision maker shall decide the vested rights petition based upon the following factors:
 - a. The nature and extent of prior zoning permit or other development applications filed or approved for the land subject to the petition;
 - b. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - c. Whether any prior approved applications for the property have expired or have been terminated in accordance with law;
 - d. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping or tree preservation, open space, or park dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed development application;
 - e. Whether any statutory exception applies to the standards in the current zoning regulations from which the applicant seeks relief;
 - f. Whether any prior approved zoning permit or other development applications relied upon by the petitioner have expired;
 - g. For petitions filed pursuant to section 2.7, whether any of the events in subsection 2 have occurred.

- 2) Conditions. If the claim of vested rights under a petition is based upon a pending zoning or other development application subject to standards that have been superseded by current standards under this zoning chapter, the decision maker may condition any relief granted on the petition on the approval of the application under such prior standards.

2.6.6 APPLICATION FOLLOWING RELIEF ORDER

Following the city's final decision on the vested rights petition, the property owner shall conform the zoning permit application for which relief is sought to such decision. If the zoning permit application on file is consistent with the relief granted on the vested rights petition, no revisions are necessary. Where proceedings have been stayed on the zoning permit application pending referral of the vested rights petition to the city council, proceedings on the application shall resume after the council's decision on the vested rights petition.

2.6.7 EXPIRATION

Relief granted on a vested rights petition shall expire on occurrence of one (1) of the following events:

- 1) The petitioner or property owner fails to submit a required revised zoning permit application consistent with the relief granted within thirty (30) days of the final decision on the petition;
- 2) The zoning permit application for which relief was granted on the vested rights petition is denied under the criteria made applicable through the relief granted on the petition; or
- 3) The zoning permit application for which relief was granted on the vested rights petition expires.

2.7 DORMANT PROJECTS

2.7.1 TERMINATION OF ZONING PERMITS

Any application for a zoning permit that has been approved by the city but which is not subject to an expiration date shall expire ninety (90) days from the effective date of this section, unless one (1) of the following events has occurred by such date:

- 1) A subsequent application has been approved and remains in effect; provided, however, that if the subsequent application is for a zoning permit, such subsequent application also is subject to expiration under this subsection 2; or
- 2) A subsequent application has been filed and is pending for decision; or
- 3) Substantial construction on the development has occurred as authorized by and consistent with the zoning permit.

2.7.2 EXPIRATION DATES

Notwithstanding any other provision of the Zoning Ordinance, for any application for a zoning permit to which no expiration date applies and which has been filed and is pending for decision on, or which is

filed on or after the effective date of this chapter, approval of such application shall expire six (6) months from the date of approval, unless a subsequent application is filed and approved, or construction is commenced consistent with and pursuant to the zoning permit, within such period. This subsection does not apply to a zoning permit application within a planned development district or subject to a special use permit.

2.7.3 VESTED RIGHTS PETITION

The owner of the land subject to a zoning permit that expires under subsection 2.7.2 may petition the city council to reinstate such zoning permit by filing a vested rights petition pursuant to section 2.6, as hereinafter established, prior to the expiration date.

2.8 INTERPRETATION

2.8.1 RESTRICTIVENESS

Where the regulations imposed herein are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards are the requirements that shall govern.

2.8.2 ABROGATION

The provisions of these regulations are not intended to abrogate any easement, covenant or other private agreement, provided that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement, the requirements of these regulations shall govern.

2.8.3 CUMULATIVE EFFECT

The provisions of these regulations are cumulative and additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter set forth in the provisions of these regulations.

2.8.4 ERROR CORRECTION

In the event that any property or Zoning District set forth on the Zoning District Map as provided in Subsection 3.2 Zoning District Map of this ordinance is misnamed, designated incorrectly, the boundaries are incorrect or the property is omitted, in part or in whole, the Zoning District Map may be amended and/or supplemented according to the following.

- 1) Applicants**
The property owner of said tract, the City Council, or the Planning & Zoning Commission may submit an application to the City Manager to initiate the error correction process.
- 2) Process**

The error correction shall be processed as a zoning map or text amendment according to Subsection 2.1 Procedural Steps of Zoning Petitions and Amendments.

2.8.5 CITY MANAGER AUTHORITY TO INTERPRET THE ZONING ORDINANCE

Questions of interpretation of this ordinance shall be referred to the City Manager, who shall have the authority to determine the meaning and interpretation of any provision of this ordinance. Any person aggrieved, or any officer, department or board of the City of Farmersville affected by an interpretation made by the City Manager, may appeal said interpretation to the Planning and Zoning Commission, whose decision in the matter shall be final.

2.9 DEFINITIONS

For the purpose of this Zoning Ordinance, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word shall is mandatory and not discretionary. The following are the Zoning Ordinance definitions.

Accessory building means a building, either attached or detached from the main structure, for a subordinate use incidental to the principal building and use located on the same lot. Accessory buildings shall include, but not be limited to, parking garages, farm structures, garages for automobile storage, carports, tool houses, greenhouses, home workshops, children's playhouses, storage houses or garden shelters.

Accessory use means a use that is subordinate to, serves, and is customarily incidental to the primary use of the main building or to the primary use of the premises; is located on the same lot or tract of land; and, which otherwise meets all requirements of this zoning ordinance and all applicable building and fire codes, as each of the foregoing may be amended.

Adult day care center means a facility that provides services under an adult day care program on a daily or regular basis, but not overnight, to four or more elderly or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility. Adult day care centers must be licensed by the state department of human services.

Airport landing field means a place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

- (1) *Heliport*: An area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use, for heliport buildings and other heliport facilities.
- (2) *Helistop*: The same as a heliport, except that no refueling, maintenance, repairs or storage or helicopters is permitted.

Alley means a public space or thoroughfare which affords only secondary means of access to property abutting thereon, which has been deeded or dedicated to the public for public use.

Alternative financial institution means a payday advance/loan business or a motor vehicle title loan business. An alternative financial institution does not include state or federally chartered banks, community development financial institutions, savings and loans, credit unions, or regulated lenders licensed in accordance with Chapter 342 of the Texas Finance Code.

Amenity center (private) means a facility or area that is an integral part of a residential project or planned development and that is used by the residents of the project or development for a place of meeting, recreation, or social activity, but not primarily to render a service that is customarily carried on as a business. Such facilities include but are not limited to swimming pools, saunas, hot tubs, game courts, playgrounds, community clubhouse, cabana, pavilion or roofed areas, leasing office, laundry facilities, and other similar uses. This use need not be located on the same lot as the property it serves.

Amusement, commercial (indoors) means an amusement enterprise wholly enclosed in a building which is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line and including, but not limited to a bowling alley, billiard parlor, or skating rink.

Amusement, commercial (outdoors) means an outdoor area or structure, open to the public, which provides entertainment or amusement primarily by and for participants for a fee or admission charge. Typical uses include batting cages, miniature golf, go-kart tracks, and carnivals.

Antenna means an instrument or device consisting of wires, poles, rods, or reflecting discs, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

Antenna, stealth means a commercial antenna that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth Antennas include, but are not limited to:

- (1) Antennas within a building's attic space,
- (2) Antennas on the roof of a minimum three-story building and not visible from the property line of the lot on which the antenna is located,
- (3) Antennas on a public utility structure, such as a water tower or high transmission line support tower, and painted to match the structure,
- (4) Antennas located within a structure such as a flagpole, church steeple, subdivision monument, clock tower, or similar architectural feature, and antennas located on an athletic field light pole

Antenna and/or antenna support structure, commercial means an antenna and its support structure used for commercial broadcasting or telecommunication purposes. This definition shall also include a satellite dish exceeding twelve (12) feet in diameter and a microwave-transmitting tower. All radiating equipment must comply with Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Occupational Health and Safety Administration (OSHA), and all other applicable State and Federal regulatory agency requirements and guidelines for human safety, as they exist or may be amended. Definition includes ancillary ground equipment.

Antenna and/or antenna support structure, non-commercial means an instrument or device consisting of wires, poles, rods, or reflecting discs and its support structure not exceeding forty (40) feet

in height above the ground elevation at the base of the support structure, designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum. This definition shall also include a satellite dish antenna not to exceed twelve (12) feet in diameter.

Antenna support structure means any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of transmission, retransmission, and/or reception of electromagnetic, radio, television, or microwave signals.

Antique shop and used furniture means a retail establishment engaged in the selling of works of art, furniture or other artifacts of an earlier period, with all sales and storage occurring inside a building.

Apartment house means any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as three or more dwelling units or apartments, or which is occupied as a home or place of residence by three or more families living in independent dwelling units.

Area of lot means the area of a lot shall be the net area of the lot and shall not include portions of streets and alleys.

Art gallery or museum means a building serving as a repository for a collection of natural, scientific, artistic, or literary objects of interest, and designed to be used for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods.

Artisan's workshop means an establishment used for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leather-craft, hand-woven articles, and related items.

Auto parts and accessory sales (indoor) means the use of any building or other premise for the display and sale of new or used parts for automobiles, panel trucks or vans, trailers, or recreation vehicles.

Auto parts and accessory sales (outdoor) means the use of any land area for the display and sale of new or used parts for automobiles, panel trucks, or vans, trailers, or recreation vehicles.

Automobile repair, major means general repair or reconditioning of engines, air conditioning systems and transmissions for motor vehicles, collision services including body, frame or fender straightening or repair, customizing, painting, vehicle steam cleaning, undercoating and rustproofing, those uses listed under "automobile repair, minor," and other similar uses.

Automobile repair, minor means an establishment used for the dispensing or sales of automobile fuels, lubricants, tires, and automobile accessories; the minor repair or replacement of parts, tires, paintless dent repair, and performing state inspections and making minor repairs necessary to pass said inspection; automobile detailing; window tinting, and the sales and installation of automobile radios. Uses listed under "automobile repair, major" or any other similar uses are not included. Vehicles, which are inoperative or are being repaired, may not remain parked outside for a period greater than seven (7) calendar days.

Automobile sales/leasing, new means sales, rental, and/or leasing of new automobiles or light load vehicles, and may include, as accessory uses: automobile sales, used; automobile repair, major; and automobile storage.

Automobile sales, used means sales of used automobiles or light load vehicles.

Bakery and confectioners works (retail) means a place for preparing, cooking, baking, and selling of products on the premises.

Bakery and confectioners works (wholesale) means a place for preparing, cooking, baking, and selling of products intended for off-premises distribution.

Banks, savings and loan, or credit union means an establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds.

Banquet/meeting hall means an establishment that is leased on a temporary basis before the day of the event by individuals or groups who reserve the facility to accommodate functions, including, but not limited to, banquets, weddings, anniversaries, receptions, business and organizational meetings, and other similar functions, to which the general public is not admitted. Such establishments may include kitchen facilities for the preparation of food or catering of food and areas for dancing, dining, and other entertainment activities that customarily occur in association with banquets, weddings, or receptions.

Basement means a building story which is partly underground, but having at least one-half of its height below the average level of the adjoining ground. A basement shall be counted as a story in computing building height.

Barber shop/beauty salon and personal service shops means establishments primarily engaged in providing services generally involved in the care of the person or his apparel including, but not limited to, barber and beauty shops, tanning salons, ear piercing shops, cosmetic tattooing shops, and reducing salons.

Bed and breakfast inn means an owner (or operator) occupied residence with up to five bedrooms available for overnight guests. A bed and breakfast inn may provide for guest stays up to 14 consecutive days, however, it shall not offer weekly rental rates. Kitchen and dining facilities may be included to provide meals for guests only; however, no food preparation shall be permitted in guest bedrooms. A bed and breakfast inn shall not include restaurants, banquet facilities, or similar services.

Big box retail development means any retail building for a single, primary tenant that exceeds 70,000 square feet in size. A big box retail development may contain multiple secondary tenants with interior access to the primary tenant space. A big box retail development may be freestanding or may be an in-line tenant in a larger center. The square footage of a big box retail development shall include all primary and ancillary uses with interior access to the primary tenant space including inventory storage, automotive repair, and open storage areas.

Block means an area enclosed by streets and occupied by or intended for buildings and is used as a term of measurement. The term "block" also means the distance along a side of a street between the nearest two streets which intersect the street on the side.

Board means the zoning board of adjustment as provided for in Section 2.5.

Boarding house or rooming house means a residence structure other than a hotel where lodging and/or meals for four or more persons are provided for compensation.

Body art studio means an establishment whose services include tattooing and/or body piercing. Tattooing shall mean the placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin. Body piercing shall mean the creation of an opening in an individual's body to insert jewelry or another decoration.

Bottling works means a manufacturing facility designed to place a product into a bottle for distribution.

Building or structure means any structure built for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building ends means those sides of a building having the least dimensions as compared to the front or rear of a building. As used in this chapter, a building end shall be interpreted as being the most narrow side of a building regardless of whether its front is upon a street, faces the rear of the lot or is adjacent to the side lot line or another building.

Building line means a line parallel or approximately parallel to the street line at a specified distance therefrom making the minimum distance from the street line that a building may be erected.

Building maintenance service and sales means a facility or area for contracting services such as building repair and maintenance, the installation of plumbing, electrical, air conditioning and heating equipment, janitorial services, and exterminating services. The retail sale of supplies is permitted as an accessory use.

Building materials and hardware sales, inside storage means an establishment for the sale of materials and hardware customarily used in the construction of buildings and other structures, without any outside storage or display of materials or merchandise.

Building materials and hardware sales, outside storage means an establishment for the sale of materials and hardware customarily used in the construction of buildings and other structures, including outside storage or display of materials or merchandise.

Car wash, full service means a facility where a customer can have a motorcycle, automobile and light load vehicle washed in exchange for financial consideration.

Car wash, self-service means a facility, typically coin operated, used by the customer to wash motorcycles, automobiles and light load vehicles.

Carport means a structure open on a minimum of three sides, designed or used to shelter vehicles.

Cemetery or mausoleum means property used for the interment of the dead.

Certificate of occupancy and compliance means an official certificate issued by the city through the enforcing official as specified in section 77-400, which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.

Church, rectory, or other place of worship means a building for regular assembly religious worship which is used primarily for such purpose and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis on the premises. This use does not include home meetings or other religious activities conducted in a privately occupied residence.

City manager means the city's chief administrative officer.

Cleaning & laundry, self-service means a facility where patrons wash, dry, or dry-clean clothing and other fabrics in machines operated by the patron.

Clinic, medical or dental means an establishment for one or more physicians, surgeons, or dentists to treat sick or injured outpatients who do not remain overnight.

College, university or private school means an institution established for educational purposes offering courses for study beyond the secondary education level, but excluding trade schools and commercial schools.

Community center (public) means a building or complex of buildings that house cultural, recreational, athletic, library or entertainment facilities owned and/or operated by a governmental agency or private non-profit agency.

Concrete/asphalt batching plant means a facility or area, which is not temporary in nature, for mixing concrete or asphalt.

Concrete/asphalt batching plant, temporary means a temporary manufacturing facility for the on-site production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

Construction yard (temporary) means a storage yard or assembly yard for building materials and equipment directly related to a construction project and subject to removal at completion of construction.

Contractor's shop and storage yard means a building, part of a building, or land area for the storage of construction materials, tools, products, and vehicles.

Convenience store with gas pumps means a retail establishment that sells food and other consumable and non-consumable products for off-premise use or consumption. This definition shall also include the dispensing or sales of motor vehicle fuels, lubricants, and accessories, but shall not include automobile repair or the sale of replacement parts.

Convenience store without gas pumps means a retail establishment that sells food and other consumable and non-consumable products for off-premise use or consumption.

Court means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard or other permanent open space.

Coverage means the percent of a lot or tract covered by the roof or first floor of a building. Roof eaves to the extent of two feet from the walls of a building shall be excluded from coverage computations.

Dancehall or nightclub means an establishment offering to the general public facilities for dancing and entertainment for a fee, and subject to licensing and regulation by the city.

Day camp means a facility arranged and conducted for the organized recreation and instruction of children, including outdoor activities on a daytime basis.

Day care center means a facility or area providing care, training, education, custody, treatment or supervision for seven or more children for less than 24 hours per day. The term "day care center" shall not include overnight lodging, medical treatment, counseling, or rehabilitative services and does not apply to kindergartens, prekindergartens, and schools listed elsewhere in this Ordinance.

Depth of lot means the mean horizontal distance between the front and rear lot lines.

District means a section of the city for which the regulations governing the area, height, or use of the land and buildings are uniform.

Drive-in or drive-through service means and refers to a retail or commercial facility whose employees provide goods or services to patrons without requiring the patrons to leave their automobiles. Drive-in or drive-through service may be an accessory use or the primary use of the retail or commercial facility as more particularly provided in the land use charts contained in section 3.6, and as hereafter amended. Any drive-in or drive-through service shall provide the appropriate number of required stacking spaces.

Dry cleaning plant means an industrial facility where fabrics are cleaned with substantially non-aqueous organic solvents on a commercial or wholesale basis.

Dry cleaning or laundry, minor means a custom cleaning shop or pick-up station not exceeding six thousand (6,000) square feet of floor area, including, but not limited to, dry cleaning plants having no more than one thousand five hundred (1,500) square feet of floor area for dry cleaning equipment.

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

Equipment and machinery sales and rental, major means a building or open area, other than a right-of-way or public parking area, used for display, sale, rental or storage of heavy equipment. Heavy equipment includes, but is not limited to, tractors, farm machinery, bulldozers, street graders, paving devices, or other equipment with a gross vehicle weight (GVW) greater than 25,000 pounds.

Equipment and machinery sales and rental, minor means a building or structure used for the inside display, sale, rental, or storage of light machinery, including, but not limited to, bicycles, lawn mowers, tools, and other small machinery.

Fairgrounds/exhibition area means an area where outdoor fairs, circuses, rodeos, or exhibitions are held.

Family means any number of individuals living together as a single housekeeping unit, in which not more than three individuals are unrelated by blood, marriage, or adoption.

Farm accessory building means a structure, other than a dwelling, on a farm as herein defined, for the housing, protection or storage of the usual farm equipment, animals and crops.

Farm, ranch, garden, or orchard means an area of five acres or more which is used for growing of usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle and sheep and including the necessary accessories used for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agricultural or husbandry specifically prohibited by ordinance or law.

Farmer's market means the retail sale of farm produce by individual vendors within a covered lease space, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers, and honey. Sale of any type of meat, fish, or poultry, eggs, refrigerated dairy products, and home canned or packaged items shall be prohibited.

Feed store means an establishment for the selling of corn, grain, and other food stuffs for animals and livestock, and including other implements and goods related to agricultural processes, but not including farm machinery.

Fire station and public safety building means a building housing fire apparatus and, usually, firefighters, or a building housing a law enforcement agency of a unit of local government.

Flea market, inside means a building or structure wherein space is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

Flea market, outside means an outdoor site where space is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods, personal effects, tools, art work, small household appliances, and similar merchandise, objects, or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.

Floodplain means an area of land subject to inundation by a 100-year frequency flood, as shown on the city's floodplain map.

Floor area means the total square feet of floor space within the outside dimensions of a building including each floor level, but excluding carports, residential garages, and breezeways.

Floor area ratio (FAR) means the floor area of a main building on a lot, divided by the lot area.

Florist shop means an establishment for the display and retail sale of flowers, small plants, and accessories.

Foundation. A man-made structure element on which a structure is erected, with the ability to transfer the applied loads of the structure to the ground.

Foundation fascia. Covering of a foundation wall or stem wall.

Fraternal organization, lodge, or civic club means an organized group having a restricted membership and specific purpose related to the welfare of the members, such as Elks, Masons, Knights of Columbus, or a labor union.

Fuel pumps mean any facility, equipment, or fixture, including a canopy, used for retail dispensing of motor vehicle fuels.

Furniture, home furnishing, and equipment stores means retail stores selling goods used for furnishing the home including, but not limited to, furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

Gaming device means coin-operated machines or devices, which are operated by or with a coin or other United States currency, metal slug, token, electronic card, or check, specifically including eight-liners (an electronic, electromechanical or mechanical contrivances which have eight lines on which a player can win — three across, three down and two diagonally - by matching symbols) that dispenses credits, tickets, coupons, merchandise, commodities or some other representation of value and which may play music in connection with or in addition to dispensing skill or pleasure. The primary use of any building, structure, facility or space that houses two or more coin-operated machines or devices, as described above, shall be deemed to be a game room use. In addition, any business that receives 50 percent or more of its gross revenues from the provision, exhibition and/or operation of coin-operated machines or devices, as described above, shall also be deemed a game room use.

Game room means any premise, building, structure, facility or space to deal, operate, carry on, conduct, maintain, or expose for play any game, sports book, promotion, sweepstakes, or other activity electronic or otherwise that may or may not confer upon the patrons or participants the right, chance, or ability to win and or claim prizes.

Garage apartment means a dwelling unit erected in conjunction with a garage when the main structure is an owner occupied detached dwelling unit.

General commercial plant means establishments other than personal service shops for the treatment and/or processing of products as a service on a for-profit basis including, but not limited to, newspaper printing, laundry plant, or cleaning and dying plant.

General merchandise stores means retail stores which sell a number of lines of merchandise including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, small wares, hardware, and food. The stores included in this definition are known as department stores, variety stores, general merchandise stores, and general stores.

Golf course and/or country club means a land area and buildings used for golf, including fairways, greens, tee boxes, driving range, putting green, and associated maintenance and retail facilities. This definition shall also include clubhouses, dining rooms, swimming pools, tennis courts, and similar recreational or service uses available only to members and their guests.

Grocery store or supermarket means a retail establishment, singular retailer, or wholesale user primarily selling food, pharmaceutical medication, household merchandise, clothing, and a variety of other retail goods that may or may not have membership requirements, emphasize bulk sales, discount sales, and department stores.

Ground level. The final grade elevation of a lot.

Guest house means an accessory building used to house guests of the owner(s) of the main residential structure, and which is never rented or offered for rent.

Gun or archery range (indoor) means any indoor facility open to the public and occupying all or a portion of a building where firearms and/or archery are discharged for testing or recreation purposes.

Health/fitness center means a public or private facility operated to promote physical health and fitness. Activities may include exercise, physical therapy, training, and education pertaining to health and fitness. Uses or combinations of uses or facilities would typically include, but are not limited to, game courts, weight lifting and exercise equipment, aerobics, swimming pools and spas, and running or jogging tracks.

Height means 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 the:

- (1) Highest point of the roof's surface, if a flat surface;
- (2) Deck line of mansard roofs; or
- (3) 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 in height. If the street grade has not been officially established, the average front yard grade shall be used for a base level.

High impact use means a facility or area for activities or products which have the potential to be dangerous, extremely obnoxious, or cause substantial environmental impacts on or beyond the

boundaries of the property on which the activity or use is conducted. High impact uses include but are not limited to the following activities:

- (1) Manufacture and/or bulk storage and testing of explosives, fireworks, or munitions.
- (2) Refining petroleum and the storage and distribution of natural and liquid gas or other petroleum derivatives in bulk including terminals, tank farms or other similar facilities.
- (3) Manufacture, storage, compounding or handling radioactive materials or wastes.
- (4) Manufacture, blending or mixture of pesticides, certain acids, and fertilizer.
- (5) Stockyards, feed pens, livestock sales with barns and/or shipping facilities. Rendering of animal fats, slaughtering or processing of animals and industrial manufacturing processes using the following raw materials: bones, garbage, offal and dead animals.
- (6) Refining of raw materials, such as, but not limited to chemicals, rubber, wood or wood pulp, into other products.
- (7) The extraction of raw materials, such as sand or gravel mining.
- (8) Forging, casting, melting, refining, extruding, rolling, drawing and/or alloying metals.
- (9) Jet engine or other engine testing.
- (10) Refuse disposal services including but not limited to landfills, incinerators, and other locations which receive garbage and refuse generated offsite for storage, treatment or disposal.
- (11) Asphalt or concrete batch plant.
- (12) Boiler works.

Home occupation means an occupation carried on in the home by a member of the occupant's family without the employment of additional persons, use of a sign to advertise the occupation, offering any commodity or service for sale on the premises, use of equipment other than that customarily found in a household and which does not create obnoxious noise or other obnoxious conditions to abutting residential property, such as emission of odor, increased traffic or generation of light or smoke, and where the use is carried on in the main structure only and there is not a separate entrance for the use. The term "home occupation" shall specifically exclude the operation of a repair garage, plumbing shop or similar activity.

Hospital means an institution providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, helistops, outpatient facilities, or training facilities as licensed by the State of Texas.

Hotel means a building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Hotel room units are accessed through doorways into an internal hallway, courtyard, or lobby. Financial consideration for hotel room units is generally calculated on a nightly basis.

Housing development means any development involving the provision of housing as the primary land use and the inclusion of secondary facilities, such as streets and sidewalks.

HUD-Code manufactured home means a structure constructed on or after June 15, 1976, according to the rules of the U.S. Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed as a dwelling with or without permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems. The term "HUD-Code manufactured home" does not include a recreational vehicle, or mobile home as defined in the Texas Manufactured Housing Standards Act, Vernon's Ann. Civ. St., art. 5221f.

Industrialized housing (or modular home)

Per Section 1202 of the Texas Occupations Code or as may be amended:

- (a) Industrialized housing is a residential structure that is:
 - 1) designed for the occupancy of one or more families;
 - 2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and
 - 3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system.
- (b) Includes the structure's plumbing, heating, air conditioning, and electrical systems.
- (c) Industrialized housing does not include:
 - 1) a residential structure that exceeds four stories or 60 feet in height;
 - 2) housing constructed of a sectional or panelized system that does not use a modular component; or
 - 3) a ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

Licensed massage therapy means a health care service by a licensed massage therapist, as defined by state law. The term "massage therapy" means the manipulation of soft tissue for therapeutic purposes and includes, but is not limited to, effleurage (stroking), petrissage (kneading), strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower, or cabinet baths. Equivalent terms for massage therapy are massage, therapeutic massage, and massage technology, myotherapy or any derivation of those terms. The terms "therapy" and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Living unit means the rooms occupied by a family, which must include cooking facilities.

Loading space means an off-street space or berth used for the loading or unloading of vehicles.

Lot area means the net horizontal area of a lot excluding portions of streets and alleys and easements for streets and alleys.

Lot, corner, means a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot coverage means the percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot.

Lot depth means the horizontal distance measured perpendicularly between two points on the front lot line and two points on the rear lot line which creates an area that meets the minimum width and depth requirements for the zoning district. The term "lot depth" shall not include easements, which impair the use of the lot surface as a yard.

Lot, flag or panhandle means a lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than 12 feet.

Lot, interior means a lot other than a corner lot.

Lot line, front means the narrower side of the lot abutting a street. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage. For a lot which has a boundary line which does not abut the front street line, is not a rear lot line and lies along the same general directional orientation as the front and rear lot lines, such line shall be considered a front lot line in establishing a minimum setback line.

Lot line, rear means the lot line farthest from, but most nearly parallel to, the front lot line. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero.

Lot line, side means any lot line which is not the front or rear lot line.

Lot lines means the lines bounding a lot as defined in this section.

Lot of record means a lot which is part of a subdivision, the plat for which has been recorded in the county clerk's office.

Lot, plot or tract means land occupied, or to be occupied, by a building and its accessory buildings, and including such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved place.

Lot, through means a residential lot, other than a corner lot, abutting more than one street and having access to more than one street. Through lots are prohibited by this chapter.

Lot width means the horizontal distance measured between side lot lines, perpendicular to the front lot line, and measured from the point on the building line which is closest to the front lot line.

Main building means the buildings on a lot which are occupied by the primary use.

Manufactured home display and sales means the open display, storage, and sale of HUD-Code manufactured homes.

Manufacturing, Heavy means a facility or area for generally mass producing goods usually for sale to wholesalers or other industrial or manufacturing uses. A heavy manufacturing use is one which employs the following or similar types of processes:

- (1) The milling of grain as retail sales and service.
- (2) Producing animal food, and tanning animal hides.
- (3) Production of large durable goods such as but not limited to motorcycles, cars, manufactured homes, or airplanes.
- (4) Canning or bottling of food or beverages for human consumption using a mechanized assembly line.
- (5) Manufacturing of paint, oils, pharmaceuticals, cosmetics, solvents, and other chemical products; and use of a foundry for metals.
- (6) Production of items made from stone, clay, metal or concrete.
- (7) Tire recapping or retreading.

Manufacturing, Light means a facility or area for producing goods without the use of chemical processing of materials and determined not to be a hazard or nuisance to adjacent property or the community at large, due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor, or vibration, or the danger of fire, explosion, or radiation. Light manufacturing activities include but are not limited to the following activities:

- (1) Assembly, finishing, and/or packaging of small items from component parts made at another location. Examples include but are not limited to cabinetmaking or the assembly of clocks, electrical appliances, or medical equipment.
- (2) Production of items made from materials derived from plants or animals, including but not limited to leather, pre-milled wood, rubber, paper, wool, or cork; or from textiles or plastics.
- (3) Electrical component manufacturing.
- (4) Reproduction, cutting, printing or binding of written materials, drawings, or newspapers on a bulk basis using lithography, offset printing, blue printing and other similar methods.
- (5) Machine or welding shop - a facility where material is processed by machining, cutting, grinding, welding or similar processes.
- (6) Spray painting or motor vehicle conversion.

Masonry construction

(A) Primary Materials

Unless otherwise provided for in this Ordinance, exterior construction materials are fired brick, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures.

(B) Other Materials

Other exterior construction materials for nonresidential structures are tilt wall concrete panels and sealed and painted concrete block.

Medical or scientific research lab means a facility or area for conducting medical or scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition also includes labs for the manufacture of dentures and prostheses.

Mini-warehouse/self-storage facility means a facility or area where enclosed storage space, divided into separate compartments no larger than 500 square feet in size, is provided for use by individuals to store personal items or by businesses to store materials for operation of a business establishment at another location. Related activities, such as retail sale of packing and moving materials and the rental of moving equipment, including vans and trucks, are allowed as incidental uses.

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

Model home (temporary) means a single family dwelling in a developing subdivision located on a legal lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision.

Mortuary or funeral parlor means a place for the storage of human bodies prior to their burial or cremation, or a building used for the preparation of the deceased for burial and the display of the deceased, and ceremonies connected therewith before burial or cremation.

Motel means a building or group of buildings used as a temporary dwelling place for individuals in exchange for financial consideration where customary hotel services such as linen, housekeeping service, and telephone are provided. Each motel room unit has direct access to the outside. Financial consideration for motel room units is generally calculated on a nightly basis.

Motor vehicle means every device in, on or by which any person or property is or may be transported, carried, propelled, or drawn including by way of illustration, and not limitation, cars, busses, mopeds, motorcycles, trucks, tractors, trailers, and watercraft.

Motorcycle sales/service means the display, sale and servicing, including repair work of motorcycles.

Multiple-family dwelling means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments or which is occupied as a home or place of residence by three or more households living in independent dwelling units.

Nonconforming use or structure means a building, structure, or use of land lawfully occupied at the time of the effective date of the ordinance, or amendments thereto, from which this article is derived, or annexed into the city and which does not conform to the use regulations of the district in which it is situated.

Nursery, major means an establishment for the cultivation and propagation, display, storage, and sale (retail and wholesale) of large plants, shrubs, trees, and other materials used in indoor or outdoor plantings; and the contracting for installation and/or maintenance of landscape material as an accessory use. Outdoor display and storage is permitted.

Nursery, minor means a retail business for the display and/or sale of trees, shrubs, flowers, ornamental plants, seeds, garden and lawn supplies, and other materials used in indoor and outdoor planting, without outside storage or display.

Nursing/convalescent home means an institutional facility licensed by the State of Texas providing in-patient health care, personal care or rehabilitative services over a long period of time generally exceeding thirty days to persons chronically ill, aged or disabled who need on-going health supervision but not including hospitals. This use excludes the provision of surgical or emergency medical services and the provision of care for alcoholism, drug addiction, mental disease, or communicable disease.

Occupancy means the use or intended use of the land or building by owners, proprietors, or tenants.

Office, professional/general administrative means a room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices and services, including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

Office, medical or dental – see Clinic, medical or dental

Office, showroom/warehouse means an establishment that primarily consists of sales offices and sample display areas for products and/or services delivered or performed off-premises. Catalog and telephone sales facilities are appropriate. Incidental retail sales of products associated with the primary products and/or services are permitted. Warehousing facilities shall be incidental to the primary use and shall not exceed 50 percent of the total floor area. This designation does not include contract construction or a contractor's shop and storage yard.

One-family dwelling (attached) means a dwelling that is part of a structure containing 3 or more dwellings, which is joined to another dwelling at one or more points, by a party wall or abutting separate wall, which is designed for occupancy by one household and is located on a separate lot delineated by front, side and rear lot lines. This definition includes the term “townhome.”

One-family dwelling (detached) means a dwelling designed and constructed for occupancy by one household, which is located on a lot or separate building tract, and having no physical connection to a building located on any other lot or tract.

Open space means 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.

Open storage and outside display means as a primary use, over 50 percent of a property area used for outdoor storage or display of commodities, materials, goods, equipment, vehicles, or merchandise in

its normal day-to-day business activities. This definition excludes new and used sale or lease of automobiles, motorcycles recreational vehicles, boats, or watercrafts.

Outdoor structure means open to the public and which provides entertainment or amusement for a fee or admission charge including, but not limited to, batting cages, miniature golf, go-kart tracks and carnivals.

Owner (or operator) occupied residence means the structure, house, or home is the primary or principal residence of the owner or operator.

Park or playground (public) means an open recreation facility or park owned and operated by a public agency for the general public, including a baseball field, golf course, football field or stadium.

Parking ~~space~~garage, residential means an enclosed ~~or unenclosed~~ all-weather surfaced area used for parking a vehicle, not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street, permitting free ingress and egress without encroachment on the street.

Parking lot/garage (accessory) means an area or structure for the temporary storage of motor vehicles.

Parking lot/garage (commercial) means an area or structure where a fee is charged for parking motor vehicles and which serves as the primary use on the lot.

Patio home means a one-family dwelling on a separate lot, with open space setbacks only on three sides, commonly developed in a cluster configuration.

Pawn shop means an establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker).

Pet grooming means an establishment that provides grooming services for dogs, cats and other small domesticated animals inside a heated and air conditioned building; but which establishment does not provide indoor or outdoor pens in which such animals are housed or boarded on a daily basis or overnight or are otherwise bred, trained, or sold for commercial purposes. Pet grooming may be an accessory use to a pet shop.

Pet shop means an establishment offering small animals, fish, or birds for sale as pets and where all such creatures are housed within the building.

Planning and zoning commission means the agency appointed by the city council as an advisory body to it and which is authorized to recommend changes in the zoning and other functions as delegated to it by the city council.

Plat means a plan for a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the city's subdivision standards and state law. It is subject to approval by the planning and zoning commission and the city council and is filed with the county plat records.

Play field or stadium (public) means an athletic field or stadium owned and operated by a public agency for the general public, including a baseball field, golf course, football field, or stadium.

Plot means a single unit or parcel of land, or a parcel of land that can be identified and referenced on a recorded plat or map.

Portable building sales means an establishment which displays and sells structures which are capable of being carried and transported to another location, not including mobile homes or HUD-Code manufactured homes.

Post office, government and private means the local branch of the United States Postal Service or private commercial venture engaged in the distribution of mail and incidental services.

Premises means land together with any building or structures situated thereon.

Primary use means the principal or predominant use of any lot or building.

Principal building means same as main building.

Print shop, major means an establishment specializing in long-run printing operations including, but not limited to, book, magazine, and newspaper publishing using engraving, die cutting, lithography, and thermography processes.

Print shop, minor means an establishment specializing in short-run operations to produce newsletters, flyers, resumes, maps, construction documents and plans, and similar materials using photocopying, duplicating, and blue printing processes. This definition shall include mailing and shipping services, but excludes the on-site storage of heavy load fleet vehicles.

Private club means a club where alcoholic beverages are stored, possessed and mixed on club premises and served for on-premises consumption only to members of the club and their families and guests, by the drink or in sealed, unsealed or broken containers of any legal size.

Private street means a private vehicular accessway shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of Chapter 65, Subdivisions. The term "private street" shall be inclusive of private alleys.

Private utility, other than listed means a nonpublic utility requiring special faculties, in residential areas or on public property, for such purposes as heating, cooling, or communications, not customarily provided by the municipality or public utilities.

Propane storage and distribution means facilities for the receipt, storage, and distribution of propane gas in tanks larger than five gallons.

Public building, shop or yard of local, state or federal government means facilities such as office buildings, maintenance yards or shops required by branches of local, state, or federal governments for service to an area such as a highway department or city service center.

Railroad or bus passenger station means any premises of the transient housing or parking of motor-driven buses and trains and the loading and unloading of passengers.

Railroad team track, freight depot or docks means a facility or place for the loading and unloading of materials on trains.

Recreational vehicle (RV) parks and campgrounds means an area for locating, establishing, or maintaining one or more sites for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes. The area is intended for use on a temporary basis by campers, vacationers, and travelers.

Recreational vehicle sales and service, new/used means sales and/or leasing of new and/or used recreational vehicles or boats, including, as an accessory use, repair work of recreational vehicles and boats.

Rehabilitation care facility means a facility which provides residence and care to not more than nine (9) persons regardless of legal relationship who have demonstrated a tendency towards alcoholism, drug abuse, mental illness, or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.

Rehabilitation care institution means a facility which provides residence and care to ten (10) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct together with supervisory personnel.

Repair shop, household equipment and appliances means the maintenance and rehabilitation of appliances customarily used in the home including, but not limited to, washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and ranges, countertop kitchen appliances, vacuum cleaners and hairdryers.

Residence means the same as dwelling, and when used with district means an area of residential regulations.

Residence hotel means a multidwelling unit, extended stay lodging facility consisting of efficiency units or suites with a complete kitchen suitable for long-term occupancy. Customary hotel services such as linens, maid service, telephone, and upkeep of furniture shall be provided. Meeting rooms, clubhouse, and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined by this section.

Residential community center, private (accessory) means a facility or area that is an integral part of a residential project or planned development and that is used by the residents of the project or development for a place of meeting, recreation, or social activity, but not primarily to render a service that is customarily carried on as a business. Such facilities include but are not limited to swimming pools, saunas, hot tubs, game courts, playgrounds, community clubhouse, cabana, pavilion or roofed areas, leasing office, laundry facilities, and other similar uses. This use need not be located on the same lot as the property it serves.

Residential district means a district where the primary purpose is residential use.

Restaurant or cafeteria means an eating establishment where customers are primarily served at tables or self-served and food is consumed on the premises, which may include a drive-in window.

Restaurant (drive-in type) means an eating establishment where primarily food or drink is served to customers in motor vehicles, or where facilities are provided on the premises, which encourages the serving and consumption of food in automobiles on or near the restaurant premises.

Restaurant or food shop, take-out and delivery means a food establishment that is open to the public, where food and beverages are prepared primarily for carry-out by the consumer or delivery by the establishment and not for consumption on the premises. This classification may include ice cream shops, pizza delivery, specialty food and beverage shops, or baked goods shops.

Retail or service, incidental means a retail or service use that is clearly incidental and supportive to the primary use. Said use shall be operated for the benefit or convenience of the employees, visitors, or customers of the primary use. Incidental shall mean an area that constitutes not more than fifteen (15) percent of the main use.

Retail stores and shops means an establishment engaged in the sale or rental of goods and merchandise to the general public for personal or household use or consumption and rendering services incidental to the sale or rental of such goods or merchandise.

Right-of-way and track means used by a railroad, but not including railroad stations, siding, team tracks, loading facilities, dock yards, or maintenance areas.

Salvage yard means a yard or building where automobiles or machinery are stored, dismantled and/or offered for sales as whole units, as salvaged parts, or as processed metal.

Sand and gravel storage means a facility where sand and gravel are stored for sale or use by private entity.

School, private or parochial (primary or secondary), means a school operated by a private or religious agency or corporation other than an independent school district, having a curriculum generally equivalent to a public elementary or secondary school.

School, public means a school operated by an independent school district and providing elementary or secondary curriculum.

School, trade or commercial, means establishments, other than public or parochial schools, private primary or secondary schools, or colleges offering training or instruction in a trade, art, or occupation.

Sexually oriented businesses or establishments are as defined and regulated in Ord. No. 98-12.

Shopping center means a group of commercial, primarily retail and service establishments, that are planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, and provisions for aesthetically appropriate design and protection from the elements.

Shops, offices, and storage area for public or private utility means the pole yard, maintenance yard, or administrative office or public or private utilities.

Sign means an outdoor advertising device that is a structure or that is attached to or painted on a building or that is leaned against a structure or a display on premises intended to accomplish the purposes customarily assigned to signs. Regulations of size, type, construction standards are set forth in Ord. No. 2000-07, or its successor ordinance, if any.

Small engine repair shop means shop for repair of lawnmowers, chain saws, lawn equipment, and other machines with one-cylinder engines.

Stable (commercial) means a facility for boarding horses, renting horses to the public or conducting riding lessons. A minimum of ten acres is required for this use.

Stable (private) means an accessory building for quartering horses, when the stable building is set back from all adjacent property lines at least 100 feet, and when the site contains a minimum area of one acre for each animal quartered.

Stacking space means a designated area that provides the ability for motor vehicles to queue on site prior to receiving a service. Each required stacking space shall be a minimum of nine feet in width and 20 feet in length and shall not be located within or interfere with any other circulation driveway, parking space, fire lane, or maneuvering area.

Story means the height between the successive floors of a building, or the distance from the floor to the roof. For the purpose of computing building height pursuant to this ordinance, the average height for a story shall be defined as 12 feet, six inches.

Street means any thoroughfare or public driveway, other than an alley, of more than 30 feet in width, which has been dedicated or deeded to the public for public use.

Street line means a boundary line between a lot, tract, or parcel of land and a contiguous street right-of-way. A street line is the same as a front property line or right-of-way line.

Structural alterations means any change in the supporting member of a building, such as bearing walls, columns, beams, or girders.

Structure means a combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.

Studio for dance, gymnastics, and/or martial arts means a building or portion of a building used as a place of work for a gymnast, dancer and/or martial artist or for instructional classes in gymnastics, dance and/or martial arts.

Studio for photographer, musician, and artist means a building or portion of a building as a place of work by a photographer, musician, or artist.

Studio for radio and television means a building or portion of a building used as a place for radio or television broadcasting.

Swim and tennis club means a private recreational club with restricted membership, usually of less area than a country club, but including a clubhouse and swimming pool, tennis courts and similar recreational facilities, none of which are available to the general public.

Swimming pool (private) means a swimming pool constructed for the exclusive use of the residents of a one-family, two-family, or multiple-family dwelling and located and fenced in accordance with city regulations. A private swimming pool shall not be operated as a business nor maintained in a manner to be hazardous or obnoxious to adjacent property owners.

Telephone line and exchange means a line for the transmission of telephone signals and a central office in which telephone lines are connected to permit communication.

Temporary field office means a building or structure of either permanent or temporary construction, used in connection with a development or supervisory and/or administrative functions related to development, construction or the sale of real estate properties within the active development or construction project.

Theater (drive-in) means an open lot with its appurtenant facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Theater (indoor) means a building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performance.

Thoroughfare means the same as street.

Tow truck means a vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a boom, wheel-lift or spectacle lift, integrated boom and wheel-lift (a.k.a. self-loader, snatcher, quick pick or repo truck), flatbed (a.k.a. rollback or slide), lift flatbed, or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least ten thousand (10,000) pounds that may be used to move disabled, improperly parked, impounded, repossessed, or otherwise indisposed motor vehicles.

Towing or wrecker service means a facility or area in which tow trucks are employed in the hauling of motorized vehicles and for the storage of vehicles that have been towed, repossessed, or otherwise in the care and custody of the operator of the lot, but not disassembled or junked.

Townhome – see *one-family dwelling (attached)*.

Tract means an area, parcel, site, piece of land, or property which is the subject of a zoning or development application.

Trailer sales or rental means the display and offering for sale or rent of trailers designed to be towed by a vehicle. Such trailers offered or displayed in the GR District shall not exceed 20 feet in overall length.

Transportation and utility structures/facilities mean permanent facilities and structures operated by companies engaged in providing transportation and utility services including, but not limited to, sewage pumping stations, telephone exchanges, water reservoirs, and water pumping stations.

Travel trailer means a mobile vehicle, designed and used as a temporary place of dwelling, and of such size and design so as to be subject to licensing for towing on the highway by a passenger motor vehicle or other vehicle, and not requiring a special permit for moving on the highways as contrasted to a mobile home.

Truck parking lot means an area for parking vehicles weighing more than 6,500 pounds.

Truck sales (heavy truck) means the display, sale, or rental of new or used heavy load vehicles in operable condition.

Truck terminal means an area and building where cargo is stored and where trucks, including tractors and trailer units, load and unload cargo on a regular basis, and may include facilities for the temporary storage of loads prior to shipment.

Two-family dwelling (duplex) means a single structure designed and constructed with two living units under a single roof for occupancy by two households living independently of each other.

Utility distribution/transmission lines means facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines and metering stations.

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

Vehicle recovery means the recovery of any vehicle to another place, generally speaking with a tow truck.

Vehicle storage means a holding facility for the storage of operable or inoperable vehicles awaiting adjustment or settlement of insurance claims, repossessed motor vehicles, or motor vehicles that have been impounded for other various reasons. Dismantling of vehicles is not permitted.

Veterinarian Clinic and/or Kennel, Indoor means an establishment, not including outside pens/kennels, where animals and pets are admitted for examination and medical treatment, or where domesticated animals are housed, groomed, bred, boarded, trained, or sold for commercial purposes.

Veterinarian Clinic and/or Kennel, Outdoor an establishment with outdoor pens/kennels, where animals and pets are admitted for examination and medical treatment, or where domesticated animals are housed, groomed, bred, boarded, trained, or sold for commercial purposes.

Warehouse/distribution center means a building or area for storage, wholesale, and/or distribution of manufactured products, supplies, and equipment. This definition excludes the bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

Wholesale office storage or sales facility means a wholesale, storage, and distribution use, not generally open to the public, in which merchandise is displayed and sold at wholesale to business representatives for resale, rather than to the general public for direct consumption, including the storage of goods for sale, and not including “Truck Terminal”. An establishment should have a minimum 75 percent of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale areas, sales offices, and display areas for

products sold and distributed from the storage and warehouse areas. Wholesalers that do not have auxiliary storage as a part of the use shall be considered offices.

Yard means an open space, other than a court, on the lot in which a building is situated and which is not obstructed from a point 40 inches above the general ground level of the graded lot to the sky, except as provided by roof overhang or similar special architectural features.

Yard, front, means an open, unoccupied space on a lot facing a street extending across the lot front between the side lot lines and from the main building to the front lot or street line, with the minimum horizontal distance between the street line and the main building line as specified for the zoning district in which it is located.

Yard, rear, means an open, unoccupied space, except for accessory building as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line as specified the district in which the lot is situated. (See appendix illustration 3 on file in the city secretary's office.)

Yard, side, means an open, unoccupied space or spaces on one side or two sides of the same lot with a main building, and being situated between the building and a side line of the lot extending through from the front yard to the rear yard. Any lot line, not the rear line or a front line, shall be deemed as a side line. (See appendix illustration 3 and 4 on file in the city secretary's office.)

Zero lot line dwelling means detached single-family dwellings on lots without a side yard requirement on one side of the lot.

Zoning administrator means the City Manager or other person designated as the one responsible for the administration and enforcement of the city zoning and building codes.

Zoning district map means the official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this chapter.

Zoning ordinance means this chapter.

Section 3 ZONING DISTRICTS AND USES

3.1 ESTABLISHMENT OF ZONING DISTRICTS

The city is divided into zoning districts. The use, height and area regulations set out herein are uniform within each district. The districts established in this subsection shall be known as:

Abbreviated Designation	Zoning District Name
A	Agricultural District
ED	Estate Development
SF-1	Single Family Dwelling-1 District
SF-2	Single Family Dwelling-2 District
SF-3	Single Family Dwelling-3 District
2F	Two Family Residence (Duplex) District
MF-1	Multifamily Residence-1
MF-2	Multifamily Residence-2
NS	Neighborhood Service District
GR	General Retail District
C	Commercial District
CA	Central Area District
LI	Light Industrial District
HI	Heavy Industrial District

3.2 ZONING DISTRICT MAP

3.2.1 ESTABLISHMENT

The boundaries of the zoning districts set out herein are delineated upon the zoning district map, with such map being a part of this section as fully as if the same were set forth in this subsection in detail.

3.2.2 MAINTENANCE AND UPDATES

- 1) Three original, official and identical copies of the zoning district maps are hereby adopted, each bearing the signature of the mayor and the attestation of the city secretary, and shall be filed and maintained as follows:

- a. One copy shall be filed for permanent record in the city secretary's office and shall be designated as "exhibit A." This copy shall not be changed in any manner.
- b. One copy shall be filed in the City Manager's office and shall be designated as "exhibit B." This copy shall be maintained by the zoning administrator and kept up to date by posting thereon all subsequent changes and amendments for use in issuing building permits and certificates of compliance and occupancy and enforcing the provisions of this chapter.
- c. One copy shall be filed with the Planning and Zoning Commission and shall be designated as "exhibit C." This copy shall be maintained and kept up to date by the zoning administrator by posting thereon all subsequent changes and amendments.
- d. Reproductions for information purposes only may from time to time be made of the official zoning district map.

3.2.3 DISTRICT BOUNDARIES

- 1) The district boundary lines shown on the zoning district maps are usually along streets, alleys, property lines or extensions thereof, where uncertainty exists as to the boundaries of districts as shown on the official zoning maps, the following rules shall apply:
 - a. Boundaries indicated, as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 - b. Boundaries indicated as approximately following the platted lot lines shall be construed as following such lot lines.
 - c. Boundaries indicated as approximately following city limits shall be construed as following city limits.
 - d. Boundaries indicated as following railroad lines shall be construed to be the centerline of the right-of-way or if no centerline is established the boundary shall be interpreted to be midway between the right-of-way lines such railroad.
 - e. Boundaries indicated as following shore lines shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, drainage ways or draws shall be construed to follow such centerlines.
 - f. Boundaries indicated as parallel to or extensions of features indicated in subsections (1)(a) through (1)(e) of this section shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.
 - g. Whenever any street, alley or other public way is vacated by official action of the city council, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the centerline of such vacated street, alley or way, and all area so involved shall then and henceforth be subject to all regulations of the extended districts.
- 2) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel

of property is zoned and such question cannot be resolved by the application of subsection (1)(a) through (1)(g) of this section, the property shall be considered as classified A, Agricultural District temporarily in the same manner as provided for newly annexed territory and the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions provided in subsection 3.3 of this section for temporarily zoned areas.

3.3 ZONING UPON ANNEXATION

All territory hereafter annexed to the city shall be temporarily classified in the A, Agricultural District, until permanent zoning is established by the City Council, unless permanent zoning can be established at the time of annexation as provided in section 2.1 Procedural Steps of Zoning Petitions and Amendments. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations.

3.3.1 RULES OF NEWLY ANNEXED TERRITORY CLASSIFIED AS THE AGRICULTURAL DISTRICT

In an area temporarily classified as A, Agricultural District:

- 1) No person shall erect, construct or add to any building or structure, or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit therefore from the zoning administrator or the city council as may be required herein;
- 2) No permit for the construction of a building or use of land shall be issued by the zoning administrator other than a permit which will allow the construction of a building permitted in the A, Agricultural District, unless and until such territory has been classified in a zoning district other than the A, Agricultural District, by the city council in the manner provided by law except that a building permit may be issued in accordance with the provisions of subsection 3.3.1(3) of this section.
- 3) An application for a permit for any other use than that specified in subsection 3.3.1(2) of this section shall be made to the zoning administrator, and by him referred to the planning and zoning commission for consideration and recommendation to the city council. The Planning and Zoning Commission, in making its recommendation to the City Council concerning any such permit, shall take into consideration the appropriate land use for the area. The City Council, after receiving and reviewing the recommendations of the Planning and Zoning Commission, may by majority vote authorize the issuance of a building permit or specific use permit or may disapprove the application.

3.4 SPECIFIC USE PERMITS

The city council by an affirmative vote may, after public hearing and proper notice to all parties affected, and after recommendations from the planning and zoning commission that the use is in general conformance with the comprehensive plan of the city and containing such requirements and safeguards

as are necessary to protect adjoining property, authorize the granting of a specific use permit for those uses indicated by "S" in the schedule of uses to this chapter, according to the following criteria:

- 1) An application for a specific use permit shall be accompanied by a plan drawn to scale and showing the general arrangement of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials, and locations of buildings; the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; the type of visual screening such as walls, plantings, and fences; and the relationship of the intended use to all existing properties and land uses in all directions (the "plan"). A specific use permit that will require the construction of a new structure shall be accompanied by said plan. A plan may not be required if a specific use permit is applied for that will locate in an existing structure, if the city manager or his designee determines that the existing site adequately addresses the above elements and a plan is not necessary to evaluate the specific use permit.
- 2) In recommending that a specific use permit for the premises under consideration be granted, the planning and zoning commission shall determine that such uses are harmonious with and adaptable to building structures and uses of abutting property and other property within 200 feet of the premises under consideration, and shall make recommendations regarding the adequacy of the streets, alleys and sidewalks abutting and adjacent to the proposed use (subject to the city's subdivisions chapter), means of ingress and egress from and to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and whether the building is compatible for the use under consideration.
- 3) Every specific use permit granted under these provisions shall be considered as an amendment to this chapter and shall remain applicable to the property so long as all conditions imposed at the time of granting said permit continue to be met and no substantive change in the use of the property occurs. ~~In the event the building, premises, or land use under the specific use permit is voluntarily vacated for a period in excess of 180 days, the use of the same shall thereafter conform to the regulations of the original zoning district of such property unless a new and separate specific use permit is granted for continuation of the same.~~
- 4) In granting a specific use permit, the city council may impose conditions that shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the city for use of the building on such property pursuant to such specific use permit. Such conditions are not precedent to the granting of a specific use permit, but shall be construed as conditions precedent to the granting of the certificate of occupancy.
- 5) No specific use permit shall be granted unless the applicant, owner, and grantee of the specific use permit shall be willing to accept and agree to be bound by and comply with the written requirements of the specific use permit, as attached to the site plan drawings and approved by the city council.

- 6) A building permit shall be applied for and secured within six months from the time of granting the specific use permit; provided, however, that the city council may authorize an extension of this time upon recommendation by the planning and zoning commission, except in the case of a private street development, which shall have no limit regarding the application and securing of a building permit. If a building permit has not been secured within six months from the time of granting the specific use permit, or if a building permit has been issued but subsequently allowed to lapse, a city-initiated zoning change will be placed on the agenda of the planning and zoning commission and city council to consider the revocation of the specific use permit.
- 7) No building, premises, or land used under a specific use permit may be enlarged, modified, structurally altered, or otherwise changed unless a separate specific use permit is granted for such enlargement, modification, structural alterations, or change.
- 8) The board of adjustment shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the granting, extension, revocation, modification or any other action taken relating to such specific use permit.
- 9) When the city council authorizes granting of a specific use permit, the official zoning district map shall be amended according to its legend to indicate that the affected area has conditions and limited uses, said amendment to indicate the appropriate zoning district for the approved use and suffixed by an "S" designation.
- 10) ~~A specific use permit issued by the city shall be transferable from one owner or owners of the subject property to a new owner or occupant of the subject property, and subsection (5) shall be applicable to the new owner or occupant of the property. However, a specific use permit issued for a private club shall not be considered a property right but a personal privilege of the permit holder in accordance with the Texas Alcoholic Beverage Code, and thus shall not be transferable or assignable from one owner or owners of the permitted property to a new owner or occupant of the permitted property. Specific use permits are issued to the property, and subsection (5) shall be applicable to any new owner or occupant of the subject property.~~

3.5 PERMITTED USES

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

3.6 SCHEDULE OF PERMITTED USES

3.6.1 EXPLANATION OF USE CHART

1) Permitted By-Right Uses

“P” in a cell indicates that the use is permitted by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this ordinance.

2) Uses Requiring a Specific Use Permit

“S” in a cell indicates that, in the respective zoning district, the use is allowed only if issued a Specific Use Permit, in accordance with the procedures of Section 3.4, Specific Use Permits. Uses requiring a Specific Use Permit are subject to all other applicable regulations of this ordinance.

3) Prohibited Uses

A blank cell indicates that the use is prohibited in the respective zoning district.

4) Use-Specific Regulations

Regardless of whether a use is allowed by right, or permitted with a Specific Use Permit, there may be supplemental regulations that are applicable to the use. The existence of these regulations is noted through a cross-reference in the last column of the table. Cross-references refer to Section 3.9, Use-Specific Regulations. An asterisk [*] in a cell indicates that the use, whether permitted by right or as a special use, is permitted subject to use-specific regulations in that district.

5) Allowed Land Uses in Overlay Districts

Except as otherwise provided by this Code for a specific overlay district:

- a. Any land use permitted by right in the applicable underlying base zoning district may be permitted within an overlay district, subject to any use-specific regulations required by this section and any additional requirements of the specific overlay district.
- b. Any land use requiring a Specific Use Permit in the applicable underlying base zoning district is only allowed if a Specific Use Permit is issued for the use.
- c. Any land use prohibited in the underlying base zoning district is also prohibited in an overlay district. A specific overlay district may include additional prohibited land uses.

6) Allowed Land Uses in Planned Development Districts

Land uses in a Planned Development district are permitted as follows:

- a. If the PD Development Plan references a base zoning district:
 - i. Any land use permitted by right in the applicable underlying base zoning district, as amended, may be permitted.
 - ii. Any land use requiring a Specific Use Permit in the applicable underlying base zoning district, as amended, is only allowed if a Specific Use Permit is issued for the use.
 - iii. Any land use prohibited in the underlying base zoning district, as amended, is also prohibited in the PD district.

- b. The PD district may list the permitted and prohibited uses separately.
- c. A combination of the above options.

3.6.2 LEGEND FOR USE CHART

P	Use is permitted in district indicated
S	Use is permitted in district upon approval of a Specific Use Permit
	Use is prohibited in district indicated
*	Use is permitted in the district indicated if the use complies with use-specific regulations in the corresponding numeric end note in Section 3.9, Use-Specific Regulations

3.6.3 RESIDENTIAL USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations	
Type of Use		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District ¹
P	Permitted Use															
S	Special Use Permit															
	Prohibited Use															
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)															
Bed and breakfast inn		S	S	S	S	S	S	S	SP		P	P	P		S*	
Boarding house or rooming house		S	-	S	S	S	S	S	P		SP	P	P			
Garage apartment		P	P	P	P										S	
Guest house		P	P	P	P										S	
Hotel		S									SP	P	P		S*	
HUD-Code manufactured home				S	S											
Industrialized housing (or modular home)																
Mobile Home																
Motel												S*	S*			3.9.9
Multiple-family dwelling								P	P	P	P	P	P		S*	
One-family dwelling (attached)						S	-	P	P	P	P	P	S		S*	
One-family dwelling (detached)		P	P-	P	P	P	P	P	P	P	P	P				
Residence hotel												S-	S-			
Two-family dwelling (duplex)							P	P	P	P	P	P			S*	
Zero lot line dwelling					S	PS	P	P	P	P	P	P				

¹Property in the Central Area District shall be used only in the manner and for the purposes provided for by this division, provided that a residence or residential use in such district by specific use permit shall be subject to the limitations of section 3.13.4.

3.6.4 ACCESSORY AND INCIDENTAL USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations									
<table><tr><td>P</td><td>Permitted Use</td></tr><tr><td>S</td><td>Special Use Permit</td></tr><tr><td></td><td>Prohibited Use</td></tr><tr><td>*</td><td>Special Conditions Apply (see Section 3.9, Use-Specific Regulations)</td></tr></table> Type of Use		P	Permitted Use	S	Special Use Permit		Prohibited Use	*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)	A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District		2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District	CA – Central Area District
		P	Permitted Use																					
		S	Special Use Permit																					
			Prohibited Use																					
		*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)																					
		Accessory building	P	P	P	P	P	P	P	P	P	P	P	P		P	P							
Farm accessory building	P	P	P	P	P	P	P	P	P	P	P	P	P	S										
Fuel pumps (accessory use)										P*	P*				3.9.7									
Home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S									
Parking lot/garage (accessory)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
Stable (private)	P	S	P										P	P										
Swimming pool (private)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	3.9.12								
Temporary field office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
Tennis courts	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	3.9.11								

3.6.5 AGRICULTURAL USES

Zoning District Legend	Residential Districts								Non-Residential and Mixed-Use Districts						Use-Specific Regulations
<div> <div>P</div> Permitted Use <div>S</div> Special Use Permit <div></div> Prohibited Use <div>*</div> Special Conditions Apply (see Section 3.9, Use-Specific Regulations) </div> <div>Type of Use</div>	A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C – Commercial District	LI – Light Industrial District	HI – Heavy Industrial District	CA – Central Area District	
Farm, ranch, garden, or orchard	P	P	P	P	P	P	P	P	P	P	P	P	P		
Feed store										P	P	P	P		
Nursery, major	S										P*	P	P		3.9.10
Nursery, minor										P	P	P	P	S	
Stable (commercial)	P	S													
Veterinarian clinic and/or kennel, indoor										S	P	P	P		
Veterinarian clinic and/or kennel, outdoor	S-											P	P		

3.6.6 AUTOMOBILE AND RELATED USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations	
Type of Use		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District
P	Permitted Use															
S	Special Use Permit															
	Prohibited Use															
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)															
Auto parts and accessory sales (indoor)											P	P	P	P	P	
Auto parts and accessory sales (outdoor)													P	P		
Automobile repair, major												Sp	P	P		
Automobile repair, minor				S	S	S					S	P	P	P	S	
Automobile sales, used													S	S		
Automobile sales/leasing, new											S	P	P	P		
Car wash, full service											S	P	P	P		
Car wash, self-service												S	P	P		
Convenience store with gas pumps										S	P	P	P	P	S	
Convenience store without gas pumps										P	P	P	P	P		
Motor vehicle towing, motor vehicle recovery, and motor vehicle storage													S	P		
Motorcycle sales/service												P	P	P	S	
Recreational vehicle sales and service, new/used												P	P	P		
Salvage yard														S		
Trailer sales/rental											Sp	P	P	P		
Truck sales (heavy truck)												S	P	P		

3.6.7 COMMERCIAL AND PROFESSIONAL USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations	
Type of Use		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C – Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District
P	Permitted Use															
S	Special Use Permit															
	Prohibited Use															
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)															
Building maintenance service and sales												P	P	P		
Clinic, medical or dental										P	P	P	P	P	P	
Contractor's shop and storage yard												P	P	P		
Dry cleaning plant												P	P	P	S	
Equipment and machinery sales and rental, major												P	P	P		
Manufactured home display and sales														S		
Medical or scientific research lab										P	P	P	P	P	P	
Office showroom/warehouse												P	P	P	S	
Office, professional, general administrative										P	P	P	P	P	P	
Open storage and outside display													P	P		
Print shop, major												P	P	P	SP	
Propane storage and distribution													P	P		

3.6.8 EDUCATIONAL, INSTITUTIONAL, AND PUBLIC USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations									
<table><tr><td>P</td><td>Permitted Use</td></tr><tr><td>S</td><td>Special Use Permit</td></tr><tr><td></td><td>Prohibited Use</td></tr><tr><td>*</td><td>Special Conditions Apply (see Section 3.9, Use-Specific Regulations)</td></tr></table> Type of Use		P	Permitted Use	S	Special Use Permit		Prohibited Use	*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)	A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District		2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District	CA – Central Area District
		P	Permitted Use																					
S	Special Use Permit																							
	Prohibited Use																							
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)																							
Adult day care center		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>									
Art gallery or museum										P	P	P	P	P	P									
Banquet/meeting hall												S*				3.9.4								
Cemetery or mausoleum		S	S	S	S	S	S	S	S	S	S	S	S	S	S									
Church, rectory, or other place of worship		P	P	P	P	P	P	P	P	P	P	P	P	<u>P</u>	P									
College, university or private school		<u>SP</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	P	P	P	P		P									
Day care center		<u>SP</u>	<u>S</u>	S	S	S	S	S	P	P	P	<u>SP</u>	<u>SP</u>	<u>SP</u>	S									
Fire station and public safety building		P	P	P	P	P	P	P	P	P	P	P	P	P	P									
Fraternal organization, lodge, or civic club		<u>S</u>						<u>S</u>	<u>P</u>	P	P	P	P		P									
Hospital		<u>P</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>SP</u>	P	P	<u>P</u>	<u>SP</u>									
Nursing/convalescent home		S						S	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>	<u>SP</u>		S									
Post office, government and private										<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>									
Public building, shop or yard of local, state or federal government		S	S	S	S	S	S	S	S	S	S	P	P	P	<u>S</u>									
Rehabilitation care facility		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>															
Rehabilitation care institution		S						<u>S</u>				P	P											
School, private or parochial (primary or secondary)		P	<u>P</u>	P	P	P	P	P	P	P	P	P	P		P									
School, public		P	<u>P</u>	P	P	P	P	P	P	P	P	P	P		P									
School, trade or commercial		<u>S</u>									P	P	P	P	P									

3.6.9 ENTERTAINMENT AND RECREATIONAL USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations	
Type of Use		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District
<div><div>P</div><div>S</div><div></div><div>*</div></div>	<div>Permitted Use</div> <div>Special Use Permit</div> <div>Prohibited Use</div> <div>Special Conditions Apply (see Section 3.9, Use-Specific Regulations)</div>															
Amenity center (private)		P	P	P	P	P	P	P	P						S	
Amusement, commercial (indoors)		S									PS	PS	PS	PS	S	
Amusement, commercial (outdoors)		S										S	S	S	S	
Community center (public)		SP	S	S	S	S	SP	SP	SP	P	P	P	P	P	P	
Dancehall or nightclub											S	S	S	S	S	
Day camp		P		S							P	P	P	P		
Fairgrounds/exhibition area		S									SP	SP	SP	SP	S	
Game room													S*			3.9.8
Golf course and/or country club		P		S	S	S	S	S	S	P	P	P	P	P	S	
Gun or archery range (indoor)		S									S	S	P	P		
Park or playground (public)		P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Play field or stadium (public)		P	S	S	S	S	S	S	S	P	P	P	P	P	P	
Recreational vehicle (RV) parks and campgrounds		S										S	P	P		
Swim and tennis club		S	S	S	S	S	S	S	S						S	
Theater (drive-in)		S										S	S	S	S	
Theater (indoor)		S									S	P	P	P	P	

3.6.10 INDUSTRIAL AND WHOLESALE USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations	
Type of Use		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District
P	Permitted Use															
S	Special Use Permit															
	Prohibited Use															
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)															
Bakery and confectioners works (wholesale)											P	P	P	P	P	
Concrete/asphalt batching plant														S		
Concrete/asphalt batching plant, temporary		I *	I *	I *	I *	I *	I *	I *	I *	I *	I *	I *	I *	I *	I *	3.9.6
High impact use														S		
Manufacturing, heavy													S	P		
Manufacturing, light													P	P		
Mini-warehouse/self-storage										S	S	P	P	P		
Sand and gravel storage													P	P		
Warehouse/distribution center												S	P	P		
Wholesale office storage or sales facility												P	P	P	S	

3.6.11 RETAIL AND SERVICE USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations								
		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District							
<table><tr><td>P</td><td>Permitted Use</td></tr><tr><td>S</td><td>Special Use Permit</td></tr><tr><td></td><td>Prohibited Use</td></tr><tr><td>*</td><td>Special Conditions Apply (see Section 3.9, Use-Specific Regulations)</td></tr></table>		P	Permitted Use	S	Special Use Permit		Prohibited Use	*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)														
P	Permitted Use																						
S	Special Use Permit																						
	Prohibited Use																						
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)																						
Type of Use																							
Alternative financial institution											<u>S*</u>	<u>S*</u>	<u>S*</u>	<u>S*</u>	<u>S*</u>	3.9.1							
Antique shop and used furniture										P	P	P	P	P	P								
Artisan’s workshop										<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>								
Bakery and confectioners works (retail)										<u>P</u>	P	P	P	P	P								
Banks, savings and loan, or credit union											P	P	P	P	P								
Barber shop/beauty salon and personal service shops										P	P	P	P	P	P								
Big box retail development											<u>S</u>	<u>S</u>											
Body art studio													<u>S*</u>	<u>S*</u>		3.9.5							
Building materials and hardware sales, inside storage										P	P	P	P	P	P								
Building materials and hardware sales, outside storage												<u>SP</u>	P	P	S								
Cleaning & laundry, self-service										P	P	P	P	P	P								
Dry cleaning or laundry, minor										P	P	P	P	P	P								
Equipment and machinery sales and rental, minor												P	P	P									
Farmer's market											<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>									
Flea market, inside												<u>P</u>	<u>P</u>										
Flea market, outside													<u>S</u>										
Florist shop										P	P	P	P	P	P								
Furniture, home furnishing, and equipment stores											P	P	P	P	P								

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations									
Type of Use (Retail and Service, continued)		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District								
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P	Permitted Use																							
S	Special Use Permit																							
	Prohibited Use																							
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)																							
General merchandise stores											P	P	P	P	P									
Grocery store or supermarket										P	P	P	P	P	P									
Health/fitness center											P	P	P	P	P									
Licensed massage therapy										<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>									
Mortuary or funeral parlor										<u>SP</u>	<u>SP</u>	P	P	P	P									
Pawn shop												P	P	P										
Pet grooming											P	P	P	P	P									
Pet shop											P	P	P	P	P									
Portable building sales												<u>S</u>	<u>P</u>	<u>P</u>										
Private club											P	P	P	P	P									
Repair shop, household equipment and appliances											P	P	P	P	P									
Restaurant (drive-in type)											P	P	P	P	P									
Restaurant or cafeteria										S	P	P	P	P	P									
Restaurant or food shop, take-out and delivery										<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>									
Retail stores and shops										<u>S</u>	P	P	P	P	P									
Sexually oriented businesses or establishments													S											
Shopping center										<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>										
Small engine repair shop											<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u>									
Studio for dance, gymnastics, and/or martial arts										S	P	P	P	P	P									
Studio for photographer, musician, and artist										S	P	P	P	P	P									
Studio for radio and television	S										P	P	P	P	P									

3.6.12 TRANSPORTATION, UTILITY, AND COMMUNICATIONS USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						Use-Specific Regulations	
Type of Use		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District		CA – Central Area District
P	Permitted Use															
S	Special Use Permit															
	Prohibited Use															
*	Special Conditions Apply (see Section 3.9, Use-Specific Regulations)															
Airport landing field		S										S	P	P		
Antenna and/or antenna support structure, commercial		<u>*S</u>	<u>*</u>	<u>*S</u>	<u>*S</u>	<u>*S</u>	<u>*S</u>	<u>*S</u>	<u>*S</u>	<u>*S</u>	<u>*S</u>	<u>*P</u>	<u>*P</u>	<u>*P</u>	<u>*S</u>	3.9.2
Antenna and/or antenna support structure, non-commercial		<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>S*</u>	3.9.3
Parking lot/garage (commercial)										S	P	P	P	P	P	
Private utility, other than listed		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	
Railroad or bus passenger station											P	P	P	P	P	
Railroad team track, freight depot or docks													P	P	S	
Shops, offices, and storage area for public or private utility											P	P	P	P	P	
Telephone line and exchange		P	<u>P</u>	P	P	P	P	P	P	P	P	P	P	P	P	
Transportation and utility structures/facilities		P	<u>P</u>	P	P	P	P	P	P	P	P	P	P	P	P	
Truck terminal													P	P		
Utility distribution/transmission lines		P	S	S	S	S	S	S	S	P	P	P	P	P	P	

3.7 CLASSIFICATION OF NEW AND UNLISTED USES

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

- 1) The City Manager shall refer the question concerning any new or unlisted use to the planning and zoning commission, requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage, and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated and the general requirements for public utilities, such as water and sanitary sewer.
- 2) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use should be permitted.
- 3) The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall by resolution approve the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate.

3.8 PROHIBITED USES

- 1) All uses not expressly permitted are prohibited, except as provided in Section 3.7.
- 2) No land or building shall be used or occupied for a use which will in any manner create an unreasonable potential hazard to the general public, health, safety, and welfare, as, for example, but not by way of limitation, any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, radioactive, or other hazardous conditions; noise or vibration; smoke, dust, odor, or other form of air pollution; heat, cold, dampness, movement of air, electrical, or other disturbances; glare; or liquid or solid wastes.
- 3) Without limiting the foregoing sections, or being limited thereby, the following uses are specifically prohibited:
 - a. Storage, manufacturing, purifying, packaging, repackaging, selling, or supplying of toxic or highly flammable chemicals or gases, as a primary use regardless of quantities involved. Examples include asbestos products, toxic or explosive chemicals and allied products or the processing of caustic acids.

- b. Above ground tank farms or storage of gasoline, fuel oils, gases, or chemicals, or other flammable, corrosive, or toxic substances as a primary use or in total on site quantities exceeding 30,000 liquid gallons or equivalent.

3.9 USE-SPECIFIC REGULATIONS

3.9.1 ALTERNATIVE FINANCIAL INSTITUTION

- 1) No alternative financial institution shall be located within 1,000 feet, measured from property line to property line, of any other alternative financial institution.
- 2) No alternative financial institution shall be located within 200 feet, measured from property line to property line, of a lot zoned or used for residential purposes.
- 3) No alternative financial institution shall be located within the Highway Commercial Overlay District.
- 4) An alternative financial institution may only be a main use that requires a specific use permit and a certificate of occupancy. An alternative financial establishment may not be an accessory use.

3.9.2 ANTENNA AND/OR ANTENNA SUPPORT STRUCTURE, COMMERCIAL

- 1) All commercial antennae and antenna support structures located on property owned by the City shall be permitted with a Specific Use Permit in any district.
- 2) All commercial antennae and antenna support structures shall be permitted by Specific Use Permit in nonresidential districts.
- 3) All commercial antennae and antenna support structures allowed by an SUP shall be subject to the following regulations.
 - a. No radio, television or microwave tower for a commercial use shall be located within a distance equal to or less than the height of such tower from any residential structure or from any area zoned residential on the current comprehensive plan. Such distance shall be measured as the shortest possible distance in a straight line from the closest point of the tower to the closest point of such area or residence.
 - b. Antenna support structures shall be constructed to support at least two carriers.
 - c. Antenna facilities shall be screened by a six (6) foot masonry screening wall or a six (6) foot open ornamental fence with landscape screen.
- 4) Commercial Stealth Antennas are permitted by right in residential districts only as a secondary use when the primary use on the lot is a church, school, athletic stadium or field, or public utility structure.
- 5) Commercial Stealth Antennas are permitted by right in nonresidential districts.

3.9.3 ANTENNA AND/OR ANTENNA SUPPORT STRUCTURE, NON-COMMERCIAL

Amateur radio antennas and other transmitting and receiving devices of microwave or electromagnetic waves for broadcasting use shall not interfere with radio or television reception of adjoining property owners, and shall comply with all regulations of the Federal Communications Commission (FCC). In no case shall the height of such antennas exceed 40 feet and proper guy wire securement shall be followed. In no manner shall the use of such equipment infringe upon adjoining property owners. Roof-mounted satellite dishes in excess of 50 pounds shall be approved by a registered architect or professional engineer by written letter to the City Manager, prior to installation, stating the antenna stability and support and that such dish shall not extend more than six feet above the roof.

3.9.4 BANQUET/MEETING HALL

- 1) Access to the lot on which the use is situated must be from an arterial or major collector street as identified on the city's Thoroughfare Development Plan.
- 2) The applicant shall submit a site plan and landscape plan in addition to any other plans that may be required by the city's ordinances, drawn to scale and sealed by a professional engineer or professional architect licensed by the State of Texas with the specific use permit application for consideration and approval by the planning and zoning commission and the city council.
- 3) Banquet or meeting halls may provide live or recorded entertainment, and, may serve catered meals and alcoholic beverages when the owner or operator holds the appropriate licenses and permits.
- 4) Banquet or meeting halls shall minimize disturbances to surrounding properties which includes restricting activities inside the structure or if located outside, no electronically amplified sound generated shall be audible at any time beyond the boundary of the property on which the facility is located.

3.9.5 BODY ART STUDIO

- 1) Facilities offering tattooing, permanent or intradermal cosmetic services and body piercing must be licensed by the state and must meet all city environmental health requirements.
- 2) Body art studios as a primary or standalone use shall be required to obtain a specific use permit and shall be prohibited within 1,000 feet, as measured by a singular straight line, from any other body art studio, church, day care, residentially zoned district, or public or parochial school. The measurement for this distance requirement shall be in a straight line from the nearest property line of the lot where the body art studio is located without regard to intervening structures or objects, to the nearest property line of the lot where the church, day care, residentially zoned district, or public or parochial school is located. The 1,000 foot distance requirement may be reduced to 300 feet if the city council finds that issuance of the specific use permit would not be detrimental or injurious to the public health, safety or general welfare, or otherwise offensive to the neighborhood.

- 3) Tattooing, permanent cosmetics, and body piercing may be practiced as an accessory use to a custom personal service shop.

3.9.6 CONCRETE/ASPHALT BATCHING PLANT, TEMPORARY

- 1) Concrete Plant: Issuance of temporary permit by City Manager or his/her designee and removal as directed.
- 2) Asphalt Plant: Issuance of temporary permit by resolution of City Council.

3.9.7 FUEL PUMPS (ACCESSORY USE)

Accessory gas pumps are only allowed as an accessory use to a big box tenant and are subject to the following development standards.

- 1) Accessory fuel pumps must be located on the same lot as a big box tenant.
- 2) Fuel pumps are permitted at a maximum of two corners at an intersection of two major thoroughfares.
- 3) A sales kiosk servicing the accessory fuel pumps shall be less than five hundred (500) square-feet in floor area.
- 4) Accessory fuel pumps shall be located at least two hundred and fifty (250) feet from a property line of a residential lot.

3.9.8 GAME ROOMS

Specific use permit application requirements for game rooms:

- 1) Game rooms shall be permitted only in the Light Industrial (LI) District upon the granting of a specific use permit (SUP);
- 2) The specific use permit shall be a personal license specific to:
 - a. The game room named in the ordinance granting the SUP;
 - b. The physical address of the game room identified in the ordinance granting the SUP; and,
 - c. The person(s) and/or entity(ies) that own the game room;
- 3) The specific use permit shall not be transferable to any other named game room, location or owner;
- 4) The specific use permit shall be for an initial period not to exceed six months;
- 5) The applicant may seek an extension or further renewal of the SUP prior to the expiration of the then current SUP with the length of any such renewal being from six months to two years as may be determined appropriate in the sole discretion of the planning and zoning commission and city council;
- 6) No person under the age of 18 years shall be permitted inside the building, structure, facility or space housing the Game Room;
- 7) A sign stating that no one under the age of 18 is allowed inside the game room building shall be posted in plain sight immediately inside the entrance stating that:

"No person under the age of 18 years shall be permitted inside the building, structure, facility or space housing the Game Room"

- 8) The number and various types of coin-operated machines or devices allowed to be provided, exhibited and/or operated in the game room shall be plainly requested by the applicant and the actual numbers coin-operated machines or devices approved to be installed in the game room shall be specified in the ordinance granting such an SUP.
- 9) The applicant shall submit a site plan, landscape plan and floor plan of the game room interior, in addition to any other plans that may be required by the city's ordinances, drawn to scale and sealed by a professional engineer or professional architect licensed by the state depicting the layout of the game room interior specifically including, but not limited to, the location of all coin-operated machines or devices, the manager's station(s), restroom facilities, kitchen and bar facilities, if any, and all areas to which patrons will not be permitted;
- 10) No game room shall be situated within 1,000 feet of any church, school, hospital or any other game room, with the distance being measured in a straight line without regard to intervening objects or structures and from the nearest lot line of the game room seeking a SUP to the nearest lot line of the church, school, hospital or any other game room;
- 11) No skill or pleasure gaming machines, which are an accessory use to the primary use that is situated in a building, structure, facility or space, shall be permitted to be placed within 300 feet of any church, school or hospital;
- 12) Only one game room shall be permitted on any lot or in any building, structure or strip center;
- 13) The hours of operation for a game room shall be limited to the following hours:
 - a. Monday through Thursday, open at 8:30 a.m. and close at 11:00 p.m.;
 - b. Friday and Saturday, open at 8:30 a.m. and close at 12:00 a.m.; and
 - c. Sundays and holidays, open at 12:00 p.m. and close at 11:00 p.m.;
- 14) All coin-operated machines or devices, described herein above shall be permitted by and the occupation tax thereon paid to the state and the city;
- 15) The grant of an SUP shall not relieve the applicant, owner and/or operator of a game room or the subject coin-operated machines or devices from any other and further obligations under the City Code; and,
- 16) Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or gaming machine, the keeping, exhibition, operation, display or maintenance of which is illegal or in violation of any ordinance of the city, any section of the penal code of this state, or the constitution of this state.

3.9.9 MOTEL

The following shall be provided:

- 1) Daily housekeeping service.

- 2) On-site management 24 hours a day to provide check-in/check-out services, custodial and maintenance response, or other guest services.
- 3) At least three amenities from the list below.
 - a. Business Center
 - b. Indoor/Outdoor Pool
 - c. Spa/Sauna
 - d. Weight Room/Fitness Center
 - e. Playground
 - f. Sports Court
 - g. Plaza/Atrium
 - h. Game Room
 - i. Conference Room (1,000 square foot minimum)

3.9.10 NURSERY, MAJOR

In the C District, a maximum of 40 percent of the lot area may be used for accessory outside storage provided that:

- 1) Outside storage is not allowed in any portion of the lot between a public street and the face(s) of the building.
- 2) Outside storage shall be screened from view of public streets by a screening device of not less than eight feet in height. Screening of outside storage areas shall be constructed of the same materials as the building façade and plant material.
- 3) Outside storage areas must be screened from view of any adjoining property by a screening device at least eight feet in height, except along adjacent property lines zoned LI or HI.
- 4) No materials stored shall be stacked above the top of the screening device.

3.9.11 TENNIS COURTS (ACCESSORY USE)

It is the purpose of these provisions to recognize a tennis court as a potential attractive nuisance and to promote the safety and enjoyment of property rights by established rules and regulations governing the location and improvement of tennis courts whether privately, publicly, or commercially owned or operated.

- 1) Permits and approvals
No tennis courts shall be constructed or used until a tennis court building permit and certificate of occupancy have been issued therefore.
- 2) Requirements
A tennis court may be constructed and operated when:
 - a. The court is not located in any required front or side yard abutting a street;
 - b. The court is located behind the front yard or front building line and shall be no closer than three feet from the property line;

- c. A wall or fence with a minimum of six feet and a maximum of ten feet in height completely encloses either the court area or the surrounding yard area;
- d. All lighting of the court is shielded or directed to face away from adjoining residences. If lights are not individually shielded, they shall be so placed, or the enclosing wall or fence shall be so designed, that direct rays from the lights shall not be visible from adjacent properties.

3.9.12 SWIMMING POOLS (ACCESSORY USE)

It is the purpose of these provisions to recognize an outdoor swimming pool as a potential attractive nuisance and to promote the safety and enjoyment of property rights by established rules and regulations governing the location and improvement of swimming pools whether privately, publicly or commercially owned or operated.

- 1) Permits and approvals
No swimming pool shall be constructed or used until a swimming pool building permit and a certificate of occupancy have been issued therefor. No building permit and no final certificate of occupancy shall be issued unless the proposed sanitary facilities and water supply comply with applicable local and state health department regulations.
- 2) Requirements
A swimming pool may be constructed and operated when:
 - a. The pool is not located in any required front or side yard abutting a street;
 - b. The pool is located behind the front yard or front building line and shall be no closer than three feet from the property line.

3.10 TEMPORARY USES

3.10.1 PURPOSE

This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this subsection and are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or structure. Temporary uses operating for less than 90 days within a one-year time period shall obtain a Temporary Use Permit from the City Manager. Temporary Use Permits outline conditions of operations to protect the public health, safety, and welfare.

3.10.2 TEMPORARY USES DEFINED

Temporary uses shall include short-term or seasonal uses that would not be appropriate on a permanent basis. In addition to the temporary uses identified in this section, the following uses and activities shall be considered temporary uses:

- 1) *Fundraising Activities by Not-for-Profit Agencies.* Fundraising or noncommercial events for nonprofit educational, community service or religious organizations where the public is invited to participate in the activities and which last longer than 48 hours.
- 2) *Special and Seasonal Sales Events.* Significant commercial activities lasting not longer than 90 days intended to sell, lease, rent or promote specific merchandise, services or product lines, including but not limited to warehouse sales, tent sales, trade shows, flea markets, farmer's markets, Christmas tree lot sales, product demonstrations or parking lot sales of food, art work or other goods.
- 3) *Entertainment or Amusement Events.* Short-term cultural and entertainment events including public or private events lasting not longer than 90 days intended primarily for entertainment or amusement, such as concerts, plays or other theatrical productions, circuses, fairs, carnivals or festivals.

3.10.3 APPROVAL PROCEDURE

- 1) Application – An application for a Temporary Use Permit shall be submitted to the City Manager at least 10 working days before the requested start date for a temporary use and shall include the following:
 - a. A written description of the proposed use or event, the duration of the use or event, the hours of operation, anticipated attendance, and any building or structures, signs or attention-attracting devices used in conjunction with the event.
 - b. A written description of how the temporary use complies with the review criteria in subsection 3, below.
 - c. A plan showing the location of proposed structures, including onsite restrooms and trash receptacles, parking areas, activities, signs and attention attracting devices in relation to existing buildings, parking areas, streets and property lines.
 - d. A letter from the property owner agreeing to the temporary use.
 - e. Any additional information required by the Director.
- 2) Review and Action by the City Manager – The City Manager shall make a determination whether to approve, approve with conditions, or deny the permit within 5 working days after the date of application. Any applicant denied a permit by the City Manager shall be notified in writing of the reasons for the denial and of the opportunity to appeal to the Commission.
- 3) Review Criteria – Temporary uses shall comply with the following requirements:
 - a. *Land Use Compatibility.* The temporary use must be compatible with the purpose and intent of this ordinance. The temporary use shall not impair the normal, safe and effective operation of a permanent use on the same site. The temporary use shall not endanger or be detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the type of activity, its location on the site, and its relationship to parking and access points.

- b. *Compliance with Other Regulations.* The temporary use shall conform in all respects to all other applicable City regulations and standards.
 - c. *Restoration of Site.* Upon cessation of the event or use, the site shall be returned to its previous condition, including the removal of all trash, debris, signage, attention attracting devices or other evidence of the special event or use. The applicant shall be responsible for ensuring the restoration of the site.
 - d. *Hours of Operation and Duration.* The hours of operation and duration of the temporary use shall be consistent with the intent of the event or use and compatible with the surrounding land uses and shall be established by the Building Official at the time of approval of the temporary use permit.
 - e. *Traffic Circulation.* The temporary use shall not cause undue traffic congestion given anticipated attendance and the capacity of adjacent streets, intersections and traffic controls.
 - f. *Off-street Parking.* Adequate off-street parking shall be provided for the temporary use, and it shall not create a parking shortage for any of the other existing uses on the site(s).
 - g. *Public Conveniences and Litter Control.* Adequate onsite rest room facilities and litter control may be required. The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City.
 - h. *Appearance and Nuisances.* The temporary use shall be compatible in intensity, appearance and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
 - i. *Signs.* The City Manager shall review all signage, although a sign permit is not required. The City Manager may approve the temporary use of attention attracting devices.
- 4) Additional Conditions – The City Manager may establish additional conditions to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or buffering, and guarantees for site restoration and cleanup following the temporary use.
- 5) Appeals – A denial of a temporary use permit may be appealed to the City Council within 10 days of the City Manager's action. The appeal shall be made in writing to the City Manager.

3.10.4 USE TABLE FOR TEMPORARY USES

Zoning District Legend		Residential Districts							Non-Residential and Mixed-Use Districts						
		A – Agricultural District	ED – Estate Development	SF-1 – Single Family Dwelling-1 District	SF-2 – Single Family Dwelling-2 District	SF-3 – Single Family Dwelling-3 District	2F – Two Family Residence (Duplex) District	MF-1 – Multifamily Residence-1	MF-2 – Multifamily Residence-2	NS – Neighborhood Service District	GR – General Retail District	C– Commercial District	LI – Light Industrial District	HI – Heavy Industrial District	CA – Central Area District
P	Permitted Use														
S	Special Use Permit														
	Prohibited Use														
*	Special Conditions Apply (see Section 3.10.5)														
Type of Use															
Construction field office		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Construction yard		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*
Model home		P*	P*	P*	P*	P*	P*	P*	P*						
Temporary residence				P*	P*	P*						P*			
Temporary use (other than listed)		P	P	P	P	P	P	P	P	P	P	P	P	P	P

3.10.5 SPECIAL CONDITIONS RELATING TO CERTAIN TEMPORARY USES

- 1) Construction Yards, Field Offices, Model Homes, and Other Temporary Buildings
Temporary permits for construction yards, field offices, model homes, and other temporary buildings shall be permitted upon application and issuance of a permit for a period of time not to exceed 24 months. Construction yards, field offices, and other temporary buildings utilized in the development of a project may be granted extensions by the City Manager until the issuance of a Certificate of Occupancy for the respective project. Extensions for model homes may be granted by the City Manager. Permits may be revoked by the City Manager if the use of the building or structure is contrary to the uses allowed by definition in this ordinance.
- 2) Temporary Residence
 - a. Limited to the use of a recreational vehicle ("RV") or travel trailer as temporary living quarters by the resident-owner of a single-family residential dwelling unit ("House") that is being repaired or remodeled. For purposes of this subsection 2, a "resident-owner" of a House (1) owns the House, (2) resides in the House as a full-time resident, (3) identifies the House as their primary residence, and (4) has been granted and currently possesses the homestead exemption on the property on which the House is situated.
 - b. The RV or travel trailer must be parked on an improved surface or the driveway of the House that is being repaired or remodeled.
 - c. The RV or travel trailer must be connected temporarily to water and electricity and the black and gray water tanks thereon must be properly maintained and routinely emptied in accordance with all applicable local, state and federal regulations, rules, laws, ordinances and statutes.

- d. The RV or travel trailer may only be used and occupied by the resident-owner of the House as temporary living quarters while the House is being repaired or remodeled.
- e. The resident-owner of the House is required to submit the application and pay the corresponding fee for the Temporary Use Permit allowing an RV or travel trailer to be used as a Temporary Residence. The resident-owner of the House must demonstrate to the satisfaction of the City Manager that:
 - i. the resident-owner of the House and his/her immediate family members cannot reside inside the House during the repair or remodeling of the House and the reasons for their inability to live inside the House; and
 - ii. the use of a RV or travel trailer as a Temporary Residence is solely for the use of the resident-owner of the House being repaired or remodeled and his/her immediate family; and
 - iii. the use of a RV or travel trailer as a Temporary Residence by the resident-owner of the House and his/her immediate family members will not adversely affect surrounding uses or violate any covenants, conditions and restrictions applicable to the property on which the House is situated; and
 - iv. the parking of the RV or travel trailer on the driveway of the House that is being repaired or remodeled will not result in the parking of multiple motor vehicles in, on and about the public right-of-way during the term of the Temporary Use Permit, and that the resident-owner of the House has developed a plan which addresses the parking of all vehicles associated with (a) the persons or parties performing the work and (b) the persons occupying the Temporary Residence.
- f. The Temporary Residence will only be used and occupied for up to the lesser of the following events to occur:
 - i. ninety (90) days following the issuance of the Temporary Use Permit; or
 - ii. the date a final green tag is issued for the repair or remodeling work performed on the House.
- g. The use of the Temporary Residence shall promptly cease upon the early of the following events to occur:
 - i. ninety days following the issuance of the Temporary Use Permit; or
 - ii. the date a final green tag is issued for the repair or remodeling work performed on the House is issued.
- h. Extension of time for Temporary Residence
 - i. If the resident-owner believes the repairs or remodeling being performed on the House will not be complete before the deadline set forth in Subparagraph 1.g, above, the resident owner of the House may file an application and pay the accompanying fees to request an extension of the Temporary Use Permit from the Planning & Zoning Commission and City Council following notice and a public hearing on the requested extension of the Temporary Use Permit at which public hearings all interested persons may speak.

- i. Any request for extension must be completed and filed with the City before the expiration date of the initial Temporary Use Permit.
- j. It shall be the responsibility of the resident-owner of the House to demonstrate to the satisfaction of the Planning & Zoning Commission and the City Council that:
 - i. the resident-owner of the House and his/her immediate family members are not able to reside inside the House during the repair or remodeling of the House and the reasons for their inability to live inside the House; and
 - ii. the use of a RV or travel trailer as a Temporary Residence is solely for the use of the resident-owner of the House being repaired or remodeled and his/her immediate family; and
 - iii. the use of a RV or travel trailer as a Temporary Residence by the resident-owner of the House and his/her immediate family members has not and will not adversely affect surrounding uses or violate any covenants, conditions and restrictions applicable to the property on which the House is situated; and
 - iv. the repair or remodeling work on the House has not been deferred, delayed, postponed or abated at any time during the pendency of the Temporary Use Permit, and all permits for such construction are still valid and being timely inspected; and
 - v. the resident-owner of the House has a specific plan for the completion of the repair or remodeling work on the House to allow the resident-owner of the House and his/her immediate family members to vacate the Temporary Residence and return to the House as soon as reasonably possible even if all of the repair or remodeling work has not been completed; and
 - vi. the maximum amount of time the resident-owner of the House and his/her immediate family members will need to live in the Temporary Residence until the House is habitable.
- k. The Planning & Zoning Commission and the City Council shall have broad discretion in considering and approving or disapproving an extension of time for a Temporary Use Permit for a Temporary Residence; and may impose any conditions deemed advisable on the extension of the Temporary Use Permit including periodic updates regarding progress on the repairs and remodeling and the condition of the interior of the House.

3.11 NON-CONFORMING USES AND STRUCTURES

3.11.1 NONCONFORMING STATUS

A nonconforming status shall exist under the following provisions of this article:

- 1) When a use or structure which does not conform to the regulations prescribed in the district in which such use or structure is located was in existence and lawfully operating prior to June 16, 1970, and has been operating since without discontinuance.
- 2) When, on the effective date of the ordinance from which this article is derived, the use or structure was in existence within the provisions of the prior zoning ordinance or which was a nonconforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which such use or structure is located.
- 3) When a use or structure which does not conform to the regulations prescribed in the district in which such use or structure is located was in existence at the time of annexation to the city and has since been in regular and continuous use.

3.11.2 USE WITHIN CLASSIFICATIONS

Any nonconforming use of land or structures may be continued for definite periods of time subject to such regulations as the board of adjustment may require for immediate preservation of the adjoining property prior to the ultimate removal of the nonconforming use. The City Manager may grant a change of occupancy from one nonconforming use to another, providing the use is within the same, or higher or more restrictive, classification. It shall not later be changed to a less restrictive classification of use, and the prior, less restrictive classification shall be considered to have been abandoned.

3.11.3 STRUCTURE DESTROYED; PARTIAL DESTRUCTION; RECONSTRUCTION

If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this article. In the case of partial destruction of a nonconforming structure, not exceeding 50 percent of its reasonable value, reconstruction will be permitted, but the size or function of a nonconforming use therein cannot be expanded. Conversely, if a residential structure which was in existence within the provisions of prior zoning district regulations, which does not now conform to the regulations herein prescribed for Highway Commercial Zoning, is destroyed in the above described manner, it shall be allowed to be rebuilt.

3.11.4 EXPANSION OF AREA

No nonconforming use may be expanded or increased beyond the platted lot or tract upon which such nonconforming use is located nor may a nonconforming junk yard or trailer park be expanded by covering more area than it did as of the effective date of the ordinance from which this article is derived, except to provide off-street parking or off-street loading space upon approval of the board of adjustment. Conversely, a residential structure which was in existence within the provisions of prior

zoning district regulations, which does not now conform to the regulations herein prescribed for highway commercial zoning, shall be allowed to expand.

3.11.5 ABANDONMENT

When a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall thenceforth be in conformance to this article. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use which is discontinued for, or which remains vacant for, a period of six months shall be considered to have been abandoned.

3.11.6 TERMINATION AND AMORTIZATION

- 1)** Termination of nonconforming uses. It is the purpose of this article that nonconforming uses be eliminated and required to comply with the regulations and provisions of this Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
- 2)** Amortization of nonconforming uses.
 - a. Any person who resides or owns real property in the city may request that the board of adjustment establish a compliance date for a nonconforming use. Upon receiving such a request, the board shall determine whether there is a public necessity for expedited compliance with the zoning regulations. In doing so, the board shall consider the character of the surrounding neighborhood, the degree of incompatibility of the use to the zoning district in which it is located and the effect of the nonconforming use on the surrounding area and the effect of its cessation on that area.
 - b. The board shall provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use, before the time the use became nonconforming, can be amortized within a definite time period.
 - c. The following factors must be considered by the board in determining a reasonable amortization period:
 - i. The owner's capital investment in structures. Fixed equipment and other assets, excluding inventory and other assets that may be feasibly transferred to another site, on the property before the time the use became nonconforming.
 - ii. Any costs that are directly attributable to the establishment of the compliance date, including demolition expenses, relocation expenses, and termination of leases.
 - iii. Any return on investment since inception of the use, including net income and depreciation.
 - iv. The anticipated annual recovery of investment, including net income and depreciation.

- d. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date, and it may not operate thereafter unless it becomes a conforming use.
- e. For purposes of this section, the term "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

3.12 RESIDENTIAL ZONING DISTRICT REGULATIONS

3.12.1 A – AGRICULTURAL

1) Purpose

The A district is primarily intended to accommodate agricultural uses, such as the keeping of livestock, dairy farming, pasturage and horticulture and the incidental uses necessary to support agricultural activities. It is anticipated that all A districts will be changed to other zoning classifications as the city proceeds toward full development.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		2 acres
Minimum Lot Width		150 feet
Minimum Lot Depth		250 feet
Minimum Front Yard		40 feet
Minimum Side Yard	<i>Interior Lot</i>	20 feet
	<i>Corner Lot</i>	See Section 4.3
Minimum Rear Yard		10 feet
Maximum Lot Coverage		20%
Maximum Height		Two stories, 40 feet
Minimum Floor Area per Dwelling Unit		750 square feet

4) See Section 4 Development Standards for additional requirements and exceptions.

3.12.2 ED – ESTATE DEVELOPMENT

1) Purpose

The ED district is intended primarily for the development of semi-rural, low density, single-family residential detached development and in areas where topography and/or utility capacities limit the use of the land.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		One acre
Minimum Lot Width		150 feet
Minimum Lot Depth		200 feet
Minimum Front Yard		40 feet
Minimum Side Yard	<i>Interior Lot</i>	10% of lot width; minimum 15 feet
	<i>Corner Lot</i>	See Section 4.3
Minimum Rear Yard		10 feet
Maximum Lot Coverage		20%
Maximum Height		Two stories, 40 feet
Minimum Floor Area per Dwelling Unit		750 square feet

4) See Section 4 Development Standards for additional requirements and exceptions.

3.12.3 SF-1 – SINGLE FAMILY DWELLING-1

1) Purpose

The SF-1 district is primarily intended to provide for single-family development on large lots, in addition to religious facilities, schools and other institutional uses. The SF-1 district may also serve as a transitional zone between the ED district and urban uses or activities.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		12,000 sq. ft.
Minimum Lot Width		80 feet
Minimum Lot Depth		125 feet
Minimum Front Yard		30 feet
Minimum Side Yard	<i>Interior Lot</i>	10% of lot width; minimum 10 feet
	<i>Corner Lot</i>	See Section 4.3
Minimum Rear Yard		10 feet
Maximum Lot Coverage		40%
Maximum Height		Two stories, 35 feet
Minimum Floor Area per Dwelling Unit		750 square feet

4) See Section 4 Development Standards for additional requirements and exceptions.

3.12.4 SF-2 – SINGLE FAMILY DWELLING-2

- 1) **Purpose**
The SF-2 district is primarily intended to provide for single-family development on medium-sized lots, in addition to religious facilities, schools and other institutional uses.
- 2) **Permitted Uses**
See Subsection 3.6 Schedule of Permitted Uses for a complete listing.
- 3) **Area, Yard and Bulk Requirements**

Description		Requirements
Minimum Lot Area		7,200 sq. ft.
Minimum Lot Width		60 feet
Minimum Lot Depth		100 feet
Minimum Front Yard		30 feet
Minimum Side Yard	<i>Interior Lot</i>	10% of lot width; minimum 6 feet
	<i>Corner Lot</i>	See Section 4.3
Minimum Rear Yard		10 feet
Maximum Lot Coverage		45%
Maximum Height		Two stories, 35 feet
Minimum Floor Area per Dwelling Unit		750 square feet

- 4) See Section 4 Development Standards for additional requirements and exceptions.

3.12.5 SF-3 – SINGLE FAMILY DWELLING-3

1) Purpose

The SF-3 district is primarily intended to provide for single-family development on smaller lots, in addition to religious facilities, schools and other institutional uses.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements	
Minimum Lot Area		Single-family (detached)	5,000 sq. ft.
		Zero lot line	4,000 sq. ft.
		Single-family (attached)	2,500 sq. ft.
Minimum Lot Width		Single-family (detached)	50 feet
		Zero lot line	50 feet
		Single-family (attached)	25 feet
Minimum Lot Depth		Single-family (detached)	90 feet
		Zero lot line	80 feet
		Single-family (attached)	100 feet
Minimum Front Yard		25 feet	
Minimum Side Yard	Interior Lot	Single-family (detached)	5 feet
		Zero lot line	0 feet on one side and 10 feet on other side
		Single-family (attached)	N/A
	Corner Lot	15 feet	
Minimum Rear Yard		10 feet	
Maximum Lot Coverage		Single-family (detached)	50%
		Zero lot line	55%
		Single-family (attached)	65%
Maximum Height		Two stories, 35 feet	
Minimum Floor Area per Dwelling Unit		750 square feet	

4) See Section 4 Development Standards for additional requirements and exceptions.

3.12.6 2F – TWO FAMILY RESIDENCE (DUPLEX)

1) Purpose

The 2F district is primarily intended to provide for areas of two-family development that are consistent in design and in development patterns with typical single-family detached development. This district may provide a transitional zone between lower density residential areas and higher density or non-residential areas.

2) Permitted Uses

- a. See Subsection 3.6 Schedule of Permitted Uses for a complete listing.
- b. Single family residential, zero lot line, and townhome development shall comply with the standards set forth in the SF-3 District.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		8,000 sq. ft.
Minimum Lot Width		70 feet
Minimum Lot Depth		100 feet
Minimum Front Yard		25 feet
Minimum Side Yard	<i>Interior Lot</i>	10% of lot width; minimum 5 feet
	<i>Corner Lot</i>	See Section 4.3
Minimum Rear Yard		15 feet
Maximum Lot Coverage		50%
Maximum Height		Two stories, 35 feet
Minimum Floor Area per Dwelling Unit		750 square feet

- 4)** See Section 4 Development Standards for additional requirements and exceptions.

3.12.7 MF-1 – MULTIFAMILY RESIDENCE-1

1) Purpose

The MF-1 district is primarily intended to accommodate condominiums and apartments at medium densities with usable open space and landscaping. MF-1 districts should be located along or near major thoroughfares and should not have principal access to standard residential streets.

2) Permitted Uses

- a. See Subsection 3.6 Schedule of Permitted Uses for a complete listing.
- b. Single family residential, zero lot line, townhome, and duplex development shall comply with the standards set forth in the SF-3 and 2F Districts.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		7,500 sq. ft. (1-3 dwelling units) 1,500 sq. ft. each additional dwelling unit
Minimum Lot Width		70 feet
Minimum Lot Depth		120 feet
Minimum Front Yard		25 feet
Minimum Side Yard	<i>Interior Lot</i>	8 feet
	<i>Corner Lot</i>	15 feet
Minimum Rear Yard		15 feet
Maximum Lot Coverage		50%
Maximum Height		Three stories, 45 feet
Minimum Floor Area per Dwelling Unit	Studio	500 sq. ft.
	1 bedroom	600 sq. ft.
	2 bedroom	900 sq. ft.
	Each additional bedroom	150 sq. ft.
Maximum Residential Density		18 units per gross acre

- 4)** See Section 4 Development Standards for additional requirements and exceptions.

3.12.8 MF-2 – MULTIFAMILY RESIDENCE-2

1) Purpose

The MF-2 district is primarily intended to accommodate condominiums and apartments at higher densities and taller heights in a park-like setting with usable open space and landscaping. MF-2 districts should be located along or near major thoroughfares and should not have principal access to standard residential streets.

2) Permitted Uses

- a. See Subsection 3.6 Schedule of Permitted Uses for a complete listing.
- b. Single family residential, zero lot line, townhome, and duplex development shall comply with the standards set forth in the SF-3 and 2F Districts.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		7,500 sq. ft. (1-3 dwelling units) 1,500 sq. ft. each additional dwelling unit
Minimum Lot Width		70 feet
Minimum Lot Depth		120 feet
Minimum Front Yard		25 feet
Minimum Side Yard	<i>Interior Lot</i>	8 feet
	<i>Corner Lot</i>	15 feet
Minimum Rear Yard		15 feet
Maximum Lot Coverage		50%
Maximum Height		Four stories, 55 feet
Minimum Floor Area per Dwelling Unit	Studio	500 sq. ft.
	1 bedroom	600 sq. ft.
	2 bedroom	900 sq. ft.
	Each additional bedroom	150 sq. ft.
Maximum Residential Density		24 units per gross acre

- 4)** See Section 4 Development Standards for additional requirements and exceptions.

3.13 NON-RESIDENTIAL AND MIXED-USE ZONING DISTRICT REGULATIONS

3.13.1 NS – NEIGHBORHOOD SERVICE DISTRICT

1) Purpose

The NS district is primarily intended to provide areas for low density retail, office and service uses that provide services to immediately adjacent residential neighborhoods. Automotive repair and automotive service businesses are generally not appropriate in the NS district.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		5,000 sq. ft.
Minimum Lot Width		None
Minimum Lot Depth		None
Minimum Front Yard		25 feet
Minimum Side Yard	<i>Interior Lot</i>	None
	<i>Corner Lot</i>	15 feet
Minimum Rear Yard		None
Maximum Lot Coverage		60%
Maximum Height		Two stories, 40 feet

4) See Section 4 Development Standards for additional requirements and exceptions.

3.13.2 GR – GENERAL RETAIL DISTRICT

1) Purpose

The GR district is primarily intended to provide areas for neighborhood, local and community shopping facilities for the sales of goods and services included convenience stores, shopping centers and limited automotive repair and automobile services.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		10,000 sq. ft.
Minimum Lot Width		None
Minimum Lot Depth		None
Minimum Front Yard		25 feet
Minimum Side Yard	<i>Interior Lot</i>	None
	<i>Corner Lot</i>	15 feet
Minimum Rear Yard		None
Maximum Lot Coverage		50%
Maximum Height		Two stories, 40 feet

4) See Section 4 Development Standards for additional requirements and exceptions.

3.13.3 C – COMMERCIAL DISTRICT

1) Purpose

The C district is primarily intended to provide a location for a broad range of commercial and service-related uses, such as contract construction, landscape contractors, plumbing shops paint and body shops and automotive repair services, and other similar commercial uses.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		10,000 sq. ft.
Minimum Lot Width		None
Minimum Lot Depth		None
Minimum Front Yard		30 feet
Minimum Side Yard	<i>Interior Lot</i>	None
	<i>Corner Lot</i>	20 feet
Minimum Rear Yard		None
Maximum Lot Coverage		40%
Maximum Height		Two stories, 40 feet

4) See Section 4 Development Standards for additional requirements and exceptions.

3.13.4 CA – CENTRAL AREA DISTRICT

1) **Purpose**

The CA district is primarily intended to serve as a pedestrian oriented center for retail, office, governmental, cultural, entertainment and residential uses in downtown Farmersville and adjacent neighborhoods. It is designed to ensure that development, redevelopment, and renovation within the district are consistent with the historical character of Farmersville's original business district and surrounding area. The standards of this district apply to specific characteristics of Farmersville's downtown area and are not appropriate for other locations and districts.

2) **Permitted Uses**

- a. See Subsection 3.6 Schedule of Permitted Uses for a complete listing.
- b. A residence or residential use may be established in a building as an accessory or incidental use only after issuance of a certificate of occupancy and establishment of the primary use of the building; and
- c. A building in the CA District may be used for residential purposes provided however that such residential use shall be limited solely to:
 - i. A maximum of 40 percent of the overall square footage of the first floor and placed on that portion of the first floor at the farthest portion of the building away from the building's store front with the remaining 60 percent of the first floor actually being used for retail or other commercial use; and
 - ii. The second floor and above of the building.

3) **Area, Yard and Bulk Requirements**

Description	Requirements
Minimum Lot Area	5000 square feet for one-family dwelling (detached) 4000 square feet for zero lot line 2000 square feet for one-family dwelling (attached) 3000 square feet for two-family dwelling 1500 square feet per unit for multiple family dwellings (1-3 stories) 900 square feet per unit for multiple-family dwellings (over three stories)
Minimum Lot Width	20 feet for one-family dwelling (attached) 50 feet for two-family dwellings 60 feet for multiple-family dwellings
Minimum Lot Depth	100 feet for one-family dwelling (detached) 80 feet for zero lot line 100 feet for one-family dwelling (attached) 120 feet for multiple-family dwellings
Minimum Front Yard	None

Maximum Front Yard	30 feet from the centerline of any street on which such structure fronts
Minimum Side Yard	10% of lot width; 5 feet minimum for one-family (detached) and two-family dwellings 15 feet for one-family dwelling (attached) 10 feet for zero lot line None for non-residential uses
Minimum Rear Yard	10 feet for residential uses; none for non-residential uses (see Section 4.4)
Maximum Lot Coverage	None
Maximum Height	None if all code provisions are met
Maximum Floor Area Ratio	10:1
Minimum Dwelling Size	750 square feet

- 4) See Section 4 Development Standards for additional requirements and exceptions.

3.13.5 LI – LIGHT INDUSTRIAL DISTRICT

- 1) **Purpose**
The LI district is primarily intended for the conduct of light manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations.
- 2) **Permitted Uses**
See Subsection 3.6 Schedule of Permitted Uses for a complete listing.
- 3) **Area, Yard and Bulk Requirements**

Description		Requirements
Minimum Lot Area		15,000 sq. ft.
Minimum Lot Width		None
Minimum Lot Depth		None
Minimum Front Yard		30 feet
Minimum Side Yard	<i>Interior Lot</i>	None
	<i>Corner Lot</i>	20 feet
Minimum Rear Yard		None
Maximum Lot Coverage		None
Maximum Height		None; 40 feet when within 40' of a residential property line

- 4) See Section 4 Development Standards for additional requirements and exceptions.

3.13.6 HI – HEAVY INDUSTRIAL DISTRICT

1) Purpose

The HI district is primarily intended to provide areas for manufacturing firms engaged in processing, assembling, warehousing, research and development, and incidental services.

2) Permitted Uses

See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

3) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		15,000 sq. ft.
Minimum Lot Width		None
Minimum Lot Depth		None
Minimum Front Yard		30 feet
Minimum Side Yard	<i>Interior Lot</i>	None
	<i>Corner Lot</i>	20 feet
Minimum Rear Yard		None
Maximum Lot Coverage		None
Maximum Height		None; 40 feet when within 40' of a residential property line

4) See Section 4 Development Standards for additional requirements and exceptions.

3.14 SPECIAL DISTRICT REGULATIONS

3.14.1 HIGHWAY COMMERCIAL OVERLAY DISTRICT

1) Purpose

The Highway Commercial (HC) Overlay District is intended to provide for retail, service, and office uses within the Highway 380 and Highway 78 corridors, with the high traffic volumes and high visibility. The regulations and standards of this district are designed to enhance the aesthetic and functional characteristics of this transportation corridor. Overlay zoning district regulations apply in combination with underlying (base) zoning district regulations and all other applicable standards of this zoning ordinance. All applicable regulations of the underlying base zoning district apply to property in an overlay zoning district unless otherwise expressly stated. When overlay district standards conflict with standards that otherwise apply in the underlying, base zoning district, the regulations of the overlay zoning district govern.

2) Permitted Uses

All applicable land uses of the underlying base zoning district apply to property in the HC overlay zoning district unless otherwise expressly stated. See Subsection 3.6 Schedule of Permitted Uses for a complete listing.

The following uses are allowed by right within the HC overlay zoning district:

- a. Bix box retail development

3) Specific Use Permit Required

The following uses require a specific use permit within the HC overlay zoning district:

- a. Automobile repair, major
- b. Building materials and hardware sales, outside storage
- c. Equipment and machinery sales and rental, major
- d. Print shop, major
- e. Warehouse/distribution center

4) Prohibited Uses

The following uses are prohibited within the HC overlay zoning district:

- a. Car wash, self-service
- b. Contractor's shop and storage yard
- c. Game rooms
- d. Mini-warehouse/self-storage

5) Area, Yard and Bulk Requirements

Description		Requirements
Minimum Lot Area		None
Minimum Lot Width		None
Minimum Lot Depth		None
Minimum Front Yard		25 feet
Minimum Side Yard	<i>Interior Lot</i>	10 feet
	<i>Corner Lot</i>	25 feet
Minimum Rear Yard		20 feet
Maximum Lot Coverage		50%
Maximum Height		<u>None, unless single family or two family zoning districts or developments are within 200 feet of the property line, in which a 40 foot height maximum shall apply.</u> Three stories
Maximum Floor Area Ratio		1.5:1

6) Highway Commercial Overlay District Regulations

- a. Façade Design and Exterior Materials and Products – 75 percent of any front and side exterior wall must be faced with individual unit masonry consisting of brick, native or precast stone, glass and textured concrete masonry. Precast tilt wall systems may be used for 100 percent of the rear façade if it does not face a public street. Precast panels on all sides of the building shall be scored or seamed to provide visual interest and a repeating pattern.
- b. Buildings shall be articulated at all entrances facing streets by a minimum of two offsets (façade articulations that extend outward from the building must be set back at some point in a corresponding manner) in the façade of a minimum two (2) feet in depth. Main building entrances shall be covered by an awning, canopy or building overhang.
- c. The Planning and Zoning Commission may consider waivers of the building façade material and design requirements for expansions and reconstruction of buildings that

existed within the HC district on the date of adoption of this ordinance in accordance with the requirements below:

- i. The expansion or reconstruction does not increase the square footage of the existing building by more than 50 percent; and
- ii. Strict compliance with these standards would result in significant inconsistency in appearance between existing and proposed sections of the building.
- d. Prohibited Exterior Materials and Products – the following materials and products shall not be used for exterior walls or exterior accents on any building within the HC district: metal panels, wood siding, Masonite, particle board, stucco foam insulation systems, vinyl siding, and aluminum siding. Metal panels may only be used for decorative architectural features, awnings and canopies and may not constitute the exterior building material of any wall.
- e. Building Orientation – Bays for car washes, auto repair and other automotive uses shall not be oriented to face public streets.
- f. Mechanical Screening – Roof mounted mechanical units shall be screened from view at a point 5' 5" above the property line by solid panels, parapet walls, mansard roofs or other architectural feature. Ground mounted mechanical units, compressors, generators and other equipment must be screened by a minimum six (6) foot tall solid screening wall or solid, irrigated landscape screen of shrubs that will achieve a height of six (6) feet within two (2) years of planting.
- g. Open Storage and Outside Display – No outside storage and display, sales, or operations shall be permitted unless such activity is visually screened from all streets and adjacent residential property in accordance with Section 4.8. Outside garden centers are allowed only if attached to the main building and screened by masonry walls constructed of the same materials and manner of construction as the main building. The walls may be interspersed with ornamental metal panels.
- h. Loading Area Placement and Screening – Loading areas shall be located on the side and/or rear sides of buildings within the HC district. The loading areas shall be screened from view of public streets and from adjacent residential uses by wing walls, landscaping or other screening features.
- i. Screening of Automobile Storage Areas – Storage areas for automobiles that have been towed, are being staged before or after repairs, and/or stored for auction shall be screened by a minimum six (6) foot tall masonry wall or a solid, irrigated landscaped screen of shrubs that will achieve a height of 6 feet within two (2) years of planting.
- j. Cross Access – Cross access easements shall be required between properties within the HC district to allow access to existing and proposed median openings and left turn lanes and to provide access to two public streets. Access drives/aisles/access easements should be extended to the development's property boundary in order to provide for connectivity with future development(s). The Planning and Zoning

Commission may determine that cross access is not appropriate for security reasons or where topography and existing site conditions make cross access difficult.

- k. Utility services – All utility service lines shall be underground.

7) Highway Commercial Overlay District Landscape Regulations

Landscaping shall conform to the following:

- a. Landscaping shall be required on all developments and shall be completed prior to the issuance of the certificate of occupancy. All detention ponds shall be landscaped.
- b. Landscaping adjacent to public right-of-ways
 - i. Every site adjacent to the highway right-of-way shall include a buffer strip, landscaped and irrigated, being ten (10) feet in depth adjacent to the highway right-of-way.
 - ii. A minimum 10 foot landscape buffer adjacent to the right-of-way of any minor thoroughfare is required. If the lot is a corner lot, all frontages on minor thoroughfares and private drives of 2 lanes or greater shall be required to observe the ten-foot buffer.
 - iii. Developers shall be required to plant 1 large canopy tree per 40 linear feet or portion thereof of street frontage, not including entry drives or visibility triangles. These required trees must be planted within the landscape setback along thoroughfares, unless otherwise approved. Trees may be grouped or clustered to facilitate site design. Ornamental trees may be substituted for canopy trees at the ratio of 2:1 along the street frontage for up to 50 percent of the required canopy trees.
- c. Screening of parking areas and drive aisles adjacent to public right-of-way
 - i. Landscaped screening is required for all parking areas and drive aisles within 50 feet of the property line.
- d. Landscaping adjacent to buildings
 - i. Foundation plantings with a minimum 6 foot depth are required along 50 percent of a building façade facing a major or minor thoroughfare.
 - ii. Entries should be accented.
- e. General landscaping standards
 - i. All trees shall be a minimum of 4 feet from all pavement and underground utilities.
 - ii. Canopy trees shall be a minimum of 3 inches in caliper (measured 6 inches above the ground) and 7 feet in height at time of planting.
 - iii. Accent or ornamental trees shall be a minimum of 1-inch in caliper (measured 6 inches above the ground) and 5 feet in height at time of planting.
 - iv. Evergreen shrubs shall be a minimum height of 24 inches at time of planting.

3.14.2 PLANNED DEVELOPMENT DISTRICT

1) Purpose

The PD District is a district that accommodates coordinated development that provides a more flexible regulatory structure than the zoning districts outlined in this Ordinance. A PD may be used to permit new or innovative concepts in land utilization or diversification than achieved under conventional zoning approaches. Procedures are established herein to ensure appropriate use of PD zoning.

- a. The PD designation shall be used for the following purpose(s):
 - i. Master planning;
 - ii. To carry out specific goals of the Comprehensive Plan, City or public/private partnered special projects, and City Council strategic focus areas;
 - iii. Development of mixed use or traditional neighborhoods with a variety of uses and housing types; and/or
 - iv. To preserve natural features, open space, and other topographical features of the land.
- b. The PD designation shall not be used solely for the following purpose(s):
 - i. To obtain variances and waivers from existing development standards;
 - ii. To secure agreements between an applicant and nearby property owners to receive zoning approval; and/or
 - iii. To assign responsibility to the City of private deed restrictions or covenants.

2) Establishment

The City Council may approve, approve with conditions, or deny the establishment or amendment of PD districts in accordance with the procedures contained within Section 2.1 of the Zoning Ordinance and as further described within this article. The boundary of each PD district shall be defined on the zoning map and identified with the letters PD followed by a unique number referencing the adopting ordinance and regulations.

3) Standard of Approval

The approval, approval with conditions, or denial of PD districts shall be at the sole discretion of the City Council based upon its judgment of the merit of the proposed district as related to the stated purposes in Section 3.14.2 (1).

4) Minimum District Size

Following the effective date of this ordinance, no PD district may be established smaller than 5 acres unless a specific finding is made by the City Council that the establishment of the district is required to implement the Comprehensive Plan or related study.

5) PD District Types

A PD district may be created as an overlay district or as a freestanding district as described below:

a. Overlay PD Districts

An overlay PD district superimposes regulations onto a standard zoning district defined in Section 3.12 and Section 3.13. A PD overlay may modify, supplement,

and/or delete the regulations of a standard zoning district (referred to as the base district). Except as specified by the terms of the ordinance establishing a PD overlay, the regulations of the base district shall apply, and any subsequent general amendment to the base district shall apply. A PD district established as an overlay district shall be designated by letters PD followed by a unique number and the initials of the base district (i.e., PD-000-R).

b. **Freestanding PD Districts**

A freestanding PD district is a unique zoning classification. The zoning regulations affecting development within the district are limited to those specifically defined within the ordinance establishing the district (which may include by reference other regulations) and may only be changed by amending the district. A freestanding PD district may only be established where the use of the overlay method cannot reasonably achieve the purposes of this ordinance and the PD district is in accordance with the Comprehensive Plan. A PD district established as a freestanding district shall be designated by the letters PD followed by a unique number (i.e., PD-000).

6) Regulations Affected

PD districts may be used to modify and supplement the regulations contained within the following ordinances:

- a. Zoning Ordinance
- b. Subdivision Ordinance
- c. Thoroughfare Standards

7) Site Plan and Plat Required

Section 5 Site Plan Review shall apply to the development of land for nonresidential or multifamily use within any PD district.

8) Initial Plan Review

A concept plan shall be normally required as part of an application for establishing or amending a PD district. Additional information, studies, and plans may be required by the Planning & Zoning Commission or the City Council to determine the merit of establishing a PD district and as required to develop regulations to be incorporated in the ordinance establishing or amending a PD district. The requirement for submitting a concept plan may be waived by the Planning & Zoning Commission or the City Council if they determine sufficient information exists to evaluate the proposed establishment or amendment of a PD district.

9) Plan Approval

Plans and land studies submitted in conjunction with establishing or amending a PD district may be approved by City Council either by separate administrative action, or by reference as part of the ordinance establishing the PD district. All subsequent plans prepared for the development of property within a PD district must substantially conform to the approved plan in accordance with the standards and procedures of Section 5 of the Zoning Ordinance.

10) Amendment of Plans

Plans which are administratively approved may be revised and re-approved by the Planning & Zoning Commission by administrative action in accordance with the provisions of Section 5 of the Zoning Ordinance and provided that the amended plan conforms to the regulations set forth within the PD ordinance.

11) Expiration of Plans

Plans which are approved by administrative action shall expire in accordance with the provisions of Section 5 of the Zoning Ordinance. Where the plan has expired and no extension is approved, the property owners of the PD must receive approval of a new plan prior to applying for development permits. Any new plan or study must conform to the regulations existing at the time of application.

12) Administration

It is the responsibility of the City Manager and the Planning & Zoning Commission to administer the regulations governing PD districts.

13) Partial Rezoning

Owners of property within a PD district may request rezoning of the portion of the district they own to separate it from the remaining property within the PD district. In considering the request, the Planning & Zoning Commission and City Council shall evaluate the effect of the rezoning on the remaining property and may require adjustments to terms and conditions of the original PD resulting from a change in boundary.

Section 4 DEVELOPMENT STANDARDS

4.1 LOT REGULATIONS

4.1.1 GENERAL

Regulations governing lot dimensions, as specified in section 3.12 and section 3.13, shall apply to all lots except that a lot having less area, width, or depth than herein required which was an official “lot of record” prior to the adoption of this ordinance may be used for a single-family dwelling, and no lot existing at the time of passage of this ordinance shall be reduced in area, width, or depth below the minimum requirements set forth herein.

4.1.2 MINIMUM LOT AREA

Independent living facilities, assisted living facilities, long-term care facilities, continuing care facilities, community centers, hospitals, colleges, universities, trade schools, and public, private, and parochial schools located in any residential district shall have a minimum site area of 2 acres.

4.1.3 LOT COVERAGE AND FLOOR AREA RATIO

The maximum percentage of any lot area which may hereafter be covered by the main building and all accessory buildings and the maximum ratio of the floor area to the total area of the lot or tract on which a building is located shall not exceed the regulations specified in section 3.12 and section 3.13, except where an existing building at the effective date of the ordinance from which this article is derived may have a greater percentage of lot coverage or a higher floor area ratio than herein prescribed, such building shall be considered a conforming structure.

4.2 FRONT YARD REGULATIONS

4.2.1 GENERAL

Regulations governing yard requirements, as specified in section 3.12 and section 3.13, shall apply to all lots unless otherwise specified in the ordinance.

4.2.2 SPECIAL FRONT YARD REGULATIONS

- 1) On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless shown specifically otherwise on a final plat.
- 2) Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard setback shall comply with the requirements of the most restrictive district for the entire frontage.
- 3) Where a building line has been established by plat or Code provision and such line requires a front yard setback greater or lesser in depth than is prescribed by this article

for the district in which the building line is located, the required front yard shall comply with the building line established by such ordinance or plat.

- 4)** Front Yard Measurements

 - a. The front yard shall be measured from the property line to the front face of the building, covered porch, covered terrace or attached accessory building.
 - b. Eaves and roof extensions or a porch without posts or columns may project into the required front yard setback for a distance not to exceed four (4) feet.
 - c. Where no front yard is required, all stairs, eaves, roofs and similar building extensions shall be located behind the front street right-of-way line or property line and off-street parking facilities shall be equipped with stops or guards to prevent parked vehicles from being stored nearer than ten feet to any curb and all such parking shall be behind the property line.
- 5)** For existing through lots, a required front yard shall be provided on both streets unless a building line for accessory buildings has been established along one front-age on the plat or by ordinance, in which event only an accessory building may be built on the line thus established. The main building must observe the front yard requirements for both streets.
- 6)** In the case of existing through lots which are bounded on 3 sides by streets, all yards between the main building and a street shall be regulated as front yards unless a front, side, and rear building line have been established by plat.
- 7)** If buildings along the frontage of any street between two intersecting streets in any residential district have observed an average setback which is greater or lesser in dimension than the minimum front yard or setback established for the district in which such street frontage is located, then the average setback of all buildings fronting upon such street between two intersecting streets shall establish the minimum front yard requirement. All vacant lots shall be assumed to have a minimum front yard specified for the district in computing the average front yard. These provisions shall be not interpreted as requiring a setback or front yard greater than 50 feet nor shall they be interpreted as requiring any building to observe a front yard of more than ten feet greater than the front setback observed by any building on a contiguous lot.
- 8)** In all districts except CA, the distance as measured from the front lot line to the face of the building shall in no case be less than one-half the height of the building, and in no case need such distance exceed 50 feet regardless of the height of the building.
- 9)** In the CA district, no front yard is required except that no structure may be erected nearer than 30 feet to the centerline of any street on which such structure fronts.
- 10)** Gasoline service station pump islands may not be located nearer than 20 feet to the front property line and the outer edge of the canopy shall not be nearer than ten feet to the front property line.
- 11)** Satellite dishes are prohibited in the front yard of any district. Only one satellite dish shall be permitted per lot or primary unit. Satellite dishes in any residential district shall not exceed 12 feet in diameter.

4.3 SIDE YARD REGULATIONS

4.3.1 GENERAL

Regulations governing yard requirements, as specified in section 3.12 and section 3.13, shall apply to all lots unless otherwise specified in the ordinance.

4.3.2 SPECIAL SIDE YARD REGULATIONS

- 1)** Every part of a required side yard shall be open and unobstructed by any building except for accessory buildings as permitted herein and the ordinary projections of window sills, belt courses, cornices and other architectural features projecting not to exceed 12 inches into the required side yard, and a roof eave or canopy projecting not to exceed 24 inches into the required side yard.
- 2)** Multiple-family dwellings shall provide a minimum side yard of 15 feet between any building face or wall containing openings for windows, light and air and any side lot line except that any such building face or wall not exceeding 35 feet in width may provide a minimum side yard of ten feet. Where a building wall contains no openings for windows, light or air, a minimum side yard of ten feet shall be provided between such wall and the side lot line (See appendix illustration 9 on file in the city secretary's office.) Where high-rise apartment building, exceeding three stories in height are erected in the MF-2, O or other districts permitting such construction, the side yard shall be increased one foot for each two feet the structure exceeds three stories, but no side yard shall exceed 50 feet.
- 3)** On a corner lot, a side yard adjacent to a street, for a multiple-family dwelling not exceeding three stories in height, shall not be less than 15 feet and no balcony or porch or any portion of the building may extend into such required side yard except that a roof may overhang such side not to exceed four feet.
- 4)** On a corner lot, used for one-family or two-family dwellings, both street exposure shall be treated as front yards on all lots platted after the effective date of the ordinance from which this article is derived, except that where one street exposure is designated as a side yard by a building line shown on a plat previously approved by the planning and zoning commission containing a side yard of ten feet or more, the building line provisions on that plat shall be observed. On lots which were official lots of record prior to the effective date of the ordinance from which this article is derived, the minimum side yard adjacent to a side street shall comply with the required side yard for the respective districts as specified in subsection 4.3.1 of this section.
- 5)** A one-family attached dwelling shall provide a minimum required side yard adjacent to a side street of ten feet and no complex of attached one-family dwellings shall exceed 200 feet in length. A minimum required side yard of five feet shall be provided at the end of each one-family attached dwelling complex so that the end of any two adjacent building complexes shall be at least ten feet apart.

- 6) No side yard is specified for non-residential use in the GR, C, CA, LI or HI Districts except where a commercial, retail or industrial or other nonresidential use abuts upon a district boundary line dividing such districts from a residential district in which event a minimum five feet side yard shall be provided on the side adjacent to such residential district.
- 7) The minimum side yard requirements in a Planned Development District shall be established on the site plan or in the amending ordinance in accordance with section 3.14.2.
- 8) Side yard requirements for zero lot lines are as follows: one side must be at least ten feet, and there is no minimum on the other side.

4.4 REAR YARD REGULATIONS

4.4.1 GENERAL

Regulations governing yard requirements, as specified in section 3.12 and section 3.13, shall apply to all lots unless otherwise specified in the ordinance.

4.4.2 SPECIAL REAR YARD REGULATIONS

- 1) In the A, ED, SF-1, SF-2, SF-3, 2F, MF-1, MF-2, NS, GR, C, CA, or LI districts, no main residential building may be constructed nearer than ten feet to the rear property line. The main residential building and all accessory building shall never cover more than 50 percent of that portion of the lot lying to the rear of a line erected joining midpoint on one side lot line with the mid-point of the opposite side lot line. For accessory building standards, see section 4.6.
- 2) In the NS, GR, C, CA, LI, or HI Districts, no rear yard is specified for non-residential uses except where retail, commercial or industrial uses back upon a common district line, whether separated by an alley or not, dividing the district from any residential districts listed herein, a minimum rear yard of ten feet shall be provided.
- 3) Every part of a required rear yard shall be open and unobstructed to the sky from a point 30 inches above the general ground level of the graded lot, except for accessory buildings, landscaping, fences and similar appurtenances and the ordinary projections of window sills, belt courses, cornices and roof overhangs and other architectural features projecting not to exceed four feet into the required rear yard.
- 4) The minimum rear yard in a PD, Planned Development District shall be established on the site plan or by the amending ordinance in accordance with section 3.14.2.
- 5) Where multifamily dwellings exceed three stories in height, a rear yard equal to one foot for each two feet in height shall be provided, except that no such rear yard shall exceed 50 feet as a result of this provision, and except that in the MF-2 and CA Districts, no rear yard exceeding ten feet shall be required where the rear wall of a residential structure contains no opening or windows for light or air.

4.5 HEIGHT REGULATIONS

4.5.1 GENERAL

Regulations governing height limits, as specified in section 3.12 and section 3.13, shall apply to all lots unless otherwise specified in the ordinance.

4.5.2 SPECIAL HEIGHT REGULATIONS

- 1) In all zoning districts and planned developments, water standpipes and tanks, religious facility architectural features, bell towers, domes and spires on school buildings and institutional buildings, the roofs of auditoriums and sanctuaries of one story construction, and public safety structures may be erected to exceed the district's maximum height. Side and rear yards shall be increased by 2 additional feet, and the front yard shall be increased by one additional foot, for each foot that such structures exceed the district's maximum height where adjacent to residential districts. The increase in the required yard shall apply only to the portion of the structure that causes the increased yard requirements.
- 2) Publicly-owned sports lighting, communication antennas or communication structures, utility poles and towers, and water tanks are exempt from height restrictions.

4.6 ACCESSORY BUILDING REGULATIONS

4.6.1 USE OF ACCESSORY BUILDING

- 1) In a residential zoning district, an accessory building may not be used for commercial purposes and may not be rented.
- 2) In a nonresidential zoning district, an accessory structure is a subordinate structure, the use of which is incidental to and used only in conjunction with the main structure.

4.6.2 GARAGE APARTMENT OR GUEST HOUSE

Accessory dwelling units (Garage Apartment or Guest House) shall be allowed as an incidental use on the same lot or tract as the main dwelling unit and used by the same person or persons of the immediate family when the main structure is owner occupied, and meet the following standards.

- 1) **Location**
 - a. A Garage Apartment shall be constructed attached to a garage, either above or adjacent to the garage.
 - b. A Guest House shall be constructed to the rear of the main dwelling, separate from that upon which the main dwelling is constructed.
- 2) **Building Permit Requirement**

An accessory dwelling unit may be constructed only with the issuance of a building permit.

3) Independent Sale and Sublet Prohibited

An accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.

4) Setbacks

Setback requirements shall be the same as for the main structure.

5) Area Regulations

- a. Accessory dwelling units may not exceed a height of 35 feet, and is limited to two stories.
- b. Accessory dwelling units may not exceed 1,100 total square feet and 550 square feet on the second story, if any. The minimum allowed area of the accessory unit shall be 350 square feet.
- c. The floor area of any detached accessory structure shall not exceed 50 percent of the floor area of the principal structure. The total combined floor area of all structures shall not exceed the maximum lot coverage for the zoning district in which it is located.

6) Other Regulations

- a. An accessory dwelling unit shall not contain more than one bedroom, more than one kitchen, or more than one bathroom.
- b. Parking areas shall be located behind the front yard.
- c. In order to maintain the architectural design, style, appearance and character of the main building as a single-family residence, the accessory dwelling unit shall have a roof pitch, exterior facades and window proportions identical to that of the principal residence.

4.6.3 HEIGHT AND YARD REQUIREMENTS

- 1) Where the accessory building is attached to a main building, it shall be subject to, and must conform to, all regulations applicable to the main building except as provided within this section.
- 2) Accessory buildings shall not be erected in any required front yard.
- 3) Carports and detached accessory buildings, except garages, shall not be located closer than 3 feet to any side or rear lot line.
- 4) Detached accessory buildings enclosed on 3 or more sides shall not be located closer than 10 feet to the main building.
- 5) Garages entered from an alley shall be set back from the lot line adjacent to the alley a minimum of 20 feet.
- 6) Accessory buildings may not be placed in the required side yard setback if the side yard lot line abuts a street.
- 7) In no instance shall an accessory building be located within an easement or right-of-way.
- 8) Detached accessory buildings located in a required rear or side yard shall not exceed 10 feet in height. If the detached accessory building is located less than 10 feet from the rear

or side lot line, a 6-foot solid fence or wall shall be built on the rear or side lot line to screen the building. No screening shall be required at the point of entry for a carport.

4.6.4 CARPORTS

- 1) In single-family and two-family developments, a carport shall shelter not more than 3 vehicles and shall not exceed 24 feet on its longest dimension.
- 2) Carports must meet all height and yard setback requirements in section 3.12 and are prohibited within the front yard setback.

4.7 EXTERIOR CONSTRUCTION STANDARDS FOR STRUCTURES

4.7.1 RESIDENTIAL STRUCTURES

- 1) Exterior wall construction for residential structures shall consist of a minimum of seventy-five (75) percent of the following masonry materials on the first floor and fifty (50) percent of stories other than the first story. This coverage calculation does not include doors, windows, recessed entries, chimneys, dormers, window box-outs, bay windows that do not extend to the foundation, or any other exterior wall that does not bear on the foundation.
 - a. Stone or brick laid up unit by unit and set in mortar,
 - b. Cultured stone, or
 - c. 3-step stucco, or
 - d. An equivalent, permanent architecturally finished material with a minimum 30-year warranty period is also acceptable.
- 2) Exterior walls of chimneys, dormers, window box-outs, bay windows that do not extend to the foundation, or any other exterior wall that does not bear on the foundation, shall be constructed of masonry materials or any other sustainable material with a minimum 30-year warranty period, such as: fiber cement siding, seamless steel siding, vinyl siding with a flat or low gloss embossed finish and at least 0.04-inch thick, three-coat stucco, or EIFS. Fascia may be constructed of sustainable materials with a minimum 20-year warranty period covering the product and its coating, such as: fiber cement siding, aluminum coil with vinyl coating, cedar wood, redwood, treated engineered wood, or treated dimensional lumber. Prohibited materials include wood (except as noted above), plywood, hardwood, and untreated engineered/manufactured wood.
- 3) All main structures within the Multifamily Residential districts must have a minimum of eighty (80) percent masonry on the first and second floors and fifty (50) percent on all other floors.
- 4) ~~The City Manager is authorized to grant a waiver to these requirements if necessary to result in a higher quality development and/or to carry out the recommendations of the Comprehensive Plan. Alternate materials and designs may be considered by the planning and zoning commission for meritorious exceptions in accordance with Section 4.7.8.~~

4.7.2 NON-RESIDENTIAL STRUCTURES

- 1) Except for the LI and HI districts, and as otherwise regulated by this ordinance, exterior wall construction for nonresidential structures shall consist of a minimum of 75 percent masonry, 3-step stucco, glass, or combination of these materials, with no single wall face of any structure containing less than 50 percent of its exposed surface of masonry construction. A maximum of 10 percent of any exposed exterior wall may consist of EIFS.
- 2) No more than 80 percent of the ground floor of any exterior wall (to the first plate) shall be comprised of windows or glass. No more than 50 percent of any exterior wall above the ground floor shall be comprised of windows or glass. Glass walls shall include glass curtain walls or glass block construction. Glass curtain wall shall be defined as an exterior wall which carries no structural loads, and which may consist of the combination of metal, glass, or other surfacing material supported in a metal framework.
- 3) Reflective glass with an exterior reflectance in excess of 27 percent shall not be permitted.
- 4) Exterior Construction Standards for Central Area (CA), Neighborhood Service (NS), General Retail (GR), and Commercial (C) Districts
 - a. All non-residential buildings shall be architecturally finished on all 4 sides with the same materials and detailing (e.g., tiles, moldings, cornices, wainscoting, etc.).
 - b. The rear facade of a building, which is not adjacent to or does not face a public right-of-way, park or residential district, shall not be required to comply with the above requirement.
 - c. All entrances of a building along any street shall incorporate arcades, roofs, alcoves, porticoes and awnings that protect pedestrians from the sun and weather. Minimum awning size shall be four feet by four feet.
 - d. All buildings facing a public right-of-way, park, or residential zoning district shall meet the following articulation requirements:
 - i. Facade articulation of at least three (3) feet in depth or offset shall be required for every thirty (30) feet in horizontal surface length.
 - ii. Buildings greater than two stories or taller than 20 feet shall be designed to reduce apparent mass by including a clearly identifiable base, middle, and top, with horizontal elements separating these components.
 - iii. A well-defined cornice or fascia shall be located at the top of the storefront and at the roofline.
- 5) All buildings and structures in the Central Area (CA) District shall be of exterior fire resistant construction, having 100 percent of the total exterior walls, excluding doors and windows, be constructed of brick, stone, or brick veneer.
- 6) In Industrial Districts (LI and HI) any exterior wall visible from a public thoroughfare or residential zoning district must be of 100 percent masonry, exclusive of doors and windows.
 - a. Up to 100 percent of any exposed exterior wall may consist of metal if the exterior wall is not visible from a public thoroughfare or residential zoning district.

- 7) Procedure for Determining Alternative Exterior Materials
 - a. Exceptions to the material requirements may be permitted on a case by case basis.
 - i. All requests for alternative exterior building materials shall be noted and described on a Site Plan with elevation drawings to be submitted to the Planning and Zoning Commission for approval.
 - b. The Planning and Zoning Commission may approve an alternative exterior material if it is determined it is equivalent or better than masonry according to the criteria listed in Section 4.7.2.
 - c. Consideration for exceptions to the above requirements shall be based only on the following:
 - i. Architectural design and creativity;
 - ii. Compatibility with surrounding developed properties.

4.7.3 ACCESSORY STRUCTURES

- 1) Exterior Façades

Any accessory building or storage building that is greater than 200 square feet in floor area which is allowed under this chapter shall be of like appearance to the primary building.
- 2) Exceptions to Exterior Facades
 - a. Any accessory building or storage building that is 200 square feet or less in area, which is allowed under this chapter, may be constructed of materials having a different appearance from the primary building provided that the building shall be the same color as the primary building.
 - b. Fiber cement siding may be used to fulfill masonry requirements for an accessory structure or structure of two hundred (200) square feet or less in a single family or two family district.
 - c. Metal or wood may be used as an exterior construction material for an accessory structure or structure of one hundred twenty (120) square feet or less in a single family or two family district.
 - d. Fiber cement siding may be used to fulfill masonry requirements for structures accessory to an existing structure constructed entirely of wood or vinyl siding.
 - e. In nonresidential districts, accessory structures with pervious roofs (e.g., pergola) may be constructed of Cedar, Douglas Fir, or other material impervious to rotting, provided masonry, matching the material of the primary building or structure, wraps around the base of each column for a minimum three (3) feet above grade.
- 3) Foundation Requirements
 - a. Attached accessory buildings shall conform to the regulations applicable to the main building to which they are attached. Attached buildings are defined as any building sharing a common roof with the primary structure.

- b. Foundation requirements for detached accessory buildings (except barns) are as follows:
 - i. Buildings two hundred (200) square feet and less – The building may be placed on the ground without a foundation provided that the building is anchored to the ground. This must be done to resist wind loads.
 - ii. Buildings greater than 200 square feet – The building shall have a permanent foundation in accordance with the current City of Farmersville Building Codes, the plans for which shall be prepared and sealed by a professional engineer licensed by the state. Foundations higher than 12 inches above ground level shall be required to have a foundation fascia consisting of the same material that covers the exterior wall directly above the foundation, so that no more than 12 inches of the foundation is exposed.

4.7.4 PROHIBITED EXTERIOR MATERIALS

The following materials and products shall not be used for exterior walls or exterior accents, unless otherwise permitted by this article: metal panels, wood siding, Masonite, particle board, stucco foam insulation systems, and aluminum siding.

4.7.5 ROOFING REQUIREMENTS

- 1) The implied visible purpose of the roof form is to perform those functions associated with a roof. That is to provide sunshade or shed water. A roof, which exists only to conceal mechanical equipment, is not allowed. The guidelines for roofs are as follows:
- 2) **Roof Massing**
 Roofs (pitched or flat) shall be massed with an orderly sequence of subordinate roofs extending from a dominant roof mass. Where more complex building design creates multiple roof forms, there shall be a logical relationship of the roof composition. Single roof forms, other than flat roofs, which articulate the entire plate size of the structure, are not allowed. It is the intent of this guideline to encourage roof forms (other than flat roofs) with compositional components rather than the entire mass of the structure itself. When pitched roof forms are used in conformance with these guidelines, roof forms must be simple hipped or gable roofs. This guideline is not meant to limit the use of flat roofs in subordinate mass situations and where such a roof is necessary to attain an appropriate perception of span. A flat roof shall be concealed behind a parapet (or an extension of the wall plane).
- 3) **Roof Projections**
 No plumbing stacks, venting stacks or roof mounted attic ventilators (except gable and or dormer vents) shall penetrate the roof surfaces facing the street. Roof projections must be mounted straight and perpendicular to the ground plane and be painted to blend with the roof color. Roof projections and HVAC equipment mounted on the roof shall be

screened from view and shall not be visible from any streets abutting or adjacent to the structure.

4) Roof Span

Care must be taken in the design of new development to create (or give the illusion of) spans that are compatible with pedestrian scaled development and residential uses. Roof spans should not be larger than 45 feet unless a dominant span (larger in size) is made more complex and obscured by subordinate roof masses extending from it.

5) Flat Roofs

Flat roofs shall include parapets that adhere to articulation requirements for the main face of the structure. The average height of the parapet shall not exceed 15 percent of the height of the supporting wall, unless rooftop equipment cannot be sufficiently screened. A three-dimensional cornice treatment is encouraged for parapets. Parapets shall look complete from all sides if visible at any distance from the ground. Parapets shall be constructed of the same material as the primary façade.

6) Roof Pitch

Pitched roofs shall have a minimum pitch of 6:12 for all structures. This requirement excludes roofs for entries and dormers.

7) Sloped Roof Materials

Sloped roof materials shall be one of the following:

- a. Metal R panel;
- b. Natural slate;
- c. High quality clay or concrete tile (including such slate like products as Hardislate or equal) in warm darker gray or dark earth tone color range;
- d. High quality composition shingle with a 4030-year warranty with a gray, dark chocolate, or weathered blend color or other dark color;
- e. All roof colors shall be limited to a Verde, dark bronze or naturally weathered or earth tone color.

8) Flat roofs may be constructed of any industry-standard material, unless prohibited by this section.

9) Wood shingles, corrugated metal, tar paper, and brightly colored asphalt shingle roof materials are prohibited on all roof types. Corrugated metal roofs on non-residential structures within the Downtown Historical Area of Farmersville shall be allowed.

10) A pitched roof with a minimum 6-to-12 pitch shall be required on at least 75 percent of the roof of each single-family and two-family dwelling.

11) All single-family and two-family dwellings erected after the adoption of the ordinance from which this section is derived shall be required to have a pitched roof with a minimum 6-to-12 pitch on at least 75 percent of the roof.

12) Detached garages, sheds, porticos and accessory structures on the same lot as a single-family or two-family dwelling shall have a minimum 4-to-12 pitched roof.

4.7.6 FOUNDATION REQUIREMENTS

- 1) All single-family and two-family dwellings shall have a permanent foundation the plans for which shall be prepared and sealed by a professional engineer licensed by the state. Foundations higher than 12 inches above ground level shall be required to have a foundation fascia consisting of the same material that covers the exterior wall directly above the foundation, so that no more than 12 inches of the foundation is exposed.

4.7.7 LIMITED WAIVERS FOR EXPANSION OR RECONSTRUCTION OF EXISTING BUILDINGS'

The planning and zoning commission may, upon request by the applicant, authorize a waiver from specific requirements for exterior materials set out in section 4.7, if:

- 1) Strict compliance with these standards would result in significantly inconsistent appearance between existing and proposed sections of the building; or,
- 2) If the proposed expansion or reconstruction has been mandated as a condition to the applicant's ability to continue operating a franchise, or license, to conduct business in the existing building; and
- 3) The expansion or reconstruction does not increase the square footage of the existing building by more than 50 percent; and
- 4) The applicant proposes the use of high quality materials in the expansion or reconstruction of the existing building that significantly improve the quality and appearance of the existing building.
- 5) The applicant shall submit detailed information to the city manager as required in subsection 4.7.7 regarding meritorious exceptions. The city manager shall review the application, prepare a report of findings and refer the request for a waiver to the planning and zoning commission for a decision according to procedures outlined in subsection 4.7.7. The applicant may appeal the decision of the planning and zoning commission to the city council according to the procedures outlined in subsection 4.7.7 regarding meritorious exceptions.

4.7.8 MERITORIOUS EXCEPTION

It is not the intent of this section to discourage innovation. An architectural and site design that does not conform with the specific requirements of this section, but which has merit by making a positive contribution to the visual environment and which is appropriate to the site and use, may be submitted for consideration as a meritorious exception. Such proposals shall be fairly and seriously considered by the planning and zoning commission through the approval process outlined in this section.

- 1) An applicant for a meritorious exception shall submit:
 - a. All items required for the review of required architectural and site standards;
 - b. A written description of the nature of the meritorious exception and the compelling reasons that prevent the applicant from meeting the minimum standards set forth herein; and

- c. Color renderings of all elevations.
- 2) The application for a meritorious exception shall be reviewed by the city manager and a report of findings shall be prepared and submitted to the planning and zoning commission. If the applicant is not in agreement with the decision of the planning and zoning commission, the applicant may, within 21 days of the planning and zoning commission action, request in writing to the city manager that the meritorious exception be appealed to the city council. Prior to consideration of an application for a meritorious exception, the planning and zoning commission shall hold a public hearing, with notice given according to the procedure for a change in a zoning district location or boundary. In considering the request, the planning and zoning commission shall consider the following factors in determining the extent of any exception granted:
 - a. The extent to which the application meets other specific standards of this article;
 - b. The extent to which the application meets the spirit and intent of this article through the use of building materials, colors, and facade design to create a building of exceptional quality and appearance;
 - c. The positive or negative impact of the proposed project on surrounding property use and property values, in comparison to the expected impact of a project, which could be built in conformance with the standards of this article; and
 - d. The extent to which the proposed project accomplishes city goals as stated in the comprehensive plan or other approved document.
 - e. A meritorious exception shall not be granted to serve solely as a convenience to the applicant, or for reasons related solely to economic hardship.

4.7.9 VARIANCES

When a property owner can show that a strict application of the terms of this article relating to architectural or site standards will impose upon him unusual and practical difficulties or particular hardship, including instances where an applicant has previously built in strict conformance with approved architectural and site standards plans and such approval was erroneously granted by the city manager or his designee, a variance from the strict application of this section may be granted by the board of adjustment; provided that:

- 1) The variance requested is in harmony with the general purpose and intent of this section;
- 2) The board of adjustment is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate a demonstrable and unusual hardship or difficulty; and
- 3) The board of adjustment is satisfied that there will be no adverse impact on surrounding property.

4.8 OPEN STORAGE

4.8.1 ALLOWED ZONING DISTRICTS

- 1) Open storage is permitted as a primary use only in the LI and HI districts.
- 2) Open storage and outside display are permitted as accessory uses to a primary use on the same lot in the A, NS, GR, C, CA, LI, and HI districts.
- 3) Open storage and outside display are prohibited in all residential districts.

4.8.2 ALLOWED LOCATIONS FOR OPEN STORAGE AND OUTSIDE DISPLAY

Open storage and outside display of goods, materials, merchandise, or equipment shall:

- 1) Be screened as required in Section 4.9, unless placed in accordance with Section 4.8.3.
- 2) Not be located within any required front, side, or rear yard setback.
- 3) Not be located within parking spaces, fire lanes, maneuvering aisles, or customer pick-up lanes.
- 4) Not obstruct visibility or interfere with pedestrian or vehicular circulation. If the items are placed on a sidewalk or other pedestrian area, a 6-foot wide pedestrian path shall be maintained through or adjacent to the outside display area. The pedestrian path must be concrete or asphalt and may not be located within off-street parking areas, including parking spaces, fire lanes, maneuvering aisles, and customer pick-up lanes.
- 5) Nothing in this article shall prohibit temporary open storage of merchandise for display and sale during a sidewalk sale. A 4-foot wide clearance shall be provided along the public sidewalk and a 6-foot wide clearance shall be provided on the sidewalk around the building.
- 6) Be placed on an asphalt or concrete surface. In an industrial zoned district, open storage items, except vehicles, may be placed on a gravel surface. For freestanding garden center uses, when developed as the primary use of a lot, open storage items may be placed on a gravel or other permeable surface.
- 7) Be immediately adjacent to the building when in an A, NS, GR, C, or CA district.
- 8) Not be located on the roof of any structure.
- 9) Not exceed 5 percent of the lot area or 20 percent of the main building gross floor area, whichever is more restrictive, in the NS, GR, C, CA districts. For freestanding garden center uses, when developed as the primary use of a lot, the area for open storage may be increased to a maximum of 50 percent of the lot area.

4.8.3 EXCEPTIONS TO SCREENING REQUIREMENTS

- 1) No screening is required for open storage and outside display of goods, materials, merchandise, or equipment as an accessory use if placed in an area not more than 5 feet from the front building face, as designated by the main entrance and not stacked to exceed 4 feet in height.

- 2) Screening is not required for items placed on a gasoline pump island that do not exceed 3 feet in height.
- 3) Parked self-propelled vehicles or trailers shall not constitute open storage or outside display, except when staged, parked, or stored at collision, towing, auto storage, mini-warehouse, auto repair, or wrecker service.
- 4) The Planning & Zoning Commission may waive these requirements if no public purpose would be served by the construction of a required screen, or natural features (i.e. vegetation or topography) exist that sufficiently screen the open storage.

4.9 SCREENING, FENCE AND WALL REGULATIONS

4.9.1 SCREENING WALLS OR VISUAL BARRIERS

- 1) In the event that a nonresidential or multi-family district sides or backs upon a single- or two-family residential district, or in the event that any nonresidential district sides or backs to a multifamily district, a solid screening wall or fence of not less than six nor more than eight feet in height shall be erected along the entire property line separating these districts, except where visibility triangles or easements are required. The purpose of the screening wall or fence is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence along the entire property line dividing his property from the residential district. In cases where the Planning & Zoning Commission finds this requirement to be impractical for immediate construction, it may grant a temporary or permanent waiver of the required screening wall or fence until such time as the screening wall or fence may be deemed necessary by the City Council. In cases where the Planning & Zoning Commission finds this requirement to be better met by an irrigated living screen, the same may be substituted for the screening wall. Evergreen shrubs used for a landscape screen shall be placed so as to create at least a 6-foot tall solid screen within 2 years of their installation. All landscaping shall be irrigated with an automatic sprinkler system and maintained in a healthy and growing condition.
- 2) Any screening wall or fence authorized by or required under the provisions of this section shall be constructed of:
 - a. Brick masonry, stone masonry, or other architectural masonry finish;
 - b. Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet on center with structural supports spaced every ten feet, and with sufficient evergreen landscaping to create a screening effect;
 - c. Alternate equivalent screening, upon approval by the planning and zoning commission and/or city council, depending on which body has the final approval authority as indicated through the site plan process; or
 - d. A six-foot-tall living plant screen, upon approval by the planning and zoning commission and/or city council, depending on which body has the final approval

authority as indicated through the site plan process and which living plant screen meets the following requirements:

- i. The plant material shall be evergreen shrubs of a density that will not permit through-passage;
 - ii. The plant material shall be acceptable for a six-foot-tall living plant screen;
 - iii. The plant material shall be a minimum of three feet in height when measured immediately after planting and shall be planted no further apart than three feet on center, unless otherwise approved by the City Manager;
 - iv. The plant material shall be maintained so as to form a continuous, unbroken, solid visual screen that exhibits the same year-round screening characteristics as a solid brick/masonry screening wall; and
 - v. The plant material shall be at least six feet tall within two years after time of planting.
- 3)** No fence, screen, wall, or other visual barrier shall be so located or placed that it obstructs the vision of a motor vehicle driver approaching any street or drive intersection.
 - 4)** Where an alley intersects with a street, no fence or plant taller than 30 inches may be placed within a sight visibility triangle defined by measuring eight feet to a point along the property lines and joining said points to form the hypotenuse of the triangle.
 - 5)** All required screening walls shall be equally finished on both sides of the wall.
 - 6)** All openings in the surface for passage shall be equipped with gates equal in height and screening characteristics to the fence or wall.
 - 7)** Prior to the issuance of an occupancy permit, all approved screening devices must be in place.
 - 8)** All screening devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The occupancy permit may be revoked by the City Manager for failure to adequately maintain such screening device.
 - 9)** Screening devices shall be placed and maintained in the following locations:
 - a. All wrecking yards, junkyards, or salvage yards shall be fenced on all sides and shall be screened from view from the public right-of-way and from adjacent residential property.
 - b. Loading docks or structures, bays, and bay doors shall be screened from view from the public right-of-way, from adjacent residential property, and from adjacent non-residential property, other than industrial. The required screening device adjacent to a non-residential property, other than industrial, may be waived with site plan approval if it is determined that the location of the proposed loading docks, bays or bay doors in relation to the adjacent development's site layout is not detrimental. Bays in any retail district or retail PD district shall be oriented away from the street frontage.

- c. Display of new vehicles, or used vehicles not defined as junked vehicles under this chapter, need not be screened if they are, in the opinion of the City Manager, maintained in a neat and orderly manner.
- d. At motor vehicle service or repair facilities or automotive paint and body repair shops, vehicles awaiting repair for more than 24 hours or after the close of business shall be screened from view from public right-of-way and from adjacent residential property. Parking spaces used for the overnight storage of vehicles awaiting repair must be screened in accordance with the requirements of this section.
- e. Parking lots shall meet the screening requirements of this section.
- f. The foregoing requirements shall be in addition to all other screening requirements set out in this chapter.

4.9.2 GENERAL FENCE AND WALL REGULATIONS

In any zoning district where a wall, fence, or screening separation is erected and is not required under the provision of Section 4.9.1, the following standards shall apply:

- 1) The maximum height of a fence or wall in a required front yard shall not exceed 40 inches and shall be at least 50 percent open in construction. Combinations of berms and fences shall not exceed 40 inches in height. Allowed exceptions to the height limitations in this section are as follows:
 - a. For public and parochial schools, private and primary schools, and day care centers, fences and berms may be a combined maximum height of 60 inches above grade, provided that the fence material is wrought iron or chain link.
 - b. A wall or fence not more than 8 feet in height may be erected in the front yard setback of multifamily, independent living facility, assisted living facility, long-term care facility, or continuing care facility. The wall or fence construction must be at least 50 percent open.
 - c. For all uses within the LI and HI districts, a wall or fence not more than 8 feet in height may be erected in the front yard setback.
- 2) Any fence or wall located to the rear of the front yard setback shall not exceed 8 feet in height above the grade of the adjacent property or 8 feet when placed on a retaining wall. Walls that screen loading docks, loading spaces, and ground-mounted mechanical units may exceed 8 feet in height if necessary for adequate visual screening.
- 3) No fence, screening wall, or other visual barrier shall be located or placed so that it obstructs the vision of a motor vehicle driver approaching any street, alley or drive intersection. At all street intersections clear vision shall be maintained across the lot for a distance of at least 15 feet back from the property corner along both streets.
- 4) A fence or screening device is required for residential property abutting a minor thoroughfare or local street.

- 5) A fence or screening device is required for residential property abutting a major thoroughfare or arterial highway. This screening fence must be fabricated of masonry or tubular steel.
- 6) Privacy Fences on Single-Family and Two-Family Residential Lots
- a. This section applies to replacement of residential fences or construction of new fences. A fence permit is required when more than 50 percent of the length of the fence along a property line is being replaced.
 - b. Height shall not exceed eight feet as measured from the highest adjacent grade within ten feet of the fence.
 - c. Approved materials:
 - i. Masonry (brick, stone, reinforced cement concrete) or any other sustainable material with more than a 30-year life expectancy;
 - ii. Ornamental metal rail fencing;
 - iii. Cedar and redwood;
 - iv. Composite fencing;
 - v. Vinyl fencing in flat white or flat natural tone colors such as rust or tan; and,
 - vi. Other wooden picket fences, only if constructed with metal posts, metal brackets, and metal caps. Chemically pre-treated wooden horizontal members shall be at least 2" X 4".
 - d. Prohibited materials:
 - i. Chain link;
 - ii. Sheet, roll, or corrugated metal; and,
 - iii. Cast off, secondhand, or other items not originally intended to be used for constructing or maintaining a fence.
 - e. An existing chain link fence may be replaced with a new chain link fence or be replaced with an approved material. If the existing fence is not chain link, the fence may be repaired with the existing material or an approved material.
 - f. When any stockade fence or other screening device, whether required or not, is located on a lot adjacent to a public street, said fence or screening device shall orient the side with exposed posts or rails away from view from the adjacent public street.
 - g. Where a corner lot has 2 front yards as required by this ordinance, and a house is constructed facing one of the front yards, the second front yard may be fenced in the same manner as any other side yard adjacent to a street. The fence shall have a corner clip on an angle beginning at the intersection of the front yard setback with the lot line and ending at a point on the street right-of-way located a minimum of 15 feet from the lot line.
- 7) Fences in Front Yard Setback on Single-Family and Two-Family Residential Lots
- a. Up to four-foot open design fence consisting of wrought-iron, tubular steel, picket or similar type material designed for fencing (excluding chain link) that does not obscure visibility and is no greater than 50 percent in density may be erected on property

within the minimum required front yard, platted front yard, established front yard projected front yard of one-family and two-family residential dwellings.

- b. No solid fences and walls are permitted in the required front yard, projected front yard or platted yard of one-family and two-family residential dwellings.
- 8) Fence arms and barbed wire are only allowed in the LI and HI districts and may not extend over property lines. Barbed wire, if used, must be attached to the fence arms.
- 9) Wire fences are prohibited in the front yard setback in all districts, except when the fence is used to enclose pastures, cropland, and other areas used for agricultural activities.
- 10) All fences, walls, screening walls, and other visual barriers require permits.

4.9.3 MECHANICAL SCREENING REQUIREMENTS

- 1) Mechanical and heating and air conditioning equipment in nonresidential and multifamily uses shall be screened from view from the public right-of-way and from adjacent residential property.
- 2) In all nonresidential developments, roof-mounted mechanical units shall be screened from view at a point of 5.5 feet above the property line with a parapet wall, mansard roof, or alternative architectural element. The height of the screening element shall be equal to or greater than the height of the mechanical unit provided that the element shall not extend more than 5 feet above the roof on a one or two-story building or more than 13 feet above the roof on a building of 3 or more stories. A mechanical unit which is taller than the maximum permitted height of the screening feature shall be set back from the screen 5 feet plus 2 feet for each foot it exceeds the height of the screen. Screening for mechanical units shall apply to new building construction only.

4.9.4 REQUIREMENTS FOR REFUSE AND RECYCLING CONTAINERS AND COMPACTORS

- 1) Garbage, trash, sanitation, refuse, or recycling containers including, but not limited to, dumpsters and trash compactors (collectively "dumpsters") shall be screened on all sides. Screening materials shall be masonry and the same color as the exterior walls of the main structure. A solid metal gate shall be provided. Dumpsters shall not be located in front of the main building unless no other option is available. Gates shall be kept closed except when in use for access.
- 2) Dumpster container enclosures shall be subject to the following design specifications.
 - a. Single container enclosures shall be a minimum of 12 feet wide by 12 feet deep, as measured from the inside of the enclosure's walls.
 - b. Double container enclosures shall be a minimum of 25.5 feet wide by 12 feet deep, as measured from the inside of the enclosure's walls.
 - c. Trash compactor enclosures and all other enclosure types shall be constructed to the minimum specifications provided by the city's official garbage and refuse contractor.
 - d. All enclosure types shall be required to provide a minimum of 40 feet of straight backing, as measured from the front gates of the enclosure, to accommodate a

sanitation truck's maneuverability. If special circumstances prevent straight backing from being provided, the City Manager shall have the authority in consultation with the city's official garbage and refuse contractor to approve angled or alternative backing movements.

- e. All enclosure types shall be required to provide a 24-foot vertical clear zone, unless otherwise approved by the City Manager.
- 3) Refuse, recycling, and compactor enclosures or area allocated for future refuse and recycling enclosures shall be identified on preliminary site plans and site plans. Refuse containers, recycling containers, and/or compactors shall not be added to existing sites and/or to site plans approved for future development without submittal and approval of a revised site plan.
- 4) Compactors, where provided, shall be enclosed on 3 sides with masonry wall construction finished to match the main building. Compactors shall not be screened by concealed placement. The minimum height of the enclosure shall be 8 feet. Metal swinging gates of a height equal to the enclosure height shall be provided for the truck collection side of the compactor enclosure. The interior dimensions of the compactor enclosure shall provide for 3 feet of clearance between the compactor and enclosure walls or gates.

4.10 OFF-STREET PARKING, STACKING AND LOADING

4.10.1 GENERAL

- 1) Except as otherwise provided for in this article, off-street parking shall be provided as follows:
 - a. In all districts except CA, in connection with every business, institution, recreational, residential, manufacturing, research laboratory, public building, or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking spaces, in accordance with the requirements set forth in Section 4.10.3.
 - b. In all districts except CA, there shall be provided, at the time any use is changed, off-street parking spaces in accordance with the requirements set forth in Section 4.10.3.
- 2) Off-Street loading shall be provided in accordance with Section 4.10.6.
- 3) Following are parking requirements for new or unlisted uses:
 - a. Where questions arise concerning the minimum off-street parking requirements for any use not specifically listed, the requirements may be interpreted as those of a similar listed use.
 - b. Where a determination of the minimum parking requirements cannot be readily ascertained for new or unlisted uses according to section 4.10.8, or where uncertainty exists, the minimum off-street parking requirements shall be established by the same process as provided in section 3.7 for classifying new and unlisted uses.

4.10.2 OFFSITE PARKING

Offsite, off-street parking space may be permitted with site plan approval in any district subject to all of the following requirements:

- 1) That a permanent and irrevocable easement of the parking facilities in favor of the premises to be benefited thereby shall be dedicated and recorded as a condition of such use.
- 2) That the nearest point of the premises utilized for such parking spaces shall be not more than 300 feet in a straight line from the nearest point of the premises to be benefited thereby.
- 3) No such parking space may be located on the same lot as a residential dwelling.

4.10.3 OFF-STREET PARKING SCHEDULE

- 1) The minimum required number of off-street parking spaces shall be in accordance with the parking schedules and ratios that follow this section. Where calculation in accordance with following results in requiring a fractional space, any fraction less than 0.5 shall be disregarded, and any fraction of 0.5 or more shall require one space.
- 2) Parking Space Schedule for Residential Uses

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Agricultural	2 spaces for each dwelling unit
Estate Development	2 spaces for each dwelling unit
Single-Family or Two-Family Dwellings	2 spaces for each dwelling unit
Single-Family Attached	2.25 spaces for each dwelling unit
Multifamily Dwelling	1 per studio; 1.5 per 1 bedroom; 2.0 per 2 bedroom; 2.5 per 3 bedroom; 2.5 + .5 for each bedroom more than 3
HUD-Code manufactured home/Mobile home	2 spaces for each dwelling unit

- 3) Parking Space Schedule for Nonresidential Uses

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Bank, savings and loan or similar financial establishment	One space for each 300 square feet of floor area
Banquet/meeting hall	Ten spaces for each 1,000 square feet of gross floor area not including the kitchen or restrooms. Said gross floor area should be equal to the event floor area.
Bed and breakfast inn	One space for owner/operator and one for each guest bedroom
Bowling alley	Six spaces for each lane
Clinic or doctors' offices	One space for each 200 square feet of floor area (minimum of five spaces)
Churches	One space for each three seats in the main sanctuary
College or university	One space for each 2 students, plus one space for each classroom, laboratory, or instruction area
Commercial indoor amusement (other than listed)	One space for each 3 persons accommodated (design capacity)
Commercial outdoor amusement	30 spaces plus one space for each 100 square feet of floor area over 2,000 square feet
Convalescent home or assisted living facility	One space for every 2 rooms or beds, whichever is greater
Day Care, Day Nursery, or Kindergarten School	One space per 5 pupils (design capacity); Parking for this use will not be required when such facilities are located within a single-user structure as an accessory use as a service to its employees
Fueling Station, automobile	Minimum of six spaces
Garden center/nursery	One space for each 300 square feet of floor area plus one space for each 5,000 square feet of exterior sales area
Golf course	5 spaces for each green
Hardware store	One space per 200 square feet of floor area
Hospitals	One space for every two beds
Hotel or motel	One space for each room, unit, or guest accommodation of a hotel/motel with no restaurant, private club, meeting facilities, and/or recreational facility other than a swimming pool; 1.25 spaces for each room, unit, or guest accommodation of a hotel/motel with restaurant,

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
	private club, meeting facilities, and/or recreational facility other than a swimming pool
Independent living facility	One space per dwelling unit
Institutions of a philanthropic nature	Ten spaces, plus one space for each employee
Library or museum	Ten spaces, plus one space for each 300 square feet of floor area
Long-term care facility	One space for each 2 rooms or beds, whichever is greater
Manufacturing, processing or repairing	One space for each two employees or one space for each 1,000 square feet of floor area, whichever is greater
Mini-warehouse	One space for each 20 storage cubicles plus required parking for the office and caretaker's quarters. Parking spaces to be rented shall not be included in this requirement.
Mortuary	One space for each 2 persons normally accommodated in services or one space per 200 square feet, whichever is greater
Offices, general	One space for each 300 square feet of floor area (minimum five spaces)
Offices, medical	One space for each 250 square feet of floor area
Recreational area or building, private or commercial (other than listed)	One space for every two persons to be normally accommodated in the establishment
Residential amenity center	Minimum ten (10) spaces
Restaurant or cafeterias	One space for every 100 square feet of floor area, except as noted for Retail or Shopping Center
Restaurant or food shop, take-out and delivery	One space for every 300 square feet of floor area
Retail or shopping center	<ul style="list-style-type: none"> • Retail uses or shopping centers 50,000 square feet in area or less - One space per 200 square feet • Retail uses or shopping centers greater than 50,000 square feet - One space per 250 square feet • Restaurants, cafeterias, and private clubs that are inline lease spaces and do not exceed 10 percent of the shopping center floor area (excluding single occupant, free-standing buildings) may utilize the required minimum parking ratio

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Schools, elementary or junior high	Two per classroom
Schools, high school	Six per classroom and one per 300 square feet of administrative office space
Service retail	One space for each 200 square feet of retail sales area plus one space for each 400 square feet of service area
Storage or warehousing	One space for each two employees or one space for each 1,000 square feet of floor area, whichever is greater
Theaters, meeting rooms and places of public assembly	One space for every three seats
Vehicle repair garage	3 spaces per service bay, plus one space per employee (maximum shift), plus one space per tow truck or other service vehicle

4) Parking Space Schedule for Other Nonresidential Uses not Listed in Section 4.10.3(4)

Zoning Districts or Uses	Minimum Required Off-Street Parking or Spaces for Residential Uses
Accessory and Incidental Uses	One space per employee
Automobile and Related Uses	One space per employee plus one space per stored vehicle
Commercial and Professional Uses	One space per 400 square feet of gross floor area
Educational, Institutional, and Public Uses	One space per employee
Entertainment and Recreational Uses	Same as Commercial Indoor and Commercial Outdoor Amusement, above
Industrial and Wholesale Uses	Same as Manufacturing, processing or repairing/ Storage or warehousing, above
Retail and Service Uses	Same as Retail or Shopping Center, above
Transportation, Utility, and Communications Uses	One space per employee plus one space per stored vehicle

- 5)** In addition to the required off-street parking identified in this section, accessible parking shall be provided for multi-family and all non-residential uses in accordance with the Americans with Disabilities Act and the Texas Accessibility Standards.

4.10.4 SPECIAL OFF-STREET PARKING REGULATIONS

The following special off-street parking regulations shall apply:

- 1) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building for development.
- 2) In the ED, SF-1, SF-2, SF-3, 2F, MF-1, MF-2, and NS Districts, no parking space, garage, or carport or other automobile storage space or structure shall be used for the storage of any truck, truck trailer, or vans except for panel and pickup trucks not exceeding a one-ton capacity.
- 3) Floor area of a structure devoted to off-street parking of vehicles shall be excluded in computing the off-street parking requirements of any use.
- 4) No off-street parking space shall be located so as to permit any part of a parked vehicle to extend across the property line nor shall any portion of a parked vehicle be located so as to be nearer than ten feet to any street curb. Physical barriers shall be installed on all off-street parking areas to ensure that the above dimensions are maintained.
- 5) In the NS, GR, C, CA, LI, and HI Districts, parking areas and driveways will be six inch minimum reinforced concrete, 3,600 PSI. Loading docks will be six inch concrete with No. 4 rebar, 3,600 PSI. The Zoning Administrator may approve the use of a porous paving system or other materials.
- 6) All permanent parking areas and loading berths, whether required or provided in addition to the requirements of this section, shall have an all-weather surface, and shall be connected by an all-weather surfaced driveway to a street or alley.
- 7) **Residential Parking Standards**
 - a. An enclosed two-car garage is required for all single-family detached, single-family attached, and duplex dwellings. The garage must be a minimum of 390 square feet in area.
 - b. Only 1 carport may be allowed as long as it falls within the building setback lines for garages and within the impervious surface requirements for the respective zoning district and sit on a concrete pad sized for the area. A building permit is required to install the carport.
 - c. Required parking must be paved concrete. The Zoning Administrator may approve the use of a porous paving system or other materials.

4.10.5 STACKING REQUIREMENTS FOR DRIVE-THROUGH FACILITIES

The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

- 1) Location of Stacking Lanes and Use of Audible Electronic Devices
 - a. Stacking lanes shall not be located between the building and the street rights-of-way.

- b. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be audible beyond the property line of the site.
- c. No service shall be rendered, deliveries made, or sales conducted within the required front yard or corner side yard; customers served in vehicles shall be parked to the sides and/or rear of the principal building.
- d. All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

2) Stacking Space and Lane Requirements

- a. A stacking space shall be a minimum of nine (9) feet in width and twenty (20) feet in length and shall not be located within or interfere with any other circulation driveway, parking space, fire lane, or maneuvering area.
- b. The number of required stacking spaces shall be as provided in accordance with the following schedule:

Activity	Minimum Stacking Spaces
Bank, Financial Institution, or Automated Teller Machine (ATM)	5 per window, service lane, or ATM lane
Automobile oil change and similar establishments	3 per bay
Car wash, full service	3 per bay
Car wash, self-service	3 per bay (automated); 2 per bay (open bay)
Child-care, kindergartens, day schools, and similar child training and care establishments	1 per 20 students on a through “circular” drive
Dry cleaning	3 per lane from the the first service window, order board, or other stopping point
Restaurant with drive-through	5 per lane from closest of the first service window, order board, or other stopping point

- c. A single stacking space shall be provided after the final window, order board, or stopping point to allow vehicles to pull clear of the transaction area prior to entering an intersecting on-site driveway or maneuvering aisle.
- d. An escape lane shall be provided for any use containing a drive-through facility.
 - i. An escape lane shall be nine (9) feet in width and shall provide access around the drive-through facility.
 - ii. An escape lane may be part of a circulation aisle.

4.10.6 OFF-STREET LOADING

- 1) Except in the CA District, all structures for retail, commercial, industrial and service establishments shall provide and maintain off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. Such off-street loading space may be adjacent to a public alley or private service drive or may consist of a truck berth within the structure. Such off-street loading space or truck berth shall consist of a minimum area of ten feet by 45 feet, and such spaces or berths shall be provided in accordance with the following schedule:

Square Feet of Gross Floor Area In Structure	Minimum Required Spaces or Berths
0 to 5,000	None
5,000 to 15,000	1
15,000 to 40,000	2
40,000 to 65,000	3
65,000 to 100,000	4
Each additional 50,000	1 additional

- 2) For hotels, office buildings, restaurants and similar establishments, off-street loading facilities shall be provided in accordance with the following schedule:

Square Feet of Gross Floor Area In Structure	Minimum Required Spaces or Berths
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 200,000	1 additional

- 3) Trucks may not be parked on public streets, alleys, or adjacent private property for the purpose of receiving or loading merchandise, supplies or materials to or from a business entity.
- 4) Loading docks must be located on the side or at the rear of a building.

4.11 LANDSCAPING REQUIREMENTS

4.11.1 PURPOSE

It is the purpose of this section to establish certain regulations pertaining to landscaping within the city. These regulations provide standards and criteria for new landscaping which are intended to promote the value of property, enhance the welfare, and improve the physical appearance of the city.

4.11.2 SCOPE

The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new construction or any existing development, which is altered by increasing the floor area by 30 percent or more of the originally approved floor area, either by a single expansion or by the cumulative effect of a series of expansions.

- 1) All existing structures, which are a conversion or change in use requiring the expansion of or significant improvements to meet parking standards shall upgrade landscaping on the site and meet these requirements to the extent practical. The planning and zoning commission shall have the ability to waive landscape requirements on a case-by-case basis if unique circumstances exist on the property that makes application of these regulations unduly burdensome on the applicant. Requested waivers of specific portions of these regulations may be granted only if there will be no adverse impact on current or future development and will have no adverse impact on the public health, safety, and general welfare.
- 2) Uses within the downtown CA—Central Area District shall be exempt from the landscape requirements set forth herein, unless it is determined by the City Manager that these standards are achievable and would contribute to the historic appearance and/or qualities that are inherent to the district.

4.11.3 ENFORCEMENT

The provisions of this section shall be administered and enforced by the City Manager or his designee.

- 1) If, at any time after the issuance of a certificate of occupancy, the approved landscaping is found to be in nonconformance to the standards and criteria as approved on the landscape plan, the City Manager shall issue notice to the owner, citing the violation and describing what action is required to comply with this section.

- 2) The owner, tenant, or agent shall make reasonable progress within the first 30 days from the date of said notice to restore the landscaping as required and shall have a total of 90 days to completely restore the landscaping as required.
- 3) Two 30-day extensions may be granted by the City Manager upon the applicant's request if a hardship due to extreme seasonal conditions can be demonstrated by the owner, tenant, and/or agent.
- 4) If the landscaping is not restored within the allotted time, such person shall be in violation of this section.

4.11.4 PERMITS

- 1) No permits shall be issued for building, paving, grading or construction until a landscape plan is submitted and approved by the City Manager or his designee. In the event that the proposed development requires an approved subdivision plat, site plan, or development plan, no final approval shall be granted unless a landscape plan is submitted and approved.
- 2) Prior to the issuance of a certificate of occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan and a digital copy of the landscaping as installed shall be provided to the planning department for permanent record.
- 3) In any case in which a certificate of occupancy is sought at a season of the year in which the City Manager determines that it would be impractical to plant trees, shrubs, or grass, or to lay turf, a certificate of occupancy may be issued notwithstanding the fact that the landscaping required by the landscape plan has not been completed, provided the applicant deposits cash in an escrow account with the city in the amount equal to 120 percent of the estimated cost of installing such landscaping which escrow will remain in effect until the landscape plan is installed and accepted or approved by the city. Such escrow deposit shall be conditioned upon the installation of all landscaping required by the plan within six months of the date of the application and shall give the applicant the right to draw upon the escrow deposit to complete the said landscaping.
- 4) Failure to timely install the landscaping required by the landscape plan within six months of the date of the application shall be deemed a violation of this chapter and the certificate of occupancy may be revoked without liability to the city. The City Manager shall have the right to determine the landscaping required at the time the certificate of occupancy is issued.

4.11.5 LANDSCAPE PLANS

Prior to the issuance of a building, paving, grading or construction permit for any use other than uses within the downtown CA—Central Area District, a landscape plan shall be submitted to the city for approval. The City Manager or a designee shall review such plans and shall approve same if the plans are in accordance with the criteria of these regulations. If the plans are not in accord, they shall be

disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.

Landscape plans shall be prepared by a landscape architect or landscape contractor who belongs to a bona fide nurseryman's association. Landscape plans shall, at a minimum, contain the following information:

- 1) Minimum scale of one-inch equals fifty feet or the same scale as the associated site plan;
- 2) The location, size, and species of all trees to be preserved and planted — tree stamps shall not be used unless they indicate the true size and location of trees;
- 3) The location of all plant and landscaping material to be used including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (to include depth of water), or other landscape features;
- 4) The species, size, spacing and quantities of all plant material to be used in a tabular form;
- 5) An affidavit on the plan stating that all required landscape areas shall be provided with an automatic underground irrigation system with rain and freeze sensors and evapotranspiration (ET) weather based controllers and said irrigation system shall be designed by a qualified professional and installed by an irrigator licensed by the state;
- 6) Layout and description of irrigation, sprinkler or water systems including placement of water sources;
- 7) Description of maintenance provisions for the landscape plan;
- 8) The person responsible for the preparation of the landscape plan, including affidavit of their qualifications to prepare said plan;
- 9) The mark indicating north;
- 10) The date of the landscape plan, including any revision dates;
- 11) The planting details percentage of total site in permanent landscaping;
- 12) The percentage of street yard in permanent landscaping;
- 13) The dimensions of all landscape areas;
- 14) The number of required trees and number of trees provided;
- 15) The location of all existing and planned overhead and underground utilities shall be shown on the landscape plan or on an accompanying utility plan drawn at the same scale, if necessary for clarity; and
- 16) Additional information as deemed necessary to adequately evaluate the landscape plan.

4.11.6 MAINTENANCE

The owner, tenant and his or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing of grass six inches or higher, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate

for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size within the time period provided by subsection 4.11.3.

4.11.7 GENERAL STANDARDS

- 1) The following criteria and standards shall apply to landscape materials and installation. For the purposes of this section, the term caliper shall be defined as the diameter measurement of a tree trunk.
 - a. Quality. Plant materials used in conformance with the provisions of this section shall conform to the standards of the American Standards for Nursery Stock, or their equal. Grass seed, sod and other material shall be clean and free of weeds and noxious pests and insects.
 - b. Ornamental trees. Trees referred to in this section shall be chosen from the approved plant palette located in Table 1. Trees shall have an average spread or crown of greater than 15 feet at maturity. Trees having lesser average mature crown of 15 feet may be substituted by grouping the same so as to create the equivalent of 15 feet of crown width. At time of planting, ornamental trees shall be approximately two inches in caliper, measured six inches above the ground, and a minimum of six feet in height.
 - c. Canopy trees. Canopy trees shall have a minimum spread of crown of 25 feet at maturity. Canopy trees shall be a minimum of two inches in caliper as measured six inches above the ground and eight feet in height at the time of planting.
 - d. Shrubs. Shrubs not of the dwarf variety shall be a minimum of one-foot in height when measured immediately after planting and shall be chosen from the approved plant palette located in Table 1. Shrubs acceptable for six foot screening, when installed, shall be a minimum of three feet in height when measured immediately after planting and shall be planted no further apart than three feet on center unless otherwise approved by the City Manager, and maintained so as to form a continuous, unbroken, solid visual screen which will be six feet high within two years after time of planting.
 - e. Hedges. Hedges when installed for buffering or screening purposes shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be three feet high within one year after time of planting.
 - f. Evergreen vines. Evergreen vines not intended as ground cover shall be a minimum of two feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet screening requirements as specified herein and as approved by the City Manager. Vine material shall be chosen from the approved plant palette located in Table 1.
 - g. Ground cover. Ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year of planting. Groundcover material shall be chosen from the approved plant palette located in Table 1.

- h. Lawn grass. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales, berms, or other areas subject to erosion. Grass areas shall be established with 100 percent coverage and 70 percent density with an approved perennial grass prior to the issuance of a certificate of occupancy.
 - i. Credit for existing trees. Any trees preserved on a site meeting the specifications herein shall be credited toward meeting the tree requirement of any landscaping provision of this section. Trees of exceptional quality due to size, large canopy cover, trunk diameter, rareness, age or species may, at the discretion of the City Manager, be credited as two trees to meet the minimum requirement.
- 2) All required landscape areas shall be provided with an automatic underground irrigation system, except for required landscaping in single-family or two-family developments. Any new irrigation system installed on or after September 1, 2007, must be equipped with rain and freeze sensors and an evapotranspiration (ET) weather based controller. Said irrigation system shall be designed by a qualified professional and installed by a licensed irrigator after receiving a permit, as may be required under the construction code. Irrigation systems shall comply with the city's water conservation ordinance as it exists or may be amended.
 - 3) Earthen berms shall have side slopes not to exceed three feet of horizontal distance for each one foot of height. All berms shall contain necessary drainage provisions, as may be required by the City Manager.
 - 4) No tree shall be planted closer than four feet to a right-of-way line nor closer than eight feet to a public utility line (water or sewer), unless no other alternative is available. Further, a landscape area in which trees are to be provided shall not conflict with a utility easement, unless no alternative is available.
 - 5) No tree that has a mature height of 25 feet or greater shall be planted beneath an existing or proposed overhead utility line. Where canopy trees are required adjacent to or underneath overhead utility lines, ornamental trees (approximately two inches in caliper as measured six inches above the ground) shall be provided instead of the required canopy trees.
 - 6) All landscape areas shall be protected by a monolithic curb or wheel stops and remain free of trash, litter, and car bumper overhangs.

4.11.8 MINIMUM LANDSCAPING REQUIREMENTS

- 1) For all non-residential and multiple family parcels, at least 15 percent of the street yard shall be permanent landscape area. The term street yard shall be defined as the area between the front property line and the minimum front set back line.
- 2) For all non-residential and multiple family parcels located at the intersection of two dedicated public streets (rights-of-way), a 30-foot corner clip shall be provided adjacent and parallel to the right-of-way dedication as a landscape buffer, which can be counted toward the 15 percent requirement.

- 3) For all non-residential and multiple family parcels, a minimum of 10 percent of the entire site shall be devoted to living landscape, which shall include grass, ground cover, plants, shrubs, or trees.
- 4) For all non-residential and multiple family parcels, developers shall be required to plant one canopy tree per 40 linear feet, or portion thereof, of street frontage. These required trees must be planted within the associated landscape setback along thoroughfares, unless otherwise approved by the City Manager or his designee. Trees may be grouped or clustered to facilitate site design.
- 5) Landscape areas within parking lots must be at least one parking space in size (162 square feet).
- 6) No landscape area counting toward minimum landscaping requirements shall be less than 25 square feet in area or less than five feet in width.
- 7) For all non-residential and multiple family parcels, internal landscape areas shall:
 - a. Have a landscaped area with at least one tree within 65 feet of every parking space; and
 - b. Have a minimum of one tree planted in the parking area for every 10 parking spaces within parking lots with more than 20 spaces.
- 8) Within parking lots, landscape areas with curbs and gutters must be provided to define parking areas and assist in clarifying appropriate circulation patterns.
- 9) A landscape island shall be located at the terminus of each parking row, and should contain at least one canopy tree.
- 10) All existing trees that are to be considered for credit shall be provided with a permeable surface (a surface that does not impede the absorption of water) within a minimum five-foot radius from the trunk of the tree. All new trees shall be provided with a permeable surface within a minimum two and one-half-foot radius from the trunk of the tree.
- 11) At least 75 percent of the frontage of parking lots, adjacent to a public right-of-way, within the street yard shall be screened from public streets with evergreen shrubs attaining a minimum height of three feet, an earthen berm of a minimum height of three feet, a low masonry wall of a minimum height of three feet, or a combination of the above with a minimum combined height of three feet. A wall used for parking lot screening should be accompanied with landscape planting in the form of low shrubs and groundcover to soften the appearance of the wall.
- 12) A minimum of 50 percent of the total trees required for the property shall be canopy trees as specified on the approved plant list.
- 13) Necessary driveways from the public right-of-way shall be allowed through all required landscaping areas in accordance with city regulations. Shared driveways shall be allowed through perimeter landscape areas.
- 14) For all non-residential and multiple family parcels, whenever an off-street parking area or vehicular use area abuts an adjacent property line, a perimeter landscape area at least

five feet wide shall be maintained along and between the edge of the parking area and the adjacent property line.

- 15) Whenever a non-residential use or multiple family use is adjacent to a property used or zoned for single-family or duplex residential uses, the more intensive land use shall provide a landscaped area of at least 10 feet in width along the common property line planted with one canopy tree for each 40 linear feet or portion thereof of adjacent exposure. These trees may not be clustered.
- 16) For all single-family and duplex parcels, builders shall be required to plant two canopy trees per lot, prior to obtaining a certificate of occupancy. At least one of the trees shall be located in the front yard. An existing quality tree of approximately four-inch caliper size located on the lot may be counted towards the requirement for an approximately two-inch caliper tree, if appropriate tree protection measures have been followed.

4.11.9 APPROVED PLANT LIST FOR NEW PLANTINGS OR REPLACEMENTS

The following is a required list of trees for new plantings or replacements of existing trees. Other species may be acceptable for new plantings; however, their suitability for the proposed planting area shall be approved by the Zoning Administrator.

<u>Overstory Trees: Range: 30'—60'</u>	
Bald Cypress	<i>Taxodium distichum</i>
Cedar Elm	<i>Ulmus cressifolia</i>
Pecan	<i>Carya illinoensis</i>
Chinese Pistache	<i>Pistacia chinensis</i>
Bur Oak	<i>Quercus macrocarpa</i>
Shumard's Oak	<i>Quercus shumardii</i>
Sweet Gum	<i>Liquidambar styraciflua</i>
Catalpa	<i>Catalpa bignonioides</i>
Honey Locust Green	<i>Gleditsia triacanthos</i>
Ash	<i>Fraxinus pennsylvanica</i>
Live Oak	<i>Quercus virginiana</i>
Western Soapberry	<i>Sapindus drummondii</i>
<u>Accent Trees: 10'—20'</u>	
Redbud	<i>Cercis canadensis</i>
Crape Myrtle	<i>Lagerstroemia indica</i>

Yaupon Holly	<i>Ilex vomitoria</i>
Bradford Pear	<i>Purus calleryana 'Bradford'</i>
Texas Sophora	<i>Sophora affmis</i>
Wild Plum	<i>Prunus americana</i>
Crabapple	<i>Malus angustifolia</i>
Deciduous Holly	<i>Ilex decidua</i>
Flameleaf Sumac	<i>Rhus Copallina</i>
Cherry-Laurel	<i>Prunus caroliniana</i>
Chaste Tree	<i>Vitex Agnus-castus</i>
<u>Shrubs: Range: 3'—5'</u>	
Dwarf Crape Myrtle	<i>Lagerstroemia indica nana</i>
Dwarf Burford Holly	<i>Ilex comuta 'Barfordii Nana'</i>
Dwarf Chinese Holly	<i>Ilex comuta 'Rotunda'</i>
Dwarf Yaupon Holly	<i>Ilex vomitoria 'Nana'</i>
Fraser's Photinia	<i>Photinia Fraseri</i>
Purple Sage	<i>Leucophyllum frutescens</i>
Purple Leaf Japanese Barberry	<i>Berberis Thunbergii 'Atropurpurea'</i>
Pampas Grass	<i>Cortaderia Selloana</i>
Nandina	<i>Nandina domestica</i>
Juniper Supp.	<i>Juniperus chinensis</i>
Cattail	<i>Typha latifolia</i>
<u>Ground Cover: Range: 18"</u>	
Juniper Supp.	<i>Juniperus horizontalis or procumbens</i>
Periwinkle	<i>Vinca major</i>
Liriope	<i>Liriope Muscari</i>
Asian Jasmine	<i>Trachoclopermun asiaticum</i>
<u>Vines</u>	

Coral Honeysuckle	<i>Lonicera sempervirens</i>
Carolina Yellow Jessamine	<i>Gelsemium semperviems</i>
Lady Banksia Rose	<i>Rosa Banksiae</i>
Cross Vine	<i>Bignonia Capreolata Clematis</i>
Sweet Autumn Clematis	<i>Paniculata</i>

4.11.10 TREE PRESERVATION

- 1) Any trees preserved on a site meeting the herein specifications may be credited toward meeting the tree requirement of any landscaping provision of this section for that area within which they are located, according to the following table:

Caliper of existing tree	Credit against tree requirement
6" to 8"	2 trees
9" to 15"	3 trees
16" to 30"	4 trees
31" to 46"	5 trees
47" or more	8 trees

For purposes of this section, caliper measurement shall be taken at a height of four and one-half feet above the ground, and shall be rounded to the nearest whole number.

- 2) Existing trees may receive credit if they are not on the city's approved plant material list but approved by the City Manager or designee; however, trees must be located within the landscape area to which credit is applied.
- 3) Any tree preservation proposed shall designate the species, size, and general location of all trees on the general landscape plan. The species, size, and exact location shall be shown on the landscape plan.
- 4) During any construction or land development, the developer shall clearly mark all trees to be maintained and may be required to erect and maintain protective barriers around all such trees or groups of trees. The developer shall not allow the movement of heavy equipment or the storage of equipment, materials, debris, or fill to be placed within the drip line of any trees. This is not intended to prohibit the normal construction required within parking lots.

- 5) During the construction stage of development, the developer shall not allow cleaning of equipment or material under the canopy of any tree or group of trees to remain. Neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any tree or groups of trees to remain. No attachment or wires of any kind, other than those of a protective nature, shall be attached to any tree.

4.11.11 SIGHT DISTANCE AND VISIBILITY

- 1) Rigid compliance with these landscaping requirements shall not be such as to cause visibility obstructions and/or blind corners at intersections. Whenever an intersection of two or more streets or driveways occur, a triangular visibility area, as described below, shall be created. Landscaping within the triangular visibility area shall be designed to provide unobstructed cross visibility at a level between two feet and seven feet. Trees may be permitted in this area provided they are trimmed in such a manner that no limbs or foliage extend into the cross visibility area.
- 2) In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the City Manager, the requirements set forth herein may be modified to eliminate the conflict.

4.12 PERFORMANCE STANDARDS

4.12.1 GENERAL

In all zoning districts, any use indicated as a permitted use shall conform in operation, location, and construction to the performance standards hereinafter specified. In the LI and HI districts, in addition to the permitted uses, there shall be permitted any other manufacturing, processing, fabricating, packing, or storage use, except those requiring specific use permits, which conform in operation, location, and construction to the performance standards hereinafter specified for noise, smoke and particulate matter, odorous matter, fire or explosive hazard material, toxic and noxious matter, vibration, and glare.

4.12.2 NOISE

At no point at the bounding property line of any use shall the sound pressure level of any operation or plant exceed the A scale limits of 65 decibels for daytime and 58 decibels at nighttime. Measurement of noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute (ANSI). For this section, daytime is defined as the time period from 7:00 a.m. to 10:00 p.m., and nighttime is defined as the time period from 10:01 p.m. to 6:59 a.m. The boundary property line is the common line between 2 parcels of property.

4.12.3 SMOKE AND PARTICULATE MATTER

No operation or use shall cause, create, or allow the emission for more than 3 minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are:

- 1) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines Information Circular 7118.
- 2) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in Sec. 4.12.3(1), except that when the presence of uncombined water is the only reason for failure to comply or when such contaminants are emitted inside a building that prevents their escape into the atmosphere, this standard and the standard in Sec. 4.12.3(1) shall not apply.
- 3) The emission of particulate matter from all sources shall not exceed 0.5 pounds per acre of property within the plant site per any one hour.
- 4) The open storage and open processing operations, including onsite transportation movements which are the source of wind or airborne dust or other particulate matter; or which involves dust or other particulate air contaminants, generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage, or sand blasting shall be so conducted that dust and other particulate matter so generated are not trans-ported across the boundary line of the tract on which the use is located in concentrations exceeding 4 grains per 1,000 cubic feet of air.

4.12.4 ODOROUS MATTER

- 1) No use shall be located or operated that involves the emission of odorous matter that exceeds the odor threshold at the bounding property line or any point beyond the tract on which the emitting use is located.
- 2) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise, or where the operator or owner of an odor emitting use may disagree with the enforcing officer, or where specific measurement of odor concentration is required, the method and procedures specified by American Society for Testing Materials (A.S.T.M.D.) 1391-57 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

4.12.5 FIRE OR EXPLOSIVE HAZARD MATERIAL

- 1) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, per chlorates, phosphorus, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists, or wholesalers may be permitted when approved by the Fire Department.
- 2) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the Fire Department.

4.12.6 TOXIC OR NOXIOUS MATTER

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed 10 percent of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in “Threshold Limit Values Occupational Health Regulation No. 3,” a copy of which is hereby incorporated by reference.

4.12.7 VIBRATION

No operation or use shall at any time create earth borne vibrations which when measured at the bounding property line of the source operation exceed the limits of displacement set forth in the following table in the frequency ranges specified:

Frequency Cycles per Second	Displacement in Inches
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

4.13 EXTERIOR LIGHTING

4.13.1 PURPOSE

Standards for controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorists. These standards are intended to allow reasonable enjoyment of adjacent and nearby properties by their owners and occupants while requiring adequate levels of lighting of parking areas.

4.13.2 GLARE

Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected so that acting together, the light beam is controlled and not directed across any bounding property line above height of three feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 foot-candles.

4.13.3 NONRESIDENTIAL LIGHTING

1) **Off-street parking**

All off-street parking areas, for nonresidential uses in nonresidential districts, which are used after dark shall be illuminated beginning one-half hour after sunset and continuing throughout the hours of business operation. In case only a portion of a parking area is offered for use after dark, only that part is required to be illuminated in accordance with

these standards. However, the portion offered for use shall be clearly designated. Lighting within the parking areas shall meet the following minimum requirements. No intermittent flashing lights are permitted.

2) Intensity

On the parking area surface, an average of at least two foot-candles, initial measurement, and a minimum average of one foot-candle on a maintained basis.

3) Height

Luminaries located in an off-street parking area on privately owned property shall be mounted at a height not to exceed 30 feet as measured vertically from the horizontal surface of the nearest parking pavement. Special lighting or lighting higher than the maximum building height allowed in the applicable zoning district may be approved by City Council as specifically noted on the site plan.

4.13.4 RESIDENTIAL LIGHTING

Residential lighting for security and night recreation use is permitted in all residential districts provided the following requirements are met:

- 1)** Direct lighting over ten (10) feet in height is shielded from adjacent property.
- 2)** No light source shall exceed twenty (20) feet in height. Street lights and other traffic safety lighting are exempt from this standard.
- 3)** Lighting shall not directly shine on adjacent dwellings.

4.13.5 LUMINARIES

Light source shall be a down-light type, indirect, diffused, or shielded type luminaries installed so as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets. Bare bulbs of 15 watts or more or strings of lamps are prohibited, except for temporary lighting not exceeding 45 days per year. Strings of low wattage lamps are permitted for use as café patio lights.

4.14 SIGN REGULATIONS

City sign regulations are addressed in Chapter 56, Signs and Advertising.

4.15 COURT STANDARDS

The minimum dimensions and area for outer or inner courts provided in buildings occupied for residential purposes shall be in accordance with the following provisions:

- 1)** Outer courts residential structures.
 - a. For residential structures, three stories or less in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall be a minimum width equal to the depth of the court, but the width of any such outer court need not exceed 30 feet even though the depth of the court may exceed such dimension.

- b. For residential structures exceeding three stories in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum width equal to the depth of the court, but the width of any such outer court need not exceed 50 feet even though the depth of the court may exceed such dimension.
- 2) Inner courts residential structures.
 - a. For residential structures three stories or less in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have minimum dimensions in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width or the length of the base of such inner court need exceed 30 feet even though the height of the enclosing walls may exceed such dimension.
 - b. For residential structures exceeding three stories in height, any inner court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum dimension in the length and in the width of its base equal to the height of the roof or eave at the top of the wall enclosing such court, but neither the width or the length of the base of such inner court need exceed 50 feet even though the height of the enclosing walls may exceed such dimension.

Section 5 SITE PLAN REVIEW

5.1 SITE PLAN REVIEW APPROVAL FOR HIGHWAY COMMERCIAL OVERLAY DISTRICT

Site plan approval shall be required for all property zoned Highway Commercial District in accordance with the following provisions:

- 1) The purpose of the site plan review is to ensure, prior to issuance of building permits that all city requirements have been or will be met, including compliance with zoning, subdivision, landscape, parking, loading and building regulations.
- 2) No building permit shall be issued on any tract of land for construction of new structures or any addition to a structure which affects its size, shape, or volume unless a site plan is first submitted for review by the planning and zoning commission and approved by the city council. A public hearing shall not be required.
- 3) No certificate of occupancy shall be issued unless all construction and development conforms to the site plan as approved by the city council.
- 4) Any major revision to an approved site plan must be approved by the planning and zoning commission then approved by council; however, minor revisions may be permitted upon approval by the city manager or his designee.
- 5) The site plan shall indicate building elevations, location of separate buildings, and the minimum distance between buildings. Site plans shall also include property lines, access routes adjacent zoning and structures, streets and alleys, together with a parking plan and landscape plan showing the arrangements and provisions for off-street parking, and the layout of plating materials. An architectural rendering of proposed buildings shall be submitted with the site plan for consideration of approval.
- 6) All site plans shall be filed with and reviewed by the city manager or his designee for compliance with this section before presentation to the planning and zoning commission and city council.
- 7) An approved site plan shall be the final plan for development, and construction shall conform to the approved plan. A final site plan may be submitted for the total area zoned or any portion thereof.

5.2 SITE PLAN APPROVAL REQUIRED FOR COMMERCIAL DEVELOPMENT

- 1) Site plan approval shall be required prior to the issuance of a building permit for the construction of any new structure or any addition to a structure that is intended to be used for any commercial or nonresidential use and which construction affects the structure's size, shape, or volume.
- 2) All building permits must conform to an approved site plan.
- 3) Approval of a site plan by the city council, after a recommendation by the planning and zoning commission, shall be required when the site plan is in conjunction with a request for a specific use permit or for a planned development.

- 4) A public hearing shall not be required on a site plan application unless the site plan is submitted in conjunction with the submission and request for approval of a specific use permit or a planned development.
- 5) Submission of site plan drawn to scale. Prior to the issuance of any building permit, a site plan drawn to scale shall be submitted to the city manager for initiation of the review and approval process through city council and/or the planning and zoning commission, as appropriate, along with the number of copies of the plan deemed necessary by the city to complete the required reviews or memorandums. The scale and number of copies shall be that deemed necessary by the city manager. (Note: All references contained in this subsection to the city manager mean and include the city manager's designee.)
- 6) Features to be shown on site plans. Site or development plans shall include the following information
 - a. General. The following general information shall be included:
 - i. The applicant's name, address, and telephone number and his legal interest in the property;
 - ii. The owner's name and address and, if different than the applicant, the owner's signed consent to the filing of the application;
 - iii. Street address (or common description) of the property;
 - iv. The zoning classification and present use of the subject property;
 - v. The proposed use or uses and a general description for the proposed development;
 - vi. A survey, certified by a registered professional land surveyor, showing existing and proposed property boundary lines with dimensions, easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property;
 - vii. Maps showing the location, size, use and arrangements of all proposed buildings and computations showing height in stories and feet, total floor area, total square feet of ground area coverage of proposed and existing buildings which will remain, if any;
 - viii. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways and pathways; refuse areas;
 - ix. The location and size of existing and proposed electric, water and sewer utilities on and adjacent to the site and fire hydrant locations;
 - x. All existing and proposed surface and subsurface drainage facilities, including culverts, drains and detention ponds, showing the size and direction of flow;
 - xi. Location, size and arrangement of all outdoor signs;
 - xii. The location and direction/intensity, if required, of all outdoor lighting;
 - xiii. Architectural renderings or elevations of proposed structures;
 - xiv. Location, designation and total area of all open usable space;

- xv. A detailed landscaping plan meeting the provisions of this chapter;
 - xvi. The adjacent land uses and improvements within 200 feet of the subject property;
 - xvii. The location of hazardous chemical storage;
 - xviii. A scale shall be shown with the dimensions as determined by the city manager;
 - xix. The location of any on-site items (kiosks, sanitation containers, drop boxes, etc.);
 - xx. The location and type of all existing and proposed screening;
 - xxi. The required landscape areas; and
 - xxii. Any additional information as deemed necessary to adequately evaluate the site or development plan.
- b. Screening of mechanical equipment. Mechanical and heating and air conditioning equipment in non-residential uses shall be screened from view from the public right-of-way and from adjacent residential properties.
 - c. Lighting. The lighting for the subject property will be constructed in conformance with Section 4.13.
- 7)** Site circulation and parking. The following site circulation and parking information shall be included on the site plan:
- a. The drive approach dimensions and radii;
 - b. The delineation and width of internal circulation roadways;
 - c. The distances between driveways and intersecting streets;
 - d. The number of required parking spaces and number of parking spaces provided, including handicapped parking spaces;
 - e. The parking dimensions;
 - f. The stacking spaces and drive-through lane location;
 - g. The location of curb stops relative to front of parking stall. (Note: Wheel stops are not permitted in lieu of curbs);
 - h. The handicapped ramps (required at all intersections);
 - i. The building entrances;
 - j. The sidewalk dimensions;
 - k. The fire lanes meeting fire code standards;
 - l. The location and dimension of delivery truck docks;
 - m. The location and dimension of loading spaces;
 - n. The location of bay doors;
 - o. The sanitation container locations;
 - p. The medians, islands, barriers, and channelization;
 - q. The width of adjacent streets, alleys, or other access abutting property;
 - r. The length, width, and taper of turn bays;
 - s. The directional signage and directional arrows for one-way traffic driveways;
- 8)** Utility plan. A utility plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:

- a. The existing and proposed water mains (include size and valve locations);
 - b. The water meter size and location;
 - c. The existing and proposed sewer mains (include size, manholes and cleanout);
 - d. The sewer service size (provide cleanout at property line);
 - e. The existing and proposed utility easements including the associated utility line (public or private) and its size;
 - f. The existing and proposed fire hydrants (including any nearby off-site hydrants);
 - g. The existing and proposed fire lines, fire sprinkler connections, and appurtenances;
 - h. The location and size of irrigation meters;
 - i. The location and size of grease and sand traps;
 - j. The location and size of sampling pits; and,
 - k. The location and type of pretreatment.
- 9)** Drainage plan. A drainage plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:
- a. The existing and proposed elevation at critical points;
 - b. The drainage area map (if site is over one-acre);
 - c. The on-site collection system, including stormwater detention areas and detention ponds;
 - d. The 100-year flood elevation (if in floodprone area), and erosion hazard setback easement;
 - e. The existing and proposed contours at two-foot intervals;
 - f. The existing and proposed drainage structures (include size and type);
 - g. The existing and proposed culverts (use six-to-one sloped headwall); and
 - h. The direction of surface drainage (must be discharged into existing waterway or public right-of-way).
- 10)** Landscape plan. A detailed landscape plan in conformance with section 77-173 shall be submitted along with the site plan. Landscape plans shall be prepared by a landscape architect, landscape contractor, or landscape designer. A landscape plan shall include all information as listed in section 77-173(e).
- 11)** Attributes in consideration. City council, planning and zoning commission, and staff consideration shall include paving and layout of streets, alleys and sidewalks, means of ingress and egress, provisions for drainage and utilities, parking spaces, protective screening and open spaces, as well as areas designated for landscaping, and any other aspect deemed necessary to consider in the interest of promoting the public health, safety, order, convenience, prosperity, and general welfare of the city.
- 12)** Additional information. If, during the course of considering the site plan or landscape plan, the planning and zoning commission is of the opinion that a proper recommendation or determination cannot be made without additional information, the planning and zoning commission is authorized to request that the applicant submit said information

and is further authorized to withhold action on the site plan until the submission of the additional information for the planning and zoning commission's consideration.

- 13)** Expiration. A site plan shall expire two years after its approval, if no building permits have been issued for the site, or if a building permit has been issued but has subsequently lapsed. Site plans submitted for a planned development or specific use permit shall not expire.
- 14)** Approval required. A building permit shall not be issued prior to the approval of the site plan by the city council, planning and zoning commission and/or city manager, as appropriate. No building permit shall be issued except in compliance with the approved site plan, including all conditions of approval.
- 15)** Inspections, revisions, and continued compliance. During construction and upon completion, the project will be inspected to ensure that the approved site plan has been followed:
 - a. In the event that changes to the approved site plan are proposed, the zoning administrator shall have the authority to require that a revised site plan be submitted to the city for review and approval;
 - b. It is recognized that final architectural and engineering design may necessitate some judgment in the determination of conformance to an approved site plan. The city manager shall have the authority to interpret conformance to an approved site plan; provided that such interpretations do not materially affect access, circulation, general building location on the site, or any conditions specifically attached as part of a planning and zoning commission or city council approval. The city manager shall only approve minor changes, which substantially conform to the approved site plan, and to all applicable city regulations, such as:
 - i. Minor dimension and location adjustments;
 - ii. Minor changes in the number of parking spaces provided that minimum parking requirements are met;
 - iii. Adjustments to sanitation container location;
 - iv. Minor revisions to approved elevations; and
 - v. Substitution of similar materials on an approved landscape plan.
 - c. The city manager may not approve the following types of revisions:
 - i. Major changes to type of screening materials;
 - ii. Significant alterations to the building footprint;
 - iii. Specific conditions of approval; and
 - iv. Any changes that may negatively impact adjacent properties.
 - d. If, in the judgment of the city manager, the proposed revisions exceed staff's approval authority, the revised site plan shall be forwarded to the planning and zoning commission for consideration according to the procedures for site plan approval. If proposed revisions to the site plan have not been approved by the city manager

within 30 days of their final submission, they shall be scheduled for consideration by the planning and zoning commission upon request by the applicant.

- e. A certificate of occupancy shall not be issued until the final inspection shows that the project has been completed in accordance with the approved site plan.
 - f. The final site plan and landscape plan shall be accompanied by a digital copy for permanent record.
 - g. Maintenance of the property in conformance with the approved site plan shall thereafter be a condition of a valid certificate of occupancy. Failure to maintain the property in conformance with an approved site plan shall be a violation of this chapter.
- 16)** Phasing plan. To assist in process planning or site plans to be constructed in phases, the zoning administrator may request a phasing plan for the development, to ensure adequate site access, circulation, parking, sanitation containers, utilities, etc.

5.3 SITE PLAN APPROVAL REQUIRED FOR MULTI-FAMILY DEVELOPMENT

- 1)** Site plan approval shall be required prior to the issuance of a building permit for the construction of any new structure or any addition to a structure that is intended to be used for any multi-family use and which construction affects the structure's size, shape, or volume.
- 2)** All building permits must conform to an approved site plan.
- 3)** Approval of a site plan by the city council, after a recommendation by the planning and zoning commission, shall be required when the site plan is in conjunction with a request for a specific use permit or for a planned development.
- 4)** A public hearing shall not be required on a site plan application unless the site plan is submitted in conjunction with the submission and request for approval of a specific use permit or a planned development.
- 5)** Submission of site plan drawn to scale. Prior to the issuance of any building permit, a site plan drawn to scale shall be submitted to the city manager for initiation of the review and approval process through city council and/or the planning and zoning commission, as appropriate, along with the number of copies of the plan deemed necessary by the city to complete the required reviews or memorandums. The scale and number of copies shall be that deemed necessary by the city manager. (Note: All references contained in this subsection (f) to the city manager mean and include the city manager's designee.)
- 6)** Features to be shown on site plans. Site or development plans shall include the following information
 - a. General. The following general information shall be included:
 - i. The applicant's name, address, and telephone number and his legal interest in the property;
 - ii. The owner's name and address and, if different than the applicant, the owner's signed consent to the filing of the application;

- iii. Street address (or common description) of the property;
 - iv. The zoning classification and present use of the subject property;
 - v. The proposed use or uses and a general description for the proposed development;
 - vi. A survey, certified by a registered professional land surveyor, showing existing and proposed property boundary lines with dimensions, easements, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property;
 - vii. Maps showing the location, size, use and arrangements of all proposed buildings and computations showing height in stories and feet, total floor area, total square feet of ground area coverage of proposed and existing buildings which will remain, if any;
 - viii. Location, dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking stalls, loading spaces and access aisles; sidewalks, walkways and pathways; refuse areas;
 - ix. The location and size of existing and proposed electric, water and sewer utilities on and adjacent to the site and fire hydrant locations;
 - x. All existing and proposed surface and subsurface drainage facilities, including culverts, drains and detention ponds, showing the size and direction of flow;
 - xi. Location, size and arrangement of all outdoor signs;
 - xii. The location and direction/intensity, if required, of all outdoor lighting;
 - xiii. Architectural renderings or elevations of proposed structures;
 - xiv. Location, designation and total area of all open usable space;
 - xv. A detailed landscaping plan meeting the provisions of this chapter;
 - xvi. The adjacent land uses and improvements within 200 feet of the subject property;
 - xvii. The location of hazardous chemical storage;
 - xviii. A scale shall be shown with the dimensions: as determined by the city manager;
 - xix. The location of any on-site items (kiosks, sanitation containers, drop boxes, etc.);
 - xx. The location and type of all existing and proposed screening;
 - xxi. The required landscape areas; and
 - xxii. Any additional information as deemed necessary to adequately evaluate the site or development plan.
- b. Screening of mechanical equipment. Mechanical and heating and air conditioning equipment in multi-family uses shall be screened from view from the public right-of-way and from adjacent residential properties.
 - c. Lighting. The lighting for the subject property will be constructed in conformance with Section 4.13 of this chapter.
- 7)** Site circulation and parking. The following site circulation and parking information shall be included on the site plan:

- a. The drive approach dimensions and radii;
- b. The delineation and width of internal circulation roadways;
- c. The distances between driveways and intersecting streets;
- d. The number of required parking spaces and number of parking spaces provided, including handicapped parking spaces;
- e. The parking dimensions;
- f. The stacking spaces and drive-through lane location;
- g. The location of curb stops relative to front of parking stall. (Note: Wheel stops are not permitted in lieu of curbs);
- h. The handicapped ramps (required at all intersections);
- i. The building entrances;
- j. The sidewalk dimensions;
- k. The fire lanes meeting fire code standards;
- l. The location and dimension of delivery truck docks;
- m. The location and dimension of loading spaces;
- n. The location of bay doors;
- o. The sanitation container locations;
- p. The medians, islands, barriers, and channelization;
- q. The width of adjacent streets, alleys, or other access abutting property;
- r. The length, width, and taper of turn bays;
- s. The directional signage and directional arrows for one-way traffic driveways;
- 8) Utility plan.** A utility plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:
 - a. The existing and proposed water mains (include size and valve locations);
 - b. The water meter size and location;
 - c. The existing and proposed sewer mains (include size, manholes and cleanout);
 - d. The sewer service size (provide cleanout at property line);
 - e. The existing and proposed utility easements including the associated utility line (public or private) and its size;
 - f. The existing and proposed fire hydrants (including any nearby off-site hydrants);
 - g. The existing and proposed fire lines, fire sprinkler connections, and appurtenances;
 - h. The location and size of irrigation meters;
 - i. The location and size of grease and sand traps;
 - j. The location and size of sampling pits; and,
 - k. The location and type of pretreatment.
- 9) Drainage plan.** A drainage plan shall be included on a separate drawing sheet(s) from the site plan, and shall include the following information:
 - a. The existing and proposed elevation at critical points;
 - b. The drainage area map (if site is over one acre);

- c. The on-site collection system, including stormwater detention areas and detention ponds;
 - d. The 100-year flood elevation (if in floodprone area), and erosion hazard setback easement;
 - e. The existing and proposed contours at two-foot intervals;
 - f. The existing and proposed drainage structures (include size and type);
 - g. The existing and proposed culverts (use six-to-one sloped headwall); and
 - h. The direction of surface drainage (must be discharged into existing waterway or public right-of-way).
- 10)** Landscape plan. A detailed landscape plan in conformance with Section 11 of this Code shall be submitted along with the site plan. Landscape plans shall be prepared by a landscape architect, landscape contractor, or landscape designer. Landscape plans shall include all information as listed in subsection 77-173(e).
- 11)** Attributes in consideration. City council, planning and zoning commission, and staff consideration shall include paving and layout of streets, alleys and sidewalks, means of ingress and egress, provisions for drainage and utilities, parking spaces, protective screening and open spaces, as well as areas designated for landscaping, and any other aspect deemed necessary to consider in the interest of promoting the public health, safety, order, convenience, prosperity, and general welfare of the city.
- 12)** Additional information. If, during the course of considering the site plan or landscape plan, the planning and zoning commission is of the opinion that a proper recommendation or determination cannot be made without additional information, the planning and zoning commission is authorized to request that the applicant submit said information and is further authorized to withhold action on the site plan until the submission of the additional information for the planning and zoning commission's consideration.
- 13)** Expiration. A site plan shall expire two years after its approval, if no building permits have been issued for the site, or if a building permit has been issued but has subsequently lapsed. Site plans submitted for a planned development or specific use permit shall not expire.
- 14)** Approval required. A building permit shall not be issued prior to the approval of the site plan by the city council, planning and zoning commission and/or city manager, as appropriate. No building permit shall be issued except in compliance with the approved site plan, including all conditions of approval.
- 15)** Inspections, revisions, and continued compliance. During construction and upon completion, the project will be inspected to ensure that the approved site plan has been followed:
- a. In the event that changes to the approved site plan are proposed, the director of planning shall have the authority to require that a revised site plan be submitted to the city for review and approval;

- b. It is recognized that final architectural and engineering design may necessitate some judgment in the determination of conformance to an approved site plan. The city manager shall have the authority to interpret conformance to an approved site plan; provided that such interpretations do not materially affect access, circulation, general building location on the site, or any conditions specifically attached as part of a planning and zoning commission or city council approval. The city manager shall only approve minor changes, which substantially conform to the approved site plan, and to all applicable city regulations, such as:
 - i. Minor dimension and location adjustments;
 - ii. Minor changes in the number of parking spaces provided that minimum parking requirements are met;
 - iii. Adjustments to sanitation container location;
 - iv. Minor revisions to approved elevations; and
 - v. Substitution of similar materials on an approved landscape plan.
 - c. The city manager may not approve the following types of revisions:
 - i. Major changes to type of screening materials;
 - ii. Significant alterations to the building footprint;
 - iii. Specific conditions of approval; and
 - iv. Any changes that may negatively impact adjacent properties.
 - d. If, in the judgment of the city manager, the proposed revisions exceed staff's approval authority, the revised site plan shall be forwarded to the planning and zoning commission for consideration according to the procedures for site plan approval. If proposed revisions to the site plan have not been approved by the city manager within 30 days of their final submission, they shall be scheduled for consideration by the planning and zoning commission upon request by the applicant.
 - e. A certificate of occupancy shall not be issued until the final inspection shows that the project has been completed in accordance with the approved site plan.
 - f. The final site plan and landscape plan shall be accompanied by a digital copy for permanent record.
 - g. Maintenance of the property in conformance with the approved site plan shall thereafter be a condition of a valid certificate of occupancy. Failure to maintain the property in conformance with an approved site plan shall be a violation of this chapter.
- 16)** Phasing plan. To assist in process planning or site plans to be constructed in phases, the director of planning may request a phasing plan for the development, to ensure adequate site access, circulation, parking, sanitation containers, utilities, etc.

5.4 AMENDMENTS

At any time following the approval of a concept plan, preliminary site plan, adopted development plan, or site plan and before the lapse of such approval, the property owner(s) may request an amendment.

Amendments shall be classified as major and minor. Minor amendments shall include corrections of distances and dimensions, adjustments of building configuration and placement, realignment of drives and aisles, layout of parking, adjustments to open space, landscaping, and screening, changes to utilities and service locations which do not substantially change the original plan. Minor phasing for adopted development plans are permitted only the purpose of adding an adjacent residential or vertically mixed-use building into the current phase. Amendments to previously approved storm water conservation areas, increases in building height and/or building proximity to an adjacent offsite residential use, and all other amendments shall be considered major amendments and may be considered by the Planning & Zoning Commission at a public meeting in accordance with the same procedures and requirements for the approval of a plan. The City Manager may approve or disapprove a minor amendment. Disapproval may be appealed to the Planning & Zoning Commission.

5.5 EXTENSION AND REINSTATEMENT PROCEDURE

- 1) Sixty days prior to or following the lapse of approval for a concept plan, preliminary site plan, or site plan as provided in these regulations, the property owner may petition the Planning & Zoning Commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the Planning & Zoning Commission.
- 2) In determining whether to grant such request, the Planning & Zoning Commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted regulations shall apply to the plan. The Planning & Zoning Commission shall extend or reinstate the plan, or deny the request, in which instance the property owner must submit a new application for approval.
- 3) The Planning & Zoning Commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance with the original conditions of approval. The Planning & Zoning Commission may also specify a shorter time for lapse of the extended or reinstated plan than is applicable to original approvals.

5.6 REVOCATION OF APPROVAL

The City Council or the Planning & Zoning Commission may revoke approval of a concept plan, preliminary site plan, or site plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information which affects a significant health or safety interest.

5.7 APPEALS

The decision of the Planning & Zoning Commission to approve or deny a concept plan, preliminary site plan, and site plan shall be final and binding unless an appeal of the decision is made to the City Council. The applicant, City Manager, or 2 members of City Council may appeal the decision of the Commission with regard to a plan by filing a Notice of Appeal in the office of the City Manager, no later than 10 days after the date on which the Commission notifies the applicant of its decision. Such notification may take

place by means of an oral ruling by the Commission at a public meeting. Written notice of any appeal shall be sent to the property owner. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than 45 days after the date on which the Notice of Appeal is filed. The City Council may affirm, modify, or reverse the decision of the Commission and may, where appropriate, remand the plan to the Commission for further proceedings consistent with City Council's decision.

5.8 ADDITIONAL DEVELOPMENT AND REDEVELOPMENT

Following the completion of improvements shown on an approved site plan, additional development, site modifications, or redevelopment of the site shall be permitted subject to the approval of a revised site plan. Minor expansions and redevelopment may be approved by the City Manager under the terms of Section 5.4. All other expansions or redevelopment shall require submittal of a revised site plan and the approval of the Planning & Zoning Commission under the requirements and procedures then in effect.

Section 6 PENALTIES AND ENFORCEMENT

6.1 PENALTY FOR VIOLATIONS

- 1) Any person violating any of the provisions or terms of this chapter shall be subject to the same penalty as provided for in this chapter, and upon conviction shall be punished by a fine not to exceed the sum of \$2,000.00 for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.
- 2) In addition to the penalty provided for in subsection (a) of this section, the right is hereby conferred and extended upon any property owner owning a property in any district, where such property owner may be affected or invaded by a violation of the terms of the article, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owner.

6.2 PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES

By the passage of the ordinance from which this chapter is derived, no presently illegal use shall be deemed to have been legalized unless such use falls specifically within a use district where the actual use is a conforming use where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the zoning ordinance, as codified in this chapter, was adopted, shall be discharged or affected.

6.3 SEVERABILITY

It is the intention of the City Council that this ordinance and every provision thereof shall be considered severable and the validity or partial invalidity of any section, clause, or provision of this ordinance shall not affect the validity of any other portion of this ordinance.

6.4 EFFECTIVE DATE

This Ordinance shall become effective on the ____ day of _____ 2017, after publication of the caption, as the law in such cases provides.