

**CHAPTER 12****ZONING AND LAND USE REGULATIONS**

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**ARTICLE 12.100**  
**GENERAL.**

**Section 12.101.**        **Authority.** This Chapter is adopted pursuant to the police powers of the City of Rockdale and under the authority of the Constitution and general laws of the State of Texas, including particularly *Chapter 211 of the Texas Local Government Code*.

**Section 12.102.**        **General Purpose and Intent.** Purpose. The primary purposes of this Chapter are to promote the public health, safety, morals and the general welfare of the City and its present and future residents; provide reasonable regulations and requirements to protect, preserve, improve and provide for the public health, safety, morals and general welfare of the present and future citizens of the City; and to establish a framework of zoning guidelines and criteria which will provide for and support the development of a quality living and work environment by incorporating provisions requiring all future development and redevelopment to provide a compatible plan for residential, commercial and industrial uses, while providing reasonable protections for both the public and persons having an ownership interest in property affected by these regulations. This Chapter should be administered and applied to result in development superior to that otherwise achievable and to promote the following purposes:

- (a) assist the safe, orderly, healthful and coordinated development of the City;
- (b) conserve existing and future neighborhoods;
- (c) protect and conserve the value of real property throughout the community;
- (d) conserve, develop, protect, and utilize natural resources, as appropriate and consistent with the public interest, to enhance the preservation of the environment;
- (e) protect and preserve places and areas of historical and cultural importance and significance to the community;
- (f) prevent the overcrowding of land and avoid undue concentration of population or land uses, thereby encouraging high quality development and innovative design;
- (g) lessen congestion in the streets and provide convenient, safe, and efficient circulation of vehicular and pedestrian traffic;
- (h) facilitate the adequate and efficient provision of transportation, water, wastewater, schools, parks, emergency and recreational facilities, and other public requirements;
- (i) promote economic development through an efficient and practical means by which development will promote a prosperous economic environment;
- (j) promote compatible residential, commercial and industrial uses to harmoniously relate future development and redevelopment to the existing community and facilitate the development of

adjoining properties;

(k) standardize the procedure and requirements for zoning, building permits, and certificates of occupancy to provide administrative efficiency and property owner rights; and

(l) provide the context for the appropriate reconciliation of any differences of interest among property owners, developers, neighborhoods and the City.

**Section 12.103. Jurisdiction and Intent.** The requirements of this Chapter shall apply to all property within the City; provide for the implementation of the site development regulations; provide a voluntary guide for the development of property within the extraterritorial jurisdiction in order that such property may be developed in a manner consistent with neighboring areas and existing or planned infrastructure; and be construed and applied in a manner to give effect to the City of Rockdale Comprehensive Plan. This Chapter has been made with reasonable consideration among other things, for the character of the district and its peculiar suitability for the particular uses specified, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city consistent with the City of Rockdale Comprehensive Plan. Nothing herein shall be construed to grant a “permanent” zoning.

The intent of this Chapter is to supplement the minimum standards for the development of land within the City as contained in the City's Subdivision Ordinance, applicable building, plumbing and electrical codes, and City Standard Details and Specifications. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur.

**Section 12.104. Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory. The word "herein" means in this Chapter. The word "regulations" means the provisions of any applicable ordinance, rule, regulation or policy. The word “person” means any human being or legal entity and includes a corporation, a partnership, and an incorporated or unincorporated association. The words “used or occupied” as applied to any land or building shall be construed to include the words intended, arranged, or designed to be used or occupied. Any definition not expressly prescribed herein shall, until such time as defined by ordinance, be construed in accordance with customary usage in municipal planning and engineering practices.

***Access*** means a way of approaching or entering a property.

***Accessory Use*** means a use that is customarily a part of the principal use, a use which is clearly incidental, subordinate and secondary to the permitted use, and which does not change the character of the permitted primary use. See: Accessory Structure.

***Accessory Structure*** means, in a residential district, a subordinate building, detached or an attached private garage, the use of which is customarily incidental and subordinate to that of the main

dwelling or to the main use on the same lot such as a private garage for automobile storage, toolhouse, bath or greenhouse (no business), home workshop, children's playhouse, storage house or garden shelter, but not involving the conduct of a business or occupancy other than as servants quarters.

**Adjacent** means abutting and directly connected to or bordering.

**Alcoholic Beverages-Off-Premises** means the standard use listing for a convenience store or similar facility where the sale of beer for off-premises consumption is an allowed use according to zoning standards.

**Alcoholic Beverages-On-Premises** means the standard use listing which will solely allow the serving of beer for on-premise consumption.

**Alcoholic Beverages-Mixed Drinks** means the typical use listing which will allow the serving of alcoholic beverages for on-premise consumption as an incidental use where the gross revenue from the on-premise sales of alcoholic beverages is less than 75% of total gross revenue.

**All weather surface** means an area surfaced with asphalt, concrete or similar pavement. Gravel or similar material is not an acceptable all weather surface.

**Alley** means a minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street and which may be used for public utility purposes.

**Amortization** means a method of eliminating non-conforming uses by requiring the termination of the non-conforming use after a specified period of time.

**Amusement (Indoor)** 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, including a bowling alley, billiard parlor, and similar activities.

**Amusement (Outdoor)** means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open, including a golf driving range, archery range, miniature golf course and similar activities.

**Annexation** means the incorporation of land area into the City with a resulting change in the boundaries of the City.

**Animal(s)** means any animate being that is not a human.

**Antique Shop** means a business that sells items whose value is greater than the original purchase price because of age or intrinsic value.

**Apartment** means a room or group of rooms used as a dwelling for one (1) family unit that includes full kitchen facilities for the preparation of meals and cooking therein.

**Apartment Hotel** means a building used or intended to be used as a home for twelve (12) or more families, who are permanent residents, living independently of each other, in which building may be located on the first floor living units for transient guests, and/or retail sales and service.

**Apartment House or Apartment Building or Apartments** means a building or portion thereof used or intended to be used as a home for five (5) or more families or households living independently of each other and equipped for preparation of food.

**Applicant** means a person applying for zoning approval under this Chapter.

**Approval** means the final approval in a series of required actions. For instance, the approval date of a planned unit development zoning application is the date of Council approval of the Final Site Plan.

**Art Studio or Gallery** means a building where objects of art are created or displayed for the public enrichment or where said art objects are displayed for sale, including the teaching of painting and/or sculpting.

**Assisted-Retirement Living** means a use providing 24 hour supervision and assisted living for more than four (4) residents not requiring regular medical attention. This classification includes personal care homes for the physically impaired and/or persons 60 years of age or older.

**Attendant Building** means a building used to house the work place of the manager or attendant of a public or private parking lot.

**Attendant Documents** means materials needed to address the specific requirements of this Chapter which the applicant feels necessary to explain the submittal.

**Auto Repair (Major)** means a business specializing in major repair of motor vehicles entirely within an enclosed building, including any use listing below, as well as any use not listed as minor vehicle servicing.

- (a) auto glass, seat cover and muffler shop;
- (b) auto painting or body rebuilding shop;
- (c) tire re-treading and capping;
- (d) body, fender, clutch, transmission, differential, axle, spring and frame repairs;
- (e) major overhauling of engines requiring removal there from of cylinder head or crankcase pan and any associated engine rebuilding;
- (f) repair of radiator requiring removal from the vehicle;

- (g) repair of truck, trailer, farm or industrial equipment, or other machinery/supplies;
- (h) brake work, other than minor maintenance such as disc pad replacement and minor brake adjustment.

**Auto Repair (Minor)** means a business specializing in minor, routine, periodic, preventive maintenance of a motor vehicle conducted entirely within an enclosed building, including the following.

- (a) servicing of spark plug, batteries, distributors and distributor parts and including minor engine tune-ups;
- (b) tire servicing and flat repair but not recapping or re-grooving;
- (c) radiator cleaning and flushing (on vehicle);
- (d) fuel pump, oil pump, and related maintenance;
- (e) minor servicing of carburetors;
- (f) emergency wiring repairs;
- (g) minor motor adjustment not involving removal of head or crank case;
- (h) quick oil and filter change;
- (i) servicing hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat belts, windshield wipers, mirrors, and installation of vehicle accessories such as radios; accessories such as ratios;
- (j) lubrication, greasing, and washing;
- (k) disc pad replacement and minor brake adjustment.

**Auto Sales (Outdoor)** means an open, dust-free, all weather area, other than a street, alley or other public place, used for the display and sales of new or used automobiles. Where no repair work, except those actions normally associated with vehicle operator service, is done on the cars to be displayed and sold on the premises. A sales office is normally located on the premises and such shall be limited to an area less than 10% of the total sales lot.

**Auto Sales Facility** means one or more buildings and an open, dust-free, all weather surface other than a street, alley, or other public place, used for the display, wholesale or retail sale, with repair and renovation authorized entirely within an enclosed building, and temporary storage of vehicles for repairs or renovation not to exceed ninety (90) days.

**Bar** means any business establishment required to have a state license for the sale of alcoholic

beverages other than beer or wine, for on-premises consumption.

**Bed and Breakfast** means an establishment engaged in providing rooms or groups of rooms in a dwelling unit for temporary lodging for overnight guests on a paying basis.

**Billboard** means a sign advertising products not made, sold, used or served on the premise.

**Block** means an area enclosed by streets, normally to be divided into lots to be occupied by or intended for buildings; or if the same word is used as a term of measurement, it shall mean the distance along one side of a street between the nearest two streets which intersect said street on said side.

**Board** means the Board of Adjustments of the City of Rockdale, Texas.

**Board of Adjustments** means a committee appointed by the Council to consider appeals from certain administrative actions pursuant to § 211.008 of the Texas Local Government Code and that is given the authority set forth in this Chapter and in § 211.009 of the Texas Local Government Code.

**Boarding House** means a building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for three (3) or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the general public or transients.

**Buffer** means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sound from the site to adjacent properties and vice versa.

**Building** means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or 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 Area** means the gross area covered by a structure when placed on the lot.

**Building Ordinance** means the building codes and related ordinances of the City providing standards, requirements and regulations for site development and the construction and erection of buildings and structures within the City, including, but not limited to, the electrical code, plumbing code, building code, and minimum housing code, adopted by the City Council from time to time.

**Building Permit** means a permit issued by the City which is required prior to commencing construction or reconstruction of any structure.

**Building Plot** means the land, lot, lots or tract of land upon which a building or buildings are located, or upon which they are to be constructed, including yards.

**Building Setback Line** means a line or lines designating the interior limit of the area of a lot within

which structures may be erected. The building lines generally provide the boundaries of the buildable area of any given lot and no structure or building may be erected between a building and the corresponding lot line.

**Cafe or Cafeteria** means a commercial establishment where snacks or meals are vended for consumption indoors or on the premises.

**Caliper** means the trunk diameter of a tree at three (3) feet above natural grade.

**Carport** means an accessory structure with one or more sides, covered with a roof and constructed specifically for the storage of one or more motor vehicles, being not more than 1,000 square feet. A carport is not an accessory structure if built as an integral part of the original primary structure having an indistinguishable, continuous roof structure.

**Cemetery** means land used or intended to be used for the interment of human remains and dedicated for cemetery purposes, including crematories, mausoleums, columbariums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Centerline of a Waterway** means the centerline of the waterway and refers to existing topographically defined channels. If not readily discernible, the centerline shall be determined by (first) the low flow line, or (second) the center of the two (2) year flood plain.

**Child Care Center (Small)** means a private residence where the occupant provides custodial care and supervision during daylight hours, for a maximum six (6) children at any one time. The maximum of six (6) children includes the family's natural or adopted children under the age of fourteen (14). The residence must contain a minimum 150 square feet of floor area for each child. This use shall exclude a family/group home.

**Child Care Center (Intermediate)** means a facility (including non-residential structures) which provides custodial care and supervision for less than 24 hours a day for between seven (7) and twelve (12) children, excluding foster and group homes. The facility must contain a minimum 150 square feet of floor area for each child.

**Child Care Center (Large)** means a facility where over twelve (12) children receive custodial care and supervision for less than 24 hours a day, excluding foster and group homes.

**Child Care or Child Development Facilities** means any children's home, orphanage, institution, private home, residence or other place, whether public, parochial or private, operated for profit or not, which keeps, cares for, has custody of or is attended by four (4) or more children under sixteen years of age at any one time, who are not members of the immediate family or any natural person operating any such place, during any part or all of the twenty-four hours in a day. Also, any institution, home or other place, whether public, parochial or private, conducted for profit or not, which keeps, cares for, has custody of or is attended by any number of children, under sixteen years of age, who are not members of the immediate family of any natural person operating such a place, who are mentally or physically handicapped, under medical or social supervision, and not within a hospital, twenty-four hours a day.

**Church or Rectory** means a place of worship and religious training of recognized religions including on site housing of ministers, rabbis, priests, nuns and similar staff personnel.

**City** means the City of Rockdale, Texas.

**City Building Official or Building Official** means the designated Building Official for the City or his or her designated representative

**City Council or Council** means the City Council of the City.

**City Engineer** means the City Engineer for the City or his or her designated representative.

**City Limits or Within the City** means the, or within the, incorporated boundaries of the City.

**City Manager** means the Chief Administrative Officer designated by ordinance, or his or her designated representative.

**City Staff** means the officers, employees and agents of the City assigned and designated from time to time by the City Manager and/or Council, including but not limited to the City Planner or City Engineer, to review, comment and/or report on zoning applications.

**City Standard Details and Specifications** means a library of City approved drawings and technical data representing typical drainage, transportation, erosion & sedimentation control, and utility appurtenances to be constructed for City acceptance.

**Cleaning or Laundry Self Service Shop** means an establishment providing customers with self-service laundry and/or dry cleaning facilities, and does not include a commercial laundry or cleaning plant.

**Cleaning Shop or Laundry (Small)** means a custom cleaning shop not exceeding two thousand five hundred (2,500) square feet of floor area.

**Clinic** means a public or private station or establishment for the examination and treatment of out-patients by an individual or group of doctors, dentists, opticians, veterinarians, or other similar medical professionals.

**Clothing Manufacture** means cutting, sewing and forming garments, millinery and accessories, when no noise, dust, vibration, odor or other undesirable or obnoxious condition is created to affect adjacent property.

**Club.** See: Social Club.

**Cold Storage Plant** means a commercial establishment where food or other commodities are stored either in lockers, rented or leased, or in vaults in bulk for distribution to the home or to commercial businesses. No slaughtering of animals or fowl is allowed on the premises.

**College or University** means an academic institution of higher learning, accredited or recognized by the state and offering a program or series of programs of academic study.

**Commercial Amusement (In doors)** means an enterprise conducted solely within one or more buildings or permanently enclosed area whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (In doors) include zoos, carnivals, expositions, miniature golf courses, arcades, fairs, exhibitions, athletic contests, rodeos, children's rides, skating rinks, ice rinks, traveling shows, bowling alleys, and pool parlors, and similar enterprises.

**Commercial Amusement (Out doors)** means any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gate for the activity, including the following activities and activities of the same or closely similar nature. Commercial amusements (Out doors) include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, Ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows and similar enterprises.

**Commission** means the Planning and Zoning Commission of the City.

**Common Area** means privately owned land and improvements within a townhouse, condominium, planned development, or community unit development including buildings, common open space, central services and utilities, streets, walks, parking areas, fencing and screening walls, landscaping, and any other elements and facilities under common ownership and available for the use of all owners or tenants.

**Common Open Space** means that portion of the common area which is designated for outdoor recreation area, private park, play lot, plaza, athletic court, swimming pool, fountain, stream or pond, ornamental landscaping or natural vegetation offering visual amenity, and which is open to general view and conveniently accessible to pedestrians within the project.

**Communication services** means an establishment engaged in providing broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, and photocopy and reproduction mechanisms (excludes broadcast towers).

**Community Center (Public)** means a building and grounds owned or leased and operated by a governmental body for the social, recreational, health or welfare of the community served.

**Community Center (Private)** means a recreational facility, including both indoor and outdoor facilities, for use by residents and guests of a particular residential community development, subdivision, planned unit development, or membership group.

**Compounding or Fabrication (Light)** means the making of jewelry, compounding of perfume, small instruments or pharmaceuticals, and similar work or processes.

**Comprehensive or Master Plan** means the comprehensive plan of the city and adjoining areas adopted by the commission and approved by the city council, including all its revisions as defined by Chapter 219 of the Texas Local Government Code. The plan may indicate the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements, to include detailed plans for water and sewer facilities. Such plan is the overall development plan for the community adopted to provide long-range development policies and may include all specified individual elements thereof among which are the plans for land intensities; land subdivision; circulation; and community facilities, utilities and services. The comprehensive or master plan does not constitute zoning regulations or establish zoning district boundaries.

**Conditional Use** means an additional use, which may be permitted in a district, subject to meeting certain conditions or procedures established by the City Council. No conditional use shall be permitted in any location where it will be inconsistent with the existing adjacent and nearby uses.

**Condominium** means a building or group of buildings in which dwelling units are owned individually, while the structure, common areas and facilities are owned by all the owners on a proportional or individual basis.

**Construction Plans** means the maps, drawings, plans and specifications indicating the proposed location and design of improvements to be installed as part of a development and sealed by a Licensed Professional Engineer or Architect.

**Contiguous** means adjacent property whose property lines are separated by only a street, alley, easement, right-of-way or buffer.

**Convalescent Home** means any structure used or occupied by three (3) or more persons recovering from illness or being provided geriatric care for compensation.

**Corner Lot** means a lot located at the intersection of and abutting on two (2) or more streets.

**Country Club** means an area of twenty (20) acres or more containing a golf course and a clubhouse and available only to private specific membership, such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts and similar recreational or service facilities.

**County** means Milam County, Texas.

**County Appraisal District** means the Milam County Appraisal District.

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

**Critical Root Zone** means a circular area around a Significant Tree equal to one (1) foot in radius

for each one (1) inch caliper, and the center of the circular area located at the trunk

**Cultural services** means a library, museum, or similar registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

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

**Developer** means the legal owner of land to be improved and/or subdivided or his/her authorized representative.

**Developed Area** means that portion of a lot, easement, or parcel upon which a building, structure, pavement or other improvements have been placed.

**Development** means the construction or placement of any buildings, utilities, access, roads or other structures, excavation, mining, dredging, grading, filling, clearing or removing vegetation, or the deposit of refuse, waste or fill. Lawn and yard care, including mowing of tall weeds and grass, gardening, tree care and maintenance, removal of trees or other vegetation damaged by natural forces, and ranching and farming shall not constitute development. Utility, drainage, and street repair, and any construction maintenance and installation, which does not require land disturbance or result in additional impervious cover, shall also not constitute development.

**District** means a zoned section or sections of the City for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

**Dormitory** means any structure specifically designed to house student tenants associated with a university, college or school.

**Double Frontage Lot.** See: Reverse Frontage Lot.

**Drainageway.** See: Waterway.

**Drive Approach** means a paved surface connecting the street to a lot line.

**Drive-In Eating Establishment** means any structure and premises specifically designed for the preparation and dispensing of food and meals for consumption either indoors or in a vehicle parked on the premises, or to be taken away for consumption at other places.

**Driveway** means the surface connecting a drive approach with a parking space, parking lot, loading dock or garage.

**Dwelling** means any building or portion thereof built on-site which is designed for or used exclusively for residential purposes, including Single Family, Two (2) Family, Three (3) Family, Four (4) Family and Multi-Family Dwellings, but not including hotels, motels, manufactured

housing, campers, trailers or other structures without a permanent foundation.

***Dwelling (Four Family) or Fourplex*** means a detached building designed and constructed with four (4) separate living units under a single roof for occupancy by four (4) families.

***Dwelling (Multiple-Family)*** means any building or portion thereof, which is designed, built, rented, leased or let to be occupied as five (5) or more dwelling units or apartments or which is occupied as a home or residence of five (5) or more families.

***Dwelling (Single Family)*** means a detached building having accommodations for occupancy by not more than one family intending to occupy the dwelling for a period of time in excess of thirty days.

***Dwelling (Three Family) or Triplex*** means a detached building designed and constructed with three (3) separate living units under a single roof for occupancy by three (3) families.

***Dwelling (Two-Family) or Duplex*** means a detached building designed and constructed with two (2) separate living units under a single roof for occupancy by two families.

***Dwelling Unit*** means a building or portion of a building arranged, occupied or intended to be occupied as residential unit designed to accommodate one (1) household for living, sleeping, eating, cooking and sanitation.

***Easement*** means a grant by the property owner of the use of a strip of land for stated purposes.

***Environment*** means the aggregate of social and physical conditions that influence the life of the individual and/or community.

***Exterior Side Yard*** means a yard which faces and is parallel to a side street.

***Extraterritorial Jurisdiction or ETJ*** means that geographic area outside the corporate boundaries of the City as established pursuant to §§ 42.021 and 42.022 of the Texas Local Government Code.

***Family*** means any number of individuals living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage, adoption, or guardianship, and occupying a dwelling unit.

***Family Home or Group Home*** means a dwelling unit used as a single housekeeping unit where not more than six (6) physically or mentally impaired or handicapped persons are provided room and board, as well as supervised care and rehabilitation provided by not more than two persons. "Family Home" means a community based residential home operated in accordance with the Community Homes for Disabled persons Location Act and its amendments.

***Family Home*** means a facility that regularly provides care in the caretaker's own residence for not more than six (6) children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six (6) additional elementary school siblings of

the other children given care, but the total number of children, including the caretaker's own, does not exceed twelve 12 at any given time.

**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 three (3) acres or more which is used for the primary purpose of growing of vegetables, fruits, trees, hay, livestock feed and/or grain, and/or for the raising thereon of poultry and farm animals such as horses, cattle and sheep and including the necessary accessory uses 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 agriculture or husbandry specifically prohibited by ordinance or law.

**Filling or Retail Service Station** means an establishment where gasoline, oil and grease, or automobile accessories are sold, supplied, or dispensed to the motor vehicle trade or where motor vehicles receive limited repair, or where electric storage batteries are charged and cared for, or a place where any two (2) or more such activities are carried on or conducted as the principal use of the establishment.

**Financial services** means services provided by an establishment primarily engaged in financial and banking activities. Typical uses may include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

**Flood Plain** means that land which lying within a stream channel or adjacent to a stream channel within which flooding frequently occurs, the elevation above sea level of which shall be as established by the City and made of record. It is land which is required to be kept open and non-urbanized in order to maintain upstream flood plain characteristics and insure continued adequate drainage of adjacent land.

**Floor Area** means the total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, carports or garages.

**Food and Beverage Sales Store or Convenience Store** means a retail establishment of less than 2,500 square feet of total floor area selling a variety of consumables, notions and/or similar items, usually serving as a convenient outlet to a neighborhood. This activity can include the retail sale and self-service dispensing of gasoline or other fuels in appropriate zoning districts. The sale of beer for off-premises consumption is allowed in specific districts.

**Food and Beverage Sales Store** means a retail establishment of greater than 2,500 square feet of total floor area, selling a variety of consumables, notions and/or similar items, usually serving a significant market area. The sale of beer for off-premises consumption is allowed, if not otherwise prohibited.

**Food sales** means an establishment primarily engaged in the retail sale of food or household products for home consumption. Typical uses include grocery stores, delicatessens, meat markets, retail bakeries, and candy shops.

**Fraternity, Sorority or Group Student Housing** means a building occupied by and maintained exclusively for students affiliated with an academic or vocational institution.

**Filing Date** means, with respect to zoning applications, the date of the first public hearing before the Commission regarding such zoning application.

**Front Yard** means a space extending the full width of the lot between any building set back line and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

**Frontage** means that side of a lot, parcel or tract of land abutting a street right-of-way and ordinarily regarded as the frontal orientation of the lot.

**Frontage Block** means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

**Garage - Commercial** means any premises and structure used for housing more than five (5) motor vehicles or where any vehicles are repaired for operation or kept for remuneration, hire or sale, and where a retail service station may be maintained as a secondary use.

**Gasoline Station (Full Service)** means a place where gasoline, other fuels, oil and grease and/or accessories are sold and dispensed to the retail motor vehicle trade, and where one or more of the following activities are conducted: motor vehicles are serviced and repaired; stored batteries are recharged and cared for; or vehicle tires are stored, serviced or exchanged.

**Gasoline Station (Limited Service)** means a place where the services provided are limited to the retail sale, either self-service or attendant dispensed, of gasoline, other fuels and petroleum products for the motor vehicle trade.

**Golf Course (Commercial)** means a golf course or driving range privately owned but open to the public for a fee and operated as a commercial venture.

**Governing Body** means the City Council of the City.

**Grade** means the slope of a road, street, other public way or utility line specified in terms of percent (%); the topographic relief of a parcel of land; the average elevation at ground level of the buildable area of a lot or parcel of land.

**Grading** means any stripping, cutting, filling or stockpiling of earth or land, including the land in its cut or filled condition.

**Half Story** means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than five (5) feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor

immediately below it, shall be deemed a full story.

**Halfway House** means a dwelling unit used as a single housekeeping unit for not more than six (6) persons who have demonstrated a tendency towards alcoholism, drug abuse, anti-social or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons.

**Height** means the vertical distance from the highest point on a structure to the average ground elevation where the foundation meets ground.

**Heliport** means landing facility for rotary wing aircraft subject to regularly scheduled use and may include fueling or servicing facilities for such craft.

**Helistop** means a landing pad for occasional and infrequent use by rotary wing aircraft not exceeding a gross weight of 6,000 pounds.

**Home for Aged** means a home where elderly people are provided with lodging and meals without nursing care.

**Home Occupation** means a commercial use customarily carried on in the home by members of the occupant family without structural alterations in the principal building or any of its rooms, without the installation of machinery or additional equipment other than that customary to normal household operations, without the employment of additional persons, and which does not cause the generation of other than normal noise, pedestrian and vehicular traffic. It is an accessory to a residential use subject to the following limitations: (a) the home occupation shall be conducted entirely within a dwelling unit which is the bona fide residence of the practitioner(s); (b) the residential character of the lot and dwelling shall be maintained; the exterior of the dwelling shall not be structurally altered; and no additional buildings shall be added on the property to accommodate the home occupation; (c) the occupation shall not produce external noise, vibration, smoke, odor, fumes, electrical interference or waste run-off outside the dwelling unit or on the property surrounding the dwelling unit; and (d) no vehicle used in connection with the home occupation which requires a commercial driver's license to operate shall be parked on any street adjacent to the property.

**Homeowners or Unit Owners Association** means any association or organization of co-owners within a condominium or townhouse project, including the Council of Co-Owners or a Condominium or Townhouse Management Association, or the owners of lots within a subdivision; organized for the primary purpose of managing and maintaining the common areas and common open space in any such project, or otherwise owned by the association. An organization, association, or other entity formed and controlled by the developer, project owner or general partner for this purpose will be included in this definition.

**Hospital (Acute Care)** means an institution with facilities and equipment for conducting major medical examinations and tests, and providing full hospital services, with rooms for occupancy by ill or injured persons where sick or injured patients are given medical or surgical treatment intended to restore them to health and an active life.

**Hospital (Chronic Care)** means an institution where persons suffering from illness, injury, deformity or deficiency of age are given care and treatment on a prolonged or permanent basis.

**Hospital services** means a facility providing medical, psychiatric, or surgical services for sick or injured persons on an in-patient basis and including ancillary facilities for out-patient and emergency treatment, diagnostics services, training, administration, research, and services to patients, employees or visitors.

**Hospital, Sanitarium, Nursing Home, Hospice** means a building or portion thereof used or designated for the housing or treatment of the sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling, hotel or apartment hotel not ordinarily intended to be occupied by said persons.

**Hotel** means a building in which lodging is provided and offered to individual transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes, pressing shop, barber shop or other service facilities for guests for compensation, and in which ingress and egress to and from all rooms is made through and inside a lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradiction to a boarding house, a lodging house, or an apartment. To be classified as a hotel an establishment shall contain a minimum of six (6) individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, and the use and upkeep of furniture. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, nursing home, or a dormitory as defined in §156.001, *Tex. Tax Code*.

**Impervious Cover** means roads, parking areas, buildings, swimming pools, rooftop landscapes and other construction limiting the absorption of water by covering the natural land surface; this shall include, but not be limited to, all streets, concrete and pavement within the development.

**Improvements** means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or portion thereof for which the local government may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

**Incinerator** means a furnace or apparatus for burning waste materials such as trash wood and other flammable items for the purpose of reducing their weight and bulk.

**Institution for the Care of Substance Dependent Persons** means an institution offering resident or outpatient treatment to alcoholic or narcotic patients.

**Interior Lot** means a lot other than a corner lot and, bounded by a street on only one (1) side.

**Kennel** means a place in which five (5) or more dogs or cats at least six (6) months of age are kept, boarded or trained, by the owners of the dogs or cats or by persons providing facilities and care

with or without compensation.

**Kindergarten or Pre-School** means any private school, operated for profit or not, attended by four (4) or more children at any one time during part of a twenty-four hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

**Laundry services** means an establishment engaged in providing laundering, dry cleaning, or dyeing services. Typical uses shall include bulk laundry and cleaning pants, and linen supply services.

**Legal Lot** means a lot recorded in the Official County Records pursuant to and in compliance with the subdivision regulations and/or state law in effect at the time of the creation of the lot.

**Light manufacturing** means an establishment engaged in the manufacture of finished products or parts, including packaging of such products, and incidental storage, sales and distribution of such products, but excluding uses that are not traditionally classified as light industrial or manufacturing. Uses defined as traditional light industrial and manufacturing are set forth in this Chapter.

**Livestock Auction** means barns, pens and sheds for the temporary holding and sale of livestock.

**Loading Space** means an off-street space for the parking of a vehicle while loading or unloading merchandise or materials from commercial or industrial vehicles.

**Local Health District** means the Milam County Health District.

**Local Utility Line** means the facilities provided by a municipality or a franchised utility company for the distribution or collection of gas, water, surface drainage water, sewage, electric power, telephone or cable service, including pad and pole mounted transformers.

**Lot** means a separate parcel of land, created by the division or subdivision of a block or other parcel, intended as a unit for transfer of ownership, or for development, or for occupancy and/or use, platted in compliance with state law. See also: Legal Lot.

**Lot Depth** means the average horizontal distance between the front and rear lot lines.

**Lot Lines** means the lines bounding a lot as defined herein.

**Lot Width** means the average horizontal distance at the front building setback line of a lot.

**Manufactured Home** means a complete living unit, manufactured at a location away from the lot on which it will be located, as defined in *Article 5221f of the Texas Revised Civil Statutes*.

**Manufactured Housing.** See: Manufactured Home.

**Manufactured Home Park** means a unified development for manufactured housing spaces arranged on a tract of land in compliance with the Subdivision Ordinance and this Chapter, with the

individual lots or parcels being held under a common ownership and rented or leased to the occupants.

**Manufactured Home Subdivision** means a unified development for manufactured housing spaces arranged on a tract of land in compliance with the Subdivision Ordinance and this Chapter, with the individual lots or parcels being developed and sold to occupant owners.

**Master Plan** means the overall development plan for the community which has been officially adopted to provide long-range development policies including all specified individual elements thereof among which are the plans for means land intensities; land subdivision; circulation; and community facilities, utilities and services. See. Comprehensive Plan.

**Mini Storage Warehouse** means a building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored therein. The size of each individual storage unit of a mini-storage warehouse shall be limited to 2,000 cubic feet.

**Mobile Home** means a movable or portable structure constructed prior to June 15, 1976 that is eight (8') feet, or more, in width and forty feet (40'), or more, in length constructed to be towed on its own integral chassis, as defined in *Article 5221f of the Texas Revised Civil Statutes*.

**Modular Component** means a structure or building module as defined in *Article 5221f-1 of the Texas Revised Civil Statutes* that is inspected and permitted by and under the jurisdiction and control of the Texas Department of Licensing and Regulations, that is transportable in one or more sections and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning and electrical systems contained in the component. The term does not include a mobile home or a manufactured home.

**Motel** means a building or group of detached, semi-detached or attached buildings containing guest rooms or apartments with automobile storage space provided in connection therewith, which building or group is designed, intended or used primarily for the accommodation of automobile travelers, including groups designated as auto cabins, motor courts, motels and similar designations.

**Multifamily Dwelling** means a single structure designed to accommodate five (5) or more households.

**Multiple Building Complex** means more than one principal building on a building plot or lot

**Natural Channel** means the topography of a waterway prior to construction, installation of improvements thereof.

**Natural Drainage** means a stormwater runoff conveyance system not altered by development.

**Natural State** means substantially the same conditions of the land that existed prior to its development, including but not limited to the same type, quality, quantity and distribution of soils,

ground cover, vegetation and topographic features.

**Neighborhood** means the area of the City characterized by residential land uses which is bounded by physical (such as river, major street, lack of access, buffer) and/or political features (such as voting districts, subdivision boundaries).

**Neighborhood Automobile service station** means an establishment primarily engaged in automotive-related service. The following are permitted automotive-related services within such definition: automobile washing, minor automotive repair services, service stations, the sale of fuel, lubricants (including oil change facilities), parts and accessories, or any incidental minor repair services to motor vehicles.

**Neighborhood Park** means a publicly owned parcel of land, within a subdivision, dedicated solely for recreational uses and maintained by the City or under authority granted by the City.

**Night Club** means an establishment required to have a state permit for the sale of alcoholic beverages and in which fifty percent (50%) or more of the monthly gross revenues are from the sale of alcoholic beverages; or any business or commercial establishment in which alcoholic beverages are consumed and live entertainment is provided.

**Nonconforming Lot** means a lot, the area, dimensions, or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption revision or amendment to conform to the present requirements of the zoning district.

**Nonconforming Structure or Building** means a structure or building the size dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

**Nonconforming Use** means any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this Chapter or Amendments thereto, which does not, by reason of design or use, conform after the passage of this Chapter or Amendments with the regulations of the Chapter or Amendment.

**Occupancy** means the use or intended use of land or a building by any person.

**Occupant Car Ratio (OCR)** means the minimum number of parking spaces without parking time limits required for each living unit, establishment or use.

**Official County Records** means the Official Records of Milam County, Texas.

**Off-Site Improvements** means any required improvement that lies outside of the property being developed.

**Off-Street Parking as Expansion of Retail or Commercial Use** means an off-street parking lot located adjacent or contiguous to a retail, commercial or office district.

**Off Street Parking Space** means an area of privately owned land not less than nine (9) feet by eighteen and one-half (18½) feet not on a public street or alley, with an all weather surface. A public street shall not be classified as such, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space; provided that not more than 25% of any required off street parking spaces may be compact parking spaces of not less than one hundred twenty-eight (128) square feet exclusive of the driveways connecting said space with the street or alley.

**One Hundred (100) Year Flood Plain** See: Regulatory 100-year flood plain.

**Open Space** means an 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, porches, and plant material.

**Open or Outdoor Storage** means the keeping, in an unroofed area, of any goods, junk, material, merchandise, in the same place for more than twenty-four (24) hours.

**Overland Drainage** means stormwater runoff which is not confined by any natural or man-made channel such as a creek, drainage ditch, storm sewer, or the like.

**Park or Playground** means an open recreation facility or park owned and operated by a public agency such as the City or the school district and available to the general public for neighborhood use, but not involving lighted athletic fields for nighttime play.

**Parking Lot** means a parking area to accommodate the vehicles which utilize any multiple family, retail, commercial, office, business or industrial property.

**Parking Space** means an area that is not a street, alley or public right-of-way that is used or designed to be used for motor vehicle parking, that is not less than nine (9) feet by eighteen and one-half (18 1/2) feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. Compact parking spaces shall be one hundred twenty-eight (128) square feet exclusive of the driveways connecting said space with the street or alley.

**Parking Structure or Garage** means a structure devoted to the parking or storage of automobiles for a fee and may include a facility for servicing of automobiles provided such facility is primarily an internal function for use only by automobiles occupying the structure and creates no special problems of ingress or egress.

**Pasturage** means land used primarily for the grazing of animal stock.

**Performance Standard** means a set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

**Permit Issuing Authority** means the Building Official or other City officer, employee or agent designated by lawful authority to issue the applicable permit.

**Permitted Use** means a use specifically allowed in the applicable zoning districts without the necessity of obtaining a Conditional Use Permit.

**Personal Care Facility** means a facility that provides supervised living arrangements for persons with physical or mental disability, which by reason of federal or state law, is not subject to limitations set forth in deed restrictions or single family zoning districts. This definition includes a community-based residential home operated by (i.) The Texas Department of Mental Health and Mental Retardation, (ii) a community center operated under Section 3.01, Texas Mental Health and Mental Retardation Act (Article 5547-203 VATCS), which provides services to disabled persons; (iii) a nonprofit corporation, or (iv) any entity certified by the Texas Department of Human Resources as a provider under the intermediate care facilities for the mentally retarded program. This definition includes homes for the handicapped as defined in 42 U.S.C. Sec. 3602(h).

**Personal services** means an establishment engaged in providing services of a personal nature. Typical uses shall include beauty and barbershops, tailor, and shoe repair services.

**Personal Service Shop** means an establishment for the purpose of supplying limited personal services such as, but not limited to, barber, shoe, boot, or beauty shops.

**Pharmacy** means a use where medicines are compounded or dispensed under the supervision of a licensed pharmacist.

**Planned Unit Development** means a zoning district which permits development of three (3) acres or more, under single or multiple ownership pursuant to a master plan and which requires specific approval by the City Council. It is a development of land under unified control, planned and developed as a whole in a single development operation or a programmed phasing of developments, including streets, utilities, lots or building sites, structures, open spaces and other improvements. This district may permit mixed uses of land (e.g. industrial, commercial, residential) within a single or multiple subdivisions as part of or pursuant to a Master Plan, which seeks to minimize adverse impacts when development occurs to protect the environment and nearby neighborhoods.

**Planting Area** means any area designed for landscape planting having a minimum of ten (10) square feet of actual plantable area and a minimum inside dimension on any side of eighteen (18) inches.

**Playfield or Stadium** 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 which may be lighted for nighttime play.

**POA Neighborhood Park** means a privately owned parcel of land, within a subdivision, dedicated solely for recreational use by persons in such subdivision and their guests, and maintained by the residents of said subdivision.

**Portable Storage Building** is any accessory structure of 100 square feet or less designed to be transported from one location on a specific site to another location either on the same lot or on a separate lot.

**Postal facilities** means postal services, including post office, bulk mail processing, or sorting centers operated by the United States Postal Service or a private postal service.

**Primary Structure** or **Main building** means a structure in which the principal use of the lot is conducted. For example, for single family residential lots, the house is the primary structure or main building.

**Privacy Fence** means an opaque fence or screen at least six (6) feet in height. A fence shall be considered opaque if it is made of opaque materials and constructed so those gaps in the fence do not exceed one-half (1/2) inch. Fences using boards placed on alternating sides of fence runners shall be considered opaque if the boards overlap at least one-half (1/2) inch.

**Private Club** means an establishment required to have a state issued alcoholic beverage permit for the sale, storage or vending of alcoholic beverages to its members.

**Private Garage** means an accessory building housing vehicles owned and used by occupants of the main building.

**Product development services (general)** means development and testing of non-hazardous products related to research services. See: Research Services (general).

**Product development services (hazard)** means development and testing of products related to research services, which products could pose a health or safety risk outside of the structure in which the services are provided. See: Research Services (hazard).

**Professional office** means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions licensed by the state.

**Property Owners Association, (POA)**, means an incorporated, non-profit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a subdivision or planned unit development or PUD is automatically a member, (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining common property, and (c) the charge, if unpaid, becomes a lien against the property.

**Public** means, with respect to land and interests in land within the City limits, the City; with respect to land and interests in land within the ETJ limits, the general public; and, with respect to the provision of any services or products by a business establishment, the general public.

**Public Grounds or Building** means a facility such as office buildings, and maintenance yards and shops required by branches of local, state or federal government for service to an area such as highway department yard or a city, county or school service center.

**Public Use** means places of non-commercial public assembly or administrative functions where the primary activity is contained within a building(s), including but not limited to churches, schools and government buildings.

**Radio, Television, Microwave and Similar Towers** means structures supporting antennae for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennae installation for home use of radio or television.

**Railroad Spur or Siding** means a siding for spotting and unloading or loading box cars or other railroad cars and which area is connected to a public street by a drive for access.

**Railroad Tracts** means the right-of-way for railroad tracts, and includes siding, spurs, loading facilities, docks, yards or maintenance areas, and does not include passenger stations.

**Rear Yard** means a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

**Recyclable Materials** means materials including, but not limited to, scrap steel, aluminum cans, appliances, paper, batteries, glass bottles, motor vehicles, motor vehicle parts, and machinery that have no economic value except as composition or salvage material.

**Recycling Collection Use** means use of property as a location where glass, paper, plastics and/or aluminum cans only are deposited in containers, with no sorting or processing on site, and usually occurring as an accessory use on the property.

**Recycling Operation** means the collection, buying, storage, or processing of recyclable materials such as glass, paper, plastics, liquids, wood or metals, which are then sorted or processed for use or shipment for the purpose of reuse and manufacture, excluding smelters and refining operations.

**Recycling Operations (Indoor)** means a recycling operation which is fully enclosed within permanent walls and roof of a building or, if windows and doors are present, which is capable of enclosure to insure compliance with the required performance standards in the LI or HI districts as appropriate. The outside storage of recyclable materials in conjunction with the recycling operation inside a building is prohibited in an LI district. A dust collection system may be located outside the main building.

**Recycling Operations (Outdoor)** means a recycling operation which occurs in the open, or partially within a building and partially in the open.

**Regulatory 100-Year Flood Plain** means the One hundred (100) year flood plain as defined by the Federal Emergency Management Act (FEMA).

**Religious assembly** means a use (located in a permanent or temporary building) providing regular organized religious worship and religious education incidental thereto.

**Replacement Trees** means new landscape trees to be planted by the developer to replace Significant Trees removed during the development of property. A list of approved Replacement Trees can be obtained at the office of the City.

**Required Yard** means the open space between a lot line and the buildable area within which no structure shall be located except as provided for herein.

**Research services (general)** means establishments engaged in research of an industrial or scientific nature not involving or requiring the use of any biological, chemical or other agent that could cause a hazard to adjacent property. Typical uses include electronics research laboratories, and development and testing of computer software packages.

**Research services (hazard)** means establishments engaged in research of an industrial or scientific nature involving or requiring the use of biological, chemical or other agents capable of causing a hazard to property or persons outside the structure in which conducted.

**Reserve Strip** means a narrow strip of property usually separating a parcel of land from a roadway or utility line easement, that is characterized by limited depth which will not support development and which is intended to prevent access to the roadway or utility easement from adjacent property and which are prohibited by these regulations unless their control is given to the City.

**Retail Food Store** means a retail establishment selling meats, fruits, vegetables, bakery products, dairy products, light hardware and other similar items which are purchased for use and/or consumption off the premises (may be a drive-in or supermarket).

**Retail Sales** means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses may include department stores, furniture stores, or establishments providing the following products or services: home furnishings and appliances, household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, or specialty items; apparel, jewelry, fabrics, and like items; cameras or photography services; household electronic equipment, records, sporting equipment, kitchen utensils, small home appliances, art supplies and framing, arts and antiques, paint, interior decorating services, or office supplies; bicycles, wallpaper, carpeting and floor-covering, or automotive parts and accessories (excluding service and installation).

**Restaurant** means an establishment engaged in the preparation and retail sale of food and beverages for on-premises consumption. Typical uses include diners, dinner-houses, but not a drive-in or fast-food restaurant.

**Reverse Frontage Lot** means a double frontage lot which is to be developed with the rear yard abutting a major street and with the primary means of ingress and egress provided on a minor street.

**Right-of-Way** means a strip of land occupied or intended to be occupied by street, crosswalk, railroad, road, electric transmission line, or oil or gas pipe line, water main, sanitary or storm sewer

main, or for other similar purpose or use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereinafter established and shown on the Final Plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, wastewater lines, storm drains, or any other use, involving maintenance by a public agency shall be dedicated to the public by the maker of the plat, where such right-of-way is established.

**Roofline** means the height of the roof excluding any peaks representing less than ten percent of the profile of the roof.

**Safety services** means a facility to conduct public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

**Sale or Conveyance** means the transfer of legal rights from one person or entity to another in the form of any type of deed, contract for deed, lease-purchase, or other transfer of legal rights that can be enforced by specific performance against the conveyor. The transfer of property through an estate or by testament shall not constitute a sale or conveyance.

**Salvage Processing** means the method or action to enhance recyclable materials for reuse, including, but not limited to, separating, baling, flattening, shredding, crushing, cleaning, or cutting for the purpose of preparing recyclable materials for reuse, excluding a smelter operation.

**Same Ownership** means ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations in which a stock holder, partner, or associate or a member of his or her family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**School (Business)** means a business organized to operate for a profit and offering instruction and training in a service or art such as secretarial school, barber college, beauty school or commercial art school, but not including a commercial trade school.

**School (Commercial Trade)** means a business organized to operate for a profit and offering instruction and training in a trade such as welding, brick laying, machinery operation, mechanics and similar trades.

**School (Public or Denominational)** means a school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or commercial schools.

**Sexually Oriented Business** means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or other commercial enterprise the primary business of which is the offering of service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. See Section 65 for related definitions and development standards pertaining to sexually oriented businesses.

***Servants Quarters*** means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

***Setback Line or Building Setback Line*** means a line that marks the setback distance from the property line, and establishes the minimum required front, side or rear yard space of a building plot.

***Shopping Center*** means a composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

***Shrub*** means any self-supporting woody evergreen and/or deciduous species.

***Side Yard*** means a space extending from the front yard to the rear yard between the setback line and the side lot line measured perpendicular from the side lot line to the closest point of the setback line.

***Sign*** means any device or surface on which letters, illustrations, designs, figures, or symbols are painted, printed, stamped, raised, projected, illuminated, or in any manner outlined or attached and used for advertising purposes.

***Significant Tree*** means a living tree that the City desires to preserve to the greatest extent possible. A list of Significant Trees can be provided by the City Staff.

***Single family attached*** means the use of a series of sites for two or more dwelling units, constructed with common or abutting walls and each located on a separate lot within the total development site.

***Single family detached*** means the use of a lot for only one dwelling unit.

***Single Family Dwelling*** means a building designed for or occupied exclusively by one (1) household. See: Single family detached.

***Site Plan*** means a plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking facilities and other structures to be constructed.

***Slope*** means the vertical change in grade divided by the horizontal distance over which that vertical change occurred. The slope is usually given as a percentage.

***Social Club*** means a building or portion thereof or premises used or operated for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

***Square Foot or Square Feet*** means the square footage computed from the outside dimensions of the dwelling or structure, excluding attached garages, attics, basements, open or screened porches.

**Stable** means an accessory building for quartering horses when the stable building is set back from all adjacent property lines at least fifty (50') feet, is at least one hundred (100') feet from any adjacent residence and when the site contains minimum area of one (1) acre.

**State Health Department** means the Texas Department of State Health Services or the Texas Commission on Environmental Quality (TCEQ), as applicable.

**Storage and distribution** means an establishment offering wholesaling, storage, and warehousing services of non-hazardous materials in enclosed structures.

**Storage Garage** means any premises and structure used exclusively for the storage of more than five (5) automobiles.

**Story** means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

**Street** means any public or private right-of-way which affords the primary means of vehicular access to abutting property.

**Street Line** means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

**Street Side Yard** means an area between any required building setback line and the side property line abutting a public right-of-way, and measured perpendicular to the building to the closest point of the side property line abutting the right of way.

**Structural Alterations** means any change in the supporting members of a building, such as load bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

**Structural Integrity** means the ability of a structure to maintain stability against normal forces experienced by said structure.

**Structure** means any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunications towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

**Structure Principal** means the principal structure which fulfills the purpose for which the building plot is intended.

**Subdivision** means the division or re-division of land into two (2) or more lots, tracts, sites or parcels for the purpose of development, laying out any addition to the City, or for laying out any subdivision or building lots, or any lot, street, alley, access easement, public utility easement, park

or other portion intended for use by the public, or for the use of any owner, purchaser, occupant, person or entity.

***Swimming Pool (Commercial)*** means a swimming pool with accessory facilities that is not a part of the municipal or public recreational system or a private swim club and that is available to the general public for a fee.

***Swimming Pool (Private)*** means a swimming pool constructed for the exclusive use of the residents of a single family, duplex, multi-plex or multi-family dwelling, or other residential dwelling, located and fenced in accordance with City regulations and not operated as a business or maintained in a manner to be hazardous or obnoxious to adjacent property owners.

***Tavern*** means an establishment required to have a state permit for the sale and on-premises consumption of beer and/or wine, that is not licensed or permitted to sell any other alcoholic beverage.

***Telephone Exchange*** means switching relay and transmitting equipment, but not including public business facilities, storage or repair facilities.

***Temporary Field or Construction Office*** means a structure or shelter used in connection with a development or building project, for housing on site the temporary administrative and supervisory functions, and for sheltering employees and equipment, related to the development.

***Tourist Home*** means a building other than a hotel where lodging is provided and offered to the public for compensation for not more than twenty (20) individuals and open to transient guests.

***Townhouse*** means a structure on an individual lot, which is one of a series of three (3) or more dwelling units designed for single-family occupancy, which dwelling units are structurally connected, immediately adjacent to and abutting each other between individual dwelling units. A condominium apartment (as defined in § 81, *Tex. Prop. Code*) in a condominium structure may be considered a townhouse if no other dwelling unit or use of any kind exists immediately above or below it. Any project including three or more such condominiums or townhouses shall be considered a "Townhouse project".

***Traffic Impact Analysis (TIA)*** means a study of the impacts of a development on the City's transportation system.

***Trailer Camp or Park*** means an area designed, arranged or used for the parking or storing of one or more auto trailers, which are occupied or intended for occupancy as temporary living quarters by individuals or families.

***Transportation services*** means a facility for loading, unloading, and interchange of passengers and baggage, between modes of transportation, including bus terminals, railroad stations and public transit facilities utilizing park and ride stations.

***Tree*** means any self-supporting woody plant species which normally grows to an overall minimum

height of fifteen (15) feet.

**Tree Survey** means a scaled drawing accurately showing the location, Caliper and Critical Root Zone of Significant Trees in relation to the property boundaries.

**Two (2) Family Dwelling** means a building designed for or occupied exclusively by two (2) families.

**Upholstery Shop** means a business establishment engaged in the installation of soft covering material such as fabric and underlayment for furniture and other objects. Except, however, with respect to motor vehicles, it shall only include interior upholstery. In no event shall an upholstery shop include the manufacture or building of furniture or other objects.

**Urbanization** means the process of constructing public improvements required to support suburban or urban land use.

**Utilities Other than Listed** means any utility requiring a franchise, such as closed circuit television, distribution of steam, hot or chilled water or similar service requiring the use of public streets or easements.

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

**Variety Store** means a retail commercial establishment, which supplies a variety of household goods, toys, limited light hardware items, candy, some clothing and other general merchandise.

**Veterinary hospital** means an establishment offering veterinary services and clinics for pets, small and/or large animals. Typical uses include pet clinics, care, treatment and temporary housing of livestock and large animals, with temporary housing of large animals permitted in an attached or adjacent roofed building, with three (3) or more sides having walls or a solid fence extending from the foundation to at least 3/4 of the distance to the roof line.

**Veterinary services** means an establishment offering veterinary services and clinics for pets and small domestic animals, with all activities and work in-doors.

**Video rental store** means an establishment engaged in the sale or rental of motion pictures or games.

**Vines** means any woody or herbaceous plants, which may cling by twining, by means of aerial rootlets or by means of tendrils or which, may simply sprawl over the ground or other plants.

**Warehouse** means an establishment engaged in the storage of merchandise or commodities in an enclosed structure.

**Watershed** means area from which stormwater drains into a given basin, river or creek.

**Waterway** means any natural or man-made channel conducting storm water from a two (2) year storm event at a depth of eight (8) inches or more and at a rate of fifteen (15) cubic feet per second or more. Street pavement shall in no instance be considered a waterway.

**Wood Yard** means a tract of property used for the storage of wood either for use as firewood or as a building material, containing a fence for safety and security.

**Working Days** means Monday through Friday exclusive of City recognized holidays.

**Wrecking Yard** means any lot, tract, or building or structure upon which used automobiles or parts of used automobiles or other motor vehicles are stored for the primary purpose of obtaining parts for resale as an automotive or motor vehicle part.

**Yard** means an open space at grade between the principal and accessory buildings and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

**Yard Depth** means the shortest distance between a lot line and a yard line.

**Yard, Front.** A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street easement line and the main building or any projections thereof other than the projections of the usual steps, balconies or bays, or unair-conditioned porch. On corner lots the front yard shall be considered as parallel to the street upon which the yard has its least dimension.

**Yard Line** means a line drawn parallel to a lot line at a distance there-from equal to the depth of the required yard.

**Yard, Rear** means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of steps, balconies or bays, or unair-conditioned porches, accessory dwellings or detached garages.

**Yard, Side** means a yard between the main building and the sideline of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of any building on the lot, or any projections thereof.

**Zero-lot-line lot** means a single-family lot that has a sidewall along or near one of the lot lines so that a usable yard of a minimum of ten (10) feet from the side lot line to the building line is created on the other side of the lot.

**Zoning** means the division of a municipality into districts in an effort to achieve compatible land use relationships, and the associated establishment of regulations governing the use, placement, spacing and size of land and buildings in order to achieve that compatibility as defined in *Chapter*

*211 of the Texas Local Government Code*

**Zoning Map** means the official certified map showing the division of the city into districts, which is a part of this zoning ordinance.

**Zoning (Spot)** means the zoning or rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

**Zoning (Strip)** means, typically, commercial and/or retail zoning proposed to accommodate commercial or retail development, fronting a portion of a major street, usually one lot deep.

**Zoo (Private)** means a facility housing and displaying live animals, reptiles or birds, privately owned and operated for a fee or for the promotion of some other enterprise.

**Zoo (Public)** means a publicly owned zoo or similar facility owned and operated by a governmental entity or nonprofit zoological society where live animals, birds and reptiles are domiciled and displayed.

**ANY DEFINITION NOT EXPRESSLY PRESCRIBED HEREIN SHALL, UNTIL SUCH TIME AS DEFINED BY ORDINANCE, BE CONSTRUED IN ACCORDANCE WITH CUSTOMARY USAGE IN MUNICIPAL PLANNING AND ENGINEERING PRACTICES.**

**Section 12.105. Application.** The provisions of this Chapter shall, except as specifically provided otherwise in this Chapter, apply to all land within the jurisdiction of the City.

**Section 12.106. Exemptions.** The provisions of this Chapter shall not: (a) prohibit the continuation of plans, construction or designed use of a building for which a building permit was lawfully issued and which (i) is completed in its entirety within one (1) year from the effective date of this Chapter; and (ii) for which construction shall have been started within ninety (90) days after the effective date of this Chapter; provided that any such building, construction or use that is not in compliance with this Chapter shall be a nonconforming use; or

(b) Apply to permits or commitments given by the City with reference to construction of public utility buildings prior to the passage of this Chapter.

**Section 12.107. Enforcement of Regulations.** (a) No building permit, certificate of occupancy, plumbing permit, electrical permit, or utility tap shall be issued by the City for or with respect to any lot, tract or parcel of land within the City limits that is developed, or proposed to be developed, after the effective date of this Chapter, until all then applicable requirements of this Chapter have been satisfied and accepted by the City.

(b) This Chapter may be further enforced by injunction and other judicial proceedings, either at law or in equity; and, in lieu of or in addition to any other authorized enforcement or action taken, any person who violates any term or provision of this Chapter, with respect to any land or development within the City, by fine and penalties as provided herein.

**Section 12.108 and 12.109. Reserved**

**ARTICLE 12.110.  
ZONING DISTRICTS AND REGULATIONS.**

**Section 12.111. General Requirements and Limitations.**

(a) Conformity to Zoning District Required. No building shall be erected and no existing buildings shall be moved, structurally altered, added to or enlarged, nor shall any land, building or premises be used, or designated for use for any purpose or in any manner other than provided for hereinafter in the district in which the building, land or premises is located; provided, however, that necessary structural repairs may be made where health and safety are endangered. Furthermore, no open space surrounding any building shall be encroached upon by a structure or reduced in any manner, unless the same shall conform to the regulations hereinafter designated for the District in which such building or open space is located.

(b) Signs and Billboards. No sign or billboard shall be erected, moved, altered, added to, enlarged, painted, or modified unless it shall conform to the provisions of this Chapter and all applicable City ordinances governing the placement, location, permitting, construction and maintenance of signs. Except as otherwise expressly authorized by ordinance, all off-premises signs and billboards are expressly prohibited.

(c) Structures and Buildings. No building, structure or accessory structure shall be erected, converted or enlarged, nor shall any such existing building or structure be structurally altered or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless the same shall be done and completed in a manner to comply with all applicable City codes and ordinances, and such work and structure shall:

(i) Conform to the setback, building site area, building location and land use regulations hereinafter designated for the district in which such building or open space is located.

(ii) Not exceed the height limit herein established for the district in which such building is located, except as specifically authorized as follows:

(A) The height limits prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, necessary public or private utilities, conveyors, flag poles, and necessary mechanical appurtenances. The height limits and other applicable regulations for television, radio and communications towers and antennas may be established by separate ordinance.

(B) Public or semi-public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding thirty-five (35) feet.

(d) Accessory Structures and Uses. Accessory structures designed, constructed and located for a use permitted in the district, in compliance with this Chapter and all other applicable City ordinances, are permitted in each zoning district.

(e) Conformity to Construction Plan Requirements. No structure or building shall be erected, converted, enlarged, reconstructed or structurally altered unless Construction Plans meeting the requirements of this Chapter have been approved by the City Engineer and/or City Building Official.

(f) Conformity to Parking and Loading Space Requirements. No structure or building shall be erected, converted, enlarged, reconstructed, or structurally altered unless it shall conform to the off-street parking and loading requirements of this Chapter.

(g) Conformity to Landscaping and Screening Requirements. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered unless it shall conform to the landscaping and screening requirements of the this Chapter.

(h) Conformity to Building Setback Requirements. No yard or other open space provided around any structure or building for the purpose of complying with provisions of this section shall be considered as providing a yard or open space for a building on any other lot.

(i) Outdoor Lighting. All outdoor lighting shall be installed and maintained in compliance with all applicable city ordinances. Such lighting shall be located and maintained in a manner as to not be directed onto any public street or adjacent property; provided that such lighting may be directed directly down upon a public street as provided for street lights.

(i) Multi-Family and Business. Outdoor lighting for multi-family, general retail, commercial and office will be in accordance with the provisions of this Chapter and the City building codes. A lighting plan shall be included with the site plan submitted for a building permit.

(ii) Residential. Outdoor lighting on residential property will be installed in accordance with applicable City ordinances. It will be located so as not to be directed directly upon adjoining property or create a nuisance for adjoining property owners. Lighting used for security purposes, which will be operated during night hours will be located as close as is practicable to main dwellings.

(j) Height and Placement Requirements. Except as otherwise specifically provided in this Chapter, no building shall be erected or maintained within the required building setbacks set forth herein, or which exceeds the eave height limits specified in the following Chart 1.

**Chart 1.**

Zoning District	Min lot SF Area	Min Lot Width	Front Setback	Side Setback	Street Side Setback	Rear Setback	Eave Height Limit	Impervious Cover
R-1	8,400	70 ft.	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
R-1C	8,400	70 ft.	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
R-1E	1 Acre	200 ft.	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
R-2	4,200 per dwelling	35 ft. per dwelling unit	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
R-3	2,000 per dwelling	80 ft.	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
M-1	7,500	70 ft.	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
M-2	4,200 per dwelling unit and 100' open space	35 ft. per dwelling unit	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
C-1	6,000	60	25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	70%
C-2	10,000	60 ft. single tenant 100 ft. multi tenant	25 ft.	9 ft. against commercial 25 ft. against residential	25 ft.	25 ft.		70%
GOV			25 ft.	9 ft.	15 ft.	15 ft.	35 ft.	40%
CA	NA	NA	NA	NA	NA	NA	NA	NA
I	10,000	200	25 ft. against industrial 50 ft. against residential	35 ft.	80%			
A	2 Acres	500	25 ft.	25 ft.	25 ft.	25 ft.	35 ft.	40%
PUD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/a

(1) The Conditions and Limitations, Setbacks and Lot requirements set forth in Chart 1 applicable to the District governing the proposed base use of the property shall apply within this District, i.e. if the proposed use of property within the District is a use provided for in the C-1 District the conditions and limitations applicable to the C-1 District shall apply to the property.

(k) Parking. Automotive vehicles or trailers not bearing current license plates and state motor vehicle inspection stickers, excluding racing cars, antique cars, and cars belonging to members of armed forces who are on active duty, shall be parked or stored on any residential area only in completely enclosed buildings.

(i) Parking Regulations. Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this Chapter, designated on-street and off-street parking spaces shall be provided in a number not less than as provided in Chart 2 set forth hereinafter.

(ii) Handicap Parking. Non-residential handicap parking requirements are a minimum of one space for under fifty parking spaces, then one additional space for over fifty parking spaces up to one hundred spaces, and then one space per one hundred spaces up to five hundred. Over five hundred it is one percent of total parking spaces. Dimensional requirements are twelve foot (12') width and eighteen foot (18') depth per handicap space. The location and design of handicapped parking spaces shall be as required by ordinance.

(iii) Maximum Parking. The maximum number of parking spaces for a commercial or industrial use area shall not exceed 150% of the parking required pursuant to Chart 2.

(iv) Reduction of Parking. The total number of required motor vehicle parking spaces for a non-residential use may be reduced by 5% for each of the activities listed below provided by the owners or operators, up to a maximum 10% reduction in the total number of motor vehicle spaces,

(A) participate in an area wide carpool/vanpool ride matching program for employees; designating at least 10% of the employee motor vehicle parking spaces as carpool/vanpool parking and placing such spaces closer to the building than other employee parking;

(B) providing showers and lockers for employees who commute by bicycle;

(C) providing covered, secured bicycle parking racks or facilities;

(v) Development and Maintenance Standards for Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

(A) Off-street parking areas for more than five vehicles shall be effectively screened by a sight-obscuring fence, hedge or planting, on each side which adjoins a residential

zoned property.

(B) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

(C) Access aisles shall be of sufficient width for vehicular turning and maneuvering.

(vi) Council Determination. Off-street and on-street parking for all uses not within the categories above shall be adequate to meet the anticipated needs and shall be determined by the City Council using standards outlined for special exception and with a view towards providing adequate parking and carrying out the general scheme of the parking requirements herein set out.

Special Exception. The City Council may grant a special exception to allow two or more users to share parking spaces upon a showing that the particular user in question will require parking at different times. Any spaces the Council allows to be shared count toward the number of spaces each user must provide.

**Chart 2**

Use	Number of Parking Spaces
Residential dwellings, single to multi-family, And manufactured homes	Two spaces minimum for each living unit, and one-half (1/2) space for each additional bedroom above four.
Warehouses, manufacturing plants and other similar commercial establishments not catering to the general public.	One space per 1,000 square feet of gross floor space.
Hotels, Motels and similar transient accommodations	One space per bedroom and one space for each two employees
Rest homes, Hospitals, Nursing Homes, Convalescent Homes, sanitariums, and similar uses.	One space for each two employees, and One space for each four patient beds
Bars, Cafes, Restaurants, Taverns, Night Clubs, and similar uses.	One space for every four seats provided for customer services
Banks, Offices, financial lending institutions, gasoline stations, personal service shops, retail establishments, shopping centers and similar uses catering to the general public.	One space for each 250 square feet of gross floor space.

(l) Uses Non-cumulative. Uses within each District are restricted solely to those uses expressly permitted in each District, and are not cumulative unless so stated.

(m) Exceptions. Nothing in this section shall prohibit the approval of a comprehensive zero lot line residential development or other innovative housing development in compliance with the other terms and provisions of this Chapter.

(n) Mandated Exceptions. To the extent required by state or federal law, a Personal Care Facility is an additional permitted use in any zoning district; provided that:

(i) Homes and residential units not designated and constructed in compliance with the ordinance and code requirements applicable to multiple occupancy residential buildings and nursing homes, shall meet the following requirements:

(A) The structure shall comply with provisions of the Fire Code, Electrical Code and Building Code that are applicable to nursing homes;

(B) There shall be two (2) parking spaces, plus one additional space for each three residents;

(C) There shall be not less than fifty square feet of living space within a sleeping room for each occupant assigned to such room;

(D) There shall be not less than 175 square feet of living area in the structure for each occupant/resident of the structure, and attendant on duty; and

(E) The structure and operations shall comply with the standards established by the Texas Department of Human Services as licensing standards for personal care facilities for a Type B facility.

(ii) The Home must meet all applicable State licensing requirements;

(iii) A Personal Care Facility must have at least one paid staff member on duty 24 hours per day, and one supervisor for each six (6) residents during waking hours;

(iv) A Personal Care Facility may not have more than fifteen (15) residents.

**Section 12.112. Establishment of Zoning Districts.** (a) The City is hereby divided into fourteen (14) zoning districts, the use, height and area regulations as set out herein shall be uniform in each district. The fourteen (14) districts established shall be known as:

<u>Abbreviated Designation</u>	<u>Zoning District Name</u>	
A	Agricultural	- District A
R-1	Single Family Residential 1	- District R-1
R-1C	Residential 1 Commercial	- District R-1C
R-1E	Residential 1 Estate	- District R-1 E
R-2	Residential Multi-Family	- District R-2
R-3	Residential Multi-Plex	- District R-3
M-1	Manufactured Home Subdivision	- District M-1
M-2	Manufactured Home Park	- District M-2
CA	Central Area	- District CA
C-1	Commercial-Light	- District C-1
C-2	Commercial-Intense	- District C-2
I	Industrial	- District I
PUD	Planned Unit Development	- District PUD
GOV	Governmental	- District GOV

(b) Zoning Map. The location and boundaries of the Districts herein established are shown upon the Zoning Map, which is hereby incorporated and made a part of this Chapter; provided that such uses as listed but not shown on the zoning map are provided for future growth and use upon amendment of the Comprehensive Plan. The City Building Official maintains the Zoning Map together with all notations, references, and other information shown thereon and all amendments thereto.

(c) District Boundaries. Where uncertainty exists with respect to the boundaries of the established districts as shown on the Zoning Map, the following rules shall apply:

(i) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines shall be construed to be said boundaries.

(ii) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(iii) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines of right-of-way lines of highways such district boundaries shall be construed as being parallel thereto and at such distance there-from as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale on said Zoning Map.

(iv) In subdivided property, the district boundary lines on the Zoning Map shall be

determined by use of the scale appearing on the map.

(v) If a district boundary line divides a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district line as shown.

(vi) Whenever any street, alley or other public way is vacated by the City Council, the zoning district shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the districts as extended.

(vii) Where the streets on the ground differ from the streets shown on the Zoning Map, those on the ground shall control.

**Section 12.113. Zoning of Annexed Areas.** (a) Interim Zoning District. All territory hereafter annexed to the City shall be automatically classified as Residential District "R1", pending subsequent action by the Commission and Council for permanent zoning; provided that upon application, by either the City or the property owner of the land being annexed, for zoning other than R1, notice may be given and hearings held in compliance with *Chapter 211 of the Texas Local Government Code* and, upon annexation, such property may be permanently zoned as determined by the City Council after considering the Commission's recommendation.

(b) Permits in Interim Zoned Areas. In an area temporarily classified as Residential District "R1", no permits for the construction of a building or use of land other than uses allowed in said District under this Chapter shall be issued by the City Building Official.

**Section 12.114. Agricultural District - District "A".** Allows farming, ranching, pasturage, detached single-family residences and related accessory structures, on a minimum two acre tract. Parks, playgrounds, greenbelts and other public recreational facilities, owned and/or operated by the municipality or other public agency are permitted.

(a) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

**Section 12.115. Single Family Residential 1 - District "R-1".** (a) Purpose and Permitted Uses. Permits detached single family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 8,400 square foot.

(b) Additional Permitted Uses.

(c) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

(iii) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of and un-illuminated "For Sale" or "For Rent" sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) un-illuminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(iv) All paved driveways shall be single use. No paving shall be allowed in the side setbacks of interior lots.

(d) Accessory Structures and Uses. Accessory Structures and Accessory Uses customarily incident to the single family residential use permitted in the district, that are located on the same lot with the primary residential structure, that are designed, constructed and located for a use permitted in the one-family district, and that are in compliance with this Ordinance and all other applicable City ordinances, are permitted in the district; provided the same do not involve the conduct of any business or commercial enterprise and comply with each of the following requirements:

(i) a private garage may have a capacity for not more than (3) standard size automobiles, plus one hundred forty-four (144) square feet of storage space for goods and materials. Where the residential structure is two stories or greater, the private garage may have a second story containing an apartment or storage for use of the family constructed as an integral part of the main building and shall be subject to the regulations affecting the main building.

(ii) accessory structures that are one hundred forty-four (144) square feet and smaller shall not have a wall height greater than eight (8) feet. No building permit will be required.

(iii) all accessory structures larger than one hundred forty-four (144) square feet must:

- (a) have a roof line that is not greater in height than the roof line of the single family dwelling; and
- (b) have walls that are of a height no greater than the majority wall height of the primary structure; and
- (c) have a roof constructed of substantially the same color, slope and pitch as the roof of the single family dwelling; and
- (d) meet the setback requirements for the City of Rockdale; and

- (e) not cause the total lot coverage square feet to exceed the percentage specified earlier in this ordinance; and
- (f) exteriors of brick, stone, masonry, wood, masonite, hardy-plank and metal siding with a baked on enamel finish are permitted. Corrugated metal siding is not permitted; and
- (g) when the primary structure exterior is brick or stone or other masonry, the accessory structure exterior must be;
  - (i) at least forty (40) percent wainscot of the same material and design as the primary structure, or
  - (ii) the full front of structure must be of the same material and design as the primary structure; and
- (h) exterior sides must be of substantially the same color, or color matched with the primary structure; and
- (i) be compatible by architectural design and appearance with the single family dwelling or adjacent single family dwellings;

(iv) except for the single family dwelling, not more than one private garage, one carport, and one other accessory structure may be constructed on a single-family lot;

(v) a carport may be constructed on a single-family lot provided that it is color matched to the house, does not have a plate and roof height greater than the single family dwelling, meets the side setback requirements of this chapter and, is at least 5 feet from the property line at the entrance to the carport.

**Section 12.116. Residential 1 Commercial- District "R-1C".** (a) Purpose and Permitted Uses. Permits detached single family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of 8,400 square foot in which a light commercial use including professional services, personal services and sales of non-toxic or non-hazardous materials may occur similar to home occupations however may occur in a stand alone building. No use in R-1 C shall have more than two employees.

(b) Additional Permitted Uses.

(i) Light Commercial Uses similar to home occupations.

(c) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

(iii) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of and un-illuminated "For Sale" or "For Rent" sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other

institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) un-illuminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(iv) All paved driveways shall be single use. No paving shall be allowed in the side setbacks of interior lots.

(d) Accessory structures. See Section 12.115 (d).

**Section 12.117. Residential 1 Estate - District "R-1E".** (a) Purpose and Permitted Uses. Permits detached single family dwellings with a minimum of 1,000 square feet of living area, and related accessory structures, on a minimum lot size of one acre. Residential development may occur without the need for sidewalks, curb and gutter and central wastewater.

(b) Additional Permitted Uses.

(c) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

(iii) A billboard, signboard, or advertising sign shall not be permitted as an accessory use; provided that the placing of and unilluminated "For Sale" or "For Rent" sign not more than eight (8) square feet in area may be permitted as an accessory use, and churches and other institutions may display signs showing names, activities and services therein provided, and that during construction of a structure or building one (1) unilluminated sign advertising contractors or architects on such premises shall be permitted provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the established or customary building line, and such sign shall be removed immediately upon completion of the building.

(iv) All paved driveways shall be single use. No paving shall be allowed in the side setbacks of interior lots.

**Section 12.118. Residential Multi-Family - District "R-2" Duplex, Triplex and Fourplex.** (a) Purpose and Permitted Uses. Allows single-family dwellings two, three and four unit dwellings and any other use permitted in R1. The dwellings shall have a minimum of 600 feet of living space on a minimum lots size of 4,200 feet per dwelling unit.

(b) Additional Permitted Uses.

(c) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

(iii) A minimum of two (2) off-street parking spaces shall be provided for each living unit. All off-street parking and driveways shall be improved with all weather asphalt, concrete, or paving stones, and curb and gutter.

(d) Accessory structures. See Section 12.115 (d).

**Section 12.119. Residential Multi-Plex - District "R-3".** (a) Purpose and Permitted Uses. Allows any use permitted in District R-2; and more than five dwelling units with a minimum living space of 600 feet on a minimum lot size of 2,000 square feet per dwelling unit.

(b) Additional Permitted Uses.

(c) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

(iii) A minimum of two (2) off-street parking spaces shall be provided for each living unit. All off-street parking and driveways shall be improved with all weather asphalt, concrete, or paving stones, and curb and gutter.

(d) Accessory structures. See Section 12.115 (d).

**Section 12.120. Manufactured Home Subdivision - District "M-1".** (a) Purpose and Permitted Uses. Property and areas of the City zoned "M-1" may be planned, used, approved, platted and occupied as a Manufactured Home Subdivision with lots sold and conveyed to individual lot owners. Land and areas of the City zoned "M-1" and having an approved subdivision plat may be used for manufactured homes having a minimum of 600 square feet of living area.

(b) Additional Permitted Uses.

(c) Conditions and Limitations.

(i) Manufactured Homes must have a minimum of six hundred (600) square feet of living area.

(ii) Manufactured Homes must be skirted within ninety (90) days from date installed.

(iii) Manufactured homes must be tied down securely and in compliance with applicable regulations prior to occupancy.

(v) See Chart 1.

(vi) See Chart 2.

(d) Authorized in Specified Areas. No manufactured home may be located in any District other than "M-1" or "M-2" District only.

(e) Standards. The installation, occupancy and maintenance of manufactured homes in the "M-1" district shall be subject to the following provisions.

(i) No outside horizontal dimension shall be less than 14 feet, except for original extensions or subsequent additions containing less than 50 percent of the total enclosed floor area.

(ii) The exterior siding material, excluding skirting, shall be nonmetallic.

(iii) The structures shall be of adequate quality and safe design, as certified by a label stating that the unit is constructed in conformance with the federal Mobile Home Construction and Safety Standards in effect on the date of manufacture, or other such applicable standards as required by state or federal law. Any such structure without such certification, but meeting all other requirements, may be accepted as safe and quality construction provided it meets the following criteria;

(A) All electrical material, devices, appliances, and equipment are in sound and safe condition. Aluminum conductors are not acceptable.

(B) All mechanical systems including space and water heating, are in sound and safe condition.

(C) All plumbing, gas piping, and wastewater systems are in sound and safe condition.

(D) The unit is in sound and safe structural condition. Uncompressed finish floorings greater than 1/8 inch in thickness beneath load-bearing walls that are fastened to the floor structure are not acceptable. Any such structure that shows signs of fire damage will not be acceptable.

(E) The determination of the foregoing acceptance of any non-certified unit shall be made by the Building Official and/or the Fire Marshall.

(iv) Manufactured homes shall be installed in accordance with the following criteria:

(A) By a person licensed by the State of Texas in compliance with state law, or the frame shall be supported by, and tied to, a foundation system capable of safely supporting the loads imposed as determined from the character of the soil. The minimum acceptable foundation design shall be a series of eight-inch grout-filled concrete block piers spaced no more than eight feet on center and bearing on 12" x 12" solid concrete footings. A tie-down and anchoring system separate and apart from the foundation ties shall be provided as recommended by the manufacturer, if different from the foundation ties.

(B) Axle and hitch assemblies shall be removed at the time of placement on the foundation.

(C) Each manufactured home shall be totally skirted with metal, masonry, pressure-treated wood, or other non-degradable material, which is compatible with the design and exterior materials of the primary structure.

(D) Electrical power supply shall be from a meter installation on the manufactured home, or from a permanent meter pedestal.

(E) Driveways and off-street parking shall be provided in accordance with the requirements for single-family dwellings.

(F) Garage and carport additions are permitted, provided they cover a paved parking area and are connected to a street by a paved drive, meet the minimum building setback requirements, and have roof and siding material compatible with the primary structure.

(G) Patio and porch covers are permitted, provided they cover an improved patio, deck, or porch, and meet the minimum building setback requirements.

(H) Living area additions are permitted, provided they meet the minimum building setback requirements, have roof and siding material that is compatible with the primary structure, and comply with the same structural standards as the primary structure.

(I) All accessory structures and additions shall comply with all applicable city ordinances.

(e) Site Development Regulations. The minimum lot width shall be 70.

(f) Accessory structures. See Section 12.115 (d).

**Section 12.121. Manufactured Home Park - District "M-2". (a) Purpose and Permitted**

Uses. Property and areas of the City zoned "M-2" may be planned, used, approved, platted and occupied as a Manufactured Home Park with lots held under common ownership and rented or leased to individual tenant occupants. Land and areas of the City zoned "M-2" and having an approved subdivision plat may be used for manufactured homes having a minimum of 600 square feet of living area.

(b) Additional Permitted Uses.

- (i) One manufactured home on each approved space or lot.
- (ii) Accessory buildings located on a lot for use by the owner or occupant of a structure that is located on such lot.
- (iii) Recreational, civic and/or commercial facilities designed for exclusive use of the occupants of the Manufactured Home Park.
- (iv) Accessory buildings for use by the owner or manager of the Manufactured Home Park.
- (v) One single-family dwelling unit on a 6,000 square foot or larger lot for use as the owner's or manager's residence.

(c) Conditions and Limitations.

- (i) See Chart 1.
- (ii) See Chart 2.
- (iii) Design Requirements. A development designed as a manufactured home park shall meet all requirements of the manufactured home park ordinance of the city and all requirements of the city subdivision ordinance. The development shall include amenities and be designed for the explicit purpose of renting or leasing of sites and shall not be construed to permit the sale of such spaces or lots.
- (iv) Conversion. At no time may a manufactured home park be converted to a manufactured home subdivision without first complying with all requirements of the city subdivision ordinance then in effect, receiving approval by the City Council, and being rezoned to M-1.
- (v) Thru Traffic. No through traffic shall be permitted in a Manufactured Home Park.
- (vi) Perimeter Fence. A perimeter fence shall be required, unless otherwise approved by the Commission.

(d) Standards. The installation, occupancy and maintenance of manufactured homes in the "M-2" district shall be subject to the following provisions: See Section 12.120; provided that the

addition of garages, carports and additional living area is not permitted.

(e) Site Development Regulations. See Section 12.120(e);

(f) Accessory structures. See Section 12.115 (d).

**Section 12.122. Central Area - District "CA".** (a) Permitted Uses. This district principally addresses development in the original town and central area of the City, allowing a mix of uses including, retail, office, light commercial, and residential uses.

(i) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

(b) Conditions and Limitations.

(i) That it be conducted wholly within an enclosed building, except for delivery, gasoline sales, nurseries and garden centers.

(ii) That required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.

(iii) That gasoline and alcoholic beverage sales are not permitted without a conditional use permit first being obtained.

(iv) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.

(v) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within any required yard nor within twenty-five (25) feet of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this Chapter and any other applicable ordinance of the City.

(vi) The Conditions and Limitations and permitted uses applicable to the District governing the proposed use of the property shall apply within the Central Area District, i.e. if the proposed use of property within the CA District is a use provided for in the C-1 District the conditions, limitations and permitted uses applicable to the C-1 District shall apply to the property within the CA District.

(c) Site Plan Regulations. The Site Plan Regulations applicable to the District governing the proposed use of the property shall apply within the Central Area District, i.e. if the proposed use of property within the CA District is a use provided for in the C-1 District the Site Plan Regulations applicable to the C-1 District shall apply to the property within the CA District.

**Section 12.123. Commercial-Light - District "C-1".** (a) Purpose and Permitted Uses. This district allows the retail sale of goods and products to which value has been added on-site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed.

(i) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

(b) Conditions and Limitations.

(i) That it be conducted wholly within an enclosed building, except for delivery, gasoline sales, nurseries and garden centers.

(ii) That required yards and outdoor areas not be used for display, sale vehicles, equipment, containers or waste material, save and except for screened dumpster collection areas.

(iii) That all merchandise be new, first-hand and be sold on the premises, save and except for delivery only including catering.

(iv) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance; and that, excluding that caused customer and employee vehicles, such odors, smoke, dust, noise or vibration be generally contained within the property.

(v) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within any required yard nor within twenty-five (25) feet of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this Chapter and any other applicable ordinance of the City.

(vi) Establishments located on property that is within 300' of any property zoned for a residential use when the commercial use is first established may not to be open to the general public before 5:00 a.m. and must be closed to the general public by 10:00 p.m.

(vii) See Chart 1.

(viii) See Chart 2.

(c) Site Development Regulations.

(i) Development of any use permitted in the "C-1" District shall conform with the site development regulations established for that District.

(ii) Paved Sidewalks, driveways and parking areas are required.

(iii) Screening of loading and storage facilities is required.

**Section 12.124. Commercial-Intense - District "C-2".** (a) Purpose and Permitted Uses. This district is intended to provide for commercial uses including the more intense commercial land uses not requiring an industrial zoning category, provided that such use shall when established be compatible with adjacent and neighboring residential areas and not create unreasonable traffic or land use conflicts. All uses permitted in the C-1 district are additional permitted uses.

(i) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

(b) Conditions and Limitations.

(i) That it be conducted within a building and/or outdoor area that is improved with concrete, asphalt pavement or other all weather surface and that is suitably landscaped, screened or fenced.

(ii) That the use not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.

(iii) Signs (advertising) must be on the same lot as the business establishments to which they refer and shall not be placed within twenty-five (25) feet of any Residential District. Signs may be illuminated but must be stationary and non-flashing. All signs shall comply with all applicable provisions of this Chapter and any other applicable ordinance of the City.

(iv) See Chart 1.

(v) See Chart 2.

(c) Site Development Regulations.

- (i) Development of any use permitted in the "C-1" or "C-2" District shall conform with the site development regulations established for that District.
- (ii) Paved Sidewalks, driveways and parking areas are required.
- (iii) Screening of loading and storage facilities is required.

**Section 12.125. Industrial - District "I".** (a) Permitted Uses. Allows assembly, packaging, treatment, processing and manufacture of products that do not pose any materially potential hazard to persons and property outside the boundaries of the property, and the following specifically listed uses to the extent such uses are contained or included within property as to not pose a potential hazard outside of the property on which such use is conducted:

- (i) Uses as determined by the Commission and the Council which are closely related and similar to those listed and that are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences than the minimum amount normally resulting from listed uses permitted, such permitted uses being generally retail trade, service industries that sale, store, distribute and/or repair goods, vehicles, equipment and materials, and are in general dependent on products and materials produced elsewhere.

(b) Conditions and Limitations.

- (i) See Chart 1.
- (ii) See Chart 2.

(c) Site Development Regulations. Development of any use permitted in the "I" District shall conform with the site development regulations established for that District.

(d) Performance Standards - Industrial District. All uses in the I (Industrial) District, District "I", shall conform in operation, location and construction to the minimum performance standards herein specified for noise, odorous matter, toxic and noxious matter, glare, smoke, particulate matter and other air contaminants, fire and explosive or hazardous matter, vibration, open storage and glare.

- (i) Noise. At no point at the bounding property line of any use in an I District may the sound pressure level of any operation or plant exceed the decibel limits specified in the octave band groups designated in the following table.

(A) Maximum permissible daytime\* Octave Band - Decibel limits, at the bounding property line\*\*, in an I District;

OCTAVE

BAND	37	75	1503006001200	2400	4800	A	
(CPS)		75	1503006001200	2400	4800	9600	SCALE

DECIBEL BAND LIMIT (DB RE 0.0002 MICROBAR)

86	76	70	65	63	58	55	53	65
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**Note:** A scale level is provided for monitoring purposes only and is not applicable to detailed sound analysis.

\*Daytime shall refer to the hours between sunrise and sunset on any given day.

\*\*The Building Official will interpret the bounding property line as being at the nearest side of the right-of-way or property line of any street, alley, stream or other permanently dedicated open space to the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be interpreted as the bounding property line.

(B) The following corrections will be made to the table of Octave Band - Decibel limits in determining compliance with the noise level standards in an I District.

When noise is present at nighttime (anytime other than daytime), subtract 7 decibels. When noise contains strong, pure tone components or is impulsive, that is when meter changes at 10 decibels or more per second, subtract 7 decibels. Add ten decibels when noise is present for not more than:

- 1/2 minute in any 1/2 hour period;
- 1 minute in any 1 hour period;
- 10 minutes in any 2 hour period; or
- 20 minutes in any 3 hour period.

(C) Measurement of noise is made with a sound level meter or Octave Band analyzer, meeting the standards prescribed by the American Standards Association.

(ii) Smoke and Particulate Matter. No operation or use in an I District shall cause, create or allow the emission of air contaminants which violate State or Federal environmental law, as referenced herein: *Texas Health and Safety Code Ann. Chapters. 381 & 382; Air Pollution Prevention and Control, 42 U.S.C.A. 7401, et. seq.* Open storage and open processing operations including on-site transportation on movements which are a source of wind or airborne dust or other particulate matter are subject to the standards and regulations specified herein.

(iii) Odorous Matter. No use may be located or operated in an I District which involves the emission of odorous matter from a source of operation where the odorous matter exceeds a

concentration at the bounding property line or any point the tract on which such use or operation is located which, when diluted with an equal volume of odor free air, exceeds the odor threshold (2 odor units). The odor threshold as herein set forth is determined by observation by the City Staff. 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 as specified by American Society for Testing Materials, A.S.T.M.D. 1391-57, Entitled "STANDARD METHOD FOR MEASUREMENT OF ODOR IN ATMOSPHERES" will be used and a copy of the A.S.T.M.D. 1391-57 is hereby incorporated by Reference.

(iv) Flammable and Hazardous Materials. No use involving the manufacture or storage of compounds or products which decompose by detonation is permitted in an I District except that chlorate, nitrates, perchlorates, phosphorous 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 Marshall of the city as not presenting a fire or explosion hazard. The storage and use of all flammable liquids and materials, such as pyroxylin plastics, nitrocellulose film, solvents and petroleum products is permitted only when such storage or use conforms to the standards and regulations of established by city ordinance.

(v) Toxic and Noxious Matter. No operation or use permitted in an I (industrial) District may emit a concentration across the bounding property line of the tract on which such operation or use violating State or Federal environmental laws, as referenced herein: *Texas Health and Safety Code, Chapters. 381 & 382; Air Pollution Prevention and Control, 42 U.S.C.A. 7401, et. seq.* Open storage and open processing operations, including on-site transportation movements which are a source of wind or airborne dust or other particulate matter, are subject to the standards and regulations specified herein.

(vi) Vibrations. No operation or use in an I District may at any time create earthborne vibration which, when measured at the bounding property line of the source of operation, exceed the limit of displacement set forth in the following table in the frequency ranges specified.

<u>FREQUENCY</u> <u>CYCLES PER SECOND</u>	<u>DISPLACEMENT</u> <u>IN INCHES</u>
0 to 10	.0020
10 to 20	.0016
20 to 30	.0010
30 to 40	.0006
40 to 50	.0005

(vii) Glare. No use or operation in an I District may be located or conducted so as to produce intense glare or direct illumination across the bounding property line from a visible source of illumination nor may any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

**Section 12.126. Planned Unit Development – District "PUD".** (a) Purpose and Objectives. The purpose and intent of the Planned Unit Development District is to provide a flexible, alternative procedure to encourage imaginative and innovative designs for the unified development of property in the City consistent with this Chapter and accepted urban planning, with overall mixed-use regulations as set forth below and in accordance with the City's comprehensive plan. The PUD rules are designed: (i) to allow development which is harmonious with nearby areas; (ii) to enhance and preserve areas which are unique or have outstanding scenic, environmental, cultural or historic significance; (iii) to provide an alternative for more efficient use of land, resulting in smaller utility networks, safer streets, more open space, and lower construction and maintenance costs; (iv) to encourage harmonious and coordinated development, considering natural features, community facilities, circulation patterns and surrounding properties and neighborhoods; (v) to facilitate the analysis of the effect of development upon the tax base, the local economy, population, public facilities and the environment; (vi) to provide and result in an enhanced residential and/or work environment for those persons living and/or working within the district; and (vii) to require the application of professional planning and design techniques to achieve overall coordinated mixed-use developments and avoid the negative effects of piecemeal, segregated, or unplanned development. Toward these ends, rezoning of land and development under this district will be permitted only in accordance with the intent and purpose of the City's comprehensive plan and this Chapter, and to that end the PUD plan must be prepared and approved in accordance with the provisions of this Chapter.

(b) Mixed Use Development. The PUD District shall include and allow for compatible mixed uses such as compatible residential, commercial and/or industrial, within a single project within the boundaries of a an approved plan area, in order to provide the flexibility required for a well-designed and innovative development that will conserve, develop, protect and utilize to their best use the natural resources of the area in a manner that ensures the safe, orderly and healthy development and expansion of the City. In order to promote such development, the PUD may be comprised of a combination of all the other zoning districts provided for in this Chapter. The outer boundary of the each such PUD Zoning District shall be shown on a map. Said map will include a descriptive legend, the specific boundaries of the area proposed for use authorized for in any other zoning district, and percentage of the total area of such PUD which will comprise each such separate use, and all notations, references, and other information shown thereon, shall be adopted by Ordinance.

(c) Flexible Planning. When considering a PUD, the unique nature of each proposal for a PUD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances, e.g., without limitation, the width and surfacing of streets and highways, lot size, parking standards, set backs, alleyways for public utilities, signage requirements, curbs, gutters, sidewalks and street lights, public parks and playgrounds, drainage, school sites, storm drainage, water supply and distribution, sanitary sewers, sewage collection and treatment, single use districts, etc. Final approval of a PUD by the City Council shall constitute authority and approval for such flexible planning to the extent that the PUD as approved, departs from existing codes and ordinances. The flexibility permitted for a PUD does not imply that any standard or requirement will be varied or decreased.

(d) Rules Applicable. The City Council, after public hearing and proper notice to all parties affected and after recommendation from the Commission, may attach a Planned Unit Development district designation to any tract of land equal to or greater than three (3) acres. Under the Planned Development designation the following rules apply:

(i) The approval of any proposed PUD or combination of uses proposed therein shall be subject to the discretion of the City Council, and no such approval will be inferred or implied.

(ii) Permitted uses are those listed under the applicable zoning district(s) for the base zoning to be applied to the PUD (for example, the permitted uses in a PUD proposed to be developed as a retail, commercial and office development are the respective uses listed for the General Retail, Commercial and Office districts). In addition, a Planned Unit Development district may be established where the principal purpose is to serve as a transitional district, or as an extension of an existing district whereby the provision of off-street parking, screening walls, fences, open space and/or planting would create a protective transition between a lesser and more restrictive district. In approving a Planned Unit Development, additional uses may be permitted, and specific permitted uses may be prohibited from the base district.

(iii) Standards required by the base zoning apply in a Planned Unit Development except that the following regulations and standards may be varied in the adoption of the Planned Unit Development; provided that the plan is consistent with sound urban planning and good engineering practices.

(A) Front, side and rear setbacks.

(B) Maximum height.

(C) Maximum lot coverage.

(D) Floor area ratio.

(E) Off-street parking requirements.

(F) Special district requirements pertaining to the base zoning.

(G) Number of dwelling units per acre.

(H) Accessory building regulations.

(I) Sign standards.

(iv) In approving a Planned Unit Development, no standards may be modified unless such modification is expressly permitted by this Chapter, and in no case may standards be modified when such modifications are prohibited by this Chapter.

(v) In approving a Planned Unit Development, the City Council may require additional standards deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, light and air, orientation, type and manner of construction, setbacks, lighting, landscaping, management associations, open space, and screening.

(vi) The Commission and City Council, in approving modifications to standards and regulations, shall be guided by the purpose intended by the base zoning and general intent of this Chapter.

(e) Preliminary Site Plan. A Preliminary Site Plan of the entire property within the Planned Unit Development will be considered by the Commission prior to any recommendation to, or consideration by, the City Council of the Planned Unit Development district ordinance.

(i) A Preliminary Site Plan may be approved for a portion of a Planned Unit Development district where the district is divided by a major thoroughfare, and the Preliminary Site Plan includes all the property located on one side of the street.

(ii) Approval of a Preliminary Site Plan will determine the location and mix of proposed uses, proposed points of ingress and egress, parking spaces, building locations and height, lot coverage, yards and open spaces, landscaping, screening walls or fences, topography, and other development and protective requirements, considered necessary to create a reasonable transition to, and protection of, the adjacent property.

(iii) The Commission and/or City Council may approve, conditionally approve, request modifications, or deny approval of the Preliminary Site Plan based on evaluation of details with respect to:

(A) The plan's compliance with all provisions of this Chapter and other ordinances of the City.

(B) The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.

(C) The relationship of the development to adjacent uses in terms of harmonious use and design, setbacks, maintenance of property values, and negative impacts.

(D) The provision of a safe and efficient vehicular and pedestrian circulation system.

(E) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

(F) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings

(G) The coordination of streets so as to compose a convenient system consistent with the Thoroughfare Plan of the City.

(H) The use of landscaping and screening (1) to provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary; and (2) to complement the design and location of buildings and be integrated into the overall site design.

(I) The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

(J) The adequacy of water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

(f) Final Site Plan. Following approval of the Preliminary Site Plan, or simultaneously if detailed information is available, a Final Site Plan for any portion of the Planned Unit Development may be approved. The Preliminary Site Plan establishes the general development standards according to a base district. The Final Site Plan providing all the detail required for development, subdivision, zoning and enforcement of the special conditions and regulations must be approved by ordinance prior to the zoning being in effect and construction being authorized.

(g) Amendments. Consideration of amendments to a Planned Unit Development will take into consideration the effect of the proposed development on the remainder of the property, adjacent properties and the neighboring communities. Amendments to the final site plan or any planned development conditions which are substantive shall require public hearings in the manner required for any other zoning change.

(h) Expiration. If development equal to at least twenty-five (25%) percent of the cost of installing streets, utilities and drainage in the PUD, or, if the PUD is approved to be developed in sections or phases, if development equal to at least fifty (50%) percent of the cost of installing streets, utilities and drainage in the first section or phase of the PUD has not occurred, on a Planned Unit Development tract or lot within two (2) years after the date of approval, such approval shall expire; and may only be renewed after application is made therefor, notice is given and public hearings are held by the Commission and City Council to evaluate the appropriateness of the previously authorized Planned Development approval. Any such application for renewal or extension shall be considered in the same manner, and under the same rules, regulations and ordinances then in effect, as a new application for zoning.

(i) Ordinance Amendment. Every Planned Unit Development district approved under the provisions of this Chapter is considered an amendment of this Chapter as to the property involved, and to the Master Plan. All Planned Unit Development districts will be referenced on the Zoning District Map, and a list of such Planned Unit Development districts shall be maintained as an appendix to this Chapter.

(j) Certificate of Occupancy. All Planned Unit Development district conditions and special regulations must be complied with in the PUD, or in the separate section or phase, before a

certificate of occupancy is issued for the use of land or any structure which is part of a Planned Unit Development district, or, if applicable, the separate section or phase being developed.

**Section 12.127 Governmental - District “GOV”.** (a) Purpose. This district is intended to provide appropriate areas for uses that provide important community services. An appropriate site should contain adequate space for required off-street parking and buffering. Facilities owned and operated by the federal government, the state or political subdivisions thereof, including public grounds;

(b) Additional Permitted Uses. Uses as determined by the Commission and the Council, which are closely related and similar to those listed above.

(c) Conditions and Limitations.

(i) See Chart 1.

(ii) See Chart 2.

**Section 12.128 Overlays.** (a) Purpose. The purpose of overlays is to permit mixed use and redevelopment in areas that otherwise would not normally be able to develop or to preserve some feature unique to that area.

(b) The City hereby establishes the following overlay districts which shall be governed by all of the uniform use and area requirements of this Chapter. Within these overlay districts, additional requirements are imposed on certain properties within one or more underlying general or conditional zoning districts. The Overlay Districts established by this Chapter, including the symbol for each type of district is as follows:

IR- Infill Redevelopment Overlay

(a) IR-infill Redevelopment Overlay. Where there is an existing lot that otherwise conforms to the restrictions applicable zoning located in the geographic area in the IR Overlay, the City may waive setback, parking, impervious cover, lot size and land use compatibility requirements and grant a building permit. Zero lot lines are permitted in the IR overlay.

**Sections 12.129 to 12.139 Reserved.**

**ARTICLE 12.140  
PLAN REQUIREMENTS AND SPECIAL PROVISIONS**

**Section 12.141. Construction Plans.** (a) Purpose and Applicability. Construction Plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces, and general conformance with the Master Plan and Ordinances of the City. Construction Plan approval by the City Engineer shall be required for any development or improvement of land subject to this Chapter, and not otherwise required by City's Subdivision Ordinance.

(b) Format. Construction Plans shall be drawn on twenty-four inch by thirty-six inch (24"x 36") sheets at a generally accepted engineering scale, and sufficient to thoroughly meet the informational requirements herein.

(c) Content. Construction Plans shall include all of the land proposed to be developed or improved, and any off-site improvements required to accommodate the project. Construction Plans shall contain, or have attached thereto:

(A) A Cover Sheet, showing

(1) Names, addresses and phone numbers as applicable of the record owner and developer, if any, and all authorized agents including the architect, engineer, landscape architect, and surveyor.

(2) The proposed name of the project.

(3) A location map showing the relation of the project to streets and other prominent features in all directions for a radius of at least one (1) mile using a scale of one inch equals two thousand feet (1" = 2,000'). The latest edition of the USGS 7.5 minute quadrangle map is recommended.

(4) Certification, revision and signature blocks as required by the City.

(5) The total acreage of the property to be developed.

(6) Current zoning district as defined by this Chapter.

(B) An Existing Conditions Plan, showing as follows:

(1) Boundary of existing zoning districts, if applicable.

(2) The existing property lines, including bearings and distances, of the land being developed or improved. Property lines shall be drawn sufficiently wide to provide easy identification.

(3) The location of existing structures and improvements, if applicable.

(4) The accurate location, Caliper and Critical Root Zone of Significant Trees 8-inch Caliper and larger, in relation to the property boundary and, if applicable, within the

limits of the proposed offsite improvements.

(5) Centerline of water courses, creeks, existing drainage structures and other pertinent data shall be shown.

(6) Lines delineating the Regulatory One Hundred (100) Year Floodplain, if applicable.

(7) Topographic data indicating one (1) foot contour intervals. The contoured area shall extend outward from the property boundary for a distance equal to twenty-five percent (25%) of the distance across the tract, but not fewer than fifty (50) feet nor more than two hundred (200) feet.

(8) The locations, sizes and descriptions of all existing utilities, including but not limited to sewer lines, lift stations, sewer and storm sewer manholes, water lines, water storage tanks, and wells within the property, and/or adjacent thereto. Existing overhead and underground electric utilities shall also be shown.

(9) The location, dimensions, names and descriptions of all existing or recorded streets, alleys, reservations, railroads, easements, building setbacks or other public rights-of-way within the property, intersecting or contiguous with its boundaries or forming such boundaries, as determined from existing deed and plat records. The existing right-of-way width of any boundary street to the property shall also be shown.

(10) Location of City limit lines and/or outer border of the City's extra-territorial jurisdiction, as depicted on the City's most recent base map, if either traverses or is contiguous to the property boundary.

(C) An Erosion and Sedimentation Control Plan, showing as follows:

(1) Proposed fill or other structure elevating techniques, levees, channel modifications and detention facilities.

(2) Existing and proposed topographic conditions with vertical intervals not greater than one (1) feet referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.

(3) The location, size, and character of all temporary and permanent erosion and sediment controls with specifications detailing all on-site erosion control measures which will be established and maintained during all periods of development and construction.

(4) Contractor staging areas, vehicle access areas, temporary and permanent spoils storage areas.

(5) A plan for restoration and for the mitigation of erosion in all areas disturbed during construction.

(D) A Site Plan, showing all visible improvements to the land, including the following:

- (1) The location, dimensions, square footage, height, and intended use of existing and proposed buildings on the site.
- (2) Location, number and dimensions of existing and proposed parking spaces, distinguishing between standard, handicap and van handicap spaces, and calculation of applicable minimum requirements in accordance with this Chapter
- (3) The location, type and dimensions of proposed driveways, signs and traffic control devices.
- (4) Compliance with the City's Master Plan.

(E) A Grading and Drainage Plan, showing as follows:

- (1) A Drainage Area Map delineating areas to be served by proposed drainage improvements.
- (2) Detailed design of all drainage facilities, including typical channel or paving section, storm sewers, detention ponds and other stormwater control facilities.
- (3) Accurate cross-sections, plan and profiles of every drainage improvement proposed in a public utility easement and/or public right-of-way.
- (4) Existing and proposed topographic conditions with vertical intervals not greater than one (1) feet referenced to a United States Geological Survey or Coastal and Geodetic Survey bench mark or monument.
- (5) Attendant documents containing design computations and any additional information required to evaluate the proposed drainage improvements
- (6) Compliance with the City's Drainage policies provided in the City's Subdivision Ordinance.

(F) A Utility Plan, showing as follows:

- (1) The layout, size and specific location of proposed water mains and other related structures and in accordance with all current City standards, specifications, and criteria for construction of water mains.
- (2) The location of proposed fire hydrants, valves, meters, pipe fittings and other appurtenances.
- (3) Design details showing the connection with the existing City water system.
- (4) The layout, size and specific location of the proposed wastewater lines, lift

stations, and other related structures, and in accordance with all current City standards, specifications, and criteria for construction of wastewater systems.

(5) Plan and profile drawings for each line in public right-of-way or public utility easements, showing existing ground level elevation at center line of pipe, pipe size and flow line elevation at all bends, drops, turns, station numbers at fifty (50) foot intervals.

(6) Detailed design for lift stations, special wastewater appurtenances, if applicable.

(7) Utility demand data, and other attendant documents, to evaluate the adequacy of proposed utility improvements, and the demand on existing City utilities.

(8) Compliance with the City's Utility policies provided in the City's Subdivision Ordinance.

(G) A Building Plan, including floor, building, foundation, and roof plans, and elevations.

(H) A Landscape Plan, showing as follows:

(1) dimensions, types of materials, size and spacing of proposed vegetative materials, planting details and irrigation appurtenances in relation to proposed structures or other significant improvements.

(2) the following maintenance note: The developer and subsequent owners of the landscaped property, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of the Subdivision Regulations.

(3) Compliance with the City's landscaping and screening requirements of this Chapter. See Section 12.142.

(I) Construction Details, showing (when applicable) showing as follows:

(1) Structural retaining walls and/or detention outlet structures

(2) Storm-sewer manhole and covers, typical channel sections, inlets, safety end treatments and headwalls

(3) Wastewater manholes and covers, cleanouts, grease traps, pipe bedding and backfill

(4) Water valves, water meters, fire hydrants, thrust blocks, backflow prevention and

concrete encasement.

(5) Driveways, curb and gutter, sidewalks, curb ramps, pavement sections and pavement repair

(6) Silt fence, rock berms, stabilized construction entrance, inlet protection

(7) Traffic controls when working in public right-of-way.

(8) Applicable City Standard Details and Specifications.

(d) Procedure. Construction Plans for the development or improvement of land in the City limits, not otherwise governed by the City's Subdivision Ordinance, shall be submitted to the City for approval prior to the issuance of a Building Permit.

(i) Three (3) complete sets of Construction Plans shall be submitted to City staff for review by the City Engineer at any time prior to the issuance of a Building Permit, along with the following :

(A) Completed application forms and the payment of all applicable fees.

(B) A letter requesting any variances from the provisions of this Chapter.

(C) Any attendant documents needed to supplement the information provided on the Construction Plans.

(ii) City staff shall review all Construction Plan submittals for completeness at the time of application. If, in the judgment of City staff, the Construction Plan submittal substantially fails to meet the minimal informational requirements as outlined above, it will not be accepted for review.

(iii) The City Engineer shall review the Construction Plans to insure compliance with this Chapter, and other applicable City ordinances, codes, standards and specifications, and good engineering practices.

(iv) Construction Plans may be rejected at any time subsequent to submittal and prior to final approval for failure to meet the minimum informational requirements of this Chapter.

(v) Applicable fees pursuant to City ordinance shall be paid, including, but not limited to, all professional fees, engineer, and attorney fees incurred by the City for or with respect to the review, processing and approval of the application for the approval of the Building Permit.

(e) Approval. Within thirty (30) days of the date on which all required information has been accepted for review, the City Engineer shall either approve or disapprove the Construction Plans. If the Construction Plans are disapproved, the City Engineer shall notify the applicant, in writing, of disapproval and indicate the requirements for bringing the Construction Plans into

compliance. If Construction Plans are approved, then the City Engineer shall sign the cover sheet of the Construction Plans, returning one (1) signed copy to the applicant and retaining the other signed copy for City records.

(i) Specific approvals required from other agencies shall be obtained by the owner.

(ii) All improvements shown in the approved Construction Plans shall be constructed pursuant to and in compliance with the approved plans, except as otherwise specifically approved.

(iii) It shall be the right of the applicant seeking Construction Plan approval, to appeal a decision of the City Engineer to the Commission and have a final decision rendered by the Commission.

(f) Revision. Where necessary, due to unforeseen circumstances, for corrections to be made to Construction Plans for which approval has already been obtained, the City Engineer shall have the authority to approve such corrections when, in his/her opinion, such changes are warranted and also in conformance with City requirements. Approval of such changes agreed to between the developer and City Engineer shall be noted by initialing and dating by both parties on the two (2) original signed copies of the Construction Plans.

(g) Responsibility. Notwithstanding the approval of any Construction Plans the City Engineer or the Commission, the developer and the engineer that prepares and submits such plans and specifications shall be and remain responsible for the adequacy of the design of all such improvements; and nothing in this Chapter shall be deemed or construed to relieve or waive the responsibility of the developer and his/her engineer for or with respect to any design, plans and specifications submitted.

(h) Expiration. Unless a longer time shall be specifically established as a condition of approval, Construction Plan approval shall expire twelve (12) months following the date on which such approval became effective, unless prior to the expiration, a Building Permit is issued and construction is commenced and diligently pursued toward completion.

(i) Extension. Construction Plan approval may be extended if the developer submits a written request for extension and continuance of the plan as approved by the City prior to expiration. Approval of any such extension request shall be automatic one (1) time only for a period of twelve (12) months.

**Section 12.142. Landscaping and Screening Requirements.** (a) Purpose. The purpose of this Section is, in conjunction with the other requirements of this Ordinance, to promote and support the orderly, safe, attractive and healthful development of land located within the community, and to promote the general welfare of the community by preserving and enhancing ecological, environmental and aesthetic qualities, through established requirements for the installation and maintenance of landscaping elements and other means of site improvements in developed properties. The following are additional factors considered in establishing the requirements of this Section:

(i) Paved surfaces, automobiles, buildings and other improvements produce increases in air temperatures, a problem especially noticeable in this southern region, whereas plants have the opposite effect through transpiration and the creation of shade. Likewise, impervious surfaces created by development generate greater water runoff causing problems from contamination, erosion and flooding. Preserving and improving the natural environment and maintaining a working ecological balance are of increasing concern. The fact that the use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare and general well being of the community and, therefore, it is proper that the use of such elements be required.

(ii) The City encourages the use of drought resistant vegetation that does not consume large quantities of water.

(b) Installation And Plan. All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards. An approved landscape plan shall be required for all new development in any zoning district, save and except for A, R-1E, R-1C and R-1 Districts.

(c) Maintenance. The owner of the landscaped property shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered as necessary to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this Section.

(d) Planting Criteria.

(i) Trees. Trees shall be a minimum of two (2) inches in caliper measured three (3) feet above finished grade immediately after planting. A list of recommended landscape trees may be obtained from the City. If the developer chooses to substitute trees not included on the recommended list, those trees shall have an average mature crown greater than fifteen (15) feet in diameter to meet the requirements of this Section. Trees having an average mature crown less than fifteen (15) feet in diameter may be substituted by grouping trees so as to create at maturity the equivalent of a fifteen foot (15) diameter crown if the drip line area is maintained. A minimum area three (3) feet in radius is required around the trunks of all existing and proposed trees.

(ii) Shrubs and Ground Cover. Shrubs, vines and ground cover planted pursuant to this section shall be good, healthy nursery stock. Shrubs must be, at a minimum, a one-(1) gallon container size.

(iii) Lawn Grass. It is recommended that grass areas be planted with drought resistant species normally grown as permanent lawns, such as Bermuda, Zoysia, St. Augustine or

Buffalo. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in areas subject to erosion.

(iv) Synthetic Plants. Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.

(v) Architectural Planters. The use of architectural planters may be permitted in fulfillment of landscape requirements.

(vi) Other. Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.

(e) Landscaping Requirements. A minimum percentage of the total lot area shall be devoted to landscape development in accordance with the following schedule.

<u>Zoning or Use</u>	<u>Percentage</u>
(i) Multifamily	20%
(ii) Residential	<b>*<u>Note</u></b>
(iii) Office, General Retail and Commercial Uses	15%
(iv) Industrial - Light and Heavy	10%
(v) Agricultural	None

**\*Note**. Minimum landscape requirements for each lot on which a single-family, dwelling, or a manufactured home, is constructed or installed after the date of this Ordinance shall be a minimum of two (2) two-inch trees and lawn grass from the front property line to the front two (2) corners of the structure. Residential structures on Reverse Frontage Lots shall also be required to screen the rear of the structure from the abutting highway, access road, or other public right-of-ways.

(f) Exceptions. Exceptions to these provisions may be granted by the Commission and/or Council to require a lesser amount of landscaping if the aesthetic, buffering and environmental intent of this Ordinance is met, and the reduction of the landscape area results in the preservation of natural features having comparable value to the reduced landscape requirements.

(g) Placement. Landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty percent (50%) of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed. Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the Commission. Landscaping placed within public right-of-ways shall not be credited to the minimum landscape requirements by this Section.

(h) Credit. The Building Official and/or City Planner shall, with respect to the issuance of a building permit or approval of a construction or site development plan, give a credit against the requirements of this Section for trees preserved on the site. Provided that, in order to reward the preservation of Significant Trees, a credit may be given for such preservation only if no more than fifty percent (50%) of the Critical Root Zone is disturbed or distressed with impervious cover; and provided further that the remaining Critical Root Zone must consist of at least one hundred (100) square feet.

(i) Additional Required Plantings. For every six-hundred (600) square feet of landscape area required by this Section, two (2) trees and four (4) shrubs shall be planted. To reduce the thermal impact of unshaded parking lots, additional trees shall be planted, if necessary, so that no parking space is more than 50 feet away from the trunk of a tree, unless otherwise approved by the Commission. This subsection (i) shall not apply to any property included in any of the following zoning categories: A, and R-1.

(j) Replacement of Required Trees. Upon the death or removal of a tree planted pursuant to the terms of this Section, a replacement tree of equal size and type shall be required to be planted. A smaller tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree in this Section is retained.

(k) Screening. The following requirements shall be in addition to the foregoing landscaping and planting requirements.

(i) On reverse frontage lots, all loading spaces and docks, outside storage areas, satellite dishes larger than 18 inches in diameter, antennas, mechanical equipment, and the rear of structures, must be screened from view from the street or public right-of-ways.

(ii) Approved screening techniques include privacy fences, evergreen vegetative screens, landscape berms, existing vegetation or any combination thereof.

(iii) Privacy Fences.

(A) All fences required by this section and along a common property boundary shall be six (6) feet in height.

(B) Fences up to eight (8) feet in height, but not less than six (6) feet, shall be allowed for impeding access to hazardous facilities including, but not limited to, electrical substations, swimming pools and chemical or equipment storage yards, where the slope of a line drawn perpendicular to the fence line averages twenty percent (20%) or more on either side of the fence over a distance no less than fifteen (15) feet, or where the fence forms a continuous perimeter around a subdivision and the design of said perimeter fence is approved by the Commission.

(C) Fences less than or equal to three (3) feet in height shall be allowed in front yards.

(D) No fence or other structure more than thirty percent (30%) solid or more than

three (3) feet high shall be located within twenty-five (25) feet of the intersection of any rights-of-way.

(E) All fences shall be constructed to maintain structural integrity against natural forces such as wind, rain and temperature variations.

(F) The finished side of all fences built to comply with these regulations shall face away from the screened object.

(iv) Evergreen Vegetative Screens. Evergreen plant materials shall be shrubs, at least thirty (30) inches in height and at a minimum spacing of 48 inches at the time of installation. Shrubs may be used in combination with landscape trees to fulfill the requirements of this Section.

(v) Landscape Berms. Landscape berms may be used in combination with shrubs and trees to fulfill the screening requirements of this Section if the berm is at least three (3) feet in height and has a maximum side slope of four (4) feet of horizontal run for every one (1) foot in vertical rise.

(vi) Native Vegetation. Existing vegetation, demonstrating significant visual screening capabilities and as approved by the Commission may fulfill the requirements of this Section.

**Section 12.143. Sign Requirements.** All signs shall be designed, placed, located, erected, constructed and maintained in accordance with the this Section and all applicable City ordinances.

(a) Purpose. The objectives of this section are to promote the health, safety, welfare, convenience, communication and the landscape quality of the public. The sections, provisions and regulations set forth in this Chapter shall apply to the control, use, installation, regulation, licensing and permitting of signs within the City and its extra-territorial jurisdiction (ETJ). It is the intent of this Chapter to provide comprehensive regulations applicable to signs placed, installed or maintained within the City and it's ETJ; provided that this Chapter shall not be construed, applied, interpreted nor enforced in a manner to violate the first amendment rights of any person, and the Building Official shall seek the advice and recommendation of the city attorney prior to taking any action to enforce any provision of this Chapter with respect to any non-commercial sign or speech by any person. This section shall further be interpreted and applied to accomplish the following purposes:

(i) Safety. A purpose of this section is to provide for the public safety by requiring that:

(A) No hazard is created due to collapse, wind, fire, collision, decay or abandonment;

(B) No obstruction is created to fire fighting and police surveillance; and,

(C) No traffic hazard is created by confusing or distracting motorists, or by impairing

the driver's ability to see pedestrians, obstacles, or other vehicles, or to read the traffic signs.

(ii) Communications. A purpose of this section is to promote the efficient transfer of information in sign message by providing that:

(A) Businesses and services may identify themselves;

(B) Customers and other persons may locate a business or service; and;

(C) Persons exposed to signs are not overwhelmed by the number of messages presented, and are able to exercise freedom of choice to observe or ignore said messages, according to the observer's purpose.

(iii) Landscape Quality and Preservation. A purpose of this Chapter is to enhance the appearance and economic value of the landscape, by providing signs that:

(A) Do not interfere with scenic views;

(B) Do not create a nuisance to persons using the public right-of-ways;

(C) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement;

(D) Are not detrimental to land or property value; and,

(E) Contribute to the special character of particular areas or districts within the City, helping the observer to understand the City and orient oneself within it.

(b) General Provisions. All signs erected or maintained pursuant to the provisions of this Chapter shall be erected and maintained in compliance with all applicable federal, state, and local laws and regulations, the building code, electrical code and other applicable ordinances of the City. In the event of conflict between this Chapter and other laws, the most restrictive standard applies.

(c) Definitions. As used in this section, the following terms shall have the meaning indicated below unless the context clearly indicates otherwise:

**Erect:** To build, construct, attach, hang, place, suspend, or affix.

**Face Or Surface:** The surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

**Gross Surface Area Of The Sign:** The entire area within a single continuous perimeter enclosing the extreme limits of each sign. A sign having two (2) surfaces shall be considered a single sign if both the surfaces are located back to back. In the event two (2) or more signs share a single structure, i.e., directory signs, or signs on v-shaped structures, each sign or panel

shall be considered separately for square footage purposes, provided that the combined area of such signs cannot exceed the total square footage allowed on a single sign.

**Height:** The distance from common ground level to the highest point.

**Illuminated Sign:** Any sign illuminated by electric lights.

**Incombustible Material:** Any material which will not ignite at 1200 degrees F. or below, nor shall it continue to burn or glow at that temperature.

**License:** An official document issued by the City that gives permission to operate a sign installation business.

**Logo:** Design or insignia commonly used to identify a company or product.

**Off Site:** The sign refers to goods, products or services provided at a location other than that which the sign occupies.

**On Site:** The sign refers to goods, products, or services provided at a location which the sign occupies.

**Permanent:** Any sign intended to be used for six (6) months or longer.

**Permit:** An official document issued by the City that allows for sign installation.

**Person:** An individual, partnership, firm, company, association or corporation of any kind.

**Portable Sign:** A sign easily moved from one location to another, including signs which are mounted on skids, trailers, wheels, legs or stakes.

**Setback:** The minimum distance from the property line to the nearest part of a building. No sign requiring a permit may encroach, project, or be constructed on or past this line.

**Sign, Abandoned:** Any sign without a valid current permit, or one which is deserted, surrendered or forsaken, unused, given up or relinquished with intention of never resuming a right of interest therein.

**Sign, Advertising:** Any sign which promotes or advertises commodities or services not offered on the premises where such signs are located.

**Signs, Agricultural:** Any sign identifying the farm or ranch on which it is placed and advertises the produce, crops, animals, or poultry raised or quartered thereon.

**Signs, Apartment:** Any sign identifying an apartment building or complex of apartments.

**Signs, Construction:** Any temporary sign identifying the property owner, architect, contractor, engineer, landscape architect, decorator, or finances engaged in the design, construction or

improvement of the premises on which the sign is located.

***Sign, Developmental:*** Any temporary sign pertaining to the development of land.

***Sign, Directional:*** Any temporary sign which exclusively communicates the location or route to a premise or occupancy.

***Sign, Identification:*** Any sign used to identify shopping centers, industrial and commercial parks, and retail districts. These signs are not intended to identify individual businesses or activities within the center or district.

***Sign, Institution:*** Any sign used to identify a school, church, hospital or similar public or quasi-public institution.

***Sign, Marquee:*** Any sign erected on a marquee or fixed awning.

***Sign, Model Home:*** Any temporary sign used to advertise a particular structure represented by a model or show home.

***Sign, Monument:*** Any permanent low profile sign on a monument base.

***Sign Political:*** A sign advertising a political candidate or party for elective office.

***Sign, Projection:*** Any sign which projects, either horizontally or vertically, from a building and which has one end attached to that building or other permanent structure.

***Sign, Real Estate:*** A sign used to advertise the sale, or lease of a piece of real property.

***Sign, Residential Subdivision:*** A sign used to identify a specific residential subdivision.

***Sign, Traffic:*** A sign used for traffic control purposes.

***Sign, Wall:*** Any sign attached to the face of a building or incorporated thereon, including windows and doors, to advertise businesses in that building.

***Sign:*** A structure, display, light device, painting, drawing, message, plaque, poster, billboard or other thing that is designed, intended or used to advertise, inform, or attract the attention of persons not on that premise, excluding those lights and landscape features which display words or symbols as temporary holiday decorations.

(d) On-Site Signs Permitted. A free-standing or attached sign may be erected and maintained upon any commercial or industrial zoned property, unless otherwise prohibited or restricted herein; provided that not more than one (1) free-standing sign shall be erected or maintained upon any premise. Additionally, not more than four (4) attached signs may be attached to or suspended from any building facade, canopy or awning. Such signs shall pertain only to the identification of a building, business, product(s), or service(s) manufactured, sold or offered on the premises where the signs are located.

- (i) Single Tenant Free-Standing Signs. The maximum size of any free-standing sign for any use that does not share a common line or lot shall not exceed 150 square feet nor have a luminance greater than 200 footlamberts. A minimum set back of a least five (5) feet from any building line is required. No free-standing sign shall exceed thirty (30) feet in height. Any free-standing sign located in such a manner as to allow the passage of vehicular traffic beneath it shall have a minimum clearance of fourteen (14) feet. Any sign located in such a manner to allow the passage of pedestrian traffic beneath it shall have a minimum clearance of eight (8) feet. Any free-standing sign that does not meet the size, height and setback restrictions will require a variance from the City Council.
- (ii) Multi Tenant Free-Standing Signs. The maximum size of any free-standing sign for any use that shares a common line or a common lot shall not exceed 300 square feet nor have a luminance greater than 200 footlamberts. A minimum setback of at least ten (10) feet from any building line is required. No multi tenant free-standing sign shall exceed thirty (30) feet in height. No multi tenant free-standing sign shall be located in such a manner as to allow the passage of vehicular traffic beneath it. Any sign located in such a manner to allow passage of pedestrian traffic beneath it shall have a minimum clearance of eight (8) feet. Any free-standing sign that does not meet the size, height and setback restrictions will require a variance from the City Council.
- (iii) Projection Signs. The maximum size of any projection sign shall be forty (40) square feet. The height of any projection sign shall not exceed the height of the roofline of the structure to which the sign is attached. No projection sign shall project over eighteen (18) inches from the face of any building to which affixed nor shall any sign have a luminance greater than 200 footlamberts. Where a projection sign is placed in such a manner as to project a distance greater than two (2) inches into a private driveway or other private area likely to be used by vehicular traffic or where such sign is placed in such a manner as to allow the passage of vehicular traffic beneath it, the sign shall have a minimum clearance of fourteen (14) feet. Where a projection sign is placed in such a manner as to allow the passage of pedestrian traffic beneath it, the sign shall have a minimum clearance of eight (8) feet.
- (iv) Construction Standards. All on-site signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area; and shall be constructed to receive deadloads as required in the building code of the City.
- (v) Marquee or Wall Signs. Such sign faces shall not exceed five (5) square feet per one (1) linear foot of building frontage up to one hundred fifty (150) square feet.
- (vi) Balloons, Floating Devices, Banners or Search Lights. All balloons, floating devices, streamers or search lights shall be sufficiently anchored and shall meet all applicable regulations. Such signs shall be subject to proper maintenance and safety standards. Should such signs be significantly damaged, worn or distracting the city staff may deem the sign un-maintained and order its removal.
- (e) Permit Fees for New Permanent Signs. The fee for permits shall be based on the square

footage of said sign in the following manner:

Square Feet	Fee
Up to 40 Square Feet	\$25.00
41 Sq. Ft. to 60 Sq. Ft.	\$50.00
61 Sq. Ft. and larger	\$1.00/Sq. Ft.

If any work is started or proceeded without a permit first being obtained, the above specified permit fee shall be doubled and paid for the required permit.

(f) Engineer Certification. Applications for a free standing sign permit that exceeds thirty six (36) square feet or exceeds a height of eighteen (18) feet shall require scale drawings showing a site plan location and design of the sign. For all other signs, a design and street location plan, containing the necessary information, shall be submitted to the Building Official to determine that such sign complies with all the applicable codes and regulations. Wind pressure and Dead Loads shall be shown where deemed appropriate, and the Building Official may require structural drawings designed and sealed by a civil engineer registered by the State of Texas when it cannot otherwise be determined that the sign will be structurally sound.

(g) Signs Exempt From Permitting Procedures. Permits and required setbacks shall not be required for the following signs, provided, however, that such signs shall otherwise comply with all other applicable sections of this Chapter.

(i) Temporary Political Signs.

(ii) Temporary Special Event Signs not exceeding fifty (50) square feet in area and limited to a maximum time period of no more than fourteen (14) consecutive days, with a limit of four (4) events each calendar year, or a maximum time period of no more than forty-five (45) consecutive days with a limit of one (1) event each calendar year. For thirty (30) days following an event, no new temporary special event sign shall be allowed. The location of temporary special event signs must be approved by the Building Official for safety and setback purposes and, if the adjacent property owners make objections to the sign, the adjacent property owners may appeal any such application to the City Council. All such signs must be removed within ten (10) days after the maximum time period allowed.

(iii) Occupational Signs not exceeding two (2) square feet in area and denoting only the name and profession, or occupation, in a commercial or public institutional building.

(iv) On-Site Traffic Control Signs not exceeding eight (8) square feet and used primarily to denote entrances and exits, shall not contain advertising or be used for such purpose, and shall not exceed three (3) feet in height.

(v) Residential Real Estate Signs advertising the sale or lease of an individual residential structure and not exceeding eight (8) square feet.

(vi) Business/Industry Real Estate Signs advertising the sale or lease of business/industrial property and not exceeding sixteen (16) square feet.

(vii) Temporary Window Signs and Banners not exceeding the surface area of the window within which it is placed.

(h) Signs Not Regulated. The following types of signs shall be exempt from the permitting provisions of this Chapter. However, regulations regarding sign location in a public right-of-way or public access easement shall apply. It is further specifically provided that the Building Official may, based upon the size, materials used in construction and other relevant factors, require the owner of any sign to show evidence of structural soundness and compliance with the safety requirements of this Chapter.

(i) Governmental Signs. Signs erected or maintained pursuant to the discharge of any governmental function; required by law, ordinance, or governmental regulation; or located on property owned, leased or under control of the federal or state government.

(ii) Railway Signs. Signs within or on railway property and placed or maintained in reference to the operation of such railway.

(iii) Utility Signs. Signs marking utility or underground communication or transmission lines.

(iv) Vehicle Signs. Signs displayed or used upon vehicles, trailers or aircraft, unless such vehicle, trailer, or aircraft on which such sign is displayed is permanently stationed for a period of seventy-two (72) continuous hours or more, or regularly used at a fixed location to serve the same or similar purpose of a permanent or portable sign not affixed to a vehicle, trailer or aircraft.

(v) Signs Not Visible From Street. Signs where no part of such sign is visible from any public street.

(vi) Holiday Signs. Temporary signs containing only holiday messages and no commercial advertising.

(vii) Signs on Persons. Hand held signs or signs, symbols or displays on persons or animals.

(viii) Unused Signs. Signs being manufactured or transported, and/or properly and safely stored, and not being used, in any manner or form, for purposes of advertising.

(ix) Plaques. Commemorative plaques of recognized historical societies and organizations.

(x) Private Traffic Control. On-site signs which direct the movement of traffic on private property or warn of obstacles, overhead clearances or control parking. The sign must be less than ten (10) feet in width, less than six (6) feet in height, and be placed where it will not interfere with the safe movement of vehicles or pedestrians.

(xi) Mail Boxes and Newspaper Racks. Signs located on mail boxes, newspaper vending

machines and curbside residential newspaper holders which identify the owner and address of the premises or the name of the newspaper sold or subscribed to; provided that such devices are not placed so as to interfere with the safe movement of pedestrians or vehicular traffic.

(xii) Signs on Outdoor Machines, Devices and Equipment. Signs located on outdoor machines, devices, or equipment which display the trademark, trade name, manufacturer, cost of operating or service instructions or similar information, but do not advertise the business where located. This exemption includes, but is not limited to signs on coin-operated vending machines, fuel dispensing pumps, telephone facilities, automatic teller machines, automatic vacuum cleaners, amusement rides and similar machines, devices or equipment.

(xiii) Athletic Fields. Signs located on the field side of scoreboards and fences of athletic fields.

(xiv) Historic Signs. Any historic designation signs not primarily advertising a commercial use.

(i) Permit Required - Application and Issuance.

(i) Permit Required. It shall be unlawful for any person to erect or relocate any sign within the City without first obtaining a sign permit from the Building Official unless such sign is exempted by this Chapter.

(ii) Permit Application. Application for permits shall contain or have attached thereto the following information:

(A) Name, address, and telephone number of the applicant.

(B) Location of the building, structure, or lot on which the sign is to be attached or erected.

(C) Two (2) sets of plans shall be submitted showing the sign location in relation to nearby buildings or structures, signs, property lines, driveways, public streets, fences, and sidewalks.

(D) Two (2) blueprints or ink drawings of the plans and specifications showing method of construction, attachment to the building or ground, size, type, height, construction materials, and such other materials, and such other information as the Building Official may require. The Building Official may require plans to be prepared by a registered professional engineer who is registered by the State of Texas or an architect licensed by the State of Texas.

(E) Copy of stress sheets and calculations showing the structure as designed for dead load and wind pressure in any direction in the amount required by this Chapter, and all other laws and codes of the City.

(F) Name of person, firm, corporation, or association erecting structure.

(G) Any electrical permit required and issued for said sign.

(H) Zoning classification carried by the property.

(I) Estimated value of the sign.

(J) Such other information as the Building Official shall require to show full compliance with this Chapter and all other laws and codes of the City.

(iii) Permit Issuance. It shall be the duty of the Building Official, upon the filing of an application for a sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect a sign. If it appears that the proposed structure is in compliance with all the requirements of this section, the building code, and all other laws and ordinances of the City, the Building Official shall then issue the sign permit. If the work authorized under a sign permit has not been completed within sixty (60) days after issuance, the said permit shall become null and void.

(j) Illuminated Signs. The Electrical Inspector may only approve an application for an Illuminated Sign if the sign is to be installed on property zoned commercial or higher. The application for a permit for erection of a sign in which electrical wiring and connections are to be used shall be submitted to the Electrical Inspector. The Electrical Inspector shall examine the plans and specifications respecting all wiring and connections to determine if the same complies with the electrical code of the City. In addition, all illuminated signs shall bear the Underwriters' Laboratory label or be built to comply with the Underwriters' requirements. The Electrical Inspector shall approve said permit if the plans and specifications therefor comply with the requirements of this Chapter, and shall disapprove the application if noncompliance is found. Approval by the Electrical Inspector must be obtained prior to the approval and issuance of any sign permit by the Building Official.

(k) Maintenance and Removal.

(i) Maintenance Required. All signs shall be maintained in good and safe structural condition, shall be painted on all exterior parts, unless coated or made of rust resistant material, and shall be maintained in good condition and appearance. Any owner failing to maintain, repair, or remove any such sign after due notice has been given shall upon conviction be guilty of a misdemeanor.

(ii) Inspection of Signs. The Building Official shall be notified by permittee when erection of the sign is complete, and the Official shall make an inspection to determine if the sign conforms to the permit. The Building Official at such times as he/she deems necessary, shall inspect each sign regulated by this section for the purpose of ascertaining whether the same is secure or insecure, whether it still serves a useful purpose and whether it is in need of removal or repair.

(iii) Removal of Unsafe and Unlawful Signs. If the Building Official shall find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or is abandoned or is maintained in a dilapidated condition, or has been constructed or erected or is being maintained in violation of this section, or is not permitted as required herein, he/she shall take action as follows:

(A) Except as provided in the following paragraphs (B) and (C), the Building Official shall give the sign or property owner written notice to repair, remove or obtain a permit for such sign as applicable within ten (10) days after such notice. If the sign or property owner fails to remove, repair, or obtain a permit for such sign so as to comply with all applicable standards and regulations, the Building Official shall cause the sign to be either removed or repaired and such cost shall be charged to and paid by the property owner. If such demolition or repair expenses are not paid by the property owner within thirty (30) days of such billing, then such expenses shall constitute a valid lien against the property. Such notice shall also provide the sign or property owner an opportunity to bring the sign into compliance or to request a hearing before the City Council to determine whether the sign should be repaired or removed. Such appeal must be filed in writing with the City Secretary within ten (10) days of the notice. After consideration of all facts, the City Council shall rule upon the appeal.

(B) The Building Official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

(C) Any sign located in public right-of-way may be immediately removed by anyone without notice to the owner.

(l) Sign Standards. Signs are to Comply With Applicable Law. All signs erected or maintained within the City shall be erected and maintained in compliance with all applicable state laws and with this section and Ordinance, the city's building code and the electrical code. In the event of conflict between this section and other laws, codes or ordinances, the most restrictive standard shall apply.

(m) Signs Allowed Without Permit.

(i) Sale or Lease Signs. Any realtor or property owner may erect a sign for the purpose of advertising the sale or lease of the real property on which such sign is located, subject to the following provisions:

(A) Signs advertising the sale or lease of nonbusiness property shall not exceed eight (8) square feet in area nor five (5) feet in height from ground level.

(B) Signs advertising the sale or lease of a business property shall not exceed sixteen (16) square feet in area nor eight (8) feet from ground level.

(ii) Garage or Yard Sale Signs. Any person may erect a sign on his own property, or property of another with the owner's permission, for the purpose of advertising a garage or yard sale. Name, date and address must be shown on the sign, however such signs shall be

removed within twenty-four (24) hours of the sale.

(iii) Hand-Bills and Circulars. Hand-bills and circulars are prohibited except that hand-delivered to individual persons is allowed.

(iv) Political Signs. Political signs may be erected on any private property; provided, that such signs comply with other applicable requirements of this section, and provided further, that the owner or occupant of the property on which such sign is displayed:

(A) shall not erect or cause to be erected special purpose political signs until forty-five (45) days prior to any primary or general election; and

(B) shall remove the signs within ten (10) days after the general or runoff elections to which a sign pertains or after the termination of a candidacy, whichever occurs first.

(v) Temporary Construction Signs Allowed. Temporary construction signs denoting the architect, engineer, contractor, subcontractor or financier and temporary signs denoting the future location of a particular business, retail center or institution may be erected on such site of the proposed business. However, only one (1) construction sign and one (1) future location sign will be permitted on such location. No such sign shall exceed thirty-two (32) square feet in area nor extend higher than fifteen (15) feet; provided, that such signs must be located on the premises where construction, or business location being advertised, is or will be occurring. Said signs shall be removed upon issuance of an occupancy permit.

(vi) Homebuilders and Subdivision Sign Allowed. Except as and to the extent provided and limited in another ordinance of the City applicable to homebuilder and subdivision signs, free-standing signs for the purpose of identifying the location of or direction to subdivisions or major Homebuilders sites are allowed. Such signs shall be on-site and shall not exceed sixty (60) square feet in area nor extend higher than fifteen (15) feet in height. A Homebuilder with ten (10) lots or more qualified as a major Homebuilder. The signs permitted for each subdivision or major Homebuilder site shall be removed upon completion of the project. No such sign shall be located closer than one hundred (100) feet to a residential dwelling not within the subdivision.

(n) Off-Site Signs. No Off-Site Commercial signs shall be allowed.

(o) Non Conforming Signs Prohibited. Non-conforming signs erected or installed after the date of this Chapter are prohibited and shall be removed. Signs substantially similar to, or imitating, Traffic or Emergency Signs are prohibited at any location at which they may be seen from the travel lanes of any public roadway.

(p) Signs In Right-Of-Way Prohibited. No sign shall be erected or affixed within or project over any public right-of-way or across the public right-of-way line extended across a railroad right-of-way. This section shall not be construed so as to prohibit vehicular signs as long as such comply with other provisions of this section; nor to prohibit the carrying or display of signs by a person or persons as long as such sign is not connected or affixed to the real property comprising the public right-of-way, its fixtures and appurtenances.

(q) Certain Signs Prohibited on Public Property. No person shall attach any sign, paper, or other material or paint, stencil, or write any name, number or otherwise mark on any sidewalk, curb, gutter, street, tree, or utility pole located on public property or within the public right-of-way, public building, public fence or public structure. This section shall not prohibit the posting of governmental signs, local school spirit signs/emblems or the painting or attachment of street address numbers to curbs.

(r) Non-Conforming Signs. It is the declared purpose of this section that, in time, all privately owned signs shall either conform to the provisions of this section or be removed. By the passage of this Chapter and its amendments, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this Chapter and all other ordinances of the City.

(i) Any sign which does not conform to all provisions of this Chapter but which existed on the effective date of this section and was lawfully constructed or installed shall be considered as a non-conforming sign. All non-conforming signs shall be permitted in the same manner as any other legally existing sign or proposed sign; provided that no sign that was constructed or installed in violation of any state or local law, or that was originally constructed or installed without a permit that was then required at such time, shall be or qualify as a non-conforming sign.

(ii) Whenever any non-conforming sign no longer advertises a bona fide business or a business which has moved away or closed, a product sold, or service rendered, such sign shall be removed within sixty (60) days. If the non-conforming sign is a wall sign, the wall sign shall be removed or painted over with a color that resembles or matches the rest of the wall of the building. If the owner of, or person responsible for the sign, or if the tenant closing a business, fails to remove the abandoned sign or paint over the wall sign, the owner of the premises shall be held responsible and the work shall be done within thirty (30) days following written notice to do so by the Building Official.

(iii) No non-conforming sign may be enlarged or altered in a way which would increase its non-conformity.

(iv) Should any non-conforming sign be damaged by any means to an extent of more than fifty (50) percent of its replacement cost at time of damage, it shall not be reconstructed except in conformity with the provisions of this Chapter.

(s) Variances. The City Council shall be empowered to vary the provisions of this section if it appears that the provisions would work in manifest injustice, considering such factors as the sign location and other pertinent factors. Such decision of the Council should not however conflict with the spirit of this Chapter, which is one of safety, provision of adequate light, open space and air, conservation of land and building values and to encourage the most appropriate use of land. All variances to these sign regulations will require a conditional use permit and a two thirds vote of the City Council to approve the variance.

**Section 12.144. Conditional Use Permits.** (a) Purpose. The City Council may by ordinance,

adopted by four (4) affirmative votes after receiving the recommendation of the Commission, grant a conditional use permit in compliance with this Section for the conditional uses as listed in (b) below. The City Council may impose appropriate conditions and safeguards, including a specified period of time for the permit, to protect the Comprehensive Plan and to conserve and protect property and property values in the neighborhood.

(b) Authorized Conditional Uses. The following listed conditional uses and those indicated in a specific zoning district as a permitted use with a conditional use permit, and none other, may be authorized subject to the terms of this subsection and compliance with all conditional terms, regulations and requirements established by the City Council.

(i) Airport, landing field, landing strip or heliport for aircraft; Municipal service facilities and buildings.

(ii) Amusement park, but not within three hundred (300) feet of any Residential District.

(iii) Circus or carnival grounds, but not within three hundred (300) feet of any Residential District.

(iv) Commercial, recreational or amusement development for temporary or seasonal periods.

(v) Hospital, clinic or institution, provided that any hospital or institution permitted in any Residential District shall be located on a site of not less than five (5) acres, shall not occupy more than ten percent (10%) of the total lot area and shall be set back from all property lines at least two (2) feet for each foot of building height.

(vi) Riding Stables..

(vii) Private operated community building or recreation field.

(viii) Radio or television broadcasting tower or station.

(ix) Churches.

(x) Cemeteries.

(xi) Schools - Public and Denominational.

(xii) Gasoline sales. .

(xiii) Alcoholic Beverages-On Premises and Alcoholic Beverages-Mixed Drink for those specific uses and in the specific zoning districts as provided by this Chapter, including a bar, night club, tavern, and private club.

(xiv) Sexually Oriented Business.

(c) Procedure. Before authorization of any of the above conditional uses, public notice shall be given and public hearings shall be held as provided in *Chapt. 211, Tex. Loc. Gov't. Code*; provided that a conditional use permit for a period not to exceed seven (7) calendar days may be given for a use set forth in (b)(iii) or (b)(iv) above after a public hearing is held by the City Council after having received a report and recommendation from the Commission concerning the effect of the proposed use on the adjacent and neighboring properties and neighborhoods.

(i) Permit Required. No conditional use shall be established, operated, or maintained except as authorized by a Conditional Use Permit issued in accordance with the requirements of this Section.

(ii) Conditional Use Permit Issued by City Council. A Special Use Permit may be issued only for the special uses specified in this Section, and only for the district where it is authorized.

(iii) The City Council shall determine whether the proposed special use complies with each of the general criteria in subsection (d) of this section and with each of the criteria for the district applicable to the proposed use and shall make separate findings thereon or adopt the findings made by the Commission.

(iv) The City Council may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards, or effective time periods designed to assure compliance with the criteria.

(v) Application. An application for a Special Use Permit shall be made in writing in a form prescribed by The City Secretary and shall be accompanied by such information as may be requested (including a site plan, if required) in order to properly review the proposed use. Such information may include, but is not limited to, site and building plans, drawings and elevations, and operational data.

(d) General Criteria Applicable to all Special Uses. A proposed Special Use Permit must comply with all the following criteria:

(i) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;

(ii) The proposed use will not have an adverse effect on the value of surrounding properties nor impede their proper development;

(iii) The proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of his property or operation of his business;

(iv) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create nor add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

- (v) The proposed use complies with all other applicable ordinances and regulations.

**Section 12.145. Non-Conforming Uses.** (a) General Policy. The general public, the City Council and the Commission are directed to take note that nonconformity in the use and development of land and buildings are to be avoided, or eliminated where now existing, whenever and wherever possible, except:

- (i) When necessary to preserve property rights established prior to the date these regulations become effective as to the property in question; and

- (ii) When necessary to promote the general welfare and to protect the character of the surrounding property.

(b) Nonconforming Structures. Where a lawful structure exists on the effective date of the adoption or amendment of the zoning ordinance, that could not be built under the terms of the zoning ordinance or amendment thereto by reason of added restrictions on permitted use, area, lot coverage, height, years, its locations on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, subject to the following provisions:

- (i) Buildings existing within the setback area established herein on the effective date of this Chapter may continue to exist therein until the building or portion thereof is removed by the owner or reconstructed outside of the setback. Where a building was lawfully constructed under a prior zoning ordinance, it may be rebuilt on the same footprint. Under no circumstances may the building be enlarged or rebuilt within five feet of the property line.

(c) Nonconforming Uses. A nonconforming use is the use of the property prior to the passage of the Zoning Ordinance or amendment thereto that is legal but inconsistent with the use authorized in the zoning district that the property is located within upon the adoption of the Zoning Ordinance or an amendment thereto. The nonconforming use may be continued as long as it remains otherwise lawful and is not discontinued, subject to the following provisions:

- (i) No existing structure devoted to a nonconforming use shall be enlarged, extended or constructed. Any extensions or alterations of the structure may only be for uses conforming to the applicable zoning district.

- (ii) If the person in control of a property with a nonconforming use decides to change the use, the use shall only be changed to a use permitted in the district in which it is located.

- (iii) A nonconforming use that has been discontinued may be resumed only if there has been no other use of the premises or structure since the nonconforming use was discontinued, and such use was not discontinued for a period of six months or more. Termination of water or wastewater services for six months shall be a presumption that the nonconforming use was abandoned.

- (v) A nonconforming use shall further terminate:

(1) if the nonconforming use is a heavy commercial or industrial use that is within an area zoned residential and the use is discontinued by damage, conveyance or sale of the structure or business.

(d) Repairs and Maintenance. On any nonconforming structure, or nonconforming portion of a structure, containing a nonconforming use, repairs and maintenance shall be performed to maintain the structure in compliance with the electrical, plumbing and building codes; provided that such repairs and maintenance shall be subject to the following conditions and limitations:

(i) No work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing, to an extent exceeding fifty (50) percent of the current replacement cost of such structure or nonconforming portion of such structure.

(e) Site Development. Occupied property not in compliance with the screening, landscaping or other such site requirements, shall not be required to comply with additional requirements added by amendments to the Zoning Ordinance until the use of the property is changed or the primary structure is enlarged. Site development for property with existing structures may require approval of deviations from the Zoning Ordinance. Any property required to revise screening, landscaping or other exterior site development may request deviations if the location of the previously approved structures and impervious cover interferes with compliance with the site development requirements. The property owner will be required to have a site development plan approved noting each deviation requested. As an example, if a commercial building exists at the time of an amendment to the Zoning Ordinance which adds the requirement that a commercial property have screening in the form of a privacy fence at the rear of the property, the structure and use may continue without complying with the new screening requirements until (1) the commercial use is enlarged; or (2) the type of commercial use is changed; at such time the property owner may demonstrate that the location of the building and the existing pavement will not support placement of a privacy fence in compliance with the ordinance but showing in a site plan the closest the property owner can come to complying with the privacy fence requirements. The approved site plan shall remain the approved location for screening, landscaping and other site development requirements until such time as (1) the use is changed or otherwise loses a nonconforming status; or (2) the use or structure are enlarged.

(f) Manufactured Homes in R-1. Where a manufactured home was lawfully placed on a single family lot that is currently zoned R-1, R-1E or R-1C, the owner may replace the home with another manufactured home that meets current City Standards with regard to age, condition and installation.

#### **Section 12.146. Sexually Oriented Businesses.**

A. Purpose and Intent. It is the purpose of this Section of the zoning code to regulate sexually

oriented businesses to promote the public health, safety, morals and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene materials.

B. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

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

(ii) "Adult Bookstore" or "Adult Video Store" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact disc visual discs, digital visual discs, computer pictures, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or

(B) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

(C) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an Adult Bookstore or Adult Video Store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an Adult Bookstore or Adult Video Store so long as either:

(1) Two percent (2%) or more of its gross revenue is derived from the sale or rental of the specified materials which depict or describe specified sexual activities or specified anatomical areas; or

(2) Two percent (2%) or more of its inventory consists of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

(iii) "Adult Cabaret" means a nightclub, bar, restaurant or similar commercial establishment that regularly features:

(A) Persons who appear in a state of total nudity or semi-nudity; or

(B) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(C) Films, motion pictures, video cassettes, compact visual discs, digital visual discs, computer pictures, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(iv) "Adult Motel" means a hotel, motel or similar commercial establishment which:

(A) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, compact visual discs, digital visual discs, computer pictures, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; including those that have a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

(B) Offers a sleeping room for rent for a period of time that is less than ten (10) hours or based on an hourly rate; or

(C) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours or based on an hourly rate.

(v) "Adult Motion Picture Theater" means commercial establishments where, for any form of consideration, films, motion pictures, video cassettes, compact visual discs, digital visual discs, computer pictures, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(vi) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity and/or semi-nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

(vii) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a body rub, bathing of the body, or striptease for another person for the purpose of sexual arousal.

(viii) "Escort Agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip

or other consideration.

(ix) "Establishment" means and includes any of the following;

(A) The opening or commencement of any sexually oriented business as a new business;

(B) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(C) The addition of any sexually oriented business to any other existing sexually oriented business; or

(D) The relocation of any sexually oriented business.

(x) "Permittee" means a person in whose name a special use permit to operate a sexually oriented business has been issued and the person who owns the building and/or land on which the business is located, as well as the individual listed as an applicant on the application for a permit.

(xi) "Nude Model Studio" means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(xii) "Nudity" or a "State of Nudity" means the appearance of a human bare buttock, anus, male genitals, female genitals, or areola of the breast.

(xiii) "Person" shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(xiv) "Semi-Nude" means a state of dress in which clothing covers no more than the genitals, pubic region, and/or areola of the breast, as well as portions of the body covered by supporting straps or devices.

(xv) "Sexual Encounter Center" means a business or commercial enterprise that, as one of its primary business purposes, offers any of the following for consideration:

(A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(B) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(xvi) "Sexually Oriented Business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(xvii) "Specified Anatomical Areas" means the male genitals in a state of sexual arousal and/or the vulva or more internal portion of the female genitals.

(xviii) "Specified Sexual Activities" means and includes any of the following:

(A) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(B) Sex acts, normal or perverted, actual or stimulated, including intercourse, oral copulation, or sodomy;

(C) Masturbation, actual or simulated; or

(D) Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.

(xix) "Substantial Enlargement" of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five (25%) percent, as the floor area existed on the effective date of this Chapter, or under a certificate of occupancy therefore.

(xx) "Transfer of Ownership or Control" of a sexually oriented business means and includes any of the following:

(A) The sale, leasing or subleasing of the business;

(B) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(C) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

C. Classification. Sexually oriented businesses are classified as follows:

- (i) Adult arcades;
- (ii) Adult bookstores or adult video stores;
- (iii) Adult cabarets;
- (iv) Adult motels;
- (v) Adult motion picture theaters;
- (vi) Adult theaters;
- (vii) Escort agencies;

- (viii) Nude model studios; and
- (ix) Sexual encounter centers.

D. Location. This Chapter allows the opportunity for consideration of special use permits to be issued for sexually oriented businesses in the Industrial District zoning districts only.

(i) The following uses may be permitted within the City by special use permit only in the Industrial District zoning district.

- (A) Adult arcades;
- (B) Adult bookstores or adult video stores;
- (C) Adult cabarets;
- (D) Adult motels;
- (E) Adult motion picture theaters;
- (F) Adult theaters;
- (G) Escort agencies;
- (H) Nude model studios; and
- (I) Sexual encounter centers.

(ii) No use listed in subsection D.(i) above shall be established within one thousand (1,000) feet of any of the following uses in existence prior to the beginning of such business:

- (A) A church, chapel, or other regular place of religious worship;
- (B) A public or private day-care, elementary, secondary school or institute of higher learning;
- (C) A boundary of any residentially zoned district;
- (D) A public park, library, or playground;
- (E) The property line of a lot used for residential purposes; or
- (F) Within one thousand (1,000) feet of another sexually oriented business, whether located within or outside of the City limits.

(iii) For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises as described in D. (ii) above; or to the nearest boundary of any residentially zoned district; or from the closest exterior wall of the structure in which a sexually oriented business is proposed to be located to the nearest exterior wall of any other sexually oriented business.

(iv) For the purposes of this Section, if sexually oriented businesses can not be located within a minimum of 3% of the existing zoning districts within the City limits, including all nonconforming use sexually oriented businesses, due to limitations as set forth in this Section, the City will upon written request from an applicant review the current zoning districts and shall allow zoning alterations as necessary so that a minimum of 3% of the City wide zoning, cumulatively within the City limits, can be occupied by a special use permitted sexually oriented business, including all nonconforming use sexually oriented

business.

E. Sexually Explicit Films and Videos.

(i) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, compact visual disc, digital visual disc, computer picture, slide, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(A) The application for a special use permit for a sexually oriented business shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus one (1) foot. The Building Official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises is correct and has not been altered since it was prepared.

(B) The application shall be sworn to be true and correct by the applicant.

(C) No alteration in the configuration or location of a manager's station may be made without the prior approval of an amendment to the special use permit.

(D) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premise.

(E) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(F) It shall be the duty of the owners and operator, and it shall also be the duty of

any agents and employees present in the premises to ensure that the view area specified in the above subsection (E) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (A) of this subsection.

(G) No viewing room may be occupied by more than one person at any time.

(H) The premise shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

(I) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(ii) A person having a duty under subsection (A) through (I) of subsection (i) above commits a misdemeanor if he or she fails to fulfill that duty.

F. Exemptions. It is a defense to prosecution under this Section that a person appearing in a state of nudity did so in a modeling class operated:

(i) By a proprietary school, licensed by the State of Texas; a college, junior college or university supported entirely or partly by taxation;

(ii) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(iii) In a structure:

(A) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(B) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(C) Where no more than one nude model is on the premises at any one time.

G. Permits. All sexually oriented businesses located within the City limits must have a special use permit or qualify as a non-conforming use and have a permit to operate as provided herein. Each person having ownership interest, control or owning the property upon which the sexually oriented business is to be located must have filled out an application and his or her name must appear on the permit.

(i) Permits Required. A commercial establishment that is a sexually oriented business as

herein defined, shall at all times of operation within the City limits have a valid permit.

(A) A person commits an offense if that person conducts business as a sexually oriented business within the City unless a valid special use permit has been issued by the City for the conduct of such business.

(B) A person commits an offense if that person conducts business as a sexually oriented business within the City limits unless the person has a valid permit which is posted at or near the principal public entrance to the business in such a manner that it will be conspicuous to patrons who enter the premises, or behind the bar in a conspicuous manner.

(C) Every permittee shall have and maintain exclusive occupancy and control of the entire permitted premises in every phase of the operation of the sexually oriented business on the permitted premises. A permittee commits an offense if the permittee attempts to avoid such responsibility by creating any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee.

(ii) Issuance or Denial of Any Permit. A permit, renewal or transfer permit shall be issued unless one (1) or more of the following conditions exists:

(A) The applicant has located the sexually oriented business in violation of this Chapter. Unless the business is a non-conforming use as defined herein.

(B) The applicant(s) failed to supply all of the information required on the application.

(C) The applicant, or any one applicant, gave fraudulent or untruthful information on the application. This does not apply to clerical errors.

(D) The applicant, or any one applicant, has been convicted of a felony for which not less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, or a misdemeanor for which less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever date is the later date, or of a crime in any state involving:

(1) Public lewdness, indecent exposure, or indecency with a child as described in the Texas Penal Code;

(2) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in the Texas Penal Code;

(3) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by a child, employment harmful to

children, or possession or promotion of child pornography as defined in the Texas Penal Code;

(4) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or

(5) Any similar offense to those described above under the criminal or penal code of another state.

(E) Any applicant, or any one applicant, refuses to provide a complete and current NCIC and TCIC criminal history of Applicant obtained by Applicant from the Texas Department of Public Safety. The criminal history must be completed within 15 days of the date the application is submitted to the Building Official.

(F) Permit fees are not paid in full.

(iii) **Application Requirements.** Initial permit requests for a special use permit require each owner, having 10% or more interest in the sexually oriented business, to submit a complete application and to update the application as changes in ownership occur (herein the "Applicant" or "Permittee"). The information required in this subsection must be provided with each application and, as changes occur, updated information within ten (10) days of any change in the information required in the application.

(A) The following information must be provided on the application form:

(1) The name, street address (and mailing address if different) of the Applicant and each and every owner with greater than 10% ownership interest;

(2) Two copies each of recent photographs of the Applicant showing full face and each side face profile;

(3) A complete set of fingerprints on forms from the Police Department;

(4) A complete and current NCIC and TCIC criminal history of Applicant obtained by Applicant from the Texas Department of Public Safety. The criminal history must be completed within 15 days of the date the application is submitted to the Building Official.

(5) The Applicant's driver's license number, Social Security number, and, if applicable, his/her state or federally issued tax identification number;

(6) The name under which the establishment is to be operated and a general description of the services to be provided;

(7) If the Applicant intends to operate the Sexually Oriented Business under a name other than that of the Applicant; he or she must state (a) the Sexually Oriented Business's assumed name and (b) submit the required registration

documents;

(8) Whether the Applicant has ever been convicted, or is awaiting trial on pending charges, of a crime specified in Section 12.146 G.(ii)(D) and, if so, the nature of the offense(s) and the date, place, and jurisdiction of each offense;

(9) Whether the Applicant has had a previous license or special use permit under this Chapter or other similarly Sexually Oriented Business ordinance from another city or county denied, suspended or revoked, including the name and location of the Sexually Oriented Business for which the license or special use permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the Applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a Sexually Oriented Business ordinance whose license or special use permit has previously been denied, suspended or revoked, including the name and location of the Sexually Oriented Business for which the license or special use permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation;

(10) Whether the Applicant holds any other license or special use permit under this Chapter or other similar Sexually Oriented Business ordinance from another city or county and, if so, the names and locations of such other licensed businesses;

(11) The address, and legal description of the tract of land on which the establishment is to be located;

(12) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the license or special use permit is sought, and the date on which the establishment began operations as a Sexually Oriented Business at the location for which the special use permit is sought; and

(13) If the establishment is not in operation, the expected startup date (which must be expressed in number of days from the date of issuance of the special use permit). If the expected startup date is to be more than ten days following the date of issuance of the special use permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the construction, repair or remodeling work.

(B) All applications for a special use permit must include the following:

(1) If the establishment is a State of Texas corporation, a certified copy of the articles of incorporation, together with all amendments thereto.

(2) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto.

(3) If the establishment is a limited partnership formed under the laws of the State of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto.

(4) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto.

(5) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed along with the current address(es) and telephone number(s) of the owner(s).

(6) If the Person(s) identified as the fee owner(s) of the tract of land are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the purpose of the operation of the establishment together with the correct address and telephone number of each person with an ownership interest in the property.

(7) If the property is owned by other than a natural person, the complete name, address and telephone of each person with an interest in the entity must be included in the application.

(8) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines of any established use listed in Section 12.146 D.(ii) within 1,000 feet of the property to be certified. For purposes of this Section, a use is considered existing or established if it is in existence at the time an application is submitted.

(9) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale no smaller than  $\frac{1}{4}$  inch equals one foot and with marked dimensions of the placement of the building on the tract of land, and the interior of the premises to an accuracy of plus or minus six inches. All locational requirements must be approved by the Building Official within 60 days from the time the application is filed.

(10) Any of items (1) through (9) above will not be required for a renewal application if they were previously presented and the Applicant states that the

documents previously furnished to the Building Official with the original application or previous renewals thereof remain correct and current.

(b) Every application for a special use permit must contain a statement made under oath that:

(1) The Applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and,

(2) The Applicant has read the provisions of this Chapter.

(c) The Applicant for a Sexually Oriented Business special use permit must be qualified according to the provisions of this Chapter.

(d) If the Applicant who wishes to operate a Sexually Oriented Business is an individual, that individual must sign the application for a special use permit as Applicant. If the Applicant who wishes to operate a Sexually Oriented Business is other than an individual, each individual who has greater than a 10% interest in the business must sign and provide all the information required by the application for a special use permit as an Applicant and will be considered an Operator if a special use permit is granted.

(e) The fact that a Person possesses any other valid license, certificate or permit required by law does not exempt him from the requirement of obtaining a Sexually Oriented Business special use permit. A Person who operates a Sexually Oriented Business and possesses another business license, certificate or permit must comply with the requirements and provisions of this Chapter as well as the requirements and provisions of the law concerning the other license, certificate or permit.

(f) All applications must include a non-refundable application fee of \$2,500.00. An application will not be considered to have been filed until all applicable fees are paid and all information required by the application form has been submitted.

(g) The Applicant must supplement an application with new information received after the date the application was deemed completed. Permittees must supplement application information within ten (10) days of any change in information provided in the application.

(h) All Sexually Oriented Businesses located within the City and in operation as a lawful use conforming to the zoning ordinance before the effective date of this Chapter are granted a one-time waiver of the application fee. Upon satisfactory completion of the application and surrender of the existing business' current certificate of occupancy, a new special use permit will be issued.

(i) A copy of all applications and supporting documentation for special use permits will be maintained by the Building Official.

(j) Upon receipt of an application or supplemental information, the Building Official will review the application to determine if all required and necessary information has been submitted. The Building Official will issue a letter within a reasonable time after receipt of the application or supplemental information and advise the Applicant whether supplemental information must be submitted. The Applicant must provide any supplemental information within 30 days or the application will be returned and the filing fee forfeited.

(iv) Public Notice of Pending Application

(A) After the Building Official has issued a letter advising the Applicant that the application is complete, the Building Official will cause signs (at least 24 inches by 36 inches in size) to be placed on the property subject to the proposed special use permit of occupancy that provide notification by specifically stating, with letters at least three inches wide and six inches tall, "SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION PENDING". All lettering on the signs other than above described, will be at least 1 and ½ inches x 2 inches in size for each letter on the sign. The sign will also include the name, city and state of residence of each Applicant, the date on which the application was filed, and the time and place of the hearings. The signs will be placed on the property in sufficient quantities and locations to identify the property as being subject to a proposed sexually oriented special use permit of occupancy. One sign will be erected on each lot corner to identify the boundaries of the property in addition to one sign for each 300 foot increment of each public road or highway frontage on the property existing or any part thereof. The signs will be erected within seven days after the Building Official has issued a letter advising the Applicant that the application is complete and will remain erected until the application has been approved or denied by the City Council.

(B) The City will give notice of the application and scheduled public hearings by publication in two consecutive issues of the City's official newspaper. The notices will be printed in 10-point boldface type and will:

- (1) include the fact that a Sexually Oriented Business special use permit has been applied for;
- (2) include the exact location, including the street address, of the place of business for which the certificate is sought;
- (3) include the names of each owner of the business and, if the business is operated under an assumed name, the trade name together with the names of all owners;
- (4) include, if the Applicant is a corporation, the names and titles of all officers, directors and shareholders of 10% or more of the corporation;

(5) include the dates and times of the public hearings; and

(6) be published at least 15 days before each public hearing.

(v) **Renewal of Permit.** Permits shall be valid for one (1) year from the issuance of the permit. Permits must be renewed annually by all persons having ownership interest or control of the sexually oriented business and all persons owning the property upon which the sexually oriented business is located. Failure to renew the permit voids the permit.

(vi) **Permit Transfers.** A permit is personal to the persons designated in the application. A permit may not be transferred except pursuant to and in compliance with this section. A transfer application must be filed within thirty (30) days of any change of persons designated on the current permit. A transfer application shall allow continuation of business under an existing permit while a new application is being processed. Any transfer application shall require and be treated in all respects as an original permit application. In the event that a transfer application is not timely filed, then the existing permit shall be invalid for any purpose relating to the operation of business. Provided, however, that nothing in this section shall affect the nonconforming use provisions herein.

(vii) **Revocation of Permit.** Any violation of this Chapter shall constitute grounds for revocation of a permit. A permit shall be revoked for any of the following violations:

(A) The permittee(s) have located the sexually oriented business in violation of this Chapter. Unless the business is a non-conforming use as defined herein.

(B) The permittee(s) failed to supply all of the information required on the application.

(C) The permittee(s) gave fraudulent or untruthful information on the application. This does not apply to clerical errors.

(D) The permittee, or any one permittee, has been convicted of a felony for which not less than ten (10) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, or a misdemeanor for which less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever date is the later date, of a crime in any state involving:

(1) Public lewdness, indecent exposure, or indecency with a child as described in the Texas Penal Code;

(2) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in the Texas Penal Code;

(3) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by a child, employment harmful to

children, or possession or promotion of child pornography as defined in the Texas Penal Code;

(4) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or

(5) Any similar offense to those describe above under the criminal or penal code of another state.

(E) More than four criminal offenses are committed on the permitted premises in any consecutive twelve month period which fall in one or more of the following categories:

(1) Public lewdness, indecent exposure, or indecency with a child as described in the Texas Penal Code;

(2) Prohibited sexual conduct, enticing a child, harboring a runaway child, or sale or purchase of a child as described in the Texas Penal Code;

(3) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by a child, employment harmful to children, or possession or promotion of child pornography as defined in the Texas Penal Code; or,

(4) Facilitation, attempt, conspiracy or solicitation to commit any of the foregoing offenses.

(F) Any person under the age of eighteen, not otherwise permitted by the Laws of Texas to view the material contained on the premises is permitted to enter the premises.

(viii) Appeal. All denials and revocations of permit applications and renewals must be appealed to the City Council.

(A) If an application for issuance or renewal of a permit is denied a permit or a permit is revoked, upon notice of the denial or revocation of a permit, the aggrieved applicant or permittee shall have ten (10) days to appeal to the decision to the City Council.

(B) The appeal of a revocation of a permit to the City Council shall abate the revocation of the permit until such time as the City Council may hold a public hearing.

(ix) Permit Fee. Each application for a permit, including renewal or transfer, shall be accompanied by a \$2,500.00 application fee. In addition to the fees required for an initial license, the applicant at the time of making an initial application shall pay a nonrefundable

fee of \$750.00 for the City to conduct a survey to ensure the proposed sexually oriented business is in compliance with the location restrictions set forth in Section 12.146 D. Additionally, for each applicant identified thereon, there shall be an additional \$25.00 fee.

#### H. Specific Violations.

- (i) A person commits a misdemeanor if he or she:
  - (A) Operates or causes to be operated a sexually oriented business without a special use permit. All sexually oriented businesses shall be located within the Industrial District zoning district unless such business qualifies as a non-conforming use.
  - (B) Operates or causes to be operated a sexually oriented business without a permit to operate a sexually oriented business.
  - (C) Operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of any of the following uses in existence prior to the beginning of such business:
    - (1) A church, chapel, or other regular place of religious worship;
    - (2) A public or private day-care, elementary, secondary school or institute of higher learning;
    - (3) A boundary of any residentially zoned district;
    - (4) A public park, library, or playground; or
    - (5) The property line of a lot used for residential purposes.
  - (D) Causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
  - (E) Causes or permits the operation, establishment or maintenance of more than one sexually oriented business, as defined herein, in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
- (ii) For the purpose of Subsection H.(i)(C) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure in which any, or any part of any, sexually oriented business is conducted, to the nearest property line of the premises described in subsection H.(i)(C).
- (iii) For purposes of Subsection H.(i)(D) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

#### I. Nonconforming Uses.

(i) Any sexually oriented business lawfully operating on the effective date of this Chapter that is in violation of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 10 years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

(ii) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant of a special use permit for a sexually oriented business, of a church, public or private day-care, elementary or secondary school, institute of higher learning, public park, library, or playground, or a residential lot within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit and/or license has expired or has been revoked.

(iii) All non-conforming sexually oriented business uses in existence at the time of passage of this Chapter within the City limits shall have sixty (60) days to apply for a permit to operate such sexually orient business.

**Sections 12.147 to 12.149 - Reserved.**

**ARTICLE 12.150  
ADMINISTRATION**

**Section 12.151. General.** The City Building Official shall administer the provisions of this Chapter, and in furtherance of such authority, the City Building Official shall:

(a) Records. Maintain permanent and current records with respect to this Chapter, including amendments thereto.

(b) Applications. Receive, file, and review all zoning applications to determine whether such application complies with this Chapter.

(c) Commission. Forward zoning applications to the Commission as required by this Chapter, together with its recommendations thereon.

(d) Council. Forward zoning applications to the Council, together with the recommendations of the Commission and the City staff.

(e) Implementation. Make such other determinations and decisions as may be required of the City by this Chapter, the Commission or the Council; and enforce and implement this Chapter and

the final decisions by the Commission and City Council.

**Section 12.152. Chapter Interpretation.** In the interpretation and application of the terms and provisions of this Chapter, the following regulations shall govern:

(a) Liberally Construed. In the City's interpretation and application, the provisions of this Chapter shall be regarded as minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity, morals and welfare.

(b) Highest Standards Govern. Whenever a provision of this Chapter and any other provision of this Chapter, or any provision in any other law, ordinance, resolution, rule or regulation of any kind contains any restrictions covering the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

(c) Resolution of Conflicting Interpretations. Where there arises a question concerning the meaning or intent of a provision of this Chapter, a written decision setting forth the manner in which said provision shall be interpreted and administered is encouraged. In the event exception is taken by any interested party to such a decision the matter may be appealed to the Commission and, as appropriate, to the Council whose decision shall be final.

(d) Written Decisions Binding. Any final written decision made as provided in subsection (c) above shall be archived and shall govern interpretation of this Chapter until such time as an amendment of this Chapter shall nullify such decision, or the decision is over-ruled or rescinded by the City Council.

(e) State Law. The terms, provisions and conditions of this Chapter shall be interpreted and applied in a manner consistent with federal and state law and *Chapter 211 of the Texas Local Government Code*

(f) Master Plan. All zoning applications shall conform to the Master Plan for the community and be consistent with all of the elements thereof.

(i) Where the proposed zoning application is inconsistent with one (1) or more of the elements of the Master Plan, the developer may petition the City for amendment to the particular element or elements of the Master Plan either prior to, or concurrent with, submitting a request for subdivision plat or development plan approval. Inconsistency with the provisions of the Master Plan shall be grounds for disapproval of the zoning application by the City.

(ii) Where the proposed zoning is for a zoning district or category provided for in this Chapter but that is not included on the Master Plan existing on the date of this Chapter, or not existing on the date of such application, the applicant shall propose an amendment to the Master Plan and provide information and documentation in support of such amendment.

(g) Consistency with the Subdivision Ordinance. All development projects within the corporate limits of the City shall be in conformance with the City's Subdivision Ordinance. Where

the proposed development requires a zoning classification or approval other than that currently applying to the property to be developed, the developer shall make appropriate application to secure the necessary zoning classification or approval required for the proposed development would comply with this Chapter.

**Section 12.153. Board of Adjustments.** (a) City Council. Any powers that may be delegated by the City Council to a Board of Adjustments are hereby retained by the City Council. Any reference to the Board of Adjustments or Board shall mean the City Council.

(b) Powers. The City Council has elected at this time not to establish a Board of Adjustments as may be established as per the provisions of Section 211.008 of the Texas Local Government Code. The City Council retains all powers and duties regarding the zoning and land use regulations as to the City of Rockdale, Texas.

(c) Meetings. Meetings of the City Council to conduct hearings, consider matters, or to take action as a Board of Adjustment shall be held at the call of the Mayor or at such other times as the Council acting as a Board of Adjustment may determine. Meetings of the Council acting as a Board of Adjustment shall be separate from and shall not be combined with the Council's agenda of regular or special called meetings.

(d) Hearings. All meetings and hearings held by the Board of Adjustment shall be public; provided that upon the advice and consent of the City Attorney the Board may go into executive session pursuant to *Chapter. 551 of the Texas Government Code.*

(e) Rules and Regulations. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and such minutes shall be immediately filed in the office of the Board and shall be a public record. The Board of Adjustment shall act by resolution in which 75% of the members must concur. The Board may adopt rules in accordance and consistent with this Chapter as necessary and required. A copy of any such rules shall be furnished to any person requesting same. All rules and regulations shall operate uniformly in all cases and all resolutions and orders shall be in accordance therewith.

(f) Appeals.

(i) Procedure. Any person aggrieved by a decision of an administrative officer in the enforcement of *Chapter 211 of the Texas Local Government Code*, or this Chapter, or any officer, department, board or bureau of the City affected by any such decision by an administrative officer, may appeal such decision to the Board. Such appeal shall be made by filing with the City Secretary and the officer whose action is being appealed, a notice of appeal specifying the grounds thereof. The officer from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from is taken.

(ii) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer whose decision is appealed shall certify to the Board that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause

imminent peril to life or property, in which case proceedings shall not be stayed other than by restraining order granted for just cause by the Board, or by a court of record, after notice to the officer from whom the appeal is taken.

(iii) Notice of Hearing on Appeal. The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall give public notice of the hearing and due notice to the parties in interest.

(iv) Decision by Board. The Board shall decide appeals within a reasonable time. Any party to the appeal may appear in person or by agent or attorney at any hearing. The Board may, upon the concurring vote of 75% of the members, reverse or affirm, in whole or in part, or modify the administrative official's order, requirement or decision, and make the correct order, requirement, decision, or determination on the matter appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

(g) Powers and Duties of the Board.

(i) Appeals Based on Error. The Board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of *Chapter 211 of the Texas Local Government Code*

(ii) Special Exceptions. The Board shall have the power to hear and decide special exceptions to the terms of this Chapter when this Chapter requires the Board to do so. Such special exceptions shall be as follows:

(A) To permit a public utility or public service use or structure in any district as necessary to house equipment, pumps, switching gear, and similar devices only, required for the provision of the utility service or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the provision of utility service and the public health, convenience, safety or general welfare.

(B) To grant a permit for the extension of a use, height or area regulation into an adjoining district for any lot platted in an approved subdivision, where the boundary line of the district divides such lot and the lot was in a single ownership on the effective date of this ordinance.

(C) Authorize a variance from the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, and where the topography or unusual shape of the lot and regulations would impose an unreasonable hardship upon the use of the lot.

(h) Variances. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this Chapter if the variance: (1) will not be contrary to the public interest; (2) is owing to special condition inherent in the property itself; (3) the condition is unique to the property; (4) a literal enforcement of the provisions of this Chapter will result in unnecessary hardship; (5) the hardship is not self-imposed or self-created; (6) the spirit of this Chapter will be observed and substantial justice done; and (7) without the variance the owner will be deprived of the right to use the property. Variance may be granted for the following:

(i) Yard and Setback. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that such variance will not significantly affect any adjoining property or the general welfare.

(ii) Structures. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this Chapter relating to the construction or alteration of a building or structure or the use of land will impose unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this Chapter as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance as established by this Chapter, and at the same time, the surrounding property will be properly protected; provided that the Board shall not in any event permit a use on any property that is not permitted within the Zoning category for which such property is zoned.

**Section 12.154. Conditions for Issuing a Building Permit.** No building permit shall be issued for any new structure or change, improvement or alteration of any existing structure, on any lot or tract of land and no municipal utility service will be furnished to such lot or tract which does not comply with the provisions of this Chapter and all applicable elements of the Master Plan, except as herein exempted, or upon the written application and approval of a variance.

**Section 12.155. Certificates of Occupancy.** (a) Policy and Application. Certificates of occupancy shall be required for any of the following:

(i) Occupancy and use of any structure or building hereafter erected or structurally altered.

(ii) Change in use of an existing building to a use of a different classification.

(iii) No occupancy of any new, or altered portion of any, structure or building, or any such building or structure for which there is a change of use, shall take place until a Certificate of Occupancy therefore shall have been issued by the City Building Official.

(b) Procedure.

(i) New and Altered Structures. Written application for a Certificate of Occupancy for a

new building, or for an existing building which is to be altered, shall be made at the same time as the application for the Building Permit for such building. Said Certificate shall be issued within three (3) days after a written request for the same has been made to said City Building Official or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter and all applicable City codes and ordinances.

(ii) Change in Use. Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided shall be made to said City Building Official. If the proposed use is in conformity with the provisions of this Chapter, the Certificate of Occupancy shall be issued within three (3) days after the application for same has been made.

(c) Approval. Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all Certificates of Occupancy shall be kept in file in the office of the City Building Official or his agent and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

(d) Temporary Certificate of Occupancy. Pending the issuance of a regular Certificate of Occupancy, a temporary certificate may be issued by the City Building Official for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners, or of the City, relating to the use or occupancy of the premises or any other matter covered by this Chapter.

(e) Non-conforming Uses. A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this Chapter. It shall be the duty of the City Building Official to issue a Certificate of Occupancy for a lawful non-conforming use, and the refusal of the City Building Official to issue a Certificate of Occupancy for such non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist at the effective date of this Chapter.

**Section 12.156. Permits.** No permit for the erection, installation, alteration or enlargement of any building or structure shall be issued by the building inspector unless there first be filed with the permit office a complete application, including a plat, drawn to scale and in such form as may be prescribed by the said building inspector, correctly showing the location and actual dimensions of the lot to be occupied, the dimensions and location on the lot of the building or structure to be erected, altered or enlarged, together with a true statement in writing signed by the applicant, showing the use for which such building or structure is arranged, intended or designed, and furnishing such other information as the building inspector may require in the enforcement of the provisions of this chapter. Any failure to comply with the provisions of this chapter or the application and plans approved shall be good cause for the revocation of any such building permit by the building inspector. A record of such applications and plats shall be kept in the office of the building inspector. Each such application for a building permit to erect, install, alter or enlarge a building or structure shall specify the materials for which the walls and

roof are to be constructed and the proposed height of the building or structure.

**Section 12.157. Fees.** To defray the costs of administering this Chapter, the applicant seeking plat approvals shall pay to the City, at the time of submittal, the prescribed fees as set forth in the current administrative fee schedule approved by the Council, and on file in the office of the City. When applications require review, actions or inspections by an Engineer or the City Attorney, such reasonable and necessary costs shall be reimbursed from the applicant to the City.

**Section 12.158. Amendments.** The Council may, from time to time, adopt, amend and make public rules and regulations for the administration of this Chapter. This Chapter may be enlarged or amended by the Council after public hearing, due notice of which shall be given as required by law.

**Section 12.159. Violations.** Except as otherwise provided for in this Chapter, it shall be unlawful for any person, firm or corporation to develop, improve or sell any lot, parcel, tract or block of land within the City's territorial jurisdiction, regardless of the size or shape of said lot, parcel, tract or block, unless such lot, parcel, tract or block of land conforms with this Chapter.

**Section 12.160. Enforcement.** (a) Administrative Action. The Building Official, City Engineer and/or the City Administrator shall enforce this Chapter by appropriate administrative action, including but not limited to the rejection of plans, maps, plats and specifications not found to be in compliance with this Chapter and good engineering practices, and the issuance of stop work orders.

(b) Court Proceedings. Upon the request of the City Council the City Attorney shall file an action in the district courts to enjoin the violation or threatened violation of this Chapter, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages in an amount sufficient for the City to undertake any construction or other activity necessary to bring about compliance with a requirement regarding the property and established pursuant to this Chapter.

## ARTICLE 12.170 CLOSING PROVISIONS

**Section 12.171. Construction.** The terms and provisions of this Chapter shall not be construed in a manner to conflict with *Chapter 211 of the Texas Local Government Code* and if any term or provision of this Chapter shall appear to conflict with any term, provision or condition of *Chapter 211*, such Chapter term or provision shall be read, interpreted and construed in a manner consistent with and not in conflict with such Chapter, and, if possible, in a manner to give effect to both. The standard and accepted rules of statutory construction shall govern in construing the terms and provisions of this Chapter.

**Section 12.172. Penalty.** In addition to the criminal penalties provided for herein, a person who shall violate any provision of this chapter or shall fail to comply therewith, or with any of the requirements thereof, within the City limits, is liable for a civil penalty not to exceed Two Thousand Dollars (\$2,000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.