

PASSED NOVEMBER 20, 2006

ORDINANCE NO. 2006-15

AN ORDINANCE OF THE CITY OF IOWA COLONY, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF SAID CITY; CONTAINING FINDINGS OF FACT AND CONCLUSIONS OF LAW; PROVIDING A TABLE OF CONTENTS; PROVIDING ADDITIONAL, REVISED, AND REPEALED DEFINITIONS; AMENDING THE USES AND BUSINESS HOURS IN MIXED USE DISTRICTS; AMENDING THE PROVISIONS FOR NONCONFORMING USES OF MOBILE HOMES, MANUFACTURED HOMES, HUD-CODE MANUFACTURED HOMES, AND INDUSTRIALIZED HOMES; UPDATING REFERENCES TO OTHER ORDINANCES; PROVIDING FENCE REQUIREMENTS, YARD REQUIREMENTS, COORDINATION WITH OTHER ORDINANCES AND FOR CONFLICTS OF TERMS; PROVIDING FOR PLANNED UNIT DEVELOPMENTS; PROVIDING PROCEDURES FOR ZONING AMENDMENTS; PROVIDING THAT VIOLATION OF THIS ORDINANCE IS AN OFFENSE PUNISHABLE UPON CONVICTION BY A FINE OF UP TO \$500 PER DAY, AND PROVIDING THAT EACH DAY OR PORTION OF A DAY THAT A VIOLATION CONTINUES, OCCURS, OR RECURS SHALL BE A SEPARATE OFFENSE; PROVIDING FOR CIVIL ENFORCEMENT AND CUMULATIVE REMEDIES; RATIFYING AND CONFIRMING ALL ACTIONS PREVIOUSLY TAKEN BY THE MAYOR, MAYOR PRO-TEM, CITY ATTORNEY, CITY ENGINEER, AND CITY SECRETARY WITH RESPECT THERETO; CONTAINING A SEVERANCE CLAUSE AND A SAVINGS CLAUSE; PROVIDING FOR CONFLICTS IN TERMS; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT AS OF ITS PASSAGE AND APPROVAL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IOWA COLONY, BRAZORIA COUNTY, TEXAS, DULY ASSEMBLED:

Section 1.

The City Council of the City of Iowa Colony, Brazoria County, Texas, makes the following findings of fact and conclusions of law:

- a. The City Council has made a preliminary report, and two public hearings have been lawfully held pursuant to the Zoning Enabling Act of the State of Texas,

codified as Section 211.001, et seq., Texas Local Government Code, and the Zoning Ordinance, and said hearings were conducted in the manner and at the time required.

b. More than fifteen (15) days prior to the date of each such hearing, public notice of such hearing was published once in the Alvin Sun, a newspaper of general circulation in and the official newspaper of said City, stating the date, time and place of such hearing.

c. After giving due regard to the nature and consideration of all adjacent uses and structures and of the nature and condition of said City as a whole, and after considering all proper factors under said Chapter 211, the City Council of said City is of the opinion that this amendment conforms to the requirements and intent of said City and the Comprehensive Plan of said City, and that this amendment will not constitute a nuisance or be detrimental to the public health, safety, morals, or welfare of the community.

d. The health, safety, morals and general welfare of the people of the City of Iowa Colony, will best be served by the adoption of this ordinance.

e. All requirements of law have been satisfied.

Section 2.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by the enactment of a Table of Contents, to read as shown on the Zoning Ordinance, which is attached hereto and incorporated herein in full.

Section 3.

Section 5(39), Definition of Fence, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Section 4.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by repealing and deleting Section 1(85), the definition of "screening hedge," and the definition numbers in Section 5 are hereby amended to read as stated on the attached Zoning Ordinance.

Section 5.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by the enactment of Section 5(93), the definition of "This Ordinance" and similar terms, to read as stated in the Zoning Ordinance attached hereto and incorporated herein in full. The numbers of the definition sections in the Zoning Ordinance are also amended to read as stated on the attached Zoning Ordinance.

Section 6.

Section 35, Nonconforming Mobile Homes, Manufactured Homes, HUD-Code Manufactured Homes, Modular Homes, and Industrialized Homes, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full. The Zoning Ordinance is further amended by the addition of Section 35, Nonconforming Mobile Homes, Manufactured Homes, HUD-Code

Manufactured Homes, Modular Homes, and Industrialized Homes to the Table of Contents.

Section 7.

Section 55, Screening Fences, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Section 8.

Subsection 56(b)(1), Parking, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Note: This section amends only a reference to the Subdivision Ordinance.

Section 9.

Section 62, Yard Requirements, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Section 10.

Section 69, Coordination with Other Ordinances, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Section 11.

Subsection 70(c), Lot Size Requirements, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and

incorporated herein in full. Note: This section amends only a reference to the Subdivision Ordinance.

Section 12.

Section 71, District MU (Mixed Use District), of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Section 13.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by the enactment of Section 74, Planned Unit Development, to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full. The Zoning Ordinance is further amended by the addition of Section 74, Planned Unit Development to the Table of Contents.

Section 14.

Section 85, Public Hearings, of the Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full.

Section 15.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by moving Section C thereof, concerning offenses and penalties, to Section 101 thereof and amending that section to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full. The Zoning Ordinance is further amended by the addition of Section 101, Offenses and Penalties to the Table of Contents.

Section 16.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by the enactment of Section 102, Civil Enforcement and Cumulative Remedies, to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full. The Zoning Ordinance is further amended by the addition of Section 102, Civil Enforcement and Cumulative Remedies to the Table of Contents.

Section 17.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by moving Section D thereof, (concerning a severance clause), to Section 116 thereof and amending that section to read as stated on the Zoning Ordinance attached hereto and incorporated herein in full. The Zoning Ordinance is further amended by the addition of Section 116, Severance Clause.

Section 18.

The Comprehensive Zoning Ordinance of said City, being Ordinance No. 2000-08, enacted on October 4, 2000, is hereby amended by moving Section E thereof (concerning an effective date) to Section 20 of this Ordinance and amending that section to read as stated on Section 20 of this Ordinance.

Section 19.

The City Council of the City of Iowa Colony hereby ratifies and confirms any and all action taken by the Mayor, the Mayor Pro-Tem, or City Secretary thereof, in connection with this ordinance, in giving of the public notice of such hearing, in the giving of written notice of such hearing to the owners of the premises and to the

adjoining property owners, and in the conducting of the public hearing required by said Act and said Ordinance.

Section 20.

a. Subject to the amendments herein stated, the Comprehensive Zoning Ordinance, Ordinance No. 2000-08, and all prior amendments thereto and all prior Zoning Ordinances of the City shall remain in full force and effect. Subject to the amendments herein stated, this ordinance is cumulative of and in addition to all other ordinances of the City of Iowa Colony on the same subject and all such other ordinances are hereby expressly saved from repeal. Without limiting the generality of the foregoing, this Ordinance shall not impair any specific use permit previously granted by the City.

b. In the event any provisions of any zoning ordinance or other ordinance of Iowa Colony conflict with or overlap the provisions of this ordinance, then the more restrictive provision shall govern and control.

Section 21.

A complete copy of the Iowa Colony Comprehensive Zoning Ordinance, as amended by this Ordinance and all prior amendments, is attached hereto and incorporated herein in full. However, the terms "Zoning Ordinance," "Comprehensive Zoning Ordinance," or words to that effect shall include not only the attachment hereto, but also all parts of this ordinance, and the prior ordinances enacting the attachment hereto.

Section 22.


In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof

other than the part declared to be invalid or unconstitutional; and the City Council of the City of Iowa Colony, Texas, declares that it would have passed each and every part of same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 23.

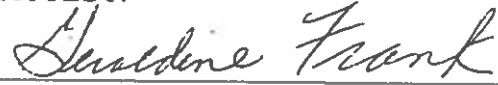
This ordinance shall become effective immediately upon its passage by the City Council of the City of Iowa Colony, Texas.

READ, PASSED AND ADOPTED this 20 day of November, 2006.



ROBERT WALL, MAYOR
CITY OF IOWA COLONY, TEXAS

ATTEST:



GERALDINE FRANK, CITY SECRETARY
CITY OF IOWA COLONY, TEXAS

Form A
City of Iowa Colony

"Where We Make It Happen"

APPLICATION FOR AMENDMENT TO REGULATIONS
OR TO THE OFFICAL ZONING DISTRICT MAP

Name/Address _____
Individual/Company/Corporation

Description of Amendment Proposed _____

Statement of need or justification for said amendment, including its consistency with the zoning policies and purposes set forth in this Ordinance and/or its consistency with the City's most current comprehensive planning document or documents. (Use separate sheet of paper for your statement).

The legal description and address of the property affected and the proposed boundaries of said property;

The signed consent of the property owner or owners whose property would be affected by the proposed amendment;

The applicant's interest in the subject property if the applicant is not the property owner of all or a portion of the subject property;

The present zoning classification and existing uses of the property proposed to be reclassified; and

Such other information or documents as the City Council and Zoning Administrator may deem necessary.

A non-refundable fee must accompany the application to defray the cost of notification and processing the application. Please refer to the fee schedule of the City of Iowa Colony for the fee for your particular zoning need.

Signature required: _____

Form approved: July 20, 2009

10-09-06

CITY OF IOWA COLONY

ZONING ORDINANCE

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ZONING

ARTICLE I – GENERAL PROVISIONS

Sec. 1 Short title

This Ordinance shall be known and may be cited as “The City of Iowa Colony Zoning Ordinance.”

Sec. 2 Authority and purpose

This ordinance is adopted for the purpose of promoting and protecting the health, safety and general welfare of the residents, citizens and inhabitants of the City of Iowa Colony, Texas, and to promote the purposes and goals of zoning authorized by Chapter 211 of the Texas Local Government Code.

Sec. 3 Newly annexed areas

- (a) Zoning annexed areas. Within (60) days following the annexation of territory into the City, the City Council shall initiate proceedings to establish permanent zoning classifications for all such newly annexed territory. Pending completion of such proceedings, such territory shall be classified as District “SFR,” Single-Family Residential. Such temporary zoning classification shall remain in effect only until such time as the City Council establishes the permanent zoning classification, following procedures required by Chapter 211, TEXAS LOCAL GOVERNMENT CODE, and Article VIII of this ordinance.
- (b) Permits in temporarily zoned areas. In newly annexed areas temporarily classified as District “SFR,” Single-Family Residential, no permit for the construction of a building, or certificate for the use of land, other than for a building or use allowed in said District, shall be issued by the Zoning Administrator.
- (c) Unplatted property. The City’s Planning Commission and the City Council shall not approve plats for the subdivision of land until all newly annexed area within the proposed subdivision shall have received a permanent zoning classification by the City Council.

Sec. 4 Land use policies

- (a) **Purpose.** The land use policy statements set forth in this Section have been developed as part of the City's ongoing comprehensive planning process and were designed to provide guidance in developing the zoning regulations contained in this ordinance. Said policies are hereby adopted as a part of this ordinance to provide guidelines for considering future amendments to these zoning regulations.
- (b) **Land use goals – City wide**
 - (1) Provide for orderly growth, development and redevelopment by adopting a comprehensive zoning ordinance for the City.
 - (2) Accommodate a mixture of new commercial and residential development that will strengthen the City's diverse land-uses, but restrictive enough to eliminate, over time, incompatible uses that destabilize adjoining and area property values.
 - (3) Promote a healthy balance between residential and nonresidential land uses designed to maintain and enhance property values and revenue streams by providing a zoning plan that accommodates unforeseen future markets for quality residential and/or commercial development.
 - (4) Provide for the elimination of buildings and/or uses which are visually or functionally incompatible with adjacent or area buildings and/or uses, by implementation of zoning which, while fair in relation to existing uses at the time of its adoption, will result in greater integrity of the City's long-term development.
 - (5) Support private and public initiatives which encourage investment in beautification programs, and stimulate such programs by providing for adequate open space through zoning.
 - (6) Develop and maintain a zoning ordinance that is organized, fair, straight forward and easy to interpret by citizens, property owners, developers, city officials, and other interests parties.
- (c) **Objectives.** Objectives sought to be implemented through adoption of zoning regulations include the health, safety, and general welfare of the people of Iowa Colony, including but not limited to the following objectives:

(1) **Single-family residential areas.** Zoning regulations applicable to single-family residential areas are intended to protect the integrity, safety, and aesthetic characteristics of existing and future neighborhoods throughout the City, and shall be implemented by:

- a. Providing a residential zoning district that limits uses to single-family residential purposes, having maximum densities compatible with densities currently found in the City's existing single-family residential subdivisions; and
- b. Imposing performance standards.

(2) **Mixed use areas.** The mixed use area enjoys good access to and visibility from major thoroughfares. Thus, zoning regulations applicable to the mixed use area are intended to:

- a. Encourage economic development, redevelopment and revitalization;
- b. Provide a review procedure for developments which, while ensuring compliance with the general purpose and intent of this Ordinance, will allow some deviation from the general standards otherwise applicable to District MU, will promote and permit innovation and flexibility in land use and site design, and support relatively small scale and economically viable mixed use development; and
- c. Provide performance standards that are specifically designed to stabilize and enhance commercial and residential property values within such a mixed use district by limiting or prohibiting the continuation of incompatible land uses that negatively impact adjoining properties and detract from the visual image of the City.

(3) **Manufactured Housing Areas.** This area provides a place in the city for HUD-code manufactured homes, mobile homes, and manufactured homes.

(d) **Comprehensive Plan.** The Comprehensive Plan of the city is incorporated herein in full, and said plan shall be deemed amended, if and to the extent necessary, so that this ordinance is consistent with that plan.

Sec. 5

Definitions and interpretation.

(a) **Interpretation, conflict.** This ordinance shall be construed liberally to effect the purposes hereof. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the protection and promotion of public health, safety, convenience, comfort, prosperity, and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, when this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces that are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this ordinance shall prevail.

(b) **Definitions.** For the purposes of this ordinance, certain words and terms are hereby defined. Words used in the present tense shall include the future tense; the singular number shall include the plural number, and the plural number shall include the singular number. The word "building" shall include the meaning of the word "structure." The word "lot" shall include the meaning of the words "plot," "parcel," or "tract"; and the term "used for" shall include the meaning of the terms "designed for" or "intended for." The word "shall" is mandatory. Words, phrases, and terms not defined herein but defined in the building code of the City shall be construed as defined in said code. Words, phrases, and terms not defined herein nor defined in the building code of the City shall be given their usual and customary meanings except where the context clearly indicates a different meaning. The following definitions shall apply in the interpretation and enforcement of this ordinance:

1. "Accessory structure" shall mean a detached structure which is incidental, auxiliary, and subordinate to the principal building, is subordinate in area, extent, or purpose to the principal building, contributes to the comfort, convenience and necessity of occupants of the principal building, and is located on the same lot as the principal building.
2. "Accessory use" shall mean a subordinate use customarily incident to and located on the same lot occupied by the principal building or use.
3. "Agricultural uses" shall be broadly defined to include farming, gardening, truck farming, orchards, ranching, animal husbandry, and other agricultural uses, whether similar or dissimilar. The term "agricultural uses" shall also include barns, storage and maintenance of equipment, supplies, and agricultural products, and other ancillary or accessory uses and activities. However, the term "agricultural uses" shall not include any use or activity that violates any law.

4. "All-weather surface" shall mean a covering for driveways and parking spaces that is dust free, not adversely affected by inclement weather, and paved over a minimum of six inches (6") of limestone base with two inches (2") of asphalt topping, or its equivalent.
5. "Alley" shall mean a public right of way which affords a secondary means of access to abutting property.
6. "Assisted living" shall mean the business of providing long-term residential care for persons needing less intense assistance than those residing at a rest home, which if provided, enables them to maintain a degree of independent living.
7. "Automobile (car) wash" shall mean a business which provides for the washing of automobiles, sometimes using production line methods with a chain conveyor, blower, steam cleaning device, or mechanical devices, sometimes involving manual means only, and sometimes involving self-washing utilizing pressurized water devices.
8. "Automobile service stations" shall mean a business which provides for the sale of automobile fuel at retail direct to the customer, including the supplying of incidental products, accessories, and replacement parts, and also including incidental repair services essential to the normal operation of automobiles, but not including body or fender work, painting, or major motor repairs.
9. "Automobile/vehicle paint and body shop" shall mean a business which provides for the painting of automobiles and other motor vehicles, the repair or reconstruction of the bodies thereof, and the related incidental temporary storage thereof.

10. "Automobile/vehicle repair and service garage" shall mean a business which provides major repair and maintenance of automobiles and other motor vehicles, including the repair and/or installation of motors, tail pipes, mufflers, brakes, radiators, electrical systems, and other component automotive or vehicle parts, whether mechanical or electrical, but not including the painting, repair, or reconstruction of the body or body parts thereof. "Automobile/vehicle sales and rentals" shall mean a business which provides for the sale or rental of new or used automobiles or other vehicles, including automobiles, trucks, recreational vehicles, travel trailers, motorcycles, water craft, and other similar land or water-borne motor vehicles, but shall not include automobile or motor vehicle repair work, except for minor reconditioning of automobiles or motor vehicles to be displayed, sold or rented on the premises; provided, however, such term shall not include the sale or rental of salvaged parts, nor shall it include the storage of either new or used automobiles or motor vehicles that are not on display or for sale or rent.
11. "Automobile/vehicle wrecking or salvage yard" shall mean a business which purchases, sells, exchanges, stores, packs, disassembles, or handles body or engine parts, batteries, scrap iron and other metals, rubber tires, and other used or discarded automobile or motor vehicle accessories. Such term shall include the operation of wrecking lots upon which automobile or motor vehicle parts are bought and sold, exchanged, stored, packed, disassembled, or handled.
12. "Block" shall mean a group of lots bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or corporate boundary lines, or other natural or geographic boundaries. If the word "block" is used as a term of measurement, it shall mean the distance along the side of a street or other boundary line between two intersecting streets or, if the street is of a dead end type, between the nearest intersecting street and the end of such dead end street.
13. "Boarding house" shall mean a building other than a hotel, motel, or apartment house, where for compensation meals and lodging are provided for three (3) or more persons.

14. "Buffer yards" shall mean a land area required under the provisions of this Ordinance to separate different classifications of land uses for each other. A buffer yard is in addition to the required front, side or rear yards, but may where applicable and otherwise required, be included in and as a part of required common areas for residential, commercial, or industrial subdivisions or developments.
15. "Building" shall mean any structure designed or built for the support, shelter, protection, housing, or enclosure of persons, animals, chattels, or property of any kind.
16. "Building area" shall mean the maximum portion of a lot over which buildings and structures may be constructed.
17. "Building code" shall mean and refer to any rule, regulation, ordinance, or law of the City governing the design, construction, and maintenance of any building or structure, or part thereof.
18. "Building height" shall mean the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch.
19. "Building line" shall mean a line parallel to the lot line and beyond or outward of which no building or structure shall be erected or constructed except where specifically authorized herein.
20. "Building official" shall mean the officer or other designated authority, or his duly authorized representative, charged with the administration and enforcement of the building code of the City.
21. "Building, main" shall mean the building in which the main or principal use of the lot on which it is located is conducted.
22. "Building, residential" shall mean a building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) or more families or lodgers.
23. "Business" shall mean any isolated or continuous activity of commercial enterprise conducted for compensation or profit.

24. "Carport" shall mean a roofed structure open on a least two sides when attached to a building and open on three sides when detached from a building, and covered with a roof supported by structural steel, wood columns, or masonry piers.
25. "City" shall mean the City of Iowa Colony, Texas.
26. "Clinic, medical" shall mean a business which provides medical care by one or more medical doctors who may or may not be associated in the practice of their professions.
27. "Council" shall mean the governing body of the City of Iowa Colony, Texas.
28. "Comprehensive plan" shall mean the most recently adopted comprehensive plan of the City, and any related support documents and updated components that may be approved by the Council, including but not limited to the Land Use policies contained in Sec. 4 of this Ordinance and all regulations, zones, and other parts of this ordinance or the zoning map.
29. "Convenience store" shall mean a business which provides for the sale of food products and other incidental items, and which is designed and located to provide ease of access and reduction of time necessary to purchase such goods and products, and may include the sale of automobile fuel only if through self-service and incidental to the sale of food products.
30. "Court" shall mean an open, unoccupied space, bound on more than two (2) 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 permanent open space.
31. "Development" shall mean newly constructed or erected buildings or structures to a lot, relocated buildings or structures onto another lot, or the use of open land for a new or different use. To "develop" is to create a development.
32. "Dwelling" shall mean a building or portion thereof designed and used exclusively for residential occupancy, including single-family dwellings, and multiple family dwellings, but not including hotels, motels or boarding houses.

33. "Dwelling, detached" shall mean a single-family dwelling located on a lot which contains no other dwelling units and which contains a front, rear, and two side yards.
34. "Dwelling, multifamily" shall mean a building or portion thereof which contains three or more separate dwelling units which may share means of egress and other essential facilities.
35. "Dwelling, single-family" shall mean a building containing only one (1) dwelling unit and/or occupied by only one (1) family, but not including a manufactured home.
36. "Dwelling, two-family (duplex)" shall mean a building containing two (2) dwelling units and/or occupied by two (2) families.
37. "Dwelling unit" shall mean a single unit designed and constructed to provide complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.
38. "Family" shall mean one or more individuals, of which not more than two (2) are unrelated by blood, marriage, or adoption living as a single housekeeping unit, exclusive of servants or caretakers.
39. "Fence" shall mean a structure designed or constructed to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, or provide decoration. Provided, however, dikes and retaining walls erected or constructed for the purpose of diverting water and retaining soil shall not be deemed a fence, nor shall backdrops erected for tennis courts or similar sports/recreational uses.
40. "Floor area, gross" shall mean the area within the inside perimeter of exterior walls of a building, with no deduction for corridors, stairs, closets, thickness of walls, columns, or other features, but exclusive of areas open and unobstructed to the sky.
41. "Floor area, gross leasable or useable" shall mean the area within the inside perimeter of the exterior walls of a building, with deductions for common areas not leased by individual tenants, such as common corridors, stairs, maintenance areas, and other such common areas.

42. "Garage apartment" shall mean a room, suite of rooms, or dwelling unit within or upon a private garage that is accessory to a detached dwelling and which is designed, built, rented, leased, or let for occupancy as a dwelling.
43. "Garage, commercial" shall mean a building, or portion thereof, within which temporary parking of automobiles or other motor vehicles by the general public is allowed for a fee.
44. "Garage, private" shall mean an accessory building to a residential or nonresidential building designed or used for the storage of automobiles or other motor vehicles owned or used by the occupants of the building to which it is accessory.
45. "Grocery store" shall mean a business which provides for the same of meats, fruits, vegetables, baker products, dairy products, and other food stuff, for off-premises human consumption.
46. "Hospital" shall mean an institutional facility which provides full health care, including the diagnosis, treatment, and prolonged care of the physically or mentally ill.
47. "Hotel" shall mean a business establishment which offers lodging to the transient public for compensation. A hotel is distinguished from a motel in that access to the majority of the guest rooms in a hotel is through a common entrance and lobby. A hotel is nonresidential use.
48. "HUD-code manufactured home" or "HUD-code manufactured housing" shall mean a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. Section 3282.8(g).

49. "Industrialized housing" or "industrialized home" shall mean a residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include any residential structure that is in excess of three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to (i) housing constructed of sectional or panelized systems not utilizing modular components; or (ii) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location.
50. "Kindergarten/nursery school" shall mean a pre-school or day care center which provides care for pre-public school age children and for which a child care license is required by state law. This term shall not include public institutions providing child care within a public building.
51. "Landscaping" shall mean decorative vegetative material such as grass, ground covers, shrubs, vines, hedges, trees or palms, and non-living durable material commonly used in conjunction with plant materials such as rock, pebbles, sand, walls or fences, which are used to improve the aesthetic appearance of open spaces.
52. "Loading space" shall mean an area within a main building, or an all-weather surface on the same lot therewith, for the standing or loading of trucks or other transport vehicles.
53. "Lot" shall mean a lot, tract, or parcel of land designated, or required to be designated, on a subdivision plat duly filed with the County Clerk of the County in which such lot is located, or any lot, tract, or parcel of land, for which no recorded plat is required.
54. "Lot area" shall mean the area of a horizontal plane intercepted by the vertical projections of the front, side, and rear lines of a building lot.

55. "Lot area per dwelling unit" shall mean the lot area required for each dwelling unit located on a building lot.
56. "Lot, corner" shall mean a lot situated at the intersection of two (2) streets.
57. "Lot depth" shall mean the horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundary. In the event a lot has more than four (4) sides, the "front" or the "rear" lot line shall be established by taking into account street frontage, alignment of front and rear yards of adjacent properties, and logical configuration to maintain continuity of yards in the block in which such lot is located.
58. "Lot, interior" shall mean a lot other than a corner lot.
59. "Lot line" shall mean the boundary line of a lot; provided, however, no lot line, whether front, side, or rear, shall extend beyond an adjacent street line.
60. "Lot line, front" shall mean the boundary line of a lot which is adjacent to the street upon which a lot fronts.
61. "Lot line, side" shall mean the boundary line of a lot which is not a front lot line or a rear lot line.
62. "Lot line, rear" shall mean the boundary line of a lot which is opposite the front lot line. In the event a lot has more than four (4) sides, the lot line farthest removed from the front lot line shall be deemed the rear lot line.
63. "Lot of record" shall mean a tract of land designated as a "lot," "tract," or "reserve" on a subdivision plat duly recorded, pursuant to applicable law, in the county clerk's office of the county in which the lot is located.
64. "Lot width" shall mean the horizontal distance between the side lot lines.
65. "Maneuvering space" shall mean an all-weather surface located entirely on private property as would be required to maneuver vehicle in such a manner as to preclude the necessity of backing a vehicle into any street right-of-way.

66. "Manufactured housing" or "manufactured home" shall mean a HUD-code manufactured home or a mobile home and collectively means and refers to both.
67. "Manufactured home park" shall have the meaning defined in the Manufactured Housing Ordinance, Ord. 98-5.
68. "Manufactured home subdivision" shall mean a subdivision of land containing lots which meet the requirements for single-family residential use, and upon each such lot not more than one (1) manufactured home may be placed or occupied.
69. "Marquee," "awning," or "canopy" shall mean a roof-like structure of a permanent nature which projects from the wall of a building or overhangs a private or public access way.
70. "Mobile housing" or "Mobile home" shall mean a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems.
71. "Modular housing" or "Modular home" shall mean industrialized housing or industrialized home.
72. "Motel" or "motor hotel" shall mean an establishment providing to the transient public the use of guest rooms or sleeping accommodations for compensation, consisting of a group of attached or detached guest rooms or sleeping accommodations, the majority of which have private and direct access from parking areas and not through a common entrance and lobby. For the purposes hereof, a motel is a nonresidential use.
73. "Motor freight terminal" or "truck terminal" shall mean a building or area in which freight brought by motor truck is assembled and/or temporarily stored pending shipping in interstate or intrastate commerce by motor truck.

74. "Nonconforming structure" shall mean a building or structure which was lawful prior to the adoption of this Ordinance or amendment hereto, but which, following the adoption of this Ordinance or amendment hereto, is prohibited.
75. "Nonconforming use" shall mean a use of a building or land which was lawful prior to the adoption of this Ordinance or amendment hereto, but which, following the adoption of this Ordinance or amendment hereto, is prohibited.
76. "Noxious matter" shall mean a substance or material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic comfort or well-being of humans.
77. "Open space" shall mean areas which are open and unobstructed from grade to the sky, and which are accessible to all occupants of a lot.
78. "Open storage" shall mean the storage of equipment, machinery, products, commodities, or semi-finished materials, and building materials, at locations not within buildings; but not including building materials, to be used for construction on the same lot, stored during construction for which applicable permits have been obtained.
79. "Owner" shall mean, as to particular property, any person, agent, firm, association, or corporation having a legal or equitable interest therein or possession thereof, alone or with others.
80. "Parking space" shall mean an all-weather surface built within the boundaries of the lot to which it pertains in accordance with applicable standards, of a sufficient size to store one (1) automobile, and designed and constructed for vehicular storage and not as a street or vehicular way.
81. "Patio home" shall mean a single-family dwelling unit constructed so as to have one side only directly abutting the side lot line.

82. "Recreational vehicle" or "Travel trailer" shall mean a vehicular, portable structure, built on a chassis and designed for use as a temporary dwelling for travel, recreational and vacation purposes, permanently identified as a travel trailer or recreational vehicle by its manufacturer and, when factory-equipped for the road, having a body width not exceeding eight feet (8').
83. "Rest home" shall mean the business of providing long-term residential care for persons recovering from illness or suffering from infirmities of old age or chronic illness.
84. "Screening wall" shall mean a barrier of wood, stone, brick, masonry block, or other similar permanent materials of equal character, density, and design, at least six feet (6') in height.
85. "Servants' quarters" shall mean an accessory building or portion of a main building located on the same lot as the main building, occupied only by such persons and their families are employed full-time in the main building by the occupants of the main building.
86. "Shopping center" shall mean a development that provides facilities for a group of business establishments, and that is managed as a unit.
87. "Sign" shall have the meaning as defined in any ordinance of the City.
88. "Story" shall mean that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.
89. "Story, half (attic story)" shall mean any story situated wholly or partly in the roof, so designed, arranged or built to be used for storage or habitation.
90. "Street" shall mean any public or private roadway right of way which affords a primary means of access to abutting property. A driveway or alley which provides only secondary vehicular access to a lot or to an accessory parking or loading facility, or to allow vehicles to take on or discharge passengers at the entrance of a building, shall not be considered a street.

91. "Street line" shall mean the boundary line of the roadway right-of-way or roadway easement which divides a lot from a street.
92. "Structure" shall mean anything constructed or erected below, at, or above grade, which requires location on the ground or is attached to something having a location on the ground, and which, out of necessity or precaution, includes or reasonably should include support, bracing, tying, anchoring, or other protection against the pressure of the elements.
93. "This ordinance", "the Comprehensive Zoning Ordinance," " the Zoning Ordinance" or words to that effect shall mean Ordinance 2000-08 of the City as amended from time to time.
94. "Townhouse" shall mean a single-family dwelling constructed in a series or group of contiguous units, separated by exterior walls having a fire resistance rating of not less than two (2) hours, and being one of a group of not less than four (4) nor more than eight (8) contiguous single-family dwelling units.
95. "Toxic materials" shall mean materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.
96. "Travel trailer" shall mean a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle.
97. "Truck camper" shall mean a portable unit designed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides, and designed to be loaded onto and unloaded from the bed of a pickup.
98. "Use" shall mean the purpose or activity for which land, or the buildings or structures thereon, are occupied, maintained, or committed.
99. "Use, main" shall mean the principal use of land or buildings as distinguished from a subordinate or accessory use.

100. "Use category" shall mean a general grouping of uses, such as single-family residential, multi-family residential, retail, office, light industrial, or heavy industrial, within which particular uses may be categorized in order to have uniform area regulations or performance standards applicable to groups of uses within the zoning district to which they are assigned.
101. "Utility trailer" shall mean a vehicular unit, mounted on wheels, and designed for towing by another vehicle to haul material or animals of any sort.
102. "Vehicle" shall mean an instrument of conveyance, such as an automobile, bus, truck, or motor driven cycle, for carrying or transporting persons or goods on land. The term shall also include, for the purposes of regulating parking as herein provided, camper trailers, travel trailers, truck campers, water craft, and utility trailers.
103. "Veterinary or animal clinic" shall mean a facility in which animals receive medical care from a licensed veterinarian.
104. "Water craft" shall mean a boat, houseboat, canoe, raft, or other similar apparatus designed for use on water, and including trailers therefor, and motors or engines designed to propel such craft or apparatus.
105. "Yard" shall mean an open space on a lot, at a grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise specifically permitted by this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the pertinent lot line and the edge of the main building, inclusive of all roof overhangs, eaves, or any other protrusions beyond the walls thereof, shall be used. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the zoning district in which such lot is located.

106. "Yard, front" shall mean an area extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the front lot line and front of the main building or any projection thereof other than steps or unenclosed porches.
107. "Yard, rear" shall mean an area extending along the whole length of the rear lot line between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than steps or unenclosed porches.
108. "Yard, side" shall mean an area extending along the side lot line from the front yard to the rear yard, and being the minimum horizontal distance between the applicable side lot line and any building or projection thereof other than steps or unenclosed porches.
109. "Zoning Administrator" shall mean the official of the City appointed by the City Council as such, and whose duties include enforcement of this Ordinance.

[Sec. 6 – Sec. 19. Reserved.]

ARTICLE II ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

Sec. 20 Establishment of districts

For the purposes of this Ordinance, the City is hereby divided into four (4) districts, which shall be known and described, respectively as follows:

District SFR (Single-family Residential Dwelling District)

District MU (Mixed Use District)

District MH (Manufactured Housing District)

District BR (Business and Retail District)

Sec. 21 Zoning district map

The location and boundaries of the three (3) districts of the City shall be shown on the map kept on file in the office of the City Secretary, a copy of which is attached hereto, which map is designed as the "Official Zoning District Map of the City of Iowa Colony, Texas. Said map and all notations, references, and other information shown thereon and all amendments thereto are made a part of this Ordinance as if fully set forth and described herein.

Sec. 22 Identification of zoning district map

The zoning district map shall be identified by the signature of the Mayor, attested by the City Secretary, and the seal of the City under the following words: "This is to certify that this is the official Zoning District Map referred to in the City of Iowa Colony Zoning Ordinance." Together with the number and the date of the adoption of this Ordinance.

Sec. 23 Changes in zoning district map

If, in accordance with the provisions of this Ordinance, Texas Local Government Code Chapter 211, or any other applicable law, changes are made in district boundaries or other matters portrayed on the official zoning district map, such changes shall be entered on such map promptly after the amendment has been approved by the city council, with an entry on the official zoning district map as follows: "On _____ (date), by Ordinance No. _____ (number), the following changes were made in the Official Zoning District Map: _____ (brief description of nature of changes)," which entry shall be signed by the Mayor and attested by the City Secretary.

Sec. 24 Location of zoning district map.

Regardless of the existence of purported copies of the official zoning district map which may be made or published from time to time, the official zoning district map shall be located in the office of the City Secretary, and it shall be the final authority as to the current zoning status of land areas, buildings, and other structures in the City.

Sec. 25 Interpretation of zoning district boundaries

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

- (a) **Street lines.** Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines.
- (b) **Lot lines.** Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- (c) **City limits.** Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (d) **Waterway lines.** Boundaries indicated as approximately following the center lines of streams, canals, drainage ways, or other bodies of water shall be construed to follow such center lines.
- (e) **Extensions.** Boundaries indicated as parallel to or extensions of features indicated in Subsections (a) through (d) above shall be thus construed.
- (f) **Distances.** Distances not specifically indicated on the official zoning district map shall be determined by the scale of the map.
- (g) **Interpretation by Board of Adjustment.** Where physical features existing on the ground are at variance with those shown on the official zoning district map, or in any other circumstances not covered by Subsections (a) through (f) above, the Board of Adjustment shall interpret the district boundaries.

[Sec. 26 – 29. Reserved.]

ARTICLE III COMPLIANCE WITH REGULATIONS

Sec. 30 Applicability

Except as specifically authorized to the contrary in this Ordinance, the following regulations apply in all districts:

- (a) **Use of land and buildings.** No land, or any building thereon, shall be used except for a purpose permitted in the district in which such land is located.
- (b) **Height of building.** No building or structure, or any part thereof, shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered to exceed the height limits herein established for the district in which such building or structure is located.
- (c) **Building construction.** No building or structure, or any part thereof, shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered except in conformity with the area regulations of the district in which such building or structure is located.
- (d) **Off-street parking.** No building shall be erected, converted, enlarged, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which such building is located.
- (e) **No encroachment on yard area.** No part of any lot area, yard, open space, or off-street parking or loading space required by this Ordinance shall be encroached upon or reduced below the minimum requirements of this Ordinance for the district in which such lot is located.
- (f) **No reduction in lot or yard area below requirements.** No lot or yard existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein for lots and yards in the district in which such lot or yard is located. Any lot or yard created after the effective date of this Ordinance shall equal or exceed the minimum dimension and area requirement so this Ordinance for lots and yards in the district in which such lot or yard is located.
- (g) **General.** No structure shall be constructed or altered, and no land or structure shall be used, contrary to the terms of this ordinance, except as specifically authorized by section 31, 32, 33, or 34.

Sec. 31 Nonconforming uses of structures

- (a) **Authority to continue nonconforming uses.** The use of land, buildings, or structures which was lawful upon the effective date of this Ordinance, although not conforming to the provisions hereof, may be continued subject to the terms hereof. No nonconforming use of land, a building, or a structure may be extended or expanded; provided, however, extension of a nonconforming use wholly within an existing building or arrangement of buildings designed and constructed for such use shall be permitted provided no structural alteration of such building or buildings is required, and the use of additional land is not required. If the nonconforming use of a structure, building, or land is discontinued for ninety (90) consecutive days or more, the future use of such structure, building, or land shall be in conformity with the provisions of this Ordinance. For the purposes hereof, a use is discontinued when the land or a building or structure becomes devoted to a different main use, or the land, structure, or building is no longer used for any purpose.
- (b) **Nonconforming accessory uses.** No accessory use to a nonconforming use shall continue after termination of the nonconforming use unless such accessory use otherwise complies with the provisions of this Ordinance.

Sec. 32 Authority for continued existence of nonconforming structures

A structure lawfully existing on the effective date of this Ordinance, although not conforming to the provisions hereof, shall be allowed to continue in existence subject to the following:

- (a) Nonconforming structures shall not be extended or enlarged, nor shall they be structurally altered, unless the extension, enlargement, or alternation complies with this ordinance and all applicable law; provided, however, routine repairs and nonstructural alterations shall be permitted if not extending or enlarging the nonconforming characteristics thereof. Provided, further, nonconforming single-family dwelling main buildings may be extended or enlarged if the extension or enlargement does not increase the nature or degree of the nonconformity and the building is nonconforming due to lot size or the depth of the required front, side or rear yard.

- (b) Nonconforming structures shall not be rebuilt in the case of total destruction, or partial destruction exceeding fifty percent (50%) of its fair market value. If any such structure is damaged or destroyed to the extent of more than fifty percent (50%) of its fair market value, such structure shall not be rebuilt except in conformity with this Ordinance. If such structure is accidentally damaged to the extent fifty percent (50%) or less of its fair market value, it may be repaired, restored, or renovated to its previous nonconforming status provided actual restoration, renovation, or repair is commenced within six (6) months following the date the damage is incurred and pursued diligently to completion without unreasonable interruption.
- (c) Notwithstanding the minimum requirements for lot size within the various zoning districts, structures may be constructed, built, expanded, reconstructed, occupied, or used on a nonconforming lot of record that existed prior to the enactment of this Ordinance, or any amendment hereto, provided, all such structures shall meet all other applicable requirements of this Ordinance.

Sec. 33 Nonconforming status

The following are hereby declared to be lawfully existing nonconforming uses or structures, subject to sections 31 or 32, as applicable:

- (a) Any existing use or structure not in conformance with the regulations of the zoning district in which it is located but lawfully existing at the time of the adoption of this Ordinance.
- (b) Any existing use or structure not in conformance with the regulations of the zoning district in which it is located but lawfully existing at the time of the adoption of any amendment to this Ordinance, the result of which amendment renders such use or structure nonconforming; and
- (c) Any existing use or structure not in conformance with the regulations of the zoning district in which it is located at the time of annexation into the City.

Sec. 34 Change in ownership

The status of nonconforming uses and nonconforming structures is not affected by a change in ownership and/or occupancy, except as otherwise provided herein

Sec. 35 Nonconforming mobile homes, manufactured homes, HUD-code manufactured homes, industrialized homes, and modular homes

- (a) Modular homes and industrialized homes shall be treated the same as site built homes for purposes of this ordinance.
- (b) A mobile home, manufactured home, or HUD-code manufactured home lawfully in place upon the effective date of this ordinance, but which does not conform to the terms hereof, may be repaired, renovated, restored, or rebuilt for any reason, unless either: (1) such home is abandoned for six months or more after the date this ordinance is passed; or (2) such home is replaced with a site built home.
- (c) A mobile home lawfully in place and lawfully used as a dwelling upon the effective date of this ordinance, although not conforming to the terms of this ordinance, may be replaced by a HUD-code manufactured home. Otherwise, a mobile home, manufactured home, or HUD-code manufactured home lawfully in place upon the date of this ordinance, but which does not conform to the terms hereof, shall not be replaced by a mobile home, manufactured home, or HUD-code manufactured home.

[Sec. 36 – 39 Reserved.]

[ARTICLE IV-Reserved.]

[Sec. 40 - 49 Reserved.]

ARTICLE V PERFORMANCE STANDARDS

Sec. 50 Compliance required

It shall be unlawful for any person to use or permit the use of any land or structure within the City in a manner which violates any applicable state or federal law, or creates a nuisance, due to any dangerous, injurious, noxious, or other similar condition, including, but not limited to, the emitting of noise, vibration, air pollution, dust, smoke, fumes, glare, or odorous matter, or the storage of explosive, hazardous, toxic, or noxious matter or materials, which adversely affects other property, or which creates a nuisance in any other manner; regardless whether such action violates any specifically quantified standard herein.

Permitted uses set forth in this Ordinance shall be subject to compliance with the applicable performance standards contained in this Article.

The standards set forth in this Article shall apply in the various zoning districts as set forth herein.

Sec. 51 Reserved

Table 1 Reserved

Sec. 52 Vibration

No use within any district shall create earthborn vibration, when measured at any residential property line within any district, which exceeds the limit of displacement set forth in Table 2 below in the frequency ranges specified. Notwithstanding the foregoing, the vibration level limits set forth in Table 2 below shall not apply to vibration emanating from lawful construction activities. Separately, no person shall cause or allow any earthborn or other vibration to emanate from land in the city so as to constitute a nuisance, regardless whether such vibration violates Table 2.

Table 2 Limiting Vibration at Specified Frequency Levels

<u>Frequency Cycles Per Second</u>	<u>Displacement in Inches</u>
0 to 10	.0010
10 to 20	.0008
20 to 30	.0005
30 to 40	.0004
40 and over	.0003

Sec. 53 Reserved

Sec. 54 Reserved

Sec. 55 Screening Fences

When there is a common side or rear lot line or lot lines between land being used in a manner that would be prohibited in a SFR Zone (herein called the "nonresidential land," regardless how zoned), and land being used for a single family residence (herein called "the residential land," regardless how zoned), the owner of said nonresidential land shall erect a fence that properly screens adjacent residential land from adverse influences such as noise, vehicular lights, trespass, and other adverse influences. However, if the nonresidential use is in place before the single family residential use, then the owner of the land where the single family residential use is located shall be responsible for providing and maintaining such fence. Such fence shall be at least eight (8) feet in height and shall form a solid continuous screen between the residential and nonresidential land. In the case of rear lot lines such screening fence shall be continued from one side lot line along the rear lot line to the other side lot line. In the case of side lot lines, such screening fence shall be continuous from the rear lot line along the side lot line to the front setback line but no farther than a point fifteen (15) feet from the street right-of-way line, except as may be provided herein concerning visibility for motorists. Each such screening fence shall be maintained in good condition by the person required to provide the fence. The obligation to provide and maintain the fence shall run with the land. This subsection applies according to how the land is actually used, not according to how the land is zoned, and not to unused land.

Sec. 56 Off-street parking and loading

- (a) Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or any other use involving the receipt or distribution by vehicle, rail, or other carrier, of material or merchandise, shall provide on the same lot as the main building loading space in accordance with the following:

- (1) The location of required loading space shall be within a building or on the same lot as the main building, in accordance with Table 4 below, entitled Schedule of Minimum Off-Street Loading Standards.
- (2) No portion of a loading space may extend into a public right-of-way or into a required off-street parking area.
- (3) Each loading space shall be designated as such and shall only be used for loading purposes.
- (4) Where loading facilities are required for a development adjacent to an existing single-family residential use or adjacent to the boundary of District SFR, the loading spaces must be located so as to be visually screened from the adjacent residential use or District SFR by an intervening building or by a screening fence or hedge of sufficient height to fully screen the loading facility from view from any lot upon which a single-family residential is located or from any lot within District SFR.
- (5) The regulations applicable to loading facilities as provided in this Subsection shall apply equally to spaces reserved for dumpsters that are repositories for solid waste collection.
- (6) Off-street loading spaces (or truck berths) shall have the following minimum dimensions:
 - (a) At least one-half ($\frac{1}{2}$) of such spaces or berths shall be not less than ten feet by forty feet (10' x 40').
 - (b) The remainder shall be not less than ten feet by twenty feet (10' x 20').

Table 4: Minimum Off-street Loading Requirements

Use	GROSS LEASABLE OR USEABLE FLOOR AREA In square feet	MINIMUM # OF LOADING BERTHS
Retail and Commercial	Less than 25,000	1
	25,000 to 84,000	2
	84,001 to 156,000	3
	156,001 to 236,000	4
	236,001 to 325,000	5
	<u>each additional 100,000</u>	<u>1</u>
Hotels, office buildings, restaurants, and similar uses	less than 150,000	1
	150,001 to 300,000	2
	300,001 to 500,000	3
	500,001 to 1 million	4
	each additional 200,000 or portion thereof	1

(b) **Parking requirements applicable to all zoning districts within the City.**

- (1) **General Provisions.** Required parking shall be comprised of all-weather surface, off-street parking spaces and shall have direct access to a public street or ally by an all-weather surface driveway not less than twelve feet (12') in width if a one-way driveway, and not less than twenty-four feet (24') in width if a two-way driveway. Notwithstanding the foregoing, required off-street parking spaces for single-family dwellings, including attached townhouses, detached dwellings, and duplexes, may be connected to a public street or alley by an all-weather surface driveway that would comply with the Subdivision Ordinance if the property were being subdivided, regardless whether the property is actually being subdivided. Provided, further, if a segment of said driveway of such a single family dwelling contains a width of nine feet (9') or more and a length of eighteen feet (18') or more, and is completely within the lot lines of the lot, it may be counted as a required parking space.

(2) **Calculating the parking requirement.** When calculating the required number of off-street parking spaces, fractions of less than one-half ($\frac{1}{2}$) shall be disregarded, and fractions of one half ($\frac{1}{2}$) or more shall be counted as one (1) space. Where parking requirements are based on building floor area, the floor area calculations shall be based on the gross leasable or useable floor area.

(3) **Dimensions.** Required parking spaces shall be provided in accordance with the following standards:

- a. Standard automobile parking spaces shall be a minimum of nine feet (9') wide by eighteen feet (18') long;
- b. Compact automobile parking spaces shall be a minimum of eight feet (8') wide by sixteen feet (16') long.
- c. Up to thirty percent (30%) of the required parking spaces may be designated for use by compact automobiles.
- d. Handicapped parking shall be provided in accordance with the American's with Disabilities Act and may be credited to the required parking ratios provided herein.

(1) **Location of nonresidential parking spaces**

1. In Districts MU and MH, required off-street parking may be provided on a separate lot from the lot upon which the main use is conducted, provided such lot is within three hundred feet (300') of the main building(s) for which such parking is intended, and provided said lot is dedicated to parking use by an instrument filed with the Zoning Administrator and consolidated with the main use under one (1) certificate of occupancy. Two (2) or more owners may join together in the provision of required parking hereunder, provided such joined parking meets the requirements for both individual uses.

2. Notwithstanding the foregoing, the Board of Adjustment shall be authorized to grant special exceptions from the terms of this Subsection to allow the joint use by two (2) or more property owners of parking areas for a mixed use development with a total number of spaces that is less than that required for both individual uses, if it can be established by the applicants therefor that (i) differences of uses by the applicants dictate that the hours of peak parking for each such use are significantly varied so as not to impede availability of parking; (ii) the permanent nature of the development supporting each such use would not reasonably be anticipated to alter the hours of each such use's period of peak parking demand; (iii) such special exception would not be contrary to public interest; and (iv) the spirit of the ordinance would be observed and substantial justice done.
3. No off-street parking or loading space shall be located, either in whole or in part, within any fire lane required by any ordinance of the City or within aisles, driveways, or maneuvering areas necessary to provide reasonable access to any parking space.

(5) **Enlargement of uses.** Whenever a use which is in existence on the date of enactment of this Ordinance, or any amendment hereto, is changed by enlarging the gross leasable or useable floor area, the number of employees, number of dwelling units, seating capacity, or otherwise changed to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces based upon the applicable parking standards or standards provided herein, such spaces shall be provided on the basis of the enlargement or change.

Notwithstanding the foregoing, whenever a building or use existing prior to the effective date of this Ordinance, or amendment hereto, is enlarged by fifty percent (50%) or more in gross leasable or useable floor area, parking shall be provided as set forth herein for the totality of the use or structure.

(6) **Parking prohibitions in District SFR.** In District SFR, no truck exceeding one and one-half (1 ½) ton capacity, no bus, recreational vehicle, trailer, water craft, motor home, HUD-code manufactured home, or manufactured home shall be parked or stored on a lot in front of the main building or on an abutting street or alley for more than forty-eight (48) hours during any given week, from Monday through the following Sunday.

(7) Schedule of parking regulations. The minimum number of off-street parking spaces required hereby for uses in the various zoning districts shall be in accordance with the schedule provided in Table 5 below, but shall be not less than five (5) parking spaces for any nonresidential use.

(Table 5 – Next Page)

Table 5: Schedule of Parking Regulations

Use	Unit	Minimum # of Spaces: Unit
General Office (includes banks and savings & loans)	1,000 sf of GLA	4:1000 sf
General Retail (under 400,000)	1,000 sf of GLA	4:1000 sf
General Retail (400,000 & over)	1,000 sf of GLA	5:1000 sf
Restaurants and Cafeterias (Sit down eating)	Dining/bar area Remaining area	1:45 sf 4:100 sf
Churches, Cinemas, Meeting Rooms, and Places of Public Assembly (with fixed seating)	Seats	1:4
Places of Public Assembly (without fixed seating)	Areas of Assembly	1:45 sf
Places of Assembly for Children Age 15 and Under (without fixed seating)	Areas of Assembly	1:650 sf
Hospitals (Acute Care)	Beds	1:1
Hospitals, Nursing Homes, Assisted Living (Chronic Care)	Beds	1:3
Light Manufacturing	1,000 sf of GLA	2:1000 sf
Wholesaling, Warehousing, and Distribution	1,500sf of inside storage area	1:1500 sf
Bowling Alley	Lanes	5:1 lane
Funeral Home	Seats	1:3 seats
Medical/Dental Clinic	1,000 sf of GLA	6:1000 sf
Hotel/Motel	Rooms	1:1 room
Single family and Duplex	Dwelling	2:1 dwelling

Dwelling		
Auto Repair, Painting, or Body Repair	1,000 sf of GLA	3:1 sf of office area + 4 spaces per each service bay, or one space per 600 sf of other gross floor area
Auto Part Sales	1,000 sf of GLA	3:1 sf of office area + 4 spaces per each service bay, or one space per 600 sf of other gross floor area
Auto Service Station		2 spaces per bay + two queuing spaces per gas pump
Automobile/vehicle sales: for showroom/office/outside lot	1:000 sf of GLA	4:1000sf but in no event less than 8 spaces

"GLA" means "floor area, gross leaseable or usable," as defined in Article I above.

- d. For uses not mentioned above or for which the category of use is uncertain, the City Council shall determine the most appropriate equivalent from the preceding table.

- (4) Maintenance of required spaces. It shall be unlawful for any person to fail to maintain parking facilities required to be provided by this Ordinance.

Sec. 57 Vehicle storage

Automobile/vehicle paint and body shops, and automobile/vehicle repair and service garages, may include automobile/vehicle storage as an accessory use only if such storage occurs on an all-weather surface area.

[Sec. 58 – 59 Reserved]

ARTICLE VI - SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 60 Applicability

The regulations set forth in this Article shall apply to all districts and permitted uses in the City.

Sec. 61 Visibility at intersections

On a corner lot, no structure shall be erected or constructed, and no vegetation shall be planted and allowed to grow, in such a manner as to impede vision between a height of two feet (2') and eight feet (8') above the center line grades of the intersecting streets, in the triangular area bounded by the intersection street lines and a line joining points along said street lines twenty feet (20') from the point of their intersection.

Sec. 62 Yard requirements

- (a) Minimum front and side building setback lines shall be as set forth in the City's Subdivision Ordinance, unless a more restrictive requirement is contained herein, in which case the more restrictive requirement shall control.
- (b) On a double frontage interior lot, or a corner lot, the depth of the required yard adjacent to the side or rear street, as applicable, shall not be less than the required front yard on the same side of such street between intersecting streets; provided, however, the buildable width of a lot of record shall not be reduced to less than thirty feet (30').
- (c) No building shall project into or over a required yard adjacent to a street.
- (d) For the purpose of side yard regulations, a two family dwelling or multifamily dwelling shall be considered as one (1) building occupying one (1) lot.
- (e) The area required in a yard shall be open to the sky, unobstructed except for the ordinary projections of window sills, belt courses, cornices or other ornamental features.
- (f) A roof overhang, an open fire escape or an outside stairway may project not more than three feet (3') into a required yard, but no closer than three feet (3') to a lot line.

- (g) In District SFR, an accessory building not exceeding twenty feet (20') in height may occupy a maximum of twenty-five percent (25%) of the required rear yard, and unenclosed parking spaces may occupy a maximum of eighty percent (80%) of the area of a required rear yard provided that the total lot coverage shall not exceed the maximum allowable for the district in which the lot is located. No accessory building shall be closer to any rear or side lot line than applicable zoning district regulations allow.

Sec. 63 Reserved

Sec. 64 Swimming pools

Private swimming pools shall be enclosed by a wall or fence at least six feet (6') in height with automatically locking gates. This section shall apply to all swimming pools, regardless whether existing before this ordinance was passed, and regardless of any section otherwise allowing nonconforming uses.

Sec. 65 Home occupations

- (a) **Authorization.** Home occupations shall be permitted on property used for residential purposes, regardless how zoned, provided such home occupation is incidental and subordinate to the use of the premises for residential purposes and in compliance with the provisions below.
- (b) No home occupation shall result in an increase in the number of motor vehicles parking or traveling to and from the applicable dwelling over that which is customary in a single family-residential neighborhood.
- (c) No stock in trade shall be stored, displayed or sold outdoors on the premises.
- (d) Only members of the family residing on the premises shall be employed in the home occupation.
- (e) No noxious or offensive noise, fumes, smoke, electrical or magnetic interference, vibration, heat, glare or other nuisance shall be emitted onto any other property.
- (f) The home occupation shall be conducted entirely within the main dwelling unit or within an accessory structure thereto and the conduct of the home occupation shall not be visible from any street or adjacent property, public or private.
- (g) No external alterations, special construction, or other similar feature shall be added to the exterior of the main dwelling unit or accessory structure thereto.

- (h) No sign of any type shall be permitted on the premises.
- (i) **Home occupations permitted.** Subject to the foregoing limitations, examples of permitted home occupations include but are not limited to:
 - (1) Artist, writer or craftsman's studio;
 - (2) Dressmaking;
 - (3) Professional practices (such as computer programming, engineering, accounting and court reporting);
 - (4) Music teaching of no more than two pupils at one time;
 - (5) Babysitting or limited child care for not more than six (6) children unrelated to the person providing the child care.

Sec. 66 Reserved.

Sec. 67 Accessory uses and structures

Accessory uses and structures are permitted in any zoning district in connection with any main use lawfully existing within such district provided that all accessory structures shall comply with applicable regulations for the district in which the structure is located.

Sec. 68 Temporary uses during construction

Temporary uses incidental to construction, but not otherwise lawful within a District, shall be authorized during periods of construction of buildings or structures otherwise permitted in such District.

Sec. 69 Coordination with other ordinances

(a) This ordinance shall not impair any of the provisions of Ordinance 98-5 (the Manufactured Home Park Ordinance), Ordinance 98-6 (the Manufactured Home Ordinance) or Ordinance 2006-06 (the Subdivision Ordinance), as any of those ordinances may be amended from time to time. In the event of any conflict between the terms of this ordinance and the terms of said ordinances or any other ordinances of the City, then the provision with the most restrictive terms shall govern and control.

(b) Any reference in the Zoning Ordinance to the Zoning Ordinance or to any other ordinance shall mean such ordinance as amended from time to time.

ARTICLE VII ZONING DISTRICT REGULATIONS

Sec. 70 District SFR (Single-Family Residential Dwelling District)

District SFR is a low density single-family residential dwelling district and is subject to the City's most restrictive regulations in order to prevent the encroachment of incompatible uses. No building or land shall be used and no building or structure shall be erected, constructed, reconstructed, converted, enlarged, or structurally altered within District SFR except in accordance with the provisions of this Section.

- (a) **Permitted uses:**
- Single-family dwellings;
 - Accessory residential uses;
 - Governmental facilities;
 - Home occupations;
 - Private recreational facilities owned and operated for or on behalf of a residential subdivision;
 - Public primary and secondary educational facilities;
 - Servants' or caretakers' quarters;
 - Construction offices relating to developments of permitted structures during such construction;
 - Sales offices and model homes related to single-family residential subdivision development.
 - Agricultural uses

However, HUD-code manufactured homes, manufactured homes, and mobile homes, are prohibited in District SFR.

- (b) **Specific uses.** The following uses are permitted with District SFR subject to the granting of a specific use permit as prescribed in Article VIII of this Ordinance;

Churches or other places of religious worship;

Private or public educational institutions, including:
Accredited elementary and secondary schools;
Kindergartens and nursery schools; and
Religious institutions.

- (c) **Lot size requirements:**

- (1) Minimum lot area: One (1) acre
- (2) Minimum lot width: As would be required by the Subdivision Ordinance, if the property were being subdivided, regardless whether the property actually is being subdivided.

- (3) Minimum lot depth: As would be required by the Subdivision Ordinance if the property were being subdivided, regardless whether the property actually is being subdivided.
- (d) **Yard requirements:**
 - (1) Required front yard: fifty feet (50')
 - (2) Required side yard: twenty five feet (25') for interior side lots. Side yards adjacent to side streets shall be not less than fifty feet (50'), except that side yards adjacent to the turn-around portion of a cul-de-sac street shall be not less than twenty five feet (25').
 - (3) Required rear yard: fifty feet (50'); provided, however, a rear yard of at least one hundred feet (100') shall be maintained where adjacent to a street.
 - (4) Maximum lot coverage: Not more than fifty percent (50%) of the lot area, including the main building, accessory buildings, and other impervious surfaces, but not including swimming pools.
- (e) **Maximum height:** Two (2) stories. Cooling towers, roof gables, chimneys, and vent stacks may extend to a height not to exceed thirty-five feet (35') above the average level of the base of the foundation of the building. Height regulations prescribed herein shall not apply to satellite earth station antennas or any personal communication electronic facilities protected by the Federal Telecommunications Act of 1996.

Sec. 71 District MU (Mixed Use District)

District MU is established to accommodate mixed uses through the strict enforcement of performance standards that will encourage quality development and redevelopment of small-scale mixed commercial and residential uses.

- (a) **Permitted uses:** In the MU District, no buildings or land shall be used and no building shall be erected or converted to any use other than the following; provided however, that any sales of goods or merchandise included in the following list shall be retail only, not wholesale:
 - (1) Abstract or title company
 - (2) Accountant
 - (3) Advertising agency
 - (4) Agricultural uses.
 - (5) Animal feed store
 - (6) Antique store

- (7) Appraisers
- (8) Architect
- (9) Art gallery
- (10) Arts and craft store
- (11) Automatic laundry
- (12) Automobile parking lots
- (13) Automobile parts store
- (14) Bakery, employing no more than five (5) persons
- (15) Bank
- (16) Barber and beauty shop
- (17) Bookkeeper
- (18) Bookstore
- (19) Cafeteria
- (20) Candy store
- (21) Catering
- (22) Child care center
- (23) Clinic for treatment of humans
- (24) Clothes store
- (25) Collection agency
- (26) Commercial billboard or advertising signs not to exceed thirty-two (32) square feet in area per sign
- (27) Computer store and repairs
- (28) Convenience store
- (29) Credit counselor
- (30) Dance studio
- (31) Delivery service
- (32) Dental clinic
- (33) Department store
- (34) Doctor
- (35) Drafting service
- (36) Drug store
- (37) Engineer
- (38) Filling station or service station, but without a wrecker service
- (39) Financial consultant
- (40) Flea market, maximum one acre including parking
- (41) Florist shop
- (42) Furniture store
- (43) Gift shop
- (44) Gun shop
- (45) Grocery store
- (46) Hardware store
- (47) Home appliance store
- (48) Ice retail distributing, but not manufacturing
- (49) Insurance agency
- (50) Jewelry store

- (51) Laundry storefront, dry cleaning storefront, or laundry plant, but not drycleaning plant
- (52) Lawyer
- (53) Locksmith
- (54) Medical supply store
- (55) Mortgage company
- (56) Motels, hotels, and tourists courts
- (57) Moving picture (motion picture) theater, but not drive-in theater
- (58) Musical instrument store
- (59) Notary public
- (60) Office supply and machinery store and repairs
- (61) Optician or optometrist
- (62) Pawnshops that have been duly licensed to transact business by the Consumer Credit Commissioner under the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes).
- (63) Plant nursery
- (64) Radio repair and sales
- (65) Radio studio (excluding tower)
- (66) Real estate agent
- (67) Record and tape store
- (68) Restaurants and taverns
- (69) Shoe store and repair shop
- (70) Sporting goods store
- (71) Stockbroker
- (72) Studio (art, music or photo)
- (73) Taxidermist
- (74) Tailor
- (75) Toy store
- (76) Travel agency
- (77) Video arcade
- (78) Washateria
- (79) Any use permitted in District SFR.

No store or use shall be open for business at any time between midnight and 5:00 a.m. on any day of the week, unless a special exception is granted by the Board of Adjustment.

- (b) **Specific Uses and Permits:** Any other commercial or nonresidential use may be allowed, but only if the city council exercises its discretion to grant a specific use permit. However, regardless of any other provision, no specific use permit shall be available for the following uses, and such uses are hereby prohibited in MU Districts: any use that is noxious or offensive by reason of emission of odors, soot, dust, gas, fumes, vibrations, electrical or magnetic emissions, noise, or other emissions onto the land of another person.

- (c) Regardless of subsections 71 (b and c), HUD-code manufactured homes, manufactured homes, and mobile homes are prohibited in MU Districts, regardless whether used as a home or otherwise.
- (d) **Mobile Units:** No person shall conduct any business, in whole or in part, in or from a mobile unit located in an MU District, without a specific use permit for such use of such mobile unit. The term "mobile unit" shall mean a HUD-code manufactured home, manufactured home, or mobile home, even though such item is not used as a home, and any travel trailer, motor vehicle, trailer, or other equipment that either is mobile or was designed or adapted to be mobile, regardless whether it is actually mobile at the time in question.
- (e) **Area regulations - residential**
 - (1) **Single-family dwellings:** Same as District SFR regulations.
- (f) **Area regulations – nonresidential:**
 - (1) **Lot size requirements.**
 - a. Minimum lot area: 8,000 square feet;
 - b. Minimum lot width: 80 feet;
 - c. Minimum lot depth: 100 feet.
- (g) **Yard requirements:**
 - (1) **Required front yard:** Twenty-five feet (25')
 - a. **Required side yard:** Ten feet (10') for side yards; provided, however, a side yard adjacent to a side street shall have a yard of not less than twenty feet (20');
 - b. **Required rear yard:** Twenty feet (20'); provided, however, a rear yard adjacent to a street shall have a yard of not less than thirty feet (30')
- (h) **Maximum lot coverage:** As required to implement the applicable yard requirements and any other requirements of this Ordinance or other applicable law.

(i) **Maximum height.** Two (2) stories, except that cooling towers, roof gables, chimneys, vent stacks and other projections from the roof may extend to a height not to exceed thirty-five feet (35') above the average level of the base of the foundation of the building. Height regulations prescribed herein shall not apply to satellite earth station antennas or any communication electronic facilities protected by the Federal Telecommunications Act of 1996.

(j) **Floor area maximum.** Sixty percent (60%) of site area.

Sec. 72 District MH (Manufactured Housing District)

District Manufactured Housing is created to provide a place in the City for various types for housing.

(a) **Permitted uses:**

HUD-code manufactured homes
Industrialized homes
Manufactured homes
Mobile homes
Modular homes

(b) **Area regulations**

(1) **Lot size requirements:**

- a. In a manufactured home park: same as in the Manufactured Home Park Ordinance, Ordinance No. 98-5.
- b. Not in a manufactured home park: same as in District MU.

(2) **Yard requirements:**

- a. In a manufactured home park: same as in the Manufactured Home Park Ordinance, Ordinance No. 98-5.
- b. Not in a manufactured home park: same as in District MU.

(3) **Maximum lot coverage.** As required to comply with applicable yard requirements of this ordinance.

- (4) **Height regulations.** Two (2) stories. Cooling towers, roof gables, chimneys, and vent stacks may extend to a height not to exceed thirty-five feet (35') above the average level of the base of the frame, chassis, or foundation of the structure. Height regulations prescribed herein shall not apply to satellite earth station antennas or any personal communication electronic facilities protected by the Federal Telecommunications Act of 1996.

Sec. 73.

District BR (Business and Retail Use).

District BR is established to accommodate business and retail uses through the strict enforcement of performance standards that will encourage quality development and redevelopment of commercial properties.

(a) Permitted uses: In the BR District, no buildings or land shall be used and no building shall be erected or converted to any use other than the following; provided, however, that any sales of goods or merchandise included in the following list shall be retail only, not wholesale:

- (1) Abstract or title company;
- (2) Accountant;
- (3) Advertising agency;
- (4) Agricultural uses;
- (5) Animal feed store;
- (6) Antique store;
- (7) Appraisers;
- (8) Architect;
- (9) Art gallery;
- (10) Arts and craft store;
- (11) Automatic laundry;
- (12) Automobile parking lots;
- (13) Automobile parts store;
- (14) Bakery, employing no more than five (5) persons;
- (15) Bank;
- (16) Barber and beauty shop;
- (17) Bookkeeper;
- (18) Bookstore;
- (19) Cafeteria;
- (20) Candy store;
- (21) Catering;
- (22) Child care center;
- (23) Clinic for treatment of humans;
- (24) Clothes store;
- (25) Collection agency;
- (26) Commercial billboard or advertising signs not to exceed thirty-two (32) square feet in area per sign;
- (27) Computer store and repairs;
- (28) Convenience store;
- (29) Credit counselor;
- (30) Dance studio;
- (31) Delivery service;
- (32) Dental clinic;
- (33) Department store;
- (34) Doctor;

- (35) Drafting service;
- (36) Drug store;
- (37) Engineer;
- (38) Filling station or service station, but without a wrecker service;
- (39) Financial consultant;
- (40) Flea market, maximum one (1) acre including parking;
- (41) Florist shop;
- (42) Furniture store;
- (43) Gift shop;
- (44) Gun shop;
- (45) Grocery store;
- (46) Hardware store;
- (47) Home appliance store;
- (48) Ice retail distributing, but not manufacturing;
- (49) Insurance agency;
- (50) Jewelry store;
- (51) Laundry storefront, dry cleaning storefront, or laundry plant, but not drycleaning plant;
- (52) Lawyer;
- (53) Locksmith;
- (54) Medical supply store;
- (55) Mortgage company;
- (56) Motels and tourists courts;
- (57) Motion picture theater, but not drive-in theater;
- (58) Musical instrument store;
- (59) Notary public;
- (60) Office supply and machinery store and repairs;
- (61) Optician or optometrist;
- (62) Pawnshops that have been duly licensed to transact business by the Consumer Credit Commissioner under the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes);
- (63) Plant nursery;
- (64) Radio repair and sales;
- (65) Radio studio (excluding tower);
- (66) Real estate agent;
- (67) Record and tape store;
- (68) Restaurants and taverns;
- (69) Shoe store and repair shop;
- (70) Sporting goods store;
- (71) Stockbroker;
- (72) Studio (art, music or photo);
- (73) Taxidermist;
- (74) Tailor;
- (75) Toy store;
- (76) Travel agency;

- (77) Video arcade; and
- (78) Washateria.

No store or use shall be open for business at any time between midnight and 5:00 a.m. on any day of the week, unless a specific exception is granted by the Board of Adjustment.

- (b) Specific Uses and Permits: Any other commercial or nonresidential use may be allowed, but only if the city council exercises its discretion to grant a specific use permit. However, regardless of any other provision, no specific use permit shall be available for the following uses, and such uses are hereby prohibited in the BR District: any use that is noxious or offensive by reason of emission of odors, soot, dust, gas, fumes, vibrations, electrical or magnetic emissions, noise, or other emissions onto the land of another person.
- (c) Mobile Units: No person shall conduct any business, in whole or in part, in or from a mobile unit located in the BR District, without a specific use permit for such use of such mobile unit. The term "mobile unit" shall mean a HUD-code manufactured home, manufactured home, or mobile home, even though such item is not used as a home, and any travel trailer, motor vehicle, trailer, or other equipment that either is mobile or was designed or adapted to be mobile, regardless whether it is actually mobile at the time in question.
- (d) Area regulations - nonresidential:
 - Lot size requirements.
 - (1) Minimum lot area: 8,000 square feet;
 - (2) Minimum lot width: 80 feet; and
 - (3) Minimum lot depth: 100 feet.
- (e) Yard requirements:
 - (1) Required front yard: Twenty-five feet (25')
 - (2) Required side yard: Ten feet (10') for side yards; provided, however, a side yard adjacent to a side street shall have a yard of not less than twenty feet (20'); and
 - (3) Required rear yard: Twenty feet (20'); provided, however, a rear yard adjacent to a street shall have a yard of not less than thirty feet (30').

- (f) Maximum lot coverage: As required to implement the applicable yard requirements and any other requirements of this Ordinance or other applicable law.
- (g) Maximum height. No building located in the BR District, including anything attached thereto, except a parapet not to exceed four feet (4') in height, nor anything constructed for use therewith nor any other structure or device of any sort, shall exceed the following height:
 - (1) Forty-two feet (42') above natural grade within two hundred feet (200') of the nearest point of any residential lot;
 - (2) Fifty-six feet (56') above natural grade at distances greater than two hundred feet (200') but less than three hundred feet (300') from the nearest point of any residential lot; and
 - (3) Seventy feet (70') above natural grade at distances greater than three hundred feet (300') from the nearest point of any residential lot.
- (h) Height regulations prescribed herein shall not apply to satellite earth station antennas or any communication electronic facilities protected by the Federal Telecommunications Act of 1996.

Sec. 74. Planned Unit Developments.

- (a) Purpose and objectives. The purpose and intent of the Planned Unit Development 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 Ordinance 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 developments. 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 Ordinance, and to that end, the PUD plan must be prepared and approved in accordance with the provisions of this Ordinance.

- (b) **Mixed-Use Development.** The PUD shall include and allow for compatible mixed uses such as compatible residential, commercial and/or industrial, within a single project within the boundaries of 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 of the other zoning districts provided for in this Ordinance.
- (c) **Flexible Planning.** When considering a PUD, the unique nature of each proposal for a PUD may require, under property 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, setbacks, 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 district, 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 designation to any tract of land equal to or greater than twenty (20) 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 Business and Retail District). In addition, a Planned Unit Development 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) Lot size along with front, side and rear setbacks, provided however, that no modification will be allowed that would be inconsistent with the City's Subdivision Ordinance.
 - (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, the proposed PUD must comply with the requirements for a PUD as set forth in the City's Subdivision Ordinance and no standards may be modified unless such modification is expressly permitted by this Ordinance, and in no case may standards be modified when such modifications are prohibited by this Ordinance.
 - (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) This commission and City Council, in approving modifications to standards and regulations, shall be guided by the purposes intended by the base zoning and general intent of this Ordinance.
- (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 Ordinance.
- (i) A Preliminary Site Plan may be approved for a portion of a Planned Unit Development where the PUD 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, require 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 Ordinance 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 therefore, notice is given and public hearings are held by the Commission and City Council to evaluate the appropriateness of the previously authorize 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 approved under the provisions of this Ordinance is considered an amendment of this Ordinance as to the property involved. All Planned Unit Developments will be referenced on the Zoning District Map, and a list of such Planned Unit Developments shall be maintained as an appendix to this Ordinance.
- (j) Certificate of Occupancy. All Planned Unit Developments 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, or, if applicable, the separate section or phase being developed.

[Sec. 75-79 Reserved]

ARTICLE VIII AMENDMENTS TO ZONING ORDINANCE

Sec. 80 Purpose

The purpose of this Article is to establish uniform procedures for initiation of amendments to this Ordinance, the notification process, public hearings and final action by City Council. Nothing herein shall be construed to limit the City Council from initiating consideration of amendments to this Ordinance.

Sec. 81 General standards applicable to regulatory amendments

Proposed amendments to this Ordinance include amendments to the zoning regulations, boundaries of the various districts as depicted on the official zoning district map, or amendments which grant a specific use permit. Amendment of a district regulation, a district boundary, or the granting of a specific use permit should be consistent with the purposes, goals, objectives, and standards of the comprehensive plan of the City and the zoning policies set forth in this Ordinance. Granting a specific use permit, rezoning, or amendment of zoning regulations shall not exempt the applicant from complying with the requirements of the building code and all other applicable ordinances of the City.

Sec. 82 Special standards applicable to specific use permits

In addition to the certificate of zoning compliance called for in this Ordinance, a specific use permit shall be required before any of the uses described in the respective district regulations as specific uses will be permitted within the applicable district. The Zoning Administrator shall not issue a certificate of zoning compliance for such specific uses as may be hereafter created, changed, converted, or enlarged, in whole or in part, until and unless a specific use permit has been obtained in accordance with the amendment procedures set forth in this Ordinance.

In determining whether an ordinance granting a specific use permit should be adopted, the City Council shall consider uses of abutting property and other property in the vicinity, the compatibility of such proposed specific use with abutting and area uses, giving due consideration to the preservation of the character of the neighborhoods, accessibility for vehicular and pedestrian traffic, including the condition of streets, alleys and sidewalks, and other means of ingress and egress to public streets, and the adequacy of drainage and off street parking.

Performance standards, protective screening, open space requirements, and the applicable underlying district regulations provided in this Ordinance shall be applicable to specific use permits, except to the extent more stringent standards are imposed by the specific use permit ordinance.

In granting a specific use permit, the City Council may impose such additional standards, conditions, and safeguards as may be deemed necessary and appropriate, and full compliance therewith shall be required before a certificate of occupancy is issued by the building inspector for use of property pursuant to such specific use permit; and such conditions shall be construed as conditions precedent to the granting of the certificate of occupancy.

Sec. 83 Application for an amendment to regulations or the official zoning district map

Any person desiring to petition for an amendment to a regulation contained in this Ordinance or a district boundary shall be required to file an application in writing with the Zoning Administrator, accompanied by a non refundable fee in such amount as may be established from time to time by the City Council to defray the cost of notification and processing the application. The application shall include, but not be limited to, the following:

- (1) Each applicant's name and address.
- (2) A specific description of the amendment proposed.
- (3) A statement of the need or justification for said amendment, including its consistency with the zoning policies and purposes set forth in this Ordinance and/or its consistency with the City's most current comprehensive planning document or documents.
- (4) In the event the proposed amendment is to change a district boundary:
 - (a) The legal description and address of the property affected and the proposed boundaries of said property;
 - (b) The signed consent of the property owner or owners whose property would be affected by the proposed amendment;
 - (c) The applicant's interest in the subject property if the applicant is not a property owner of all or a portion of the subject property;
 - (d) The present zoning classification and existing uses of the property proposed to be reclassified; and
 - (e) Such other information or documentation as the City Council or Zoning Administrator may deem necessary.

Sec. 84 Application for a specific use permit

Any person or group of persons desiring to petition for an amendment granting a specific use permit shall be required to file an application in writing with the Zoning Administrator, accompanied by a non refundable fee in such amounts as may be established from time to time by the City Council to defray the cost of notification and processing the application. The application shall include, but not be limited to, the following:

1. Each applicant's name and address;
2. The legal description and the address of the property that is the subject of the application for a specific use permit;
3. A detailed description of the specific use permit that is proposed;
4. The zoning district in which the subject property is located;
5. The signed consent of the owner or owners of the subject property, if the applicant is not the owner of the property;
6. The applicant's interest in the subject property if the applicant is not an owner of all or part of the property; and
7. Such other information or documentation as the City Council or Zoning Administrator may deem necessary.

Sec. 85 Public hearing

A public hearing or hearings shall be held by the City Council, to the extent required by state law, before adopting any ordinance amending, repealing, or otherwise changing a zoning regulation or a zoning district boundary established by this Ordinance, including an ordinance granting a specific use permit.

- (a) Notice of public hearing. Notice of all public hearings shall be given in accordance with this Section and applicable state law.
 - (1) Content. The public hearing notice shall set forth the time, date, and place of the hearing, a general description of the subject of the proposal under consideration, and identification of the City Council as the body conducting the hearing.

- (2) Publication. Notice of public hearings hereunder shall be given by publication in a paper of general circulation within the City, more than fifteen (15) days prior to the date of such hearing.
 - (3) Personal notice to certain property owners. This paragraph applies only to a change in zoning classification. Notice of such hearing shall also be sent to each owner, as indicated by the most recently approved city or county tax roll, of real property on which a change in zoning classification is proposed or real property within 200 feet thereof. Such notice, which shall be given more than ten (10) days before the date of the public hearing, may be served by depositing same in the U. S. Mail, properly addressed with postage paid. The City Council may not adopt a change in zoning classification until the expiration of thirty (30) days following the publication of such notice.
- (b) Record. The City Council shall cause a record to be made of each hearing which shall include, but not be limited to:
- (1) the minutes of the hearing;
 - (2) written protests or documents submitted by citizens in favor of or against the proposed amendment; if any; and
 - (3) the application, exhibits and papers submitted to City Council, and any written reports of City staff.

However, the failure to make or keep of all or part of such record shall not impair any action by the City Council.

- (c) Action by City Council. The City Council may grant or deny an application for an amendment, or, if it deems necessary, take no action, or refer the proposal to such other official body as it may deem appropriate for further study and review.
- (d) In the event of any conflict in terms between this section and any other law, the less restrictive provision shall govern and control. This subsection governs and controls over any other provision of any ordinance concerning zoning, including any other provision concerning conflicting terms.

Sec. 86 Limitation on resubmission of petition

In the event a proposed amendment is not approved by the City Council, such amendment shall not be reconsidered prior to the expiration of six (6) months from the date of the decision unless conditions pertaining to property considered in the original application and/or property in the area have, in the opinion of the City Council, changed to such an extent to justify consideration of a subsequent application prior to the expiration of such six (6) month period.

[Sec. 87 - 89 Reserved]

ARTICLE IX BOARD OF ADJUSTMENT

Sec. 90 Creation

There is hereby created a zoning Board of Adjustment. Such Board is established in accordance with the provisions of 211,009 of Texas Local Government Code and this Ordinance.

Sec. 91 Membership

The Board shall consist of five (5) members, each to be appointed by the Mayor with the concurrence of the City Council. Members shall be appointed terms of two (2) years, which terms shall run concurrently with that of the Mayor. Vacancies shall be filled by the same procedures for original appointment, and shall be for the unexpired term of the position vacated. The Mayor, with the concurrence of the City Council, may remove a board member for cause, as found by the Mayor with the concurrence of the City Council, on a written charge after a public hearing.

The Board shall have four (4) alternate members, appointed in the same manner and for the same terms as regular members. Alternate members shall serve in the absence of one or more regular members when requested to do so by the Mayor.

Sec. 92 Selection of Officers

At the first meeting after the appointment of members of the Board for a new term, the members shall elect one of the members as the chairman and one of the members as the vice-chairman. In the absence of the chairman, the vice chairman shall act as chairman and shall have all powers of the chairman. The members of the Board may select as additional person to preside over meetings in the absence of the chairman and the vice-chairman.

Sec. 93 Meetings

Meetings of the Board shall be held at the call of the chairman and at such times as the Board may determine. All meetings of the Board shall be open to the public in accordance with the provisions, limitations and exceptions of applicable open meetings laws. Four (4) members of the Board shall be necessary to constitute a quorum.

Sec. 94 Rules and regulations

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, all of which shall be filed immediately with the City Secretary and shall be a public record. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance, and shall furnish a copy of the same to the Zoning Administrator. All of its resolutions and orders shall be in accordance therewith.

Sec. 95 Authority of the Board of Adjustment

The Board of Adjustment shall have the authority to grant relief in the form of variances, special exceptions, and appeals to the provisions of this Ordinance, subject to the standards established herein.

- (a) **Variances.** The Board of Adjustment shall have the authority to grant variances from the technical requirements of this Ordinance, such as, for example but not by way of limitation, those relating to height, yard, and area regulations, if:
- (1) a variance is necessary to allow the reasonable use of a particular parcel of land that is restricted by attributes inherent in the land such as, for example, its area or shape and, when applying the standards of this Ordinance, it cannot otherwise be appropriately or reasonably used;
 - (2) the granting of a variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located;
 - (3) the literal of enforcement of this Ordinance would create an undue hardship;
 - (4) the need for the variance is not self-imposed by the applicant; and
 - (5) the granting of the variance would not be injurious to the public health, safety, and welfare not be contrary to the purpose and intent of this Ordinance.

The Board may establish and impose appropriate conditions to the granting of a variance to safeguard the character of the area and to protect adjacent property owners, which conditions shall be expressed in the written order of the Board relating thereto. Violation of any such condition shall be deemed a violation of this Ordinance.

The Board shall not be authorized to consider or grant a variance to allow a use not permitted in the district in which the applicable property is located, nor to change the zoning district designation of any land.

- (b) **Special exceptions.** The Board of Adjustment shall have the authority to grant special exceptions when required to do so under this Ordinance.
- (c) **Administrative Review.** The Board of Adjustment shall have the authority to hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Zoning Administrator in the interpretation or enforcement of this Ordinance. Appeals may be taken to and before the Board by any person aggrieved, or by any officer, department, or bureau of the City.

Sec. 96 Decisions of the Board

In exercising its authority under this Ordinance, the Board may reverse or affirm, in whole or in part, or modify an order, requirements, decision, or determination of the Zoning Administrator, and for that purpose the Board shall have the same authority as the Zoning Administrator. The concurring vote of four (4) members shall be necessary to:

- (a) reverse an order, requirement, decision, or determination of the Zoning Administrator.
- (b) decide in favor of an applicant on a matter on which the Board is required to pass under this Ordinance; or
- (c) authorize a variance or special exception from the terms of this Ordinance.

Sec. 97 Applications to the Board

An application for variance, special exception, or appeal shall be prepared in the prescribed form, to be furnished by the Zoning Administrator, and filed with the City Secretary and with the Zoning Administrator. To apply for a variance or special exception under the provisions of this Ordinance, the applicant must be an owner of the property to be affected by the variance or must have a contractual interest in the property to be affected by the variance or special exception.

Each application shall be accompanied by a nonrefundable application fee, in such amounts as may be established from time to time by City Council, to defray the costs of processing such application and conducting necessary hearings relating thereto.

Sec. 98 Time Limits on Appeals

Appeals shall be filed within thirty (30) days of the decision, determination, or interpretation which is the subject of the appeal. Failure to file as required herein shall constitute a waiver of any rights under this Ordinance to appeal any such decision, interpretation, or determination. Upon the filing of an application on an appeal the Zoning Administrator shall transmit to the Board of Adjustment all of the papers constituting the record upon which the action appealed from was taken. Filing a notice of appeal shall stay any proceedings in furtherance of the action appealed.

Sec. 99 Hearing process

- (a) **Notice of hearing.** The Board shall fix a reasonable time for required hearings on all matters referred to it and, more than ten (10) days prior to the date set for the hearing, shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred feet (200') of any point of the lot or portion thereof on which a variance is required, as listed in the most current tax rolls of the City.
- (b) **Subpoena of witnesses.** The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.
- (c) **Decision by board.** The Board shall decide all matters within a reasonable time. The Board may wholly or partly reverse or affirm, or wholly or partly modify the order, requirements, decisions, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer from whom the appeal is taken.
- (d) **Successive applications.** No application for a variance, special exception or appeal which has been denied shall be again filed earlier than six months from the date that said application was denied.

ARTICLE X ADMINISTRATION AND ENFORCEMENT

Sec. 100 Zoning Administrator

If a Zoning Administrator is not appointed as herein provided, then the Building Official shall serve as the Zoning Administrator. The Mayor may appoint, with the concurrence of the City Council, a Zoning Administrator. The duties and responsibilities of the Zoning Administrator shall include, but not be limited to, the following:

- (a) Receive, review, and administratively process all applications for amendments to the zoning code, including specific use permits, and variances and special exceptions, that may from time to time be submitted to the City in accordance with the Texas Local Government Code and this Ordinance;
- (b) Serve as staff support to the Mayor and City Council and the Board of Adjustment regarding development proposals and related zoning matters;
- (c) Appear on behalf of the City at all public hearings under this Ordinance before the City Council and the Board of Adjustment, and present facts and information as required by this Ordinance and as requested by each of said bodies;
- (d) Establish administrative procedures and maintain all records related to zoning matters brought before the City Council and the Board of Adjustment;
- (e) Assist the City Secretary in maintaining the official zoning district map and maintain copies of all maps and plans that provide documentation for planning and zoning or that are otherwise required by this Ordinance;
- (f) Serve as the enforcement officer to ensure compliance with this Ordinance; and
- (g) Perform such other duties as are required or prescribed under this Ordinance.

Sec. 101 Offenses and Penalties

No person shall use, construct, reconstruct, repair, renovate, or replace any real property or structure contrary to any provision of this ordinance. Any person who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500. Each day or portion of a day in which a violation continues, occurs, or recurs shall constitute a separate offense.

Sec. 102 Civil Enforcement and Cumulative Remedies

- a. The City may enforce this ordinance by an action in civil court for injunctive relief, declaratory relief, damages, costs, attorney's fees, and any other remedies provided at law, by equity, or otherwise.
- b. All civil and criminal remedies herein provided are cumulative of each other and of any other remedies at law, by equity, or otherwise. The City may pursue any one, several, or all of such remedies and by doing so, the City shall not be deemed to have elected any remedy or remedies or excluded any remedy or remedies.

[Sec. 103 - 109 Reserved]

ARTICLE XI MISCELLANEOUS PROVISIONS

Sec. 110 Inspections

The Zoning Administrator, Building Official, and any other duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

Whenever said official finds any construction work being done contrary to the provisions of this Ordinance, said official may order the work stopped by serving notice in writing on the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by such official to proceed with the work.

Sec. 111 Requirements for building permit

All applications for building permits shall be accompanied by accurate plot plans, submitted in duplicate, drawn to scale, showing:

- (a) the actual shape and dimensions of the lot to be built upon;
- (b) the exact sizes and locations on the lot of the structures and accessory buildings then existing;
- (c) the lines within which the proposed structure shall be erected or altered;
- (d) the existing and intended use of each structure or part of a structure;
- (e) the number of families or dwelling units the structure is designed to accommodate; and
- (f) such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Ordinance.

Sec. 112 Review of permit application

Inspection of plans shall be done in a timely manner and a determination made as to compliance with applicable provisions of this Ordinance prior to the issuance of a building permit. One (1) copy of such plans shall be returned to the owner when such plans have been approved. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out on the ground before construction is started.

Sec. 113 Existing permits and private agreements

This Ordinance is not intended to abrogate or annul any permits issued before the effective date of this Ordinance or any easement, covenant, or any other private agreement, to the extent that such effect would be unlawful.

Sec. 114 Preserving rights in pending litigation and violations under existing ordinances

By adoption of this Ordinance or any amendment hereto no existing illegal use shall be deemed to have been legalized. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time this Ordinance was adopted shall be discharged or affected by the adoption of this Ordinance; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted and causes presently pending proceeded with in all respects.

Sec. 115 Certificates of occupancy

- (a) A certificate of occupancy shall be required for any of the following:
 - (1) Occupancy and use of a structure hereafter erected or structurally altered;
 - (2) Change in use of an existing structure to a use of a different classification;
 - (3) Occupancy and use of vacant land, beginning hereafter, except agricultural use;
 - (4) Change in the use of land to a use of a different classification; or
 - (5) Any change in the use of a nonconforming use.
- (b) Procedure for new or altered structures. Written application for a certificate of occupancy for a new structure or for a structure which is to be altered, shall be made at the same time as the application for the structure permit for such building. Said certificate shall be issued upon written request to the Zoning Administrator within five (5) working days after erection or alteration of such structure or part thereof has been completed in conformity with the provisions of this Ordinance and all applicable law.

- (c) Procedure for vacant land or a 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 structure, shall be made to the Zoning Administrator. If the proposed use is in conformity with the provisions of this Ordinance and all applicable law, the certificate of occupancy therefor shall be issued within five (5) working days after the application for same has been made, or as soon thereafter as practicable.
- (d) Contents. Every certificate of occupancy shall state that the structure or the proposed use of a structure or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on request to any person having proprietary or tenancy interest in the structure or land affected.
- (e) Temporary certificate. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the Zoning Administrator of a period not to exceed six (6) months, during the completion of alterations or during partial occupancy of a structure 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 Ordinance.
- (f) Certificates of occupancy for nonconforming uses. Certificates of occupancy for nonconforming uses shall be issued as provided in Article III of this Ordinance.

Section 116. Severance Clause

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Iowa Colony, Texas, declares that it would have passed each and every part of same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.