

CHAPTER 14

ZONING

ARTICLE 14.01 GENERAL PROVISIONS^{*}

(Reserved)

ARTICLE 14.02 ZONING ORDINANCE[†]

Sec. 14.02.001 Adopted

The zoning ordinance, Ordinance 246-R-1, adopted by the city on November 20, 2008, is included at the end of this chapter as exhibit A. Due to the nature of the zoning ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets.

EXHIBIT A

ZONING ORDINANCE

ARTICLE 10-II-1 GENERAL

Sec. (a) Short Title

This Ordinance shall be known and may be cited as the “Zoning Ordinance” of the City of Bandera. (Ordinance 246-R-1 adopted 11/20/08)

Sec. (b) Purpose

The zoning regulations and districts herein established have been made in accordance with a comprehensive plan and the Master Plan, for the purpose of promoting health, safety, morals, culture and the general welfare of the city, and for the protection and preservation of places and areas of historical and cultural importance and significance therein. They have been designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of the

district and its peculiar suitability for particular uses, and with a view to conserving the value of the building and encourage the most appropriate use of the land throughout the city consistent with comprehensive planning. (Ordinance 301, sec. 2.05, adopted 2/13/14)

Sec. (c) Adoption of Legislative Grant of Power

Chapter 211, Texas Local Government Code, is hereby adopted, as it presently exists or is hereafter amended, and the provisions of this ordinance are adopted in the exercise of the power granted to municipalities by such statutes and pursuant to any and all other applicable laws.

Sec. (d) Validity

If any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

Sec. (e) Rules of Construction

- (1) Words, phrases and terms defined herein shall be given the defined meaning.
- (2) Words, phrases and terms not defined herein shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
- (3) The text of the ordinances shall control captions, titles and maps.
- (4) The word "shall" is mandatory and not permissive. The word "may" is permissive and not mandatory.
- (5) Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future tense and words used in the future tense include the present tense.

Sec. (f) Definitions

For the purpose hereof, certain words and terms in this ordinance are defined as follows:

Accessory building: A subordinate building on the lot occupied by the main building having an incidental use in connection with the main building, provided the height shall not exceed one (1) story when such subordinate building is incidental to a residential use.

Alleys: Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Alteration: As applied to a building or structure, is a change or rearrangement in the structural parts or an enlargement, whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

Apartment: A room or suite of rooms in a multifamily dwelling arranged, designed, or occupied as the residence of a single-family, individual, or group of individuals.

Apartment hotel: An apartment house containing suites for relatively permanent housekeeping as well as furnished rooms with dining service for transient guests; sometimes a furnished apartment house with dining facilities.

Apartment house: A building divided into residential suites, usually for rental, where cooking is generally done within the individual units.

Boarding house: A building other than a hotel, where lodging and meals for five (5) or more persons are served for compensation.

Buffer zone: A strip established to separate and protect one (1) type of land use from another.

Building: A structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property except such structures as may be otherwise specifically defined herein.

Building code ordinances: Ch. 4 of the [1989] City of Bandera, Texas, Code of Ordinances and amendments, Ordinances nos. 157, 190, 216 and 216B.

Building line: A line, established by law, beyond which a building shall not extend, except as specifically provided by law.

Carport: A space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls.

Clinic, dental or medical: A building in which one (1) or more physicians, dentists, or physicians and dentists and allied professional assistants are associated for the purpose of carrying on their profession. The clinic may include a dental or medical laboratory. It shall not include in-patient care or operating rooms for major surgery.

Club or lodge: An association of persons for the promotion of some nonprofit common object, as literature, science, politics, good fellowship, etc., meeting periodically, limited to members, with residential occupancy accounting for not more than one-third of the gross floor area occupied by the use.

Condominium: a type of multifamily dwelling in which each dwelling unit is owned by the occupant or another person owns each dwelling unit but in which the halls, entranceways, and underlying land are jointly owned.

Depth of lot: The average horizontal distance between the front and rear of lot lines.

Depth rear yard: The average horizontal distance between the rear line of a building other than an accessory building and the rear lot line.

Detached structure: A structure having no party or common wall with another structure except an accessory structure.

District: A section of the city for which the regulations governing the use of buildings and the use of land are uniform.

Duplex: A two-family dwelling.

Dwelling: A building designed or used as the living quarters for one (1) or more families.

Dwelling, two-family: A detached house designed for and occupied exclusively as the residence of not more than two (2) families, each living as an independent housekeeping unit.

Dwelling, Multifamily: A dwelling or groups of dwellings on one (1) plot containing separate living units for two (2) or more families, but which may have joint services or facilities.

Easement: An acquired right to use, interest or privilege (short of ownership) in lands owned by another, such as easement of light, of building support, or right-of-way.

Fabrication: Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Fabrication relates to assembling, stamping, cutting or otherwise shaping the processed materials into useful objects.

Family: A single individual, living on the premises as a separate housekeeping unit, or a collective body of persons living together upon the premises as a separate housekeeping unit, or a collective body of persons living together upon the premises as a separate housekeeping unit in a domestic relationship based on birth, marriage, or other domestic bond, as distinguished from a group occupying a boardinghouse, club, fraternity house, or hotel.

Floor area, gross: The sum of the gross horizontal area of the several floors of a building, including interior balconies and mezzanines. All horizontal dimensions are to be measured between the exterior faces of walls, including the walls of roofed porches having more than one (1) wall. The floor area of a building shall include the floor area of accessory buildings, on the same lot, measured in the same manner.

Garage, public or storage: A building or part thereof, other than a private garage, for the storage of motor vehicles and in which service station activities may be carried on.

Garage, private: A building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on, enclosed on all four (4) sides, and pierced only by windows and customary doors.

Garden home: A single-family, unattached dwelling of one (1) or more stories being built on a lot line but separated from any other building by space on all sides.

Height, building: The vertical dimensions measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

Historic building: A building, which has outstanding historical, cultural, and architectural significance to the nation, state or community.

Historic district: An area which has outstanding historical significance to the nation, state or community within which the building, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history.

Home occupation: An occupation carried on entirely within a home, including for example custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and custom home furnishings, washing, ironing, any office in which real estate is commercially exchanged or sold, radio and television repair shops, but excluding, for example, auto repairing, barber shops, beauty shops, kennels, carpenter shops, electrical shops and plumber shops; provided that such uses are located in the dwelling used by such person as his or her private residence and provided that no salaried assistant, nor a member of the family residing in the premises, be employed. No signs identifying the home occupation shall be permitted but nameplates, not exceeding two square feet in area, may be permitted.

HUD-Code Manufactured Home: A HUD-Code Manufactured Home is 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 (8) feet or more in width, forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet and which is built on 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 CFR, Section 3282.8(g).

HUD Code Manufactured Home Park: Any premises where one (1) or more HUD-Code Manufactured home or Mobile Home is parked for living and sleeping purposes, or where they are connected to any utility, or any premises used or set apart for the purpose of supplying to the public, parking spaces for one (1) or more HUD-Code Manufactured homes or mobile homes for living and sleeping purposes, and which include any building, structures, vehicles, or enclosure used or intended for use as part of the equipment of such HUD-Code Manufactured home park.

Industrial park: An area zoned and planned for varied industrial uses.

Institutions for children or the aged: An establishment providing residence and care for children or the aged.

Junk: Any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any articles or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

Junkyard: The use of any lot, or the use of any portion of any lot, for the storage, keeping or abandonment of junk, whether inside or outside a building.

Laboratory: A building or part of a building devoted to the testing and analysis of any product or animal (including humans). No manufacturing is conducted on the premises except for experimental or testing purposes.

Light manufacturing: Any fabrication or processing not prohibited by law, which does not create a nuisance, hazard, vehicular traffic congestion or an undue demand upon the city's utilities.

Manufacture: All operations required to produce the material named.

Mobile home: A mobile home is a structure that was constructed before June 15, 1976, transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in length, or when erected on site, is three hundred twenty (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.

Modular home or residence: A dwelling that is:

- (1) Manufactured in two (2) or more modules at a location other than the home site; and
- (2) Which is designed as a residence when the modules are transported to the home site; and
- (3) The modules are joined together and installed on a permanent foundation system in accordance with the building code requirements of the City of Bandera; and
- (4) Meets all the requirements of the Texas Manufactured Housing Standards Act (Tex. Rev. Civ. Stat. 5521F); and
- (5) Shall contain the plumbing, heating/air conditioning and electrical systems within the structure.

The term modular home or residence shall not mean nor apply to a mobile home as defined in the Texas Manufactured Housing Standards Act, nor is it to include building modules incorporating concrete or masonry as a primary component.

Motel: A building, or group of detached, semidetached or attached buildings, on a lot containing guest dwellings each of which has a separate outside entrance leading directly to rooms from outside the building, with garage or parking space conveniently located with each it, and which is designed, used or intended to be used primarily for the accommodation of automobile transients. Motels do not include hotels, boarding houses or trailer courts (camps).

Museum: A nonprofit, noncommercial establishment operated as a repository for a collection of nature, scientific or literary curiosities or objects of interest or works of art, not including the regular sale or distribution of the object collected.

Nameplate: A sign not exceeding two (2) square feet in area indicating the name and/or address of a building or the name of an occupant thereof and/or the practice of a permitted occupation therein.

Nonconforming structure: A structure or part thereof existing at the time of the enactment of this ordinance and which does not conform to all the regulations of the district in which it is located.

Nonconforming use: The use of a building, structure or land existing at the time of the enactment of this ordinance, and which does not conform to the regulations of the district in which it is located.

Nursery, day care or kindergarten: A place where organized care or instruction is imparted for compensation of six (6) or more children under the age of seven (7) years.

Pavilion: An open air building, structure, or part of a building or structure normally used for entertainment, exhibits or recreation.

Processing: An operation changing the nature of material or materials such as the chemical composition or physical qualities. Processing does not include operations described as fabrication.

Recreational Vehicle:

- (1) A vehicle which meets the criteria of Title 24, U.S. Code of Federal Regulations, Section 3282.8(g), as hereinafter amended. Without limitation, it includes a camping trailer, motor home, travel trailer or truck camper too the extend [to the extent] that the vehicle or device meets the criteria of 24 C.F.R. § 3282.8(g) and
- (2) Which is currently defined in 24 C.F.R. § 3282.8(g) as a vehicle that is:
 - (a) Built on a single chassis;
 - (b) 400 Square feet or less when measured at the largest horizontal projections;
 - (c) Self-propelled or permanently towable by a light duty truck; and
 - (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Vehicle Park: Premises wherein one or more recreational vehicles or travel trailers are parked for living and sleeping purposes, or where they are connected to any utility, or any premises used or set aside for the purpose of supplying to the public, parking spaces for one or more recreational vehicles or travel trailers, for living and sleeping purposes, and which includes any building, structures, vehicles, or enclosure used or intended for use as an accessory of the recreational vehicle park and uses normally associated with a recreational vehicle park, including but not limited to canoe and inner tube rentals and use, miniature golf, camp stores, and similar uses.

Retail: Sale to the ultimate consumer for direct consumption and not for resale.

School: An institution of learning, not operated for profit, which offers and maintains a course of instruction leading to degrees or certificates of graduation recognized by the Texas Education Agency.

Setback: The amount of space required between the lot line and the building line or the amount of land required surrounding improvements.

Single-family dwelling: A building designed or used as the living quarters for one (1) family.

Store: A use devoted exclusively to the retail sale of a commodity or commodities.

Story: That portion of a building included between the surface of any floor and the ceiling above.

Streets: A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, land, place or however otherwise designated.

Structural alteration: Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure: Anything which is built or constructed and which requires location on the ground or is attached to something having a location on the ground; an edifice or building of any kind; provided, however, such things as poles and fences shall not be considered to be structures.

Temporary building: A building of a portable nature intended or provided for a limited time use.

Tourist court: (See “motel”).

Travel trailer: A mobile vehicle designed for travel and short term living and sleeping of a recreational nature.

Use: The purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Variance: An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by the zoning ordinance, but which is granted to render justice in unique and individual cases of unnecessary hardship resulting from a literal application of the zoning ordinance.

Warehousing: The depositing or securing of goods, wares and merchandise in a warehouse.

Wholesale: Sale for resale, not for direct consumption.

Yard: An open space, unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance.

Zero lot line: A term generally used to describe the positioning of a structure on a lot so that one (1) side rests directly on the lot’s boundary line.

ARTICLE 10-II-2 ADMINISTRATION

The mayor and city council or duly authorized representative shall administer and enforce this ordinance.

(Ordinance 246-R-1 adopted 11/20/08)

Sec. (a) Administrative Procedures

(1) When a building permit/sign permit application is submitted to the City office, it must be accompanied with a drawing of the property showing the location of the structure or sign and a drawing of the construction or sign. Applications shall also include a description of how the structure or sign conform to the Master Plan, if at all. The plans and specifications will be reviewed for compliance with all city building and zoning ordinances by the following city officials:

(a) The building inspector or, in case [case] of a conflict of interest, the public works director; and

(b) The mayor or, in case of a conflict of interest, the mayor pro-tem.

(2) The building permit/sign permit shall be signed by each of the two city officials for the permit to be granted.

(3) If the permit cannot be signed due to noncompliance with any of the city’s ordinances, the property owner may request a variance in writing, to be placed on the agenda of the next meeting of the board of adjustment.

(Ordinance 301, sec. 2.05, adopted 2/13/14)

ARTICLE 10-II-3 SUPPLEMENTAL DISTRICT REGULATIONS

Sec. (a) District Regulations

Except as provided in this ordinance, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used, for any purpose other than is permitted in the district in which such building or land is located.

Sec. (b) Reserved

Sec. (c) Illumination of uses

Lighting facilities used to illuminate signs, parking areas, or for other purposes, shall be so arranged that the source of light is concealed from adjacent residence properties, does not interfere with traffic and emits only a light of constant intensity.

Sec. (d) Mobile homes, HUD-Code Manufactured Homes, and travel trailers

The following regulations shall apply within the city, to the permitted use of HUD-Code Manufactured Homes, Mobile Homes and travel trailers:

- (1) No mobile home shall be permitted anywhere in the city.
- (2) Development of HUD-Code Manufactured Homes sites shall be permitted only within an RM District.
- (3) No HUD-Code Manufactured Home shall be allowed in the City unless it meets the requirements of the Texas Manufactured Housing Code.
- (4) Except as set out in this subsection, residential occupancy of travel trailers or Recreational Vehicles within the city limits shall be permitted only in R-V Districts. Residential occupancy of a travel trailer or Recreational Vehicle outside of an R-V District shall be permitted for a period not to exceed fourteen (14) days within any given one-year period, whether calculated cumulative or consecutively. Such limited residential occupancy shall also be subject to all applicable city, county, and state laws and regulations. A Recreational Vehicle must remain mobile at all times in that it must be capable of running and being driven under its own power, or is capable of being towed without any physical modification. Storage of unoccupied travel trailer[s] and Recreational Vehicles is permitted in all districts of the city; however, such storage is prohibited on public streets and rights-of-way.

Sec. (e) Home Occupation

Home occupations where permitted must meet the following requirements.

- (1) The incidental use shall never be permitted as a principal use.
- (2) The home occupation use shall not utilize more than fifty (50) percent of the gross floor area of the dwelling.

- (3) No exterior alterations shall be permitted and no construction features shall be permitted which are not customarily found in a dwelling.
- (4) There shall be no exterior storage of equipment or materials used in the occupation.
- (5) The home occupation must be conducted entirely within a building.
- (6) No signs identifying the home occupation shall be permitted; but nameplates, not exceeding two (2) square feet in area, may be permitted when attached flat to the main structure.
- (7) In the event the occupation is not specifically listed as an occupation allowed in the home pursuant to Art. 10-II-1, Sec. f, hereinabove, such occupation, before it can be carried on within a home, must first be approved by the planning and zoning commission and the city council upon application by a person seeking to carry on such home occupation filed with the city clerk [secretary].

Sec. (f) Nuisances

- (1) Nothing in this ordinance should be construed as repealing any ordinance of the city regulating nuisances or permitting uses which are prohibited.
- (2) The erection and maintenance of any building or structure or the use of any premises in violation of this ordinance or other zoning ordinance of the city related to the area and district in which such building or premises are located, shall be and is hereby declared to be a public nuisance when such building or use of such premises are such that the building or use of the premises constitutes a fire or health nuisance or interferes with the health, quiet, safe and peaceable enjoyment of their homes by citizens living in the vicinity of such building or premises.
- (3) The city council is authorized and empowered to hear and determine the facts in such case and is granted the power to order the abatement and cessation of such nuisance.

Sec. (g) Effect on existing conditions

- (1) Nonconforming uses:

- (a) The lawful use of land existing on the date of this ordinance although such use does not conform to the provisions of this ordinance may be continued, but if such nonconforming use is discontinued, any future use of such premises shall be in conformity with the provisions of this ordinance.
- (b) The lawful use of any building existing on the date of adoption of this ordinance may be continued even though such use does not conform to the provisions of this ordinance, [and] such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinances, are made therein.
- (c) The right of nonconforming uses to continue shall be subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the city council, be reasonably required for the protection of adjacent property.

(2) Completion of existing buildings: Nothing contained in this ordinance shall require any change in the plans, construction or designated use of a building actually under construction before or on the date of adoption of this ordinance, and which entire building was completed within a year from that date.

(3) Nonconforming structures:

(a) Continuance of nonconforming structures. Except as herein provided, any nonconforming structure may be occupied and operated and maintained in a state of good repair.

(b) Enlargement or extension of nonconforming structures. A nonconforming structure in which a nonconforming use is operated shall not be enlarged or extended; a nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with all of the provisions of this ordinance established for structures in the district in which the nonconforming structure is located.

(c) Restoration of damaged, nonconforming structures. A nonconforming structure damaged in any manner and from any cause whatsoever to the extent of not more than fifty (50) percent of its replacement cost may be restored, provided restoration is begun within one (1) year and complete within two (2) years of the date of the damages.

(4) Nonconforming mobile home use: In the event a nonconforming mobile home use of any premises or lot is discontinued or vacated for a period of thirty (30) days, the use of the premises or lot shall thereafter conform to the provisions of the district in which it is located.

Sec. (h) Zoning Districts Classification

Zoning regulations and districts as set forth in this ordinance are approved and established with the city divided into six (6) districts as follows:

R-1 Single-family

R-2 Duplex

R-3 Multifamily Residence

R-A Single-family Residence - Agricultural Districts

B-1 Central Business District

B-2 Neighborhood Commercial

B-3 Commercial District

B-4 Business and Professional District

I-1 Industrial

P-1 Parks and Recreational

PD Planned Development District

R-M HUD-Code Manufactured Home District

R-V Recreational Vehicle

Sec. (i) Map of District Boundaries (Zoning Map)

The boundaries of the districts provided in the above section are shown upon maps on file in the office of the city secretary and such zoning maps and all notations, references, and other information shown on such zoning maps are as much a part of this ordinance, as if the matters and information set forth by such maps were all fully described herein.

Sec. (j) Zoning Map Designations

The district boundaries shown on the zoning maps are intended to be along existing streets, property lines or extensions of or from the same.

Where the street layout actually on the ground varies from the street layout as shown on the zoning map, the city council may apply the designations shown on the paved streets in such a way as to carry out the intent of the plan for the particular area in question.

Sec. (k) Newly annexed territory, establishing classification

All territory annexed to the city hereafter shall be temporarily classified as R-1 District, unless otherwise classified at the time of such annexation, until permanently zoned by the city council.

ARTICLE 10-II-4 DISTRICT REGULATIONS

Sec. (a) District "R-1" - Residential District, Use Regulations

A building, structure or premise shall be used only for the following purpose in this district:

- (1) One-family dwellings.
- (2) Churches or other places of worship.
- (3) Nursing homes.
- (4) Public buildings and public recreational facilities.
- (5) Schools, public and private.
- (6) Temporary buildings or structures for use incidental to construction work on the premises, which buildings or structures shall be removed upon the completion or abandonment of construction work provided that such temporary buildings or structures shall not remain on any premises in this district longer than six (6) months.
- (7) Water supply reservoirs, pumping plants and towers.
- (8) Accessory buildings and uses, customarily incident, to the above uses and located on the same property, lot or tract, therewith, including home occupation uses.
- (9) One (1) single-family dwelling shall be allowed per single lot. The minimum lot size for a single-family dwelling shall be no less than ten thousand (10,000) square feet.
- (10) Bed and Breakfast - No liquor sales or license.

Sec. (b) District "R-2" - Duplex, Use Regulations

A building, structure or premise shall be used only for the following purposes in this district:

- (1) Any use permitted in District "R-1".
- (2) A dwelling or group of dwellings on one (1) plot or lot containing separate living units for two (2) families, but which may have joint services and facilities.

- (3) Only one (1) duplex unit or group of units shall be allowed per any one (1) lot. The minimum lot size for a duplex unit or units shall be no less than eight thousand (8,000) square feet.

Sec. (c) District “R-3” - Multifamily Residence, Use Regulations

A building, structure or premise shall be used only for the following purposes in this district:

- (1) Any use permitted in District “R-1” or District “R-2”.
- (2) If more than one (1) building encompasses the use permitted in this section, there must be a minimum of fifteen (15) feet clearance between buildings. Each living unit must be situated on no less than two thousand (2,000) square feet per lot size. The minimum lot size for uses permitted within this district is no less than eight thousand (8,000) square feet.
- (3) Off-street parking must be provided for the tenants or inhabitants of the premises provided for in this section.

Sec. (d) District “R-A” - Single-family Residence-Agricultural District, Use Regulations

These districts are composed mainly of unsubdivided lands that are vacant or in agricultural uses, with some dwellings and some accessory uses. The regulations are designed to protect the essentially open rural character of the districts by prohibiting the establishment of scattered business, industrial and other uses that are unrelated to any general plan of development and that might inhibit the best future urban utilization of the land. It is intended that land in these districts will be reclassified to its appropriate residential, commercial, or industrial category in accordance with the amendment procedure set forth herein whenever such land is subdivided into urban building sites or when otherwise deemed appropriate. Uses permitted within this area include those permitted in Districts R-1, R-2 and R-3.

Sec. (e) Residential Setback and Maximum Building Height

For Districts R-1, R-2, R-3 and R-A, the following setback and height requirements are applicable:

- (1) Front yard - minimum twenty-five (25) feet.
- (2) Rear yard - minimum ten (10) feet.
- (3) Side yard - minimum ten (10) feet on one (1) side and a minimum of five (5) feet on the other side(s), with a minimum of fifteen (15) feet distance between buildings on the same or adjoining lots.
- (4) The maximum height for any residential building shall be no more than three (3) stories, or thirty (30) feet, whichever is less.

Sec. (f) District “B-1” - Central Business District, Use Regulations

A building, structure or premise shall be used only for the following purposes in this district:

- (1) Automobile sales and service;

- (2) Contractors (enclosed, no outside storage);
- (3) Commercial communications systems;
- (4) Financial institutions and services;
- (5) Food services;
- (6) Funeral home, mortuary, or undertaking;
- (7) General retail sales and/or services (entirely enclosed);
- (8) Hotel or motel;
- (9) Laundry;
- (10) Marine sales;
- (11) Nursery;
- (12) Recreational and entertainment facilities;
- (13) Tavern;
- (14) Professional offices;
- (15) Public Office;
- (16) Churches;
- (17) Medical facilities;
- (18) Sale of fuels, including gasoline and petroleum products.

The setback and height requirements, and lot sizes, for uses permitted within this district shall be:

- (1) Front yard minimum five (5) feet.
- (2) Side yard - minimum ten (10) feet except when a firewall is provided on the adjoining property line, in which case the minimum clearance may be less as approved and directed by the building inspector.
- (3) Rear yard - same as requirements for side yard.
- (4) Lot size - the minimum lot size per building, structure or premise shall be no less than six thousand (6,000) square feet.
- (5) The maximum height for any building or group of buildings, within this district or thirty (30) feet [sic], whichever is less.

Sec. (g) District "B-2" - Neighborhood Commercial, Use regulations

These districts are composed of residential dwellings and structures occupied by or suitable for such use as offices, studios and light commercial uses. Although usually located between residential areas and business areas, these districts are in some instances free standing in residential areas. The district regulations are designed to protect and encourage the transitional character of the districts by permitting a limited group of uses of a commercial nature and to protect the abutting and surrounding residential areas by requiring certain minimum yard and area standards to be met, standards that are comparable to those called for in the residential district.

A building, structure or premise shall be used only for the following purposes in this district:

- (1) Antique store (enclosed);
- (2) Art gallery;
- (3) Auditorium, private;
- (4) Barber or beauty shops;
- (5) Bookstore;
- (6) Clinics, dental and medical;
- (7) Club or lodge, noncommercial;
- (8) Drug store;
- (9) Dry cleaning (pick-up service only);
- (10) Floral shop (enclosed);
- (11) Gift shop (enclosed);
- (12) Interior decorating studio;
- (13) Laboratory (dental or medical);
- (14) Laundry;
- (15) Libraries;
- (16) Museum;
- (17) Offices;
- (18) Optician;
- (19) Storage buildings such as mini-storage buildings, used for the storage of items of personal property;
- (20) Any use permitted in Districts "R-1", "R-2", and "R-3";

- (21) Retail food service in the form of restaurants, cafes, and premises consumption of beer and wine);
- (22) Convenience Store (no on-site consumption of alcoholic beverages, nor sale of fuels);
- (23) Bakery;
- (24) Bed and Breakfast.

The setback and height requirements, and lot sizes, for uses permitted within this district shall be:

- (1) Front yard - minimum twenty-five (25) feet.
- (2) Side yard - minimum of ten (10) feet on one (1) side, a minimum of five (5) on the other side, with a minimum of fifteen (15) feet separation between buildings on the same or adjoining lots.
- (3) Rear yard - minimum twenty (20) feet.
- (4) Lot size - the minimum lot size per building, structure or premises shall be no less than six thousand (6,000) square feet for the first two (2) uses permitted in this district, with an additional minimum of one thousand two hundred (1,200) square feet required for each additional permitted use.
- (5) The maximum height for any building, or group of buildings within this district shall be no more than three (3) stories or thirty (30) feet, whichever is less.

Sec. (h) District "B-3" - Commercial District. Use Regulations

These districts are composed of land and structures occupied by or suitable for furnishing retail goods, such as groceries, drugs and shoe repairing, to satisfy the household needs of surrounding residential areas and transients.

The district regulations are designed to permit the development of the districts for their purpose and to protect the abutting and surrounding residential areas by requiring certain minimum yard standards to be met.

These districts are located along principal arterial streets, and can be adjacent to both residential and nonresidential districts.

A building, structure, or premise shall be used only for the following purposes in this district:

- (1) Any use permitted in District "B-1" or District "B-2";
- (2) Dry cleaning;
- (3) Light Manufacturing;
- (4) Locker plant, food processing;
- (5) Wholesaling;

- (6) Veterinary clinic;
- (7) Hospital or sanitarium;
- (8) Nursing home, private

Minimum front yard - twenty (20) feet

Minimum side yard - ten (10) feet

None where firewall is provided on property line

Minimum rear yard - same as side yard

Minimum area - six thousand (6,000) square feet.

The setback and height requirements, and lot sizes, for uses permitted within this district shall be:

- (1) Front yard - minimum twenty (20) feet.
- (2) Rear yard - minimum ten (10) feet.
- (3) Side yard - minimum ten (10) feet except when a firewall is provided on the adjoining property line, in which case the minimum clearance may be less as approved and directed by the building inspector.
- (4) Lot size - the minimum lot size per building, structure or premise shall be no less than six thousand (6,000) sq. ft.
- (5) The maximum height for any building within this district shall be no more than three (3) stories or thirty (30) feet, whichever is less.

Sec. (h-1) District "B-4" - Business and Professional District

These districts are composed of single- and multifamily residential dwellings; structures for professional and medical offices and studios; retail and commercial enterprises; and public buildings. There is to be no outside storage. All storage must be confined to enclosed structures. A building, structure or premise shall be used only for the following purposes in this district:

- (1) Assisted living facilities or nursing homes;
- (2) Barber or beauty shop;
- (3) Churches;
- (4) Contractors;
- (5) Communications systems;
- (6) Craft studios;
- (7) Day care facilities;

- (8) Financial institutions or services;
- (9) Food services or restaurants;
- (10) Interior decorating studios;
- (11) Laundry or dry cleaning;
- (12) Light manufacturing;
- (13) Lodging: bed & breakfast, hotel;
- (14) Medical facilities (medical, dental, optical): offices, clinics, laboratories, pharmacies;
- (15) Multifamily dwellings: apartments, duplexes, townhouses;
- (16) Museums;
- (17) Offices;
- (18) Parks & natural areas;
- (19) Public buildings: art gallery, auditorium, library, museum, postal service;
- (20) Recreational and entertainment facilities;
- (21) Retail merchants (enclosed): antique, book, floral, gift and general stores;
- (22) Small repair shops;
- (23) Taverns.

The building setback and height requirements, and lot sizes for uses permitted within this district shall be:

- (1) Front yard - minimum eleven (11) feet. Note: Sidewalks, awnings, canopies and colonnades may exist within the eleven (11) feet setback.
- (2) Side yard - minimum five (5) feet except when a firewall is provided on the adjoining property line, in which case the minimum clearance may be less as approved and directed by the building inspector.
- (3) Rear yard - same as requirements for side yard.
- (4) Lot size - the minimum lot size per building, structure, or premise shall be no less than six thousand (6,000) square feet.
- (5) The maximum height for any building, or group of buildings, within this district shall be no more than three (3) stories.

Sec. (i) District "I", Industrial District, Use Regulations

These districts are composed of land and structures used for manufacturing or wholesaling, trade or are suitable for such uses, where the use and its operation do not adversely affect nearby residential and business uses. These districts are usually separated from residential areas by business areas or by natural barriers. The district regulations are designed to allow a wide range of industrial activities subject to limitations designed for mutual protection of land use.

A building, structure or premise in this district shall be used only for the purposes set forth immediately above; as well as any use permitted in District "B-3".

The setback and height requirements and lot sizes, for use permitted within this district shall be:

- (1) Front yard - minimum twenty-five (25) feet.
- (2) Side yard - minimum ten (10) feet except when a firewall is provided on the adjoining property line, in which case the minimum clearance may be had as approved and directed by the building inspector.
- (3) Rear yard - same as side yard.
- (4) Lot size - the minimum lot size per building, structure, or premise shall be no less than twenty-two thousand (22,000) square feet.
- (5) The maximum height for any building within this district shall be no more than three (3) stories, or thirty (30) feet, whichever is less.

Sec. (j) District PR, Parks and Recreational District, Use Regulations

The areas included within this district classification shall be lands situated in areas reasonably suitable for parks and recreational facilities, and shall include areas subject to floodplain regulations of local, state and federal authorities. Uses permitted in these districts shall be located so as not to unreasonably interfere with adjoining residential or business districts. No permanent structure or premises may be constructed within these districts that are designed, intended, or reasonably suitable for residential habitation. No permanent private commercial use of the area within these districts shall be allowed except as provided herein below.

A building, structure or premise shall be used only for the following purposes in this district:

- (1) Public recreational facilities.
- (2) Pavilions, whether open or enclosed by window screen.
- (3) Recreational Vehicle and travel trailer parking, including designated Recreational Vehicle Parks, provided that a Recreational Vehicle or travel trailer that is not located within a designated Recreational Vehicle Park may not stay in this district for a period in excess of fourteen consecutive or nonconsecutive days within a period of one (1) year. A Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions, including decks, porches, and steps.
- (4) Water supply reservoirs, systems, pumping stations, or appurtenances necessary thereto.

- (5) Accessory buildings and uses, customarily incident to the permitted uses, when such buildings or uses are located on the same tract or lot occupied by the permitted uses.

Sec. (k) District “R-M”, HUD-Code Manufactured Homes, Use Regulations

A building, structure or premise shall be used only for the following purposes in this district:

- (1) A HUD-Code Manufactured Home or a Mobile Home that was legally in place prior to the City’s adoption of Section d(1) of Article 10-II-3 and accessory buildings or structures necessary for utilization of an area as a HUD-Code Manufactured Home District, including travel trailers.
- (2) Any use permitted in Distract “R-1”.
- (3) The setback and height requirements for structures and uses within this district shall be:
 - (a) Front yard - minimum twenty-five (25) feet.
 - (b) Side yard - minimum twenty-five (25) feet.
 - (c) Rear yard - minimum twenty-five (25) feet.
 - (d) Maximum height - twenty (20) feet.
- (4) The minimum area of the HUD-Code Manufactured Home District shall be three and one-half (3.5) acres.
- (5) The minimum number of separate spaces within a HUD-Code Manufactured Home District shall be six (6).
- (6) Each structure, building, or premise within a HUD-Code Manufactured Home District shall have attached thereto skirting consisting of painted wood or metal, and extending from the base, or bottom line, of the structure, building, or premise downward to and touching the ground.
- (7) A modular home or residence is permitted in this district.

Sec. (l) District “R-V” Recreational vehicle parks, Use regulations

These districts are composed of land used for recreational vehicle parks as that term is defined herein.

Sec. (m) District “PD” - Planned Development

- (1) Purpose of Planned Development Districts The general purpose of a Planned Development (PD) District is to provide for the development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan that may include uses, regulations and other requirements that vary from the provisions of other Districts. PD Districts are intended to implement generally the goals and objectives of the comprehensive plan. PD Districts are also intended to encourage flexible and creative planning, to ensure the compatibility of land uses, and to allow for the adjustment of

changing demands to meet the current needs of the community by meeting one or more of the following purposes:

- (a) To provide for a superior design of lots or buildings;
- (b) To provide for increased recreation and open space opportunities for public use;
- (c) To protect or preserve natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, hills, view-stapes, and wildlife habitats;
- (d) To protect or preserve existing historical buildings, structures, features or places;
- (e) To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services; or
- (f) To meet or exceed the present standards of this Ordinance.

(2) Nature of PD Districts and Minimum Standards

- (a) Each PD shall be a freestanding district in which land uses and intensities of land use may be tailored to fit the physical features of the site and to achieve compatibility with existing and planned adjacent uses. Minimum standards for residential and nonresidential uses proposed for the PD must be incorporated within an ordinance adopted by the City Council. In the adopting ordinance, the City Council may incorporate minimum standards by making reference to an existing district.
- (b) To the extent that a PD concept plan or PD ordinance creates standards or imposes restrictions or duties which differ from those imposed by other City ordinances, rules or regulations, the standards, restrictions or duties imposed by the PD concept plan and PD ordinance, adopted pursuant to this section, shall supersede such other provisions to the extent of any conflict or inconsistency.
- (c) Any inconsistency or conflict shall be identified by the applicant at the time of application for the PD District.

(3) Land Use

- (a) An application for a PD District shall specify the use or the combination of uses proposed.
- (b) Location - The location of all authorized uses shall be consistent with the PD Concept Plan.
- (c) Residential Uses - Unless otherwise provided by the PD ordinance, the following standards shall apply to all residential uses within a PD District:
 - (i) Drainage - Drainage features shall be integrated into the design of the development and shall be contained within ponds and streams with a natural appearance wherever possible.

(ii) Issues important to the City in regard to residential development include, but are not limited to: (1) height, number of stories, and size of buildings and other structures; (2) the percentage of a lot that is occupied; (3) the size of yards, courts, and other open spaces; (4) density; (5) the location and use of buildings, other structures, and land; (6) the pumping, extraction, and use of groundwater; (7) construction, reconstruction, alteration, or razing of buildings and other structures in the case of designated places and areas of historical, cultural, or architectural significance; (8) the bulk of buildings; (9) landscaping; (10) fencing, walls, and screening; (11) steep slope protection; (12) exterior construction and design; (13) lighting; (14) parking; (15) amenities; (16) ingress/egress; and (17) traffic flow. PD District applicants are encouraged to discuss with the City these issues early in the process, preferably prior to the preparation of a PD concept plan.

(d) Nonresidential Uses - Unless otherwise provided by the PD ordinance, the following standards shall apply to all nonresidential uses within a PD District:

(i) Drainage: Drainage features shall be integrated into the design of the development and shall be contained within ponds and streams with a natural appearance wherever possible.

(ii) Open Space Standards: Unless otherwise provided by the PD ordinance, a minimum of twenty percent (20%) of the gross land area within the entire PD District shall be devoted to open space. Open space for PD Districts may be satisfied by either public or a combination of public and private open space.

(iii) Preservation of Natural Features: Unless otherwise provided by the PD ordinance or PD concept plan:

(1) Floodplain areas shall be preserved and maintained as open space; and

(2) Stands of native trees and shrubs shall be preserved and protected from destruction or alteration.

(iv) Dimensional and Area Standards - Unless otherwise provided by the PD ordinance, dimensional and area standards for uses shall be the most restrictive standards authorized by the City's zoning regulations for the same or similar uses.

(v) Other issues important to the City in regard to nonresidential development include, but are not limited to: (1) height, number of stories, and size of buildings and other structures; (2) the percentage of a lot that is occupied; (3) the size of yards, courts, and other open spaces; (4) density; (5) the location and use of buildings, other structures, and land; (6) the pumping, extraction, and use of groundwater; (7) construction, reconstruction, alteration, or razing of buildings and other structures in the case of designated places and areas of historical, cultural, or architectural significance; (8) the bulk of buildings; (9) landscaping; (10) fencing, walls, and screening; (11) steep slope protection; (12) exterior construction and design; (13) lighting; (14) parking; (15) amenities; (16) ingress/egress; and (17) traffic flow. PD District applicants are encouraged to discuss with the City these issues early in the process, preferably prior to the preparation of a PD concept plan.

(4) Concept Plan Required

(a) PD Concept Plan - The PD concept plan is mandatory, and is intended to be used as the first step in the PD process. It establishes general guidelines for the PD District by identifying the proposed land uses and intensities, thoroughfare locations, and open space boundaries. It also illustrates the integration of these elements into a master plan for the whole PD District. The PD concept plan, as incorporated in the PD ordinance and together with the text of the ordinance, establishes the development standards for the PD District. A concept plan shall be submitted along with a PD rezoning application, and shall be processed simultaneously with the PD rezoning application. If the PD rezoning application is approved, the PD concept plan shall be incorporated and made a part of the PD ordinance.

(b) Compliance with Approved Plan: Except as may otherwise be provided by the City's Ordinances and regulations, no development shall begin and no building permit shall be issued for any land within a PD District until a PD ordinance that is consistent with the PD concept plan has been approved. Each PD district shall be developed, used, and maintained in compliance with the approved PD concept plan. Compliance with the PD ordinance shall be construed as a condition precedent to granting of certificates of occupancy.

(5) Establishment of PD District and Concept Plan

(a) The procedures for establishing a PD District shall be as for any other type of rezoning request, except that the application shall include the following, in addition to any other information required by this Ordinance:

- (i) a PD concept plan;
- (ii) a list of proposed PD District development standards;
- (iii) identification of an existing district, if any, which shall apply to the extent not otherwise provided by the PD concept plan or by the proposed PD District development standards;
- (iv) a general statement setting forth how the proposed PD Zone will relate to the comprehensive plan;
- (v) the total acreage within the proposed PD District; and
- (vi) if the development is to occur in phases, a conceptual phasing plan that identifies the currently anticipated general sequence of development, including the currently anticipated general sequence for installation of major capital improvements to serve the development.

(b) Except to the extent provided by the PD concept plan and the PD ordinance, development within the PD District shall be governed by all of the ordinances, rules, and regulations of the City in effect at the time of such development, including the standards of any zone identified in the application. In the event of any conflict between the PD concept plan and the PD ordinance and the then-current ordinances, rules, and regulations of the City, the terms, provisions, and intent of the PD concept plan and PD ordinance shall control.

(c) Proposed PD Development Standards - Proposed PD District development standards shall be processed simultaneously with the PD rezoning application, and if the PD rezoning application is approved, such standards shall be incorporated as part of the PD ordinance. Such proposed development standards may include, but shall not be limited to, uses; density; lot size; building size; lot dimensions; setbacks; coverage; height; landscaping; lighting; screening; fencing; parking and loading; signage; open space; drainage; and utility and street standards. Any graphic depictions used to illustrate such standards, unless otherwise provided in the PD ordinance, shall be considered as regulatory standards. In the event of any conflict, the more stringent standards shall apply.

(6) Project Design It is the intent of these regulations to encourage outstanding project design for PD Districts. The following standards will be used to evaluate project design:

(a) The arrangement of all uses and improvements should reflect the natural capabilities and limitations of the site as well as the characteristics and limitations of adjacent property.

(b) Development must be compatible with the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height; historical character; and disposition and orientation of buildings on the lot.

(c) Buildings, transportation improvements, and open space areas, must be arranged on the site so that activities are compatible with the neighborhood.

(d) Buildings, transportation improvements, open space, and landscaping, must be designed and arranged to produce an efficient, functionally organized, and cohesive development.

(e) Buildings, transportation improvements, open space and landscaping, must be in favorable relationship to the existing natural topography, natural vegetation and creeks, exposure to sunlight and wind, and long or scenic views.

(f) The PD should preserve and enhance the natural character of the site, and should be designed to reflect the existing topography and natural systems. Vegetative communities located in floodplains, existing tree stands and along steep slopes should be maintained as open areas and wildlife habitat. Creeks and streams should be preserved and enhanced as amenities.

(g) The project should preserve historic elements of the site.

(h) Utilization of open space should be enhanced through provision of amenities.

(7) Amendment of Concept Plan PD concept plans are considered part of the PD ordinance. Any amendment to a PD concept plan shall be considered a zoning change, and shall be processed as such, unless the changes are provided for in the PD ordinance.

ARTICLE 10-II-4C SPECIAL USE PERMITS

Sec. (a) General

(1) Approval The city council may, by affirmative vote after public hearing and proper notice to all parties affected, and after recommendation from the planning and zoning commission, grant a Special Use Permit (SUP) for an additional use in addition to the uses allowed under the zoning district applicable to the property to allow compatible and orderly development which may be suitable only in certain locations and zoning districts if developed in a specific way. The City Council may modify the site plan when granting a SUP and provide such requirements and safeguards necessary to protect adjoining property.

(2) Application

(a) An application for a SUP shall be processed in the same manner as any other request for a zoning change. The minimum lot size for a SUP shall be one (1) acre. The application shall be accompanied by, but not limited to, the following documents:

- (i) A current survey including topographic information;
- (ii) A site plan including drainage plan, if applicable;
- (iii) Floor plans for every building;
- (iv) Elevations of every building;
- (v) A tabulation sheet indicating building square footage, parking required and provided, open space required and provided; and
- (vi) A statement that the applicant shall comply with all applicable City ordinances and State and Federal regulations, as identified and requested by City staff.

(b) All drawings shall be to scale and shall indicate the general arrangement of the property and structures, together with essential requirements such as on-site and off-site parking facilities, height, location, and construction materials of new structures and the uses sought, setbacks, signage, ingress and egress, screening and landscaping.

(3) Standards

(a) Planning and Zoning Commission When considering applications for a special use permit, the planning and zoning commission in making its recommendation shall, on the basis of the detailed site plan and other information submitted, evaluate the impact of the special use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The planning and zoning commission shall specifically consider the extent to which:

- (i) Comprehensive Land Use Plan consistency. The proposed use at the specified location is consistent with the goals, objectives and policies contained in the City's Comprehensive Land Use Plan, as may be adopted and amended;
- (ii) Zoning district consistency. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- (iii) Character and integrity. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as

required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts, including but not limited to:

- (A) Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
- (B) Off-street parking and loading areas;
- (C) Refuse and service areas;
- (D) Utilities with reference to location, availability, and compatibility;
- (E) Screening and buffering, features to minimize visual impacts, and/or set-backs from adjacent uses;
- (F) Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (G) Required yards and open space;
- (H) Height and bulk of structures;
- (I) Hours of operation;
- (J) Paving of streets, alleys, and sidewalks,[:]
- (K) Provisions for drainage,[:]
- (L) Exterior construction material and building design; and
- (M) Roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.

(iv) Public health, safety, convenience and welfare. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

(b) City Council In considering an application for a Special Use Permit (SUP), the council may grant such permit by specifically considering the standards listed in paragraph (c)(1) [sic] above. Where the grant of a SUP is silent as to a condition or regulation that is imposed by the zoning district applicable to the property, the condition or regulation of the zoning district applicable to the property shall control.

Sec. (b) Use Regulations

(1) Uses A use may be authorized through the granting of a SUP within any district, except where stated otherwise, upon compliance with all requirements of this section and all other applicable ordinances.

(2) Uses not listed Any applicant seeking a land use not otherwise authorized by the City's zoning regulations may make application to amend the City's zoning regulations to include the unlisted use and may at the same time make application for a SUP for such use, on a specific property.

Sec. (c) Revocation

The SUP may be considered for revocation for the following reasons:

- (1) Construction is not begun within five (5) years of the date of approval of the permit.
- (2) Progress toward completion is not being made. Progress toward completion includes the following:
 - (a) An application for a final plat is submitted;
 - (b) A good faith effort is made to file with a regulatory agency an application for a permit necessary to begin or continue completion of the project;
 - (c) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;
 - (d) Security is posted with the city to ensure performance of an obligation required by the city; or
 - (e) Utility connection fees or impact fees for the project have been paid to the city or utility provider.
- (3) Abandonment of the project. Abandonment includes development of the property in a way other than provided for by the SUP.
- (4) Failure to satisfy the conditions of the SUP or follow the site plan made part of the SUP.
- (5) Revocation process. The revocation process shall be the same as for a zoning change, with notice to property owners within 200 feet, public hearing and recommendation by the planning commission, and public hearing and ordinance consideration by the city council.
- (6) The city council may deny the SUP revocation, approve the revocation, deny the revocation and add additional restrictions to the SUP, suspend the SUP for a period the city council determines, or amend the SUP with probationary requirements and terms the city council determines.

- (7) Upon revocation of a SUP the property subject to the SUP may be used for any permitted use within the applicable zoning district.

Sec. (d) Compliance with Conditions

Conditions which may have been imposed by the city council in granting the SUP shall be complied with by the grantee before a certificate of occupancy may be issued by the building official for the use of the building on such property.

Sec. (e) Deviation from City Ordinances

The city council may approve a SUP with deviations to any provision of the City's Ordinances. Such deviations shall be listed or shown in or as part of the ordinance granting the SUP.

ARTICLE 10-II-6 CHANGES AND AMENDMENTS

Sec. (a) Planning and Zoning Commission Report

The regulations, restrictions and boundaries established by the ordinance may from time to time be amended, supplemented, changed, modified, or repealed. The planning and zoning commission shall make a preliminary report on all such proposed amendments, supplements, changes, modifications or repeals, hold public hearing and thereafter submit its final report to the city council.

Sec. (b) Procedure for Amendment and Changes in Zoning Ordinance

- (1) A written request for change in the zoning ordinance is required to be filed with the city council.

(a) All written request for change in the zoning district classification of property or for change in the textual provision of this ordinance and for special approval of uses permitted in certain zones, where such approval is indicated in the permitted uses contained in this ordinance, shall be filed with the city council.

- (2) A one hundred dollar (\$100.00) fee is required.

(a) When a request is filed for any change in zoning district boundaries or for any change in the zoning ordinance or classifications, such written request shall be accompanied by a fee in the amount of one hundred dollars (\$100.00) to be paid to the city clerk [secretary] immediately upon filing such written request.

(b) Until the one hundred dollar (\$100.00) fee is paid, no notice of such written request shall be issued and no hearing shall be had before the city council. The city clerk [secretary] shall keep and preserve an itemized record of all fees received and the disposition thereof.

- (3) One (1) year period. No written request for the rezoning of any lot, lots or block of land situated in the city shall be received or filed with the city council if within one (1) year prior thereto the city council, after notice and hearing, has denied a written request for rezoning of the same property. Provided, however, if the applicant produces by sworn affidavit new and relevant evidence, which

was not presented at the previous hearing, the city council shall have the right to waive the one (1) year period and proceed to hear and consider such written request.

(4) Public hearing required for zoning change. No change in the zoning district boundaries, or zoning classification or regulations or for special approval of any use shall become effective until after a public hearing before the city council at which parties in interest and citizens shall have an opportunity to be heard, after notice has been given as required by this ordinance.

(5) Notice of public hearing required.

(a) At least fifteen (15) days' notice of the time and place of such hearing before the city council shall be published in an official newspaper, or a paper of general circulation, in the city.

(b) In addition, written notice of all public hearings before the city council on proposed changes in zoning classifications shall be sent to owners of real property lying within two hundred (200) feet of the property on which the change in zoning classification is proposed, such notice to be given not less than ten (10) days before the date set for hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing same, properly addressed and postage paid, in the city post office.

(c) Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, at least fifteen (15) days' notice of the time and place of such hearings shall be given to such owners by publication in an official newspaper, or a paper of general circulation, in the city.

(d) The City Council may not adopt the proposed change until after the thirtieth (30th) day after the date the notice required by this subsection is given.

(6) Protest to proposed zoning change. If a proposed change to a zoning classification, regulation or boundary is protested, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the city council. The protest must be written and signed by the owners of at least twenty percent (20%) of either:

(a) The area of the lots or land covered by the proposed change; or

(b) The area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet from that area.

(c) In computing such percentage of land area, the area of streets and alleys shall be included.

(Ordinance 246-R-1 adopted 11/20/08)

ARTICLE 10-II-7 BOARD OF ADJUSTMENT

The organization, terms, duties, and authority of the board of adjustment shall exist as provided under [Chapter 1, Article 1.05, Division 3](#), of this Code of Ordinances. (Ordinance 298 adopted 8/12/13)

ARTICLE 10-II-8 VIOLATIONS, PENALTIES AND REMEDIES**Sec. (a) Violations and Penalties**

Wherever by the provisions of this ordinance the performance of any act is required or the performance of any act is prohibited or wherever any regulation or limitation is imposed on the use or change of use of or upon any land or on the erection or alteration of any structure or the use or change of use of such structure or the uses within such structure, a failure to comply with the provisions of this ordinance shall constitute a violation of this ordinance. Every day on which a violation exists shall constitute a separate violation and a separate offense. The Penalty for each offense shall be not more than two hundred dollars (\$200.00).

Sec. (b) Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this ordinance the municipality or any proper person may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or above such premises including but not limited to all remedies provided in Article 1011h of the Revised Civil Statutes of Texas, V.T.C.A., Local Government Code § 211.012. The imposition of any penalty hereunder shall not preclude the municipality or any proper person from instituting any appropriate action or proceedings to require compliance with the provisions of this ordinance and with administrative orders and determinations made hereunder.

(Ordinance 246-R-1 adopted 11/20/08)

