

**NOTICE OF A JOINT WORKSHOP
OF THE WESLACO CITY COMMISSION AND THE
WESLACO PLANNING & ZONING COMMISSION
TUESDAY, NOVEMBER 28, 2017**

NOTICE IS HEREBY GIVEN THAT the City Commission of the City of Weslaco, Texas will hold a Joint Workshop with the Weslaco Planning and Zoning Commission in the Legislative Chamber of City Hall, located at 255 South Kansas Avenue, on Tuesday, November 28, 2017 at 5:30 PM for the purpose of discussing the following items:

I. CALL TO ORDER

- A. Certification of Public Notice.
- B. Roll Call.

II. NEW BUSINESS

- A. Review of proposed Zoning Ordinance. Attachment

III. ADJOURNMENT

I hereby certify this **Notice of a Workshop of the Weslaco City Commission** was posted in accordance with the Open Meetings Act on the outside bulletin board at City Hall of the City of Weslaco, located at the 255 South Kansas Avenue entrance, visible and accessible to the general public during and after regular working hours. This notice was posted on this 22nd day of November, 2017 at 2:10 p.m. and will remain so posted continuously for at least 72-hours preceding the scheduled time of this meeting in accordance with Chapter 551 of the Texas Government Code.

/s/ Elizabeth M. Walker, City Secretary

NOTE: If during the course of the meeting, any discussion of any item on the agenda should be held in executive or closed session, the City Commission will convene in such executive or closed session whether or not such item is posted as an executive session item at any time during the meeting when authorized by the provisions of the Texas Open Meetings Act.

If any accommodation for a disability is required, please notify the City Secretary's Office at (956) 968-3181, Ext. 3100 prior to the meeting date.

Removed from Bulletin Board

Date:

Initials:



Standardized Agenda Request Form

Date of Meeting: November 28, 2017		Agenda Item No. (to be assigned by CSO): 2017-1388	
From:			
Subject: Review of proposed Zoning Ordinance.			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega		Created/Initiated	
Mardoqueo Hinojosa		Approved	
Mike Perez		Final Approval	
City Manager Comments:			
Staff Recommendation: No action.			
Attachments, if any: Proposed Ordinance			
Responsibilities upon Approval:			

Sec. 150-1. - Purpose.

The zoning regulations and districts established by this chapter have been made in accordance with a comprehensive plan for the purpose of promoting health, safety, morals, and the general welfare of the city. They have been designed to lessen the congestion in the streets, to secure safety from fire, panic, or other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

Sec. 150-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting means lying adjacent or contiguous along a common border.

Accessory building and use means a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises.

~~An accessory use is one which is incidental to the main use of the premises.~~

~~to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.~~

Alley means a public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

Apartment means a room or suite of rooms in a multiple dwelling, or in a building in which more than one living unit is established above or on the same floor as nonresidential uses, which room or suite is intended or designed for use as a residence by one family and which includes culinary accommodations.

Apartment house means a building or portion thereof used or designed as a residence for three or more families living independently of each other, and doing their own cooking in said building, including apartments and apartment hotels.

Assisted living facility means a facility that provides room and board and provides 24-hour care for elderly and handicapped individuals and has the appropriate license from the state.

~~Bar/Lounge means~~ Lounge means an establishment where alcoholic beverages are sold for on-premise consumption. (Note: an establishment that can prove it produces more than 50% of its gross income in sales of food items may be classified as a restaurant rather than a bar/lounge.)

Bed and breakfast(homestay) means a ~~home that, for a daily fee, rents bedrooms to individuals private owners occupied residence with one to four guestrooms~~four guestrooms. The bed and breakfast is subordinate and incidental to the main residential use of the building.

Bed and Breakfast (inn) means a privately owned residence operated primarily as a business with five to twenty guestrooms, where the owner may live on the premises.

Bed and Breakfast (short term rental) means a privately owned rental of a residential dwelling unit for periods of less than 31 consecutive days.

Boardinghouse means a building, other than a hotel, where, for compensation ~~and or~~ by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding 20 persons.

Building means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels, or property.

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

Clinic means an office or group of offices for one or more physicians, surgeons, or dentists engaged in treating the sick or injured, but not including rooms for the abiding of patients.

Day care center means a child care facility, as defined by ~~V.T.C.A., Human Resources Code § 42.002~~the Texas Administrative Code, Title 40, Part 19, which provides care for more than six children for less than 24 hours per day.

District means a section of the city for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Dwelling means any building or portion thereof which is designed and used exclusively for residential purposes.

Dwelling, multiple, means a building having accommodations for and occupied exclusively by more than two families.

Dwelling, single-family, means a building having accommodations for and occupied exclusively by one family.

Dwelling, two-family or duplex, means a building having accommodations for and occupied exclusively by two families.

Family means one or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, ~~lodginghouse~~lodging house, or hotel.

Filling or service station means any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. When the dispensing, sale, or offering for sale is

incidental to the conduct of a public garage or retail store, the premises are classified as a public garage or retail store.

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

Garage, private, means an accessory building or portion of the main use building, designed for or used for the housing of motor-driven vehicles which are the property of and for the private use of the occupants of the lot on which the private garage is located. Not more than one of the vehicles may be a commercial vehicle and of more than 1 ½ ton capacity.

Garage, public, means a building or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling, or storing motor-driven vehicles.

Grade means the following:

- (1) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- (2) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.
- (3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from the street line shall be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the city building inspector.

Guesthouse means an accessory building designed for the temporary occupancy of guest of the primary dwelling for which there is no remuneration. “Maids’ quarters” means a portion of a dwelling unit, within the same enclosure and not a separate accessory building attached to the primary building that may contain separate sanitary facilities and must have shared utility meters, which is designed for or used for residential occupancy by an employee/relative of the primary residence.

Height of building means the vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or the mean height level between the eaves and ridge for a gable, hip and gambrel roofs.

Home occupation means any occupation or profession engaged in by the occupants of a dwelling

not involving the conduct of a retail business, and not including any occupation conducted in any building on the premises excepting the building which is used by the occupant as his private dwelling. Home occupations shall include, in general, personal services in an office environment such as furnished by an architect, lawyer, physician, dentist, musician, artist, and seamstress, when performed by the person occupying the building as his private dwelling, and not including a partnership or the employment of more than one assistant in the performance of such services.

Hospice facility means a facility that provides room and board and 24-hour care for terminally ill individuals and has the appropriate license from the state.

Hotel means a building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boardinghouse or an apartment.

Improved Lots means a parcel of land that has been properly platted in accordance with City's Subdivision Ordinance and the Texas Local Government Code, the parcel of land also has access to certain basic required services (i.e. electricity, water, sanitary sewer or street access) necessary to utilize it for other purposes.

Lodging house means a building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three or more persons in contradistinction to hotels open to transients.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place.

Lot corner means a lot abutting upon two or more streets at their intersection.

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

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

Mobile home means a movable or portable dwelling constructed to be towed by a motor vehicle on its own chassis over state roads and highways under a special permit, or modular type units connected to utilities, and designed without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units separately towable but designed to be joined into one integral unit.

Mobile home subdivision means a unified development of single-family mobile home lots with or without units located on the lot for sale, lease or rental.

Nonconforming use means any building or land lawfully occupied by a use at the time of passage of the ordinance from which this article is derived or amendment thereto, which does not conform after the passage of the ordinance from which this article is derived or amendment thereto with the use regulations of the district in which it is situated. Any building or land will lose its nonconforming use if it has not been occupied for a period of one year as determined by the planning department based on utility consumption.

Parking space means an area enclosed or unenclosed containing not less than 160 square feet, exclusive of the driveways connecting said space with a street or alley. Said parking space and connecting driveway shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile.

Personal services establishment means any establishment which perform services on the premises such as: Repair shops (watches, radios, TV, shoes, etc.), tailor shops, professional offices, dry cleaners, beauty parlors or barber shops, photographic studios and self-service laundries; and similar uses but not including automotive repair services and armature repair services.

Recreational vehicle means any of the following, while in use as a residence:

- 1) *Travel trailer*. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding state maximum.
- 2) *Pick-up coach*. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation purposes.
- 3) *Motor home*. A portable, temporary dwelling to be used for travel, recreation and vacation purposes, constructed as an integral part of a self-propelled vehicle.
- 4) *Dependent trailer*. A trailer which is dependent upon a service building for toilet and lavatory facilities.
- 5) *Self-contained trailer*. A trailer which can operate independently of connections to sewer, water and electrical systems and containing a water flush toilet, lavatory, shower, and kitchen sink, all of which are connected to water storage and ~~or sewer~~ or sewage holding tanks located within the trailer.

Recreational vehicle and/or mobile home park means a ~~unified development~~ unified development of recreational vehicle and/or mobile home spaces arranged on a tract of land for the purpose of renting or leasing lots with or without units located on the space.

Setback means the distance between the property lot line and the outermost building wall or post/column.

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

Street means a public thoroughfare which affords the principal means of access to abutting property.

Structural alteration~~ns~~ means any change in the supporting ~~members—of~~members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, including, but not limited to, advertising signs, billboards, poster boards, and pergolas.

Temporary child housing means a shelter, emergency or transitional housing which provides temporary living accommodations for children. Temporary housing for children shall apply to children under the age of 13, unless they are disabled. Disabled children must be under the age of 18. The facility must be licensed, certified, or registered with the state. The facility must provide assessment, care, training, education, custody, treatment, or supervision of the children, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Tourist court, auto court motel, or motor lodge means a group of attached, semidetached, or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit and offering to the public daily as well as other longer term rental rates, and maintaining a register of guests and/or their vehicles.

Unimproved lot means a parcel of land that has not been properly platted in accordance with City's Subdivision Ordinance and the Texas Local Government Code, the parcel of land does not have certain basic required services (i.e. electricity, water, sanitary sewer or street access) necessary to utilize it for other purposes.

Yard means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the horizontal distance between the property e-lot line and the main building shall be used.

Yard, front, means a yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the —street property lot line and the main building or any projections thereof other than the projection of the usual steps, unenclosed

balconies, or open porch.

Yard, rear, means a yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear property lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On ~~corner~~corner, lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of a lot from the front yard.

Yard, side, means a yard between the main building and the side property lot line of the lot, and extending from the front lot line to the rear yard line.

Sec. 150-3. - Districts.

- a) For the purpose of regulating and restricting the height and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, and other vacant spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residents, or other purposes, the city is hereby divided into districts, of which there shall be ~~nine~~eight classes in number, and one overlay district and which shall be known as:

- 1) R-1 One-family dwelling district.
- 2) R-2 Duplex and apartment district.
- 3) R-3 Rural district.
- 4) M-1 Mobile home subdivision district.
- 5) B-1 Neighborhood business district.
- 6) B-2 Secondary highway business district.
- 7) B-3 Central business district.
- 8) B-4 Neighborhood office district.
- 9) I Industrial district.
- 10) Overlay Design District

~~9) —~~

~~b)~~ The boundaries of the districts described in subsection (a) of this section are shown on the map attached to the ordinance from which this chapter is derived and which is hereby made a part of this chapter, which is designated as the "Zoning District Map." Said district map and all notations, references, and other information shown thereon are made a part of this chapter and shall have the same force and effect as if said map and said data thereon were fully set forth or described herein. Said map shall, on its face, be identified and verified in the manner following:

~~1)11)~~ It shall bear the title "Zoning District Map- Weslaco, Texas";

~~2)12)~~ It shall bear ~~even the~~ date with the passing of the ordinance from which this chapter is derived; and

~~3)13)~~ It shall bear the name of the ~~mayor; and~~ Director of Planning.

~~4) — It shall be attested to by the signature of the city secretary.~~

The original of said map shall be kept in a proper place in the municipal building.

~~e)b)~~ Whenever any street, alley, or other public way is lawfully vacated by the city commission, the zoning district adjoining each side of such street, alley, or public way shall be automatically

extended to the center of such vacated area, and thereafter, all land included in said vacated area shall be subject to all applicable regulations of the extended districts.

d)c) All territory hereafter annexed to the city shall be classified as R-1, one-family dwelling district, until permanently zoned by the city commission. The city planning and zoning commission shall, as soon as practicable, after annexation of any territory to the city, institute proceedings on its own motion to give the newly annexed territory permanent zoning, and the procedure to be followed shall be the same as is provided by law for the adoption of original zoning regulations.

e)d) Except as hereinafter provided, the following shall apply to all zoning districts:

- 1) No building shall be erected, converted, enlarged, reconstructed, or structurally altered, and no building or land shall be used for any purpose that is not permitted in the district in which the building or land is situated.
- 2) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is situated.
- 3) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area and parking regulations of the district in which the building is situated.
- 4) The minimum yards and other open spaces, including lot area per family, required by this chapter for each and every building existing at the time of the passage of the ordinance from which this chapter is derived, or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced to an area less than the district requirements of this chapter.
- 5) Every building hereafter erected or structurally altered shall be on a lot, and in no case shall there be more than one main building on one lot except as otherwise provided in this chapter.
- 6) Where setbacks have been established by the ~~planning and zoning~~city commission on a plat of record, those setbacks shall be enforced even though not in compliance with the restrictions set forth in this chapter.

e) Classification of New and Unlisted Uses

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

- 1) The Planning Director or duly appointed representative shall refer the question concerning any new or unlisted use to the City Planning and Zoning Commission requesting an interpretation as to the zoning classification into which the use should be placed. The referral of the use interpretation questions shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of products, storage, and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.
- 2) The City Planning and Zoning Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use should be permitted.
- 5)3) The City Planning and Zoning Commission shall transmit its finding and recommendations to the City Commission as to the classification proposed for a new or unlisted use. The City Commission shall by ordinance approve the recommendation of the City

Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate.

Sec. 150-4. - R-1 One-family dwelling district.

The following regulations shall apply to the R-1 one-family dwelling district:

- 1) *Use regulations.* A building or premises shall be used only for the following purposes:
 - a. Single-family dwellings.
 - b. Church (except temporary revival).
 - c. School, public or private, having a curriculum equal to a public elementary, high school, or institution of higher learning, subject to the prior issuance of a conditional use permit by the city commission in accordance with the procedures established in section ~~150-12~~150-12.
 - d. Public parks, playgrounds, golf courses (except miniature golf), public recreation, and community buildings.
 - e. Municipal buildings, nonprofit libraries or museums, police and fire stations.
 - f. Farms, nurseries, truck gardens and greenhouses, provided no sales office is maintained.
 - g. Customary home occupations.
 - h. Accessory buildings and accessory uses, customarily incident to the uses listed in this section (not involving the conduct of a business), when located on the same lot, including a private garage for one or more cars ~~or bona fide servant's quarters~~ not for rent or used for commercial purposes.
 - i. Signs: Signage shall be provided consistent with the requirements of Chapter 114.
 - ~~1. One unlighted sign, which shall not exceed one square foot in area, indicating the name of the occupant or occupation of a customary home occupation, provided the sign is attached flatwise to the building.~~
 - ~~2. One sign, which shall not exceed 18 square feet, for church or school.~~
 - ~~3. One sign which shall not exceed four square feet in area for temporary unlighted sign pertaining to the lease, hire, or sale of building or premises, provided the sign is immediately removed upon the lease, hire, or sale of such building or premises.~~
 - j. A day care center shall be a conditionally permitted use in an R-1 district, subject to the prior issuance of a conditional use permit by the city commission in accordance with the procedures established in section ~~150-12~~150-12.
 - ~~—Any new daycare operated in an R-1 district shall conform as much as possible to the current character of the existing neighborhood. New building should be of similar size and scale as existing structures on the same block and the heights shall not exceed one story.~~
 - ~~j. Any daycare which is zoned as an R-1 district and identified on the City's Future Land Use Map as a commercial corridor must rezone the property to for commercial use.~~
- 2) *Height regulations.* No building shall exceed 2 ½ stories or 35 feet in height except as provided in section ~~150-12~~150-12.
- 3) *Area regulations.*
 - a. *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be ~~30~~25 feet. The minimum depth of such front yard located along a cul-da-sac shall be 20 feet.
 - b. *Side yards.* There shall be a side yard on each side of a building of not less than ten percent of the width of the lot, but such side yard ~~need not exceed six feet and~~ shall

not be less than five feet.

- c. *Rear yard.* The depth of the rear yard shall be at least 20 percent of the depth of the lot, but such depth need not be more than 25 feet.

4) *Intensity of use.* Every lot or tract of land shall have an area of not less than 6,000 square feet and an average width of not less than 50 feet (cul-da-sac shall be measured at the length of the curve), except that if a lot or tract should have less area or width than is herein required and its boundary lines along their entire length should touch lands under other ownership on the effective date of the ordinance from which this chapter is derived and shall not have been changed since said date, such parcel of land may be used for a single-family dwelling.

4)5) *Lot Coverage.* In no ~~ease~~case, shall more than sixty percent (60%) of the total lot area be covered by the combined area of the principal building and all accessory building/use or any other impervious surface such as asphalt or concrete.

5)6) *Additional use, height, and area regulations.* Additional height and area regulations and exceptions shall be as specified in section ~~150-12~~150-12.

7) ~~Trailers-Recreational Vehicles to be in trailer camps or parks.~~ No ~~house trailer or trailer car recreational vehicles~~ shall be ~~located, situated or placed~~ occupied either temporarily or permanently within the city limits except in designated trailer camps or trailer parks. Recreational vehicles may be stored on a residential lot provided that:

~~Recreational vehicles may be stored on a lot provided that:~~

- a. It is not connected to any utility services,
- b. Is less than 30 feet in length and in accordance with Section 134-143,
- c. Is stored on a concrete, cement or asphalt pad
- 6)d. Is located behind the required front setback line

Sec. 150-5. - R-2 Duplex and apartment district.

The following regulations shall apply to the R-2 duplex and apartment district:

1) *Use regulations.* A building or premises shall be used only for the following purposes:

- a. Any use permitted in the R-1 one-family dwelling district.
- b. Townhomes, Two-family or duplex dwellings.
- c. Apartment houses or multiple-family dwellings.
- d. Boarding, lodging, and rooming houses.
- e. Hospitals, excepting ~~ing~~ tubercular, liquor, narcotic, insane, feeble-minded, or animal hospitals.
- f. Private clubs, fraternities, sororities, and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
- g. Institution of a religious, educational or philanthropic nature.
- h. An apartment house with a minimum of four family units may contain a self-service coin operated laundry so long as the use of said laundry is restricted by the apartment house owner or owners to use by the occupants of said apartment house, and is operated as a part of the apartment house and under the supervision of the owner or manager of the apartment house.

2) *Height regulations.* No building shall exceed ~~2-1/2~~3 stories or ~~35-45~~ feet in height.

3) *Yard regulations.*

- a. *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be ~~25-20~~ feet. For two-family, three-family and four-family dwellings on lots located on a cul-de-sac, the minimum depth of the front yard shall be 15 feet from the front lot line, for that part of the front lot line located on the cul-de-sac; except that the minimum ~~front setback~~ front setback for garages located on lots located on a cul-de-sac shall be 20 feet. The minimum depth of such

front yard for a townhome shall be 10 feet and a minimum front setback for garages shall be 18 feet.

- b. *Side yards.* There shall be a side yard on each side of a building of not less than ten percent of the width of the lot, but such side yard ~~need not exceed five feet and shall not be less than four-5 feet,~~ except for townhomes where the side yard shall be zero.-
- c. *Rear yard.* The depth of the rear yard shall be ~~at least 25 percent of the depth of the lot, but such depth need not be more less than 25-15 feet.~~ Entrances to a garage or enclosed carport shall be a minimum of 20 feet from streets or alleys, except for townhomes where the side yard shall be zero.-

4) *Intensity of use.*

- a. Except as hereinafter provided, all dwellings erected, enlarged, relocated, or reconstructed within the R-2 district shall be located on lots containing the following areas:

1. A lot on which there is erected a single-family/ two family -dwelling shall contain an area of not less than 6,000 square feet._

1-2. A lot on which there is erected a townhouse dwelling shall not contain an area of not less than 2,000 square feet.

~~2.- A lot on which there is erected a two family dwelling shall contain an area of not less than 6,000 square feet.~~

3.-A lot on which there is erected an apartment house or multiple-family dwelling shall contain an area of not less than 1,800 square feet per dwelling unit.

~~Where a lot or tract has less area than required by this subsection and its boundary lines, along their entire lengths, touch lands under other ownership on the effective date of the ordinance from which this chapter is derived and have not since been changed, such parcel of land may be used for a single-family dwelling.~~

- b. The minimum width of a lot in the R-2 district shall be 50 feet, except in a townhouse subdivision where the minimum width of lot shall be 20 feet and that the minimum width of a lot located on a cul-de-sac shall be measured at the minimum front yard line.

~~b-5) Lot Coverage.~~ In no case shall more than eighty-percent (80%)sixty-five (65%) of the total lot area be covered by the combined area of the principal building and all accessory buildings/use or any other impervious surface such as asphalt or concrete.

~~5)6) Parking regulations.~~ Whenever a structure is erected, converted, or structurally altered for a two family dwelling, or a multiple family dwelling, one parking space shall be provided and maintained on the lot for each dwelling unit in the building. Such parking space shall be on the lot and so arranged as to permit satisfactory ingress and egress of an automobile, and such parking area shall be in addition to driveways. Off-street parking shall be provided consistent with the requirements of Chapter 134, Article VI.

~~6)7) Additional use, height and area regulations.~~ Additional use, height, and area regulations shall be as provided in section 150-12150-12.

Sec. 150-6. - M-1 Mobile home subdivision district.

The following regulations shall apply to the M-1 mobile home subdivision district:

- 1) *Use regulations.* A premise shall be used only for the following purposes:

- a. The establishment of a mobile home subdivision and the placement of mobile

homes therein containing at least ~~3900~~ square feet of floor space ~~for the first occupant thereof and at least 50 additional square feet of floor space for every additional occupant thereof over two years of age.~~ Every mobile home must contain at least on flush water closet, lavatory basin, bathtub or shower, kitchen sink, and water heater, all in good working order and connected to a city-approved water and sewer system and limited to single-family occupancy.

b. Non-dwelling facilities, as approved by the city, designed for use of the inhabitants of the subdivision, such as administrative space, laundry, storage, meeting and hobby rooms, recreational spaces, swimming pools, and other recreational and accessory uses.

b.c. Trailer camps, RV parks or mobile home ~~courts~~sparks shall be consistent with the requirements of Article II- Mobile Home and/or Recreational Vehicle Parks.

e. Signs, ~~subject to the following:~~ Signage shall be provided consistent with the requirements of Chapter 114.

~~1. One unlighted sign, which shall not exceed one square foot in area, indicating the name of the occupant.~~

~~2. One temporary unlighted sign, which shall not exceed four square feet in area, for lease, hire, or sale of the premises or mobile home, provided the sign is removed immediately after the lease, hire, or sale has been transacted.~~

~~3. One sign, which shall not exceed eight square feet in area, located at the major entries to the subdivision, indicating the name of the development only. Entry signs must be in character with the development and affixed to a permanent improvement.~~

~~4. One sign, which shall not exceed six square feet in area, indicating the name of the development only affixed to a permanent improvement at the administration or office building.~~

~~5.d. One unlighted sign, which shall not exceed one square foot in area, indicating the name of the non-dwelling space or activity.~~

2) *Height regulations.* No building shall exceed 2 ½ stories or 35 feet in height, except as provided in section ~~150-12~~150-12.

3) *Yard regulations.*

~~a.~~ *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be ten feet for inside lots and 15 feet for corner lots. All garages, carports, or areas for parking automobiles shall be set back at least 20 feet.

~~a.~~

~~b.~~ *Sideways.* The minimum side yard setback shall be ~~eight~~8 feet for inside lots and 15 feet for corner lots on street side. All garages, carports or areas for parking automobiles shall be set back a minimum of 20 feet from the street.

~~b.~~

c. *Rear yards.* The minimum rear yard setback shall be five feet from the alley.

~~e.4)~~ *Lot Coverage.* In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the principal building and all accessory building/use or any other impervious surface such as asphalt or concrete.

5) *Intensity of use.*

<u>Minimum lot size</u>	<u>6,000 square feet (inside lots)</u>
<u>Minimum</u>	<u>60 feet (inside lots)</u>

<u>width</u>	
<u>Minimum length</u>	<u>100 feet (inside and corner lots)</u>

4) —

5)6) Parking regulations. Off-Street parking, shall be provided consistent with the requirements of Chapter 134, Article VI. and Article and Article II. - Mobile Home And/Or Recreational Vehicle Parks.

- a. ~~Each mobile home shall have a minimum of two paved off-street parking spaces on the lot with access via a paved driveway. The minimum size of each parking space shall be eight feet by 18 feet.~~
- b. ~~Non dwelling areas shall have paved off-street parking sufficient in size to serve the facility as approved by the city.~~

Sec. 150-7. - R-3 rural district.

The following regulations shall apply to the R-3 rural district:

- 1) *Use regulations.* A building or premises shall be used only for the following purposes:
 - a. Any use permitted in the R-1 one-family dwelling district.
 - b. Livestock may be kept as long as they are single-hoofed or split-hoofed and are limited to one (1) livestock per acre of pasture land.
- 2) *Size regulations.* The minimum size of subdivision lots in an R-3 rural district shall be two acres.
- 3) *Height regulations.* No buildings shall exceed 2 ½ stories or 35 feet in height.
- 4) *Area regulations.*
 - a. *Front setback.* Any building constructed on any lot shall not be located nearer than 40 feet from the front lot line. Lots located on a cul-de-sac, the minimum depth of the front yard shall be 25 feet from the front lot line, for that part of the front lot line located on the cul-de-sac.
 - b. *Side setback.* Any building constructed on any lot shall not be located nearer than 20 feet from the side lot line. Any building constructed on any corner lot shall not be located nearer than 30 feet from the street side lot line.
 - c. *Rear setback.* Any building constructed on any lot shall not be located nearer than 40 feet from the rear lot line.
 - d. *Garage and carport setback.* Any garage or carport shall meet the same building setback lines as set out in subsections (4) a through (4) b of this section.
 - e. *Signs.* ~~No sign of any kind shall be displayed to the public view on any lot, except one sign of not more than nine square feet advertising the property for sale or rent.~~ Signage shall be provided consistent with the requirements of Chapter 114.
- 5) *Parking regulations.* No permanent parking shall be allowed upon the streets of a subdivision in an R-3 rural district. All lots must provide for two off-street parking spaces.
- 6) *Building regulations.*
 - a. The minimum finished floor elevation of any residence shall be at a minimum of 18 inches above the centerline of the street or ~~12-18~~ inches above the base flood elevation, whichever is greater. The developer shall establish the base flood elevation and shall provide each buyer with the elevation on every property deed.
 - b. Only one dwelling structure and two accessory structures shall be allowed per lot.
 - c. Fences must be of cedar, masonry, wrought iron, hurricane fencing, or "ranch" fencing,

and must be between four feet and eight feet in height. No fence shall protrude beyond one's property boundaries.

- d. All driveways must be of ~~earth, gravel,~~ asphalt or concrete and meet ~~county~~ City requirements and inspections.
- e. No temporary structure shall be placed on any lot except for a portable construction structure. Overnight camping shall not be permitted on any lot.

7) ~~Recreational Vehicles.~~ ~~No recreational vehicles shall be occupied~~ be occupied either temporarily or permanently within the city limits except in designated trailer camps or trailer parks.

Recreational vehicles may be stored on a lot provided that:

- a. It is not connected to any utility services.
- b. Is less than 30 feet in length and in accordance with Section 134-143.
- c. Is stored on a concrete, cement or ~~asphalt pad~~ asphalt pad
- e.d. Is located behind ~~the required~~ the required front setback line

Sec. 150-8.- B-1 neighborhood business district.

The following regulations shall apply to the B-1 neighborhood business district:

- 1) *Use regulations.* A building or premises shall be used only for the following purposes:
 - a. Any uses permitted in the R-2 duplex and apartment district.
 - b. Signs. Signage shall be provided consistent with the requirements of Chapter 114. ~~Advertising signs, when the same are attached to a building and advertise only services, articles, or products which are offered within the building to which such sign is attached, and provided that such signs shall not extend above the outside walls of such building or more than one foot from the face of the walls of such building, nor shall it contain an area of more than 12 square feet. One freestanding sign not to exceed 24 feet in height will be allowed in the front yard provided such sign does not exceed 30 square feet in area.~~
 - c. Automobile parking lots/ garages.
 - d. Bakeries employing ~~not more than five persons.~~
 - e. Banks.
 - f. ~~Beauty parlors.~~ Personal services establishment
 - g. ~~Barbershops.~~
 - h.g. Billiard or pool halls.
 - i. ~~Cleaning, pressing, and dyeing plants employing not more than five persons each.~~
 - j.h. Clinics.
 - k.i. ~~Garages, public.~~ Daycare facilities
 - h.j. Filling or service stations provided all storage tanks for gasoline are below the surface of the ground.
 - m. ~~Laundries employing not more than five persons on the premises.~~
 - n.k. Laundries, self-service.
 - o.l. Nonmanufacturing ice retail distributing stations provided the capacity does not exceed five tons storage.
 - p.m. ~~Job printing plants provided total mechanical power used in operation of such printing plant shall not exceed five horsepower.~~ Print Shops
 - q.n. Lodge halls.
 - r.o. Mortuaries.
 - s. ~~Offices.~~
 - t. ~~Radio repair and sales shops.~~

- ~~u. Radio studios.~~
 - ~~v. Real estate offices.~~
 - ~~w.p.~~ Restaurants, cafes, cafeterias, and taverns.
 - ~~x.q.~~ Stores and shops for the sale of products at retail only.
 - ~~r.~~ Studios (art, photo, music).
 - ~~y.s.~~ Hookah Bars
- 2) *Height regulations.* No building shall exceed ~~2-1/2~~ stories or ~~35-45~~ feet in height.
- 3) *Yard regulations.*
- a. *Frontyard.* There shall be a front yard along the front line of the lot.
 - i. Corridors identified on the Hidalgo County Thoroughfare Map: The minimum depth of such front yard shall be 20 feet. The minimum depth of a front yard which abuts the expressway corridor shall be 75 feet one foot back from property line for each two feet in building height, not to exceed one-half of the width of the abutting dedicated right-of-way or in line with the majority setback of existing structures along the same block, whichever is greater.
 - ii. All other corridors: the minimum lot depth shall be 20 feet.
 - ~~a. The minimum depth of such front yard for all other corridors shall be 20 feet~~
 - b. *Sideways.* ~~For uses permitted in the B-1 district, the side yard regulations for the R-2 district shall apply. For additional uses permitted in the B-1 district, no side yards are required. There shall be a side yard of not less than 6 feet, except that on a corner lot, the side yard on a street side shall be 20-10 feet.~~
 - b. ~~Where a lot is used for any of the commercial purposes permitted in this district and abutting on the side of a lot in an R-1 or R-2 district, there shall be a side yard of not less than five feet.~~
 - c. *Rear yard.* ~~For uses permitted in the B-1 district, the rear yard shall be the same as in the R-2 district. For all other uses, a rear yard is not required except when it abuts upon an R-1 or R-2 district, in which case there shall be a rear yard of not less than ten feet. Rear yard setbacks shall be 105 feet.~~
- 4) *Intensity of use.* ~~For uses permitted in the B-1 district, the minimum lot area and minimum lot width shall be the same as in the R-2 district.~~ There are no minimum lot area or lot width requirements ~~for other uses.~~
- 5) *Parking regulations.* Off-street parking shall be provided consistent with the requirements of Chapter 134, Article VI.
- a. ~~The parking regulations for dwellings shall be the same as those in the R-2 district.~~
 - b. ~~Where any structure is erected, reconstructed or converted for any of the business or commercial uses permitted in this section, parking spaces shall be provided in the ratio of not less than one parking space for each 200 square feet of floor space in the building which is used for commercial purposes. Such parking space may be located on the same lot as the building or on an area within 300 feet of the building. Two or more owners of buildings may join together providing this parking space.~~
- 6) *Additional use, height and area regulations.* Additional use, height, and area regulations and exceptions shall be a provided in section ~~150-12~~150-12.

Sec. 150-9. - B-2 secondary and highway business district.

The following regulations shall apply to the B-2 secondary and highway business district:

1) *Use regulations.* A building or premises shall be used only for the following purposes:

- a. Any use permitted in the B-1 neighborhood business district.
- b. Automobile salesrooms and accompanying service facilities.
- c. Automobile repair garages.
- d. Bakeries.
- e. Billboards and poster boards.
- f. Dance halls and skating rinks.
- g. Frozen food locker plants.
- h. Hotels.
- i. ~~Moving picture houses or~~ Movie theaters/ performance art theaters.
- j. Laundry and cleaning facilities.
- k. Tourist courts or motels.

~~l. Trailer camps or mobile home courts.~~

~~m. l.~~ Any retail businesses not included in the neighborhood business district, provided that such uses are not noxious or offensive by reason of vibrations, smoke, odor, dust, gas, or noise.

m. Post offices.

n. Wholesale trade.

2) *Height regulations.* No building shall exceed ~~2 1/2~~ 3 stories or ~~35~~ 45 feet in height.

3) *Yard regulations.*

a. Front yard. For uses permitted in the B-2 district, the front yard requirements for the R-2 district shall apply. For other uses permitted in this district, a There shall be a front yard along the front line of the lot. front yard of 20 feet in depth is required.

i. Corridors identified on the Hidalgo County Thoroughfare Map: The minimum depth of a front yard one foot back from property line for each two feet in building height, not to exceed one-half of the width of the abutting dedicated right-of-way or in line with the majority setback of existing structures along the same block, whichever is greater.

ii. All other corridors: the minimum lot depth shall be 20 feet.

~~The minimum depth of a front yard which abuts the expressway corridor shall be 75 feet.~~

~~a. The minimum depth of such front yard for all other corridors shall be 20 feet~~

b. Side yards. For uses permitted in the B-2 district, the side yard requirements for the R-2 district shall apply. For other uses, no side yards are required. The side yard setback from all lots lines shall not be less than 6 feet.

c. Rear yard. For uses permitted in the B-2 district, the R-2 district regulations shall apply. There are no rear yard regulations for other uses. The rear yard setback shall be 10 feet.

4) *Intensity of use.* ~~For uses permitted in the B-2 district, the minimum lot area and minimum lot~~

~~width shall be the same as the R-2 district.~~ There are no minimum lot area or lot width requirements ~~for other uses.~~

- 5) *Parking regulations.* Off-street parking shall be provided consistent with the requirements of Chapter 134, Article VI.
 - a. ~~The parking regulations for dwellings in the B-2 district are the same as those in the R-2 district.~~
 - b. ~~Where any structure is erected, reconstructed, or converted for any of the business or commercial uses permitted in this section, parking spaces shall be provided in the ratio of not less than one parking space for each 200 square feet of floor space in the building which is used for commercial purposes. Such parking space may be located on the same lot as the building or on an area within 300 feet of the building. Two or more owners of buildings may join together to provide this parking space.~~
 - c. ~~At least one parking space shall be provided and maintained on the lot for each tourist court unit.~~
- 6) *Additional use, height, and area regulations.* Additional use, height, and area regulations and exceptions shall be as provided in section ~~150-12~~ 150-12.

Sec. 150-10. - B-3 central business district.

The following regulations shall apply to the B-3 central business district: Central business district is the area located between Pike Boulevard and Sixth Street and between the alley east of Kansas Avenue and the alley west of Missouri Avenue.

- 1) *Use regulations.* A building or premises shall be used only for the following purposes:
 - a. Any uses permitted in the B-2 district.
 - b. Storage in bulk, or warehouses for such material as household goods, clothing, drugs, glass, dry goods, furniture, hardware, groceries, ~~millinery~~, and shop supplies.
 - c. Wholesale sales room.
- 2) *Height regulations.* No building hereafter erected or structurally altered within the B-3 district shall exceed six stories or 75 feet.
- 3) *Yard regulations.*
 - a. *Front yard.* For uses permitted in the B-3 district, ~~the front yard requirements for the R-2 district shall apply. For other uses,~~ no front yard is required.
 - b. *Side yards.* For uses permitted in the B-3 district ~~the side yard requirements for the R-2 district shall apply. For other uses,~~ there are no side yard requirements.
 - c. *Rear yard.* For uses permitted in the B-3 district, ~~the rear yard regulations for the R-2 district shall apply. For other uses~~ there are no rear yard regulations.
- 4) *Intensity of use.* ~~For uses permitted in the B-3 district, the minimum lot area and minimum lot width shall be the same as in the R-2 district.~~ There are no minimum lot area or lot width requirements ~~for other uses.~~
- 5) *Parking regulations.* ~~The parking regulations for dwellings in the B-3 district shall be the same as those in R-2 districts.~~ Off-street parking shall be provided consistent with the requirements of

Chapter 134, Article VI.

- 6) *Additional use, height, and area regulations.* Additional use, height, and area regulations and exceptions shall be as provided in section ~~150-12~~150-12.

Sec. 150-10.1. - B-4 neighborhood office district.

- a) *Permitted uses.* Permitted uses in the B-4 neighborhood office district shall include:
- 1) Offices for professional services including executive, administrative, financial, legal, accounting, writing, clerical, stenographic, drafting, engineering, real estate, insurance and other similar or related uses;
 - 2) Single-family dwellings, duplexes and townhouses;
 - ~~3)1)~~ 1) Parking associated with such office or residential uses;
 - ~~4)2)~~ 2) Signage shall be provided consistent with the requirements of Chapter 114. s as provided in chapter 114.
- b) *Lot size.* Lot sizes in the B-4 neighborhood office district shall be as follows:
- 1) Intensity of Use: ~~Use:~~ The minimum lot size shall be 65,000 square feet.
 - 2) Yard Regulations:
 - ~~Side yards shall not be less than 6 feet. conform, at a minimum, to applicable fire and building codes.~~
 - ~~The minimum rear yard depth shall be no less than 15 feet.~~
 - ~~There shall be a front yard along the front line of the lot.~~
 - ~~The minimum depth of a front yard which abuts the expressway corridor shall be 75 feet.~~
 - ~~i. The minimum depth of such front yard for all other corridors shall be 15 feet.~~ Front yard. There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be 25 feet. The minimum depth of such front yard located along a cul-da-sac shall be 20 feet.
 - ~~ii. Side yards.~~ There shall be a side yard on each side of a building of not less than ten percent of the width of the lot, but such side yard shall not be less than five feet.
 - ~~iii. Rear yard.~~ The depth of the rear yard shall be at least 20 percent of the depth of the lot, but such depth need not be more than 25 feet.
 - ~~1) A front yard of no less than 15 feet shall be provided.~~
 - ~~2)3)~~ 3) Any new commercial structure erected in the B-4 neighborhood office district shall conform as much as possible to the current character of the existing neighborhood. New buildings should be of similar size and scale as existing structures on the same block and the height of new commercial structures shall not exceed one story.
 - ~~3)4)~~ 4) To facilitate the city's evaluation of the consistency between the proposed new structure or new use of an existing structure with the existing neighborhood and in order to verify compliance with sidewalk, landscaping, parking and other requirements, a detailed site plan, including the use and location of all ~~structures~~ structures on all adjoining lots, must be submitted and approved prior to issuance

of a building permit, or if no building permit is required for the project, prior to issuance of a certificate of occupancy.

- c) *Parking.* Off-street parking shall be provided consistent with the requirements of Chapter 134, Article VI. ~~Off-street parking shall be screened from the street and adjacent properties by a decorative wall, landscaping, fence, or combination thereof.~~
- d) *Sidewalks.* For both new commercial structures and conversion of existing residential structures to commercial uses, a sidewalk of no less than four feet shall be installed, three feet from the back of curb. Compliance with this sidewalk standard may require the dedication of additional right-of-way to the city.
- e) *Landscaping.* The landscaping provisions of Chapter 26, Article XI, shall apply in the B-4 neighborhood office district, ~~except that landscaping shall comprise no less than 15 percent of the lot.~~

Sec. 150-11. - I ~~i~~ Industrial district.

The following regulations shall apply to the I ~~i~~ Industrial district:

~~1-a.~~ a. *Use regulations.* Any building or premises may be used within the I district for any purpose not in conflict with any ~~ordinance of~~ ordinance of the city, provided that no building or occupancy permit shall be issued for any of the following uses until and unless the location of such use shall have been ~~approved by~~ approved by the city commission following a recommendation by the planning commission:

~~a-b.~~ b. Cement or lime manufacture.

~~b-c.~~ c. Distillation of bones.

~~e-d.~~ d. Explosives manufacture or storage.

~~d-e.~~ e. Fat rendering.

~~e-f.~~ f. Garbage, offal or dead animal incineration, reduction or dumping.

~~f-g.~~ g. Junkyards or automobile wrecking yards.

~~g-h.~~ h. Petroleum refinery.

~~h-i.~~ i. Slaughter and dressing of animals (not including poultry and rabbits).

~~i-j.~~ j. Stockyards.

k. Wholesale storage of gasoline or other petroleum products in carload lots or more above ground.

l. Any manufacturing or processing use, including those whose operations are not conducted within a totally enclosed building.

m. The outside storage of materials or equipment that is not screened.

n. Laboratories—Experimental, film or testing.

o. All public utilities, including buildings, necessary structures, storage yards, and other related uses.

p. Warehousing and storage.

q. The residence of a night watchman or caretaker employed on the premises, including

mobile homes.

r. Any wholesale trades including row [raw] cotton, grain, hides, skins, and raw furs, tobacco, wool or mohair, commercial or industrial machinery or synthetics, metals and minerals, and petroleum bulk stations and terminals.

s. Accessory uses and structures customarily related to the above principal uses authorized in this district, including a mobile home used as an office.

~~j.~~t. Solar and wind farms

~~2)3)~~ Height regulations. No building shall exceed a height of six stories or 75 feet.

~~3)4)~~ Yard regulations.

a. Front yard. There shall be a front yard along the front line of the lot.

i. Corridors identified on the Hidalgo County Thoroughfare Map: The minimum depth of a front yard one foot back from property line for each two feet in building height, not to exceed one-half of the width of the abutting dedicated right-of-way or in line with the majority setback of existing structures along the same block, whichever is greater.

ii. All other corridors: the minimum lot depth shall be 20 feet.

~~—Front yard. For uses permitted in the I district, the front yard requirements for the R-2 district shall apply. For other uses, there is no front yard requirement.~~There shall be a front yard along the front line of the lot.

~~—The minimum depth of a front yard which abuts the expressway corridor shall be 75 feet.~~

~~a. The minimum depth of such front yard for all other corridors shall be 25 feet~~

b. Side yards. ~~For uses permitted in the I district, the side yard requirements for the R-2 district shall apply. For other uses, no side yards are required.~~ The side yard setback from all lot lines shall 10 % of lot depth not less than 6 feet. On a corner lot, the side yard on a street side shall be 10 feet.

c. Rear yard. ~~For uses permitted in the I district, the rear yard requirements for the R-2 district shall apply. For other uses, there is no rear yard requirement.~~ Rear yard setback shall be 10 feet.

~~4)5)~~ Intensity of uses. ~~For uses permitted in the R-2 district, the minimum lot area and minimum lot width shall be the same as in the R-2 district.~~ There are no minimum lot area or lot width requirements ~~for other uses.~~

~~5)6)~~ Parking regulations. ~~The parking regulations for dwellings in the I district shall be the same as those in the R-2 district.~~ Off-street parking shall be provided consistent with the requirements of Chapter 134, Article VI.

7) Additional use, height, and area regulations. Additional use, height, and area regulations and exceptions shall be as provided in section ~~150-12~~150-12.

~~6)~~ Sec. 150-11.1. Overlay Design District (Reserved)

Sec. ~~150-12~~150-12. -Additional use, height, and area regulations and exceptions.

a) *Use regulations.*

1) Accessory buildings and accessory use. No accessory building or accessory use shall be constructed upon a lot until the construction of the main use building has ~~been actually~~ commenced. No accessory building shall be used unless the main use building on the lot is also being used. R-3 Rural District areas shall be excluded from this requirement.

a. In a residence or an apartment district any accessory building and use shall be smaller in both size and scale than the man use building, detached from the main building, without separate bath or kitchen facilities, not used for commercial purposes and not rented or leased. Separate bath facilities shall be allowed in cabanas and other private poolside structures; however, that such structure shall never be used as a residence.

b. In commercial districts, an accessory building and use shall be smaller in both size and scale than the main building, the use of which is incidental to and used only in conjunction with the main building.

c. Guest house and Maids Quarters requirements shall be as follows:

1. -Must be on the same utilities as primary residence.

2. Must not have separate kitchen facilities

3. Restricted to R-1 and R-3 districts only.

4. Maids Quarters must have access through interior corridors only.

a-d. Portable building/ portable classrooms shall be permitted in any public, semipublic or private schools. Portable building/ portable classrooms shall be permitted at any daycare or childcare center that within a commercially zoned area. Portable building/ classrooms must comply within standard setbacks for the zoned area.

2) *Railroad rights-of-way.* On all existing rights-of-way of railroad companies, regardless of the zoning district in which such rights-of-way are located, railroad trackage and accessories to railroad movement may be constructed or maintained.

3) *Conditional use regulations.*

a. *Purpose; defined.* ~~In order to~~To provide for the compatible and orderly development of the city, certain uses are hereby declared to be conditional. The term "conditional use," when used in this section, means a use that may be suitable only in certain locations in the zoning district at any particular time or, likewise, may be inappropriate in a zoning district due to conditions then existing. In general, uses declared to be conditional under the terms of this chapter are recreational uses operated as a commercial enterprise and requiring the payment of money or a thing of value by the customer to the owner or operator as a condition for partaking in the recreational activity therein offered.

b. *Uses declared to be conditional.* In extension and not in limitation of the definition of a conditional use in subsection (a)(~~3~~a-3) a. of this section, the following uses are hereby declared to be conditional:

~~1. Taverns.~~

2.1. Billiard or pool halls.

~~3.2.~~ Dance halls/Event Centers-

~~4.3.~~ Skating rinks.

4. Bowling alleys.

5. Amusement parks

~~5.6.~~ Permanent circus (longer than two weeks)

7. A day care center in an ~~an~~ residential R-1 district, subject to the satisfaction of the following mandatory minimum conditions designed to protect the single-family residential character of the neighborhood:

- i. 6' high buffer fence is required along outdoor play area
- ii. Must be secondary use to the home and the applicant must reside there
- iii. No more than one employee that does not reside on premises is permitted
- iv. The maximum number of children permitted will be 12
- v. No outside storage areas permitted
- vi. Business must take place in primary structure for home
- vii. No exterior alterations indicating that a different use other than residential are permitted, the location must maintain the look of a residential area.
- viii. Must meet state requirements
- ix. Must have a drop-off area adjacent to the street
- x. Only 1 daycare is permitted on dead-end streets and cul-de-sacs
- xi. The spacing between daycares must be 600ft
- xii. If applicant is not the property owner, an authorization letter must be provided by owner
- xiii. Traffic must not increase by more than 10 percent per hour as determined by traffic engineer
- xiv. The conditional use permit shall be renewable upon one-year terms;
- xv. No garages, carports or accessory buildings can be used for occupation
- xvi. If Conditional Use Permit is revoked, applicant cannot request a permit within 1 year
- xvii. State Comptroller Registration must be provided and a copy submitted to the City
- xviii. Property must be at least 50 ft wide
- xix. Property must be in compliance with latest adopted building permit at the time of application
- ~~6-xx.~~ A sign may be posted with a maximum size of 1.5ft X 1.5ft and must be non-illuminated-

~~7.8.~~ Mental, drug or alcohol group therapy centers.

~~8.9.~~ All businesses holding mixed beverage alcohol permits.

~~9.10.~~ Assisted living facility (personal care homes and other similar type facilities) businesses in R-2, B-1, B-2, B-3, or I zoning districts.

~~10.11.~~ Hospice facilities in R-2, B-1, B-2, B-3, or I zoning districts.

~~11.12.~~ Bed and breakfast businesses shall be a permitted use in all zoning districts except in the I industrial district where they are prohibited in R-1, R-2 and R-3 zoning districts, subject to the satisfaction of the following mandatory minimum conditions designed to protect the single-family residential character of the neighborhood:

- i. The owner of the real property on which the bed and breakfast inn is located must reside in the dwelling that is classified as a bed and breakfast ~~the homestay bed~~ and bed and breakfast inn;
- ii. One off-street parking space must be provided for each guest room and the off-~~street parking~~ street parking must not be visible, as a result of sufficient landscaping, a stone or masonry wall, solid wooden fence, or some combination thereof, at street level, from the public right-of-way or any adjacent ~~residential property~~ residential property;
- iii. Compliance with all applicable fire, building and health codes;
- iv. Signage shall ~~be limited to one sign, not to exceed four square feet, designed to be in keeping with the residential character of the neighborhood;~~ be provided consistent with the requirement of Chapter 114.
- v. No cooking facilities of any kind shall be permitted in any guest room;
- vi. The only meal to be provided to guest shall be breakfast, and it shall only be served to guest taking lodging in the facility.
- ~~vi.vii.~~ Guests may stay no longer than two weeks continuously in bed and breakfast classified as homestay or inn;
- ~~vii.viii.~~ The conditional use permit shall be ~~renewable upon~~ renewable upon one-year terms;
- ~~viii.~~ The minimum lot size for a bed and breakfast inn shall be one acre;
- ~~ix.~~ Bed and breakfast inns homestay that rent four five bedrooms or less will be classified as single family residences with residential supervisory smoke alarm systems; and
- ~~ix.~~ Such other conditions as the planning and zoning commission may recommend or the city commission may impose if it is determined to be necessary or desirable for the protection of nearby properties and in the public interest;
- x. The property owner must provide proof of registration with the

Texas Comptroller for the collection of hotel/motel taxes;

- xi. All property owners must obtain approval for a conditional use permit prior to the listing of the property on any host site;
- xii. All property owners must provide proof of liability insurance which specifically covers bed and breakfast;
- xiii. All bed and breakfast host must have ~~asat~~ least one guest officially sign in, providing a real name, address, contact information, car registration, or a copy of a driver's license, which must be provided to the City upon request;
- xiv. The official guest sign in record, hosting dates and financial documents must be maintained for a minimum of four years and must be made available to the City upon request for auditing to ensure tax compliance.
- xv. The occupancy maximum shall be conspicuously posted within the bed and breakfast; and
- ~~x. The name and telephone number of the local responsible party shall be conspicuously posted within the bed and breakfast and provided to Planning Department staff. The responsible party shall answer calls twenty-four (24) hours a day seven (7) days a week for the duration of rental period to address problems associated with the bed and breakfast.~~
- ~~xvi. Bed and breakfast businesses shall be a permitted use in all other zoning districts except in the I industrial district where they are prohibited.~~

~~12-13.~~ The operation of a private or public school in an "R-1" district.

~~13-14.~~ Any other use of a recreational nature as described in section ~~150-12~~150-12(a) (3) a.

~~14-15.~~ Businesses that require any of the following on-premise licenses/permits from the Texas Alcoholic Beverage Commission: ~~[The change of ownership shall be exempt from the Conditional Use Requirement, case shall be handled administratively by the Office of the City Secretary. Unless license was revoked in accordance with Section 150-12(h) (3)]~~

- i. Wine and beer retailers permit.
- ii. Beer retail dealers on premise license.
- iii. Retail dealers on-premise late hours license.
- iv. Brewpub license.
- v. Wine and beer retailers permit for excursion boats.
- vi. Wine and beer retailers permit for railway dining car.
- vii. Mixed beverage permit.
- viii. Mixed beverage late hours permit.
- ix. Mini bar permit.

- x. Caterer's bar permit.
- xi. Food and beverage certificate.
- xii. Beverage cartage permits.
- xiii. Mixed beverage restaurant permit with food beverage certificate.

~~15.16.~~ Businesses that require any of the following off-premise licenses/permits from the Texas Alcoholic Beverage Commission: [The change of ownership shall be exempt from the Conditional Use Requirement, case shall be handled administratively by the Office of the City Secretary. Unless license was revoked in accordance with Section 150-12(h) (3)]

- i. Wine and beer retailer's off-premise permit.
- ii. Beer retail dealer's off-premises.
- iii. Package store permit.
- iv. Wine only package store permit.
- v. Local distributors permit.
- vi. Local cartage permit.
- vii. Local cartage transfer permit.
- viii. Package store tasting permit.

c. *Permit required.* Notwithstanding any other provision of this chapter, no conditional use may be established or operated in any zoning district where such use is otherwise permitted or authorized under the terms hereof unless a use permit is first granted by the city in accordance with the requirements of this section. A use permit may only be issued by the city commission after receipt of recommendation from the planning and zoning commission of said city. The use permit may have a specified time limitation attached and may impose conditions other than those which are specifically set forth in this chapter.

d. *Approval procedure; responsibility.* The ~~building official~~ planning director or duly appointed representative will have the responsibility for processing all applications for use permits required for conditional uses and for forwarding such applications to the planning and zoning commission.

1. After receiving an application for a use permit, the ~~building official~~ planning director or duly appointed representative shall place the request on the agenda of the next planning and zoning commission meeting at least 14 days from the date ~~of the advertisement application is published~~ received.
2. The planning director or duly appointed representative ~~building official~~ shall conduct a technical review of the application and shall forward a recommendation to the planning and zoning commission. The planning and zoning commission shall make a formal recommendation to the city commission. The city commission shall approve or disapprove the application, after public hearing and after receiving the report of the planning and zoning commission according to the procedure set out in section 150-20(c) and (d).

3. A conditional use permit shall be granted only when the proposed use is otherwise permitted in the zoning district in which it is proposed to be located.
 4. In granting a use permit, the city commission may impose such requirements and conditions with respect to location, construction, maintenance, and operation for the particular use that they deem necessary for the protection of adjacent property and in the public interest, in addition to those expressly stipulated in this chapter.
- e. *Application filing procedure and fees.* Application shall be made by the property owner, lessee, or certified agent thereof, to the planning commission on a form prescribed for this purpose by the city. Such application ~~shall~~ may be accompanied by drawings as set forth in subsection (a) (3) f of this section. The granting of a use permit does not exempt the applicant from complying with requirements of article III of chapter 26 or other ordinances. The fee for a use permit shall be ~~\$125~~\$300.00, payable at the time application is made. No part of this fee shall be refundable. The application shall contain the following information:
1. The name of the proposed use.
 2. The location of the proposed use.
 3. The purpose of the proposed use.
 4. The owners and operators of the proposed use.
 5. Whether or not alcoholic beverages will be consumed on the premises.
 6. The hours of operation of the proposed use.
 7. An application for a conditional use permit for the same location can only be submitted once during a 12-month period. The city commission may waive this requirement if circumstances warrant it.
- f. *Preliminary Site plans* ~~required~~preferred.
1. *Purpose.* The purpose of the site plan is to ensure a feasible compliance with this chapter and to assist in the orderly and harmonious development of the city, ~~to maintain the stability of land values and investments,~~ to protect the general welfare, and to help prevent the impairment ~~or depreciation of land values and development~~ by the erection of structures, additions or alterations without proper attention to site planning.
 - ~~2. *Filing.* The applicant shall file with the building official three copies of his site plan.~~
 - 3.2. *Contents.* The site plan shall contain ~~drawings to scale in triplicate to indicate:~~
 - i. The location of all structures on the subject property ~~and on adjoining property.~~
 - ii. Landscaping and/or fencing of yards and setback areas and the use of landscaping and/or walls or fences for screening purposes.
 - iii. Design of ingress and egress to minimize interference with traffic flow on abutting streets.

- iv. Off-street parking and loading facilities.
- v. Height of all structures.
- vi. Proposed uses, ~~and the location and types of all signs including lighting and heights.~~

g. Prerequisites for approval.

1. No structure or property in any district shall be used for a use listed as a conditional use without first having a use permit for such use from the city commission.
2. The city commission, after receipt of report and recommendations from the planning and zoning commission may permit a conditional use subject to appropriate conditions and safeguards when, after public notice and hearing, it finds and determines that:
 - i. The proposed use meets all the minimum standards established in this chapter and in applicable health and safety ordinances of the city for this type of use;
 - ii. The proposed use is in harmony with the purpose and intent of this chapter and of the plan for the physical development of the district, as embodied in the comprehensive plan of the city; and
 - iii. The proposed use will not be detrimental to the health, welfare and safety of the surrounding neighborhood or its occupants, nor be substantially and permanently injurious to neighboring property. The city commission, in making this determination, may take into account the place or manner in which the applicant is likely to conduct the business and the number of similar establishments in the area, if any. Any undue concentration of conditional uses in any area of the city shall be avoided.
3. The city commission may impose additional reasonable restrictions or conditions to carry out the spirit and intent of this chapter and to mitigate adverse effects of the proposed use. The requirements may include, but are not limited to, increased open space, loading and parking requirements, suitable landscaping, and additional improvements such as curbing and sidewalks.

h. Development and/or automatic cancellation.

1. Following the issuance of the conditional use ~~permit~~, the building official shall ensure that, if the development is undertaken, it is completed in compliance with said permit. However, if a use permit has not been used within ~~six~~ twelve months after the date granted, the permit is automatically cancelled. An applicant may be granted a ~~six-month~~six-month extension from the Planning & Code Enforcement Director as long as request is submitted in writing ~~one-month-two weeks~~ prior to expiration.
2. The conditional use is granted solely to the agent authorized by the property

owner to use establishment/property. Should ownership or the authorized agent change the conditional use is considered void.

3. An alcoholic beverage establishment meeting or exceeding one or more of the criteria set forth below will not be eligible for a city liquor permit renewal and will be subject to a permit revocation at any time during the permit period if violations established below are met or exceeded. (All violations refer to those that take place within the property of the establishment.

i. Five unreported fights or disturbances;

ii. Two separate incidents which result in a homicide or homicides;;

iii. Any one offense of prostitution, lewd conduct, gambling, drug or narcotics possession or sales, or assault permitted or committed on the premise, by act or omission, by the owner, agent or employee of the premise.

iv. Fifteen arrest of intoxicated persons on premises;

v. Any two sales of alcoholic beverages to a minor by the owner, agent or employee of the premises; or

vi. Two violations in the hours of operation.

Any establishment denied the renewal of a City Liquor permit due to meeting or exceeding the above criteria will require a new Conditional Use Permit to open or re-open any bar at the same location regardless of duration of closure of previous establishment (no non-conforming use).

h.

i. *Preexisting conditional uses to be considered nonconforming.* Any existing conditional use in operation prior to the effective date of the ordinance from which this subsection is derived is hereby declared to be a nonconforming use and subject to the provisions of section ~~150-13~~150-12. However, any nonconforming conditional use which holds a license or permit from the state alcoholic beverage commission authorizing the on-premises consumption of alcoholic beverages shall become subject to the provisions hereof upon the transfer of such license or permit to any person, and the new licensee or permittee shall not be entitled to use the premises for any use for which a use permit is required until he has applied for a use permit and a use permit has been granted by the city commission.

b) *Height regulations.*

- 1) Public, semipublic or private service buildings, hospitals, institutions or schools, where permitted in a district, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 75 feet if the building is set back from each yard line at least one foot for each two feet additional height above the height limit otherwise provided in the district in which the building is located.
- 2) Chimneys, cooling towers, elevator bulk heads, fire towers, grain elevators, flour mills, monuments, stacks, or scenery lofts, tanks, water towers, ornamental towers and spired church steeples, ~~radio or television towers,~~ or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted ordinances of the city, provided that in the absence of any such ordinance, there shall be no height limitation on these structures.

c) *Area and density regulations.*

1) In a district in which commercial or industrial buildings are built with one or more stories for residential purposes above the commercial or industrial uses, no side yards will be required for the residential portions of the building, provided that the part of the building intended for residential use is not more than two rooms deep from front to rear.

2) No yard or other open space provided about any building, for the purposes of complying with the provisions of these regulations, shall again be used as a yard or an open space for another building. Every part of a required yard shall be open to the sky and unobstructed by buildings except for accessory buildings in the rear yard and except the ordinary projections of skylights, sills, belt courses, cornices, and other ornamental features which may project into such yards a distance of not more than two feet.

2)3) Any building or accessory use constructed on any lot shall be located ten feet from any other building or accessory use on such lot or attached in R-1, R-3 and M-1 Districts.

3) ~~Open or unenclosed porches, platforms, or landing places not covered by a roof or canopy may extend or project into the front yard for a distance not exceeding six feet.~~

4) ~~Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three feet above the floor level of the ground (first) story may project into a required side yard, provided these projections are a distance of at least two feet from the adjacent side lot line.~~

5)4) ~~Front yard requirements shall be as follows~~Front yard requirements shall be as follows:

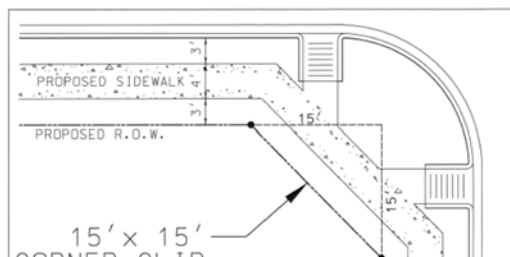
a. ~~Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed (with a variation of five feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing buildings.~~

b.a. Where 40 percent or more of the frontage onfrontage on one side of a street between two intersecting streets is developed with buildings that have not observed a front yard as described in subsection (c)(5)a^s of this section, then:

1. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings on the two sides; or

2. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building. In determining such front yard depth, buildings located entirely on the rear one-half of a lot shall not be counted.

b. On any corner lot on which a front or side yard is required, no wall, fence, sign, or other structure, or any plant growth shall be permitted or maintained higher than two feet above the curb level within 15 feet of the intersection of the property lines. All opaque fencing extended to the front yard shall upon any corner lot construct a 15 foot by 15 foot corner clip fence.



c. Front yard solid face fences extending past the forward most portion of the main use building to the front and side lot of property lines shall be restricted to a height of not more than thirty (36) inches above the grade of the yard within 15 feet of the front property line.-

e.d. Attached accessory buildings or accessory uses in an R-1, R-2, R-3 or M-1 zone shall be from the front property line the same distance required for the main building, for front yard purposes. Detached accessory buildings or accessory uses shall be located in the area defined as the rear yard.-

6)5) Side yard requirements shall be as follows:

a. The minimum width of a side yard of a corner lot in the R-1 and R-2 districts shall be not less than ten feet, provided that if the street side line of a corner lot is in the same block frontage with a lot whose street line is a front of such lot, the side yard shall extend to the average alignment of the buildings along the same side of the street, unless such buildings are more than 25 feet back from the street line, in which case the side yard need not be more than 25 feet.

b. A side yard of not less than 25 feet on the side of the lot adjoining on an R-1 or R-2 district shall be provided for all schools, libraries, churches, community houses, clubs, and other public or semipublic buildings hereafter erected or structurally altered.

c. Where 40 percent or more of the side yard on one side of a street between two intersecting streets is developed with buildings that have not observed a side yard, then:

1. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum side yard shall be taken at an average of the adjacent buildings on the two sides; or

b.2. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the side yard as the existing adjacent building.

e.d. Where a lot in a B-1, B-2, B-3, or I district is not used for residential purposes and abuts upon an R-1 or R-2 district, a side yard shall be provided of not less than ten feet. Furthermore, in such abutting zones, it shall be required that the commercial zone developer must provide and permanently and adequately maintain a permanent screening fence of masonry and/or solid wood of redwood and/or cedar, no less than ~~six~~-eight feet in height, and that the building must set

back no less than ten feet from such abutting property line, such screen shall set back within the property line. Furthermore, if the residential building converts to a commercial or industrial building, a permanent screening fence of masonry and/or solid wood of redwood and/or cedar, no less than ~~six-eight~~ feet in height, shall be required.

~~d.e.~~ Garages detached or attached to the main use building entering on the side street of a corner lot, shall maintain a side yard of 20 feet in front of the garage.

~~7~~(6) Rear yard requirements shall be as follows:

a. In R-1 and R-2 districts, no main use, accessory use or accessory building shall be constructed, placed or located within five feet of the rear property line on any lot.

b. Any accessory building or accessory use constructed on any lot in an R-1 or R-2 district shall be located ~~at least~~ ten feet from the main use building on such lot or attached and may not be more than one story in height.

~~b.c.~~ Any building constructed on any lot in a B-1, B-2, B-3, or I district shall be located at least ten feet away from all other buildings on such lot.

d. If an alley abuts the rear property line on any lot in an R-1 or R-2 district, no part of such alley may be used in determining the rear yard setback described in subsection (c)(7)a of this section.

e. Where 40 percent or more of the rear yard on one side of a street between two intersecting streets is developed with buildings that have not observed a rear yard, then:

1. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum rear yard shall be taken at an average of the adjacent buildings on the two sides; or

~~e.2.~~ Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one rear only, such building may be erected as close to the rear yard as the existing adjacent building.

~~d.f.~~ Where a lot in a ~~B-1, B-1~~ B-2, B-3 or I district is not used for residential purposes and abuts upon an R-1 or R-2 district, a rear yard shall be provided of not less than ten feet. Furthermore, in such abutting zones, it shall be required that the commercial zone developer must provide and permanently and adequately maintain a permanent screening fence of masonry and/or solid wood of redwood and/or cedar, no less than ~~six feet~~ eight feet in height, and the building must set back no less than ten feet from such abutting property line, such screen shall set back within the property line. Where a lot in a B-1, B-2, B-3 or I district is used for residential purposes and abuts upon an R-1 or R-2 district, the rear yard requirements from the R-1 or R-2 district shall apply. Furthermore, if the residential building converts to a commercial or industrial building, a permanent screening fence of masonry and/or solid wood of redwood and/or cedar, no less than six feet in height, shall be required. Furthermore, if the residential building converts to a commercial or industrial building, a permanent screening fence of masonry and/or solid wood of redwood and/or cedar no less than eight feet in height shall be required.

Sec. ~~150-13~~150-12. - Nonconforming uses.

- a. *Nonconforming use of land.* The nonconforming use of land where no building is involved existing on the effective date of the ordinance from which this section is derived may be continued for a period of not more than two years therefrom, provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and that if such nonconforming use of land or any portion thereof is discontinued or changed, any future use of such land shall be in conformity with regulations of the district in which it lies.
- b. *Nonconforming use of buildings.* Except as otherwise provided in this chapter, the nonconforming use of a building existing on the effective date of the ordinance from which this section is derived may be continued, and the use of a nonconforming building may be changed to another use of the same or more restricted classification, but where such use is changed to a more restricted classification it shall not thereafter be changed back to a use of a less restricted classification. A nonconforming building which is or may hereafter become vacant and which shall remain unoccupied or its nonconforming use discarded for a continuous period of one year shall not thereafter be occupied except by a use which conforms to regulations of the district in which it is located.
 - 1) A nonconforming building may be maintained or kept in good repair except as otherwise provided in this section.
 - 2) No existing nonconforming building may be enlarged, extended, reconstructed or altered unless its use is changed to a use permitted in the district in which such building is located except in the event such enlargement, extension, reconstruction or alteration is required by court decision, law, or ordinance.
 - 3) No nonconforming building shall be moved in whole or in part to any other location on the lot unless every portion of such building is made to conform to all the regulations of the district in which it is located.
 - 4) A nonconforming building which is damaged by fire, explosion, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of 50 percent or more of its reasonable value may not be restored except in conformity with the regulations of the district in which it is located.
- c. *Prohibited; alteration, removal, or replacement required.* The following uses now in existence and not in strict conformity with the provisions of the district in which it is located are hereby prohibited, and such uses now in existence in the city shall be altered, replaced or removed to conform to the provisions of this chapter on or before the date shown in the following schedule:
 - 1) Billboards and poster boards: January 1, 1961.
 - 2) Junkyards and automobile wrecking yards: January 1, 1961.

Sec. 150-14. - Permits.

No permit for land improvements or the erection, alteration, or enlargement of any building shall be issued by the building inspector unless there first be filed in his office by the applicant therefor, a plat, drawn to scale, and in such form as may be prescribed by the building inspector, correctly showing the location and actual dimensions of the lot to be occupied, the dimensions and location on the lot of the building to be erected, altered or enlarged, together with a

true statement in writing, signed by the applicant, showing the use for which such building is arranged, intended or designed, and furnishing such other information as the building inspector may require in the enforcement of the provisions of this chapter, and any failure to comply with the provisions of this chapter shall be good cause for the revocation of any such building permit by the building inspector. Prior to the pre-pour of any cement, concrete or asphalt a form survey noting setbacks and elevations must be filed with and accepted by the building inspector. Unclaimed permits shall expire six (6) months after the date of approval. ~~A record of such applications and plate shall be kept in the office of the building inspector.~~

Sec. 150-15. - Cluster housing development.

- a) *Purpose of CHD.* The purpose of a CHD is to allow creative residential development otherwise precluded by this chapter which has as its purpose a more efficient and functional use of land.
- b) *CHD permit required.* When the planning and zoning commission is petitioned by the owner of a tract of land zoned R-2 and comprising an area of not less than two acres, for the purpose of creative residential development of a density not to exceed the maximum allowed in the R-2 residential district, the planning and zoning commission may recommend to the city commission the granting of a permit in accordance with the provisions of this section.
- c) *CHD permit fees.* A CHD application shall be accompanied by a permit fee of \$75.00. No action by the city commission shall be valid until the permit fee has been paid. This fee shall not be refunded should the CHD plan be disapproved by the city commission.
- d) *Permit procedure for CHD.* The regulations prescribed herein shall regulate the procedure for making application for a permit for a cluster housing development. The submittal of the preliminary CHD plan, the staff review and comments, the recommendations by the planning and zoning commission on the preliminary plan, the public hearing, the action by the city commission on the preliminary development plan, the submittal of the final development plan, the staff investigation and technical report, the recommendation by the planning and zoning commission on the final development plan, the public hearing, and the action by the city commission on the development plan. Approval of the preliminary development plan may be considered as approval of the final development plan if no changes are required by the planning commission and the city commission and all requirements are included on the development plan.
- e) *Preliminary and final CHD plan.* The following requirements and procedures shall be observed in the preparation and filing of the preliminary and final CHD plan:
 - 1) *Proof of ownership or control.* Before a preliminary CHD plan shall be approved for any improvement in an R-2 district, the owner of all the land included in said area, of all structures existing thereon, and all encumbrances of both said land area and structures, hereinafter known as the applicant, shall present sufficient evidence to establish that the applicants are in fact all the owners or have control of all outstanding interests of the land and structures thereon.
 - 2) *Time for filing and copies required.* The applicant shall file 25 blue or black line copies of the CHD plan and the permit fee set forth subsection (c) of this section with the department of planning at least 15 days prior to the date, at which formal application for the preliminary plat approval is made to the planning commission.
 - 3) *Contents.* The preliminary and the final CHD plans shall be certified by the applicants and shall conform to the specifications and requirements set forth in the section 26-2.020 and 26-2.03 of the subdivision regulations ordinance (appendix B to this Code), and contain any other information deemed necessary.
 - 4) *General requirements.*
 - a. *Yard requirements.*

1. Front yard: None specified. Front yard setback may be required by the planning and zoning commission and city commission to insure conformity with surrounding areas.
 2. Side yard: None required, except for on corner lots, each of which shall have a side yard of at least ten feet.
 3. Rear yard: None specified. Rear yard setback may be required by the planning and zoning commission and city commission to insure conformity with surrounding areas.
- b. *Minimum area requirements.*
1. No site for CHD shall contain less than two acres.
 2. No cluster housing development shall exceed a density allowed in the R-2 residential district.
- c. *Maximum building height.* Maximum height shall be 2 ½ stores or 35 feet.
- d. *Maximum units per building.* The total dwelling units in any groups of attached dwelling shall not exceed six units.
- e. *Minimum distance between buildings.* The minimum distance between buildings shall be ten feet.
- f. *Minimum parking spaces.* Off-street parking shall be provided on the basis of two spaces per dwelling unit, both of which may be provided in a common parking area.
- f) *Preliminary and final CHD plan review.* Each CHD plan shall be submitted to the department of planning and shall be reviewed in accordance with the procedure set forth in section 26-2.03 E of the subdivision regulation ordinance (appendix B to this Code).
- g) *CHD plan recording.* Upon approval of the final CHD plan by the city commission, the applicant shall record one of the approved final plans with the department of planning.
- h) *Effects of recording CHD plan.* All final CHD plans registered and recorded hereunder shall be binding upon the applicant and his heirs, successors and assigns, shall limit and control the issuance and validity of all permits, and shall restrict and limit the construction, location, use, and operation of all land and structures included within such plans to all conditions and limitations set forth in such plans.
- i) *Amendments and appeals.* All applicants for a CHD and site plan which are disapproved may file with the reviewing agents who disapproved the plan an amendment to such plan or an amended plan, which amendment or amended plan shall be limited exclusively to changes made necessary to accomplish compliance, with the grounds for disapproval stated by the reviewing agent. Such amendment or amended plan shall be reviewed in accordance with the same time limits and procedures as provided herein for original submission.
- j) *Coordination with subdivision regulations.* It is the intent of this section that the subdivision ordinance (appendix B to this Code) be carried out simultaneously with the review of a cluster housing development under other pertinent sections of the subdivision ordinance (appendix B to this Code).
- 1) The plans required under this section must be submitted in a form which will satisfy the requirements of the subdivision ordinance (appendix B to this Code) for the preliminary and final plans required under those regulations.
 - 2) Both this section and other sections of the subdivision ordinance (appendix B to this Code) contain regulations which apply to such matters in the design of a cluster housing development as streets and open spaces. In any cluster housing development for which the provisions of two ordinances are in conflict, the most stringent shall prevail.

Sec. 150-16. - Neighborhood shopping center.

- a) The owner of any tract of land comprising an area of not less than 2 ½ acres and not lying within a business district may submit a development plan for a neighborhood shopping

center. Such application shall be processed in accordance with the provisions of section 150-20.

- b) The city planning commission may recommend to the city commission that such application be approved if the application conforms to the following:
 - 1) The uses permitted in the center shall be limited to those of the B-1 neighborhood business district as listed in section 150-8.
 - 2) The entire development ~~beis~~ designed as a single architectural unit with appropriate landscape and architectural treatment of the entire area.
 - 3) At least four times the gross floor area of the stores included in the development is provided in off-street parking areas, which are integral parts of the design of the unit plan.
 - 4) The appropriate use of property adjacent to the area included in the plan will be fully safeguarded, and to this end, the city commission may make such requirements as it deems necessary.
 - 5) Satisfactory evidence shall be submitted that the automobile parking areas and the landscaped areas will be properly constructed and maintained.
 - 6) The plan is consistent with the intent and purposes of this chapter to promote the public health, safety, and general welfare.

Sec. 150-17. - Certificate of occupancy.

- a) No vacant land shall be occupied or used except for agricultural uses, until a certificate of occupancy shall have been issued by the building inspector.
- b) No premises shall be used and no buildings hereafter erected or structurally altered shall be used, occupied or changed in use, until a certificate of occupancy and compliance shall have been issued by the building inspector, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
- c) Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such buildings ~~or land improvements~~ shall have been completed in conformity with the provisions of these regulations. ~~A record of all certificates shall be kept on file in the office of the building inspector.~~
- d) No permit for excavation for any building shall be issued before application has been made for a certificate of occupancy and compliance.
- e) A certificate of occupancy shall be required of all nonconforming uses. Application for a certificate of occupancy for nonconforming uses shall be filed with the building inspector within 12 months from the effective date of the ordinance from which this chapter is derived.

Sec. 150-18. - Boundaries of districts; rules where uncertainty may arise.

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

- 1) The district boundaries are either streets or alleys unless otherwise shown, and where the districts designated on the zoning map are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.
- 2) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the zoning map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
- 3) In un-subdivided property, the district boundary lines on the zoning map shall be

determined by use of the scale appearing on the map.

Sec. 150-19. - Board of adjustment.

- a) A board of adjustment is hereby established.
- b) The board of adjustment shall consist of five members who are property owners in the city, each to be appointed for a term of two years and removable for cause by the city commission upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- c) The board shall adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman or, in his absence, the acting chairman, may ~~administer oaths~~administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each ~~member upon~~member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.
- d) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds therefor, and by paying a filing fee of \$ ~~250.00~~10.00 plus \$20.00 for each additional variance to the city secretary at the time the notice is filed, which shall be credited to the general fund of the city. In all cases where publication of notice of public hearing in the official publication of the city is required by this chapter and the laws of the state, the applicant, in such instances, shall deposit with the city secretary such sum as may be required to pay the cost of such publication before such publication is made. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on the cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
- e) The board of adjustment shall have the following powers:
 - 1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter.
 - 2) When a property owner can show that a strict application of the terms of this chapter relating to the use, construction or alteration of buildings or structures or the use of land will impose upon him practical difficulties or particular hardship, the board may consider and allow variations of the strict application of the terms of this chapter if the variations are in harmony with the general purpose and intent of this

chapter, and the board is satisfied, under the evidence heard by it, that a granting of the variation will not merely serve as a convenience to the applicant but will alleviate some demonstrable hardship or difficulty so great as to warrant a variation from the comprehensive plan created by this chapter.

- 3) The board may authorize a variance where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property of record at the time of the adoption of the ordinance from which this section is derived or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of a provisions of this chapter would result in peculiar and exceptional practical difficulties and particular hardship upon the owner of the property and amount to a practical confiscation of the property as distinguished from a mere inconvenience to the owner, provided the variation can be granted without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this chapter.
- 4) When, in its judgment, the public convenience and welfare will not be substantially or permanently injured, the board of adjustment may, in a specific case, after public notice and hearing and subject to appropriate conditions and safeguards, authorize special exceptions to the regulations herein established as follows:
 - a. To permit a transitional use between a business or industrial district and a dwelling district where the side of a lot in a one-family district or a two-family district abuts upon a lot zoned for business or industrial purposes as follows: on a lot in a single-family dwelling district which sides upon a lot zoned for business or industrial purposes, the board may permit a two-family dwelling.
 - b. To permit the extension of a building or use into a more restricted district, immediately adjacent thereto, but not more than 50 feet beyond the boundary line of the district in which such building or use is authorized.
 - c. To grant, in undeveloped sections of the city, temporary and conditional permits for not more than two years. The granting or existence of such temporary or conditional permit shall not be reason or cause for the extension of such permit.
 - d. To permit such modification of yard, open space, lot area or lot width regulations as may be necessary to secure an appropriate improvement of a parcel of land if such parcel is separately owned at the time of the passage of the ordinance from which this section is derived or subsequent annexation of the city and is of such restricted area that it cannot be appropriately improved without such modification.
 - e. To determine in cases of uncertainty the classification of any use not specifically named in this chapter.
 - f. To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divided a lot in a single ownership at the time of the adoption of the ordinance from which this section is derived.
 - g. To permit as an accessory use a parking area for passenger automobiles on a lot or lots in a single-family, duplex, or apartment house district adjoining or across a street of not more than 50 feet in width from an R-1 or R-2 district, subject, however, to the following provisions:
 1. The area shall be properly enclosed with a hedge screen, fence, wall or other suitable enclosure having a height of not less than three feet or

more than six feet. Such fence or enclosure shall conform to the front yard regulations of the district in which it is located.

2. The area shall be paved.
3. No parking of vehicles shall be permitted within six feet of any adjoining lot on which is located a single- family residence, duplex or multiple dwelling.
4. One sign, not exceeding 2 ½ square feet in area, may be erected identifying the lot.
5. No charges may be made for parking, and no other business use may be made of the lot.
6. Any light used to illuminate said parking area shall be so arranged as to direct the light away from any adjoining premises used for residential purposes.

h. To permit the reconstruction of a building occupied by a nonconforming use, or to permit the extension of a nonconforming use of a building upon the lot occupied by such use or building at the time of the passage of the ordinance from which this section is derived.

- 5) Any appeal or permit granted by the board of adjustment shall ~~not be valid if construction authorized by said permit is not begun within a period of 60 days have perpetual approval for the property.~~
- f) In exercising the powers established by this section, the board may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
 - 1) In considering all appeals and all proposed variations to this chapter, the board shall, before making any finding, in a specific case, first determine that the proposed variation will not constitute any change in the district map and will not impair an adequate supply of light and air to adjacent property, materially increase the congestion in public streets, increase the public danger of fire and safety, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the city.
 - 2) Every variation granted or denied by the board shall be accompanied by a written finding of fact, based on sworn testimony and evidence, specifying the reason for granting or denying the variation.

Sec. 150-20. - Changes and amendments.

- a) The city commission may from time to time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established.
- b) Before taking any action on any proposed amendment, supplement or change, the city commission shall submit the same to the city planning commission for its recommendation and report.
- c) A public hearing shall be held by the city commission before adopting any proposed supplement, amendment or change. Notice of such hearing shall be given by publication twice three times in the official publication of the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the first day of such publication.
- e)d) Written notice of all public hearings before the Planning & Zoning Commission on a proposed amendment of change shall be sent to all owners or real property lying within two hundred (200) feet of the property on which the change is requested. Such notice shall be given not less than ten (10) days before the date set for hearing by posting use notice properly addressed and postage

paid to each taxpayer as ownership appears on the Appraisal District.

- ~~d)~~e) Unless such proposed amendment, supplement or change has been approved by the city planning and zoning commission or if a protest against such amendment, supplement or change has been filed with the building inspector, duly signed and acknowledged by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or those immediately adjacent in the rear thereof extending 200 feet therefrom, or of those directly opposite thereto extending 200 feet from the street frontage of such opposite lots, such amendment, supplement or change shall not become effective except by a three-fourths vote of the city commission.
- ~~e)~~f) Any appeals to either the city commission or the city planning and zoning commission pursuant to this section shall not be considered unless a filing fee in the amount of ~~\$10.00~~300.00 shall accompany each appeal so made. In all cases where publication of notice of public hearing in the official publication of the city is required by this chapter and the laws of the state, the applicant shall deposit with the city secretary such sum as may be required to pay the cost of such publication before such publication is made.
- ~~f)~~g) Any appeal contemplated by any section of this chapter, including, but not limited to, appeals under section 150-19 and this section, shall only be made by the record owner of the property. If an amendment, supplement or change by ordinance is granted to a property owner as the result of an appeal under this section, whereby a change is made from a more restricted to a less restricted area, such amendment, supplement or change, and the ordinance so granting same, shall become null and void, and the property shall revert to its former designation if any terms of the ordinance are violated by the property owner within one year from the effective date of said amendment, supplement or change.

Sec. 150-21. - Enforcement and penalty for violation.

- a) It shall be the duty of the building inspector to enforce the provisions of this chapter and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of this chapter.
- b) In the event any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the building inspector is authorized and directed to institute any appropriate action to put an end to any such violation.
- c) Any person who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$200.00, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, engineer, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as provided in this section.

Sec. 150-22. - Interpretation, purpose and conflict.

In interpreting and applying the provisions of this chapter, this chapter shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any ordinance, rules, regulations, or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or issued pursuant to law relating to the use of building or premises, and likewise not in conflict with this chapter; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other

agreements between parties, except that, if this chapter imposes a greater restriction, this chapter shall control.