



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, FEBRUARY 6, 2018**

On Tuesday, February 6, 2018, at 5:36 p.m. the City Commission of the City of Weslaco, Texas convened in a Regular Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

Mayor	David Suarez
Mayor Pro-Tem	Gerardo “Jerry” Tafolla
Commissioner	Leo Muñoz
Commissioner	Greg Kerr
Commissioner	Letty Lopez
Commissioner	Josh Pedraza
City Manager	Mike R. Perez
City Secretary	Elizabeth Walker
City Attorney	Juan E. Gonzalez

Also present: Mary Barrera, Finance Director; Juan Salas, Information Technology; Tony Lopez, Fire Chief; Robert de la Cerda, Interim Police Chief; Mardoqueo Hinojosa, Planning and Code Enforcement Director and City Engineer; David Arce, Parks and Recreation Director; Arnold Becho, Library Director; and other staff members and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, February 2, 2018.

B. Invocation.

Pastor Joey Aguilar, First Baptist Church, led the invocation. The Mayor thanked the church community for again hosting the warming shelter.

C. Pledge of Allegiance.

The Mayor led the Pledge of Allegiance and Texas Flag.

D. Mayoral recognition.

Mayor Suarez recognized

E. Roll Call.

Elizabeth Walker, City Secretary, called the roll, noting perfect attendance and a quorum present.

II. PUBLIC COMMENTS

Gail Weigel Ortiz voiced her concern on the restrictions identified in a letter for the conditional use permit issued at 610 W 13th Street were not being complied with.

III. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

A. Approval of the Minutes as follows:

- 1) Regular Meeting on January 16, 2018;
- 2) Special Meeting on January 25, 2018;
- 3) Special Meeting on January 30, 2018. (Staffed by City Secretary's Office.)

B. Approval on second and final reading of the following:

- 1) Ordinance 2018-01 rezoning 2929 W. Expressway 83, also being Lot 1, Grover Commercial Plaza, Phase I, Weslaco, Hidalgo County, Texas from R-1 One Family Dwelling District to B-2 Secondary and Highway Business District and authorize the Mayor to execute any related documents. (First reading of Ordinance 2018-01 held January 16, 2018; Staffed by Planning and Code Enforcement Department.)
- 2) Ordinance 2018-03 authorizing a budget amendment as appropriate to purchase property on Westgate Drive for drainage improvements in an amount of \$150,000 and authorize the Mayor to execute any related documents. (First reading of Ordinance 2018-03 held January 16, 2018; Staffed by Finance Department.)
- 3) Ordinance 2018-04 amending Ordinance 1990-31 Animal Control Ordinance providing regulations on animal impoundment identified as nuisance situations and authorize the Mayor to execute any related documents. (First reading of Ordinance 2018-04 held January 16, 2018; Staffed by Planning and Code Enforcement Department.)

C. Approval of the renewal of the lease agreement with Weslaco Softball/Baseball League and approve the use of the Softball/Baseball Field 1, 2 and 3 and Concession Stand at Mayor Pablo G. Peña City Park effective February 1, 2018 through July 31, 2018 and authorize the Mayor to execute any related documents. (Requested by Weslaco Softball/Baseball League.)

D. Approval of the renewal of the lease agreement with Mid Valley Youth Soccer League for use of Pablo G. Pena City Park soccer fields and authorize the Mayor to execute any related documents. (Requested by Mid Valley Youth Soccer League.)

E. Approval of the renewal of the lease agreement with Weslaco Little League for use of Isaac Rodriguez Park Multi-Purpose Field and Minor Field and Concession Stands and Harlon Block/Sports Complex Field #1, Field #2 and Concession Stands effective February 1, 2018 through July 31, 2018 and authorize the Mayor to execute any related documents. (Requested by Weslaco Little League.)

F. Approval of the renewal of the 7th Annual "Movies at the Park" at Mayor Pablo G. Peña City Park located at 300 N. Airport Drive for the 2018 season and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation.)

G. Authorization to solicit bids for water line and irrigation line for Weslaco North Fire Station Subdivision. (Staffed by Planning and Code Enforcement.)

H. Acceptance of check for \$111,900.00, on behalf of Pat Serquina, for the repairs of parking garage located near the intersection of Third Street and Missouri Avenue and authorize Mayor to execute any related documents. (Staffed by Planning and Code Enforcement.)

I. Authorization to advertise for repairs to the parking garage at the Villa de Cortez. (Staffed by Planning and Code Enforcement.)

J. Acceptance of grant award number 3357201 from the Office of the Governor State Homeland Security Program in an amount of \$60,222.48 to purchase Special Response Team gear and equipment and authorize the Mayor to execute any related documents. (Staffed by the Police Department.)

K. Approval of the Memorandum of Understanding between the constituent agencies of the Texas Anti-gang (TAG) Center - Rio Grande Valley and authorize the Mayor to execute any related documents. (Staffed by the Police Department.)

L. Approval of Resolution 2018-06 authorizing to apply for the 2018-2019 Justice Assistance Grant Program (Grant #3526101) to purchase an evidence collection van in an amount not to exceed \$72,640.00 with no local match required and authorize the Mayor to execute any related documents. (Staffed by the Police Department.)

M. Authorization of the allocation of \$450,000.00 from Capital Outlay 2018 adopted budget and an amount not to exceed \$30,000.00 from Asset Forfeiture for the purchase of nine (9) police vehicles. (Staffed by the Police Department.)

N. Approval of Resolution 2018-07 authorizing to apply for the 2018-2019 State Homeland Security Program LETPA Grant (Grant #3538301) to purchase a high-risk warrant vehicle in an amount not to exceed \$88,950.00 with no local match requirement and authorize the Mayor to execute any related documents. (Staffed by the Police Department.)

O. Approval of Resolution 2018-08 authorizing to apply for the 2018 State Homeland Security Program - Regular Projects to purchase twelve (12) portable radios and related equipment in an amount not to exceed \$55,755.58 with no local match required and authorize the Mayor to execute any related documents. (Staffed by the Weslaco Police Department.)

P. Approval of Resolution 2018-09 authorizing to apply for the 2018 Office of the Governor Criminal Justice Division Body-Worn Camera Program to purchase two (2) body worn cameras and related equipment in an amount not to exceed \$12,485.00 with a 20% local match required and authorize the Mayor to execute any related documents. (Staffed by the Weslaco Police Department.)

Q. Approval of the renewal of the third year of a three-year Microsoft Enterprise Agreement previously approved by City Commission on January 19, 2016 for Microsoft products, including server, desktop software and email services, in an amount not to exceed \$73,000.00 and authorize the Mayor to execute any related documents. (Staffed by Information Technology Department.)

R. Approval of an expenditure of \$7,500.00 of the Marion Booth Endowment for mobile hotspots, additions to the library collection, and furniture improvements within the Mayor Joe V. Sanchez Public Library. (Staffed by the Library Department.)

Commissioner Kerr, seconded by Mayor Pro Tem Tafolla moved to approve consent agenda as presenting withholding agenda items E, I, H, M and P. The motion carried unanimously; Mayor Suarez was present and voting.

E. Approval of the renewal of the lease agreement with Weslaco Little League for use of Isaac Rodriguez Park Multi-Purpose Field and Minor Field and Concession Stands and Harlon Block/Sports Complex Field #1, Field #2 and Concession Stands effective February 1, 2018 through July 31, 2018 and authorize the Mayor to execute any related documents. (Requested by Weslaco Little League.)

Commissioner Kerr abstained from vote and discussion and filed a conflicts disclosure noting he is a member of the board.

Mayor Pro Tem Tafolla, seconded by Commissioner Muñoz moved to approve the lease agreement with Weslaco Little League for use of Isaac Rodriguez Park Multi-Purpose Field and Minor Field and Concession Stands and Harlon Block/Sports Complex Field #1, Field #2 and Concession Stands effective February 1, 2018 through July 31, 2018 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

H. Acceptance of check for \$111,900.00, on behalf of Pat Serquina, for the repairs of parking garage located near the intersection of Third Street and Missouri Avenue and authorize Mayor to execute any related documents. (Staffed by Planning and Code Enforcement.)

Mayor Pro Tem Tafolla, seconded by Commissioner Kerr moved to approve.

Commissioner Muñoz questioned if all the necessary repairs were conclusive any street repairs.

Mardoqueo Hinojosa, City Engineer/Director of Planning and Code Enforcement, stated yes but requested no action. Two quotes were received and staff would be advertising for bids outlining scope of repairs and bring back to the commission.

Mayor Pro Tem Tafolla withdrew his motion.

There was no action on this item.

I. Authorization to advertise for repairs to the parking garage at the Villa de Cortez. (Staffed by Planning and Code Enforcement.)

Mayor Pro Tem Tafolla, seconded by Commissioner Pedraza moved to approve.

In response to Mayor Pro Tem Tafolla, Mardoqueo Hinojosa stated staff is requesting to advertise for repairs; timeline would be 2-6 weeks to bring back to the commission for award. Commissioner Muñoz recommended the notice include cost of a buffer element.

Mayor Pro Tem Tafolla, seconded by Commissioner Pedraza moved to approve to advertise for repairs to the parking garage at the Villa de Cortez as presented. The motion carried unanimously; Mayor Suarez was present and voting.

M. Authorization of the allocation of \$450,000.00 from Capital Outlay 2018 adopted budget and an amount not to exceed \$30,000.00 from Asset Forfeiture for the purchase of nine (9) police vehicles. (Staffed by the Police Department.)

Commissioner Kerr, seconded by Mayor Pro Tem Tafolla moved to discuss.

In response to Commissioner Muñoz, Interim Chief of Police Robert De la Cerda stated staff is requesting fortitude funds in the amount of \$30,000 that would be used towards the purchase of vehicles rather than reducing the funds available to equip the vehicles with.

Commissioner Kerr seconded by Mayor Pro Tem Tafolla moved to approve the allocation of \$450,000.00 from Capital Outlay 2018 adopted budget and an amount not to exceed \$30,000.00 from Asset Forfeiture as presented. The motion carried unanimously; Mayor Suarez was present and voting.

P. Approval of Resolution 2018-09 authorizing to apply for the 2018 Office of the Governor Criminal Justice Division Body-Worn Camera Program to purchase two (2) body worn cameras and related equipment in an amount not to exceed \$12,485.00 with a 20% local match required and authorize the Mayor to execute any related documents. (Staffed by the Weslaco Police Department.)

In response to Mayor Pro Tem Tafolla, currently there are no body worn camera; grant would be for two for the motorcycle division since they are not equipped with any. The camera will enable them to download into the server and retain video longer. The grant is for \$12,000 with a \$2,000 cost match.

Mayor Pro Tem Tafolla, seconded by Commissioner Pedraza moved to approve Resolution 2018-09 authorizing to apply for the 2018 Office of the Governor Criminal Justice Division Body-Worn Camera Program to purchase two (2) body worn cameras and related equipment in an amount not to exceed \$12,485.00 with a 20% local match required.

For the record, the ordinances are as follows:

ORDINANCE NO. 2018-01

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 320 AND AMENDING THE ZONING MAP OF THE CITY OF WESLACO TO CHANGE THE ZONING OF 2929 W. EXPRESSWAY 83 ALSO BEING LOT 1 AND COMMON AREA, GROVER COMMERCIAL PLAZA SUBDIVISION PHASE 1, WESLACO, HIDALGO COUNTY, TEXAS, FROM R-1 ONE FAMILY DWELLING TO B-2 SECONDARY HIGHWAY BUSINESS DISTRICT.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS:

SECTION I: R-1 One Family Dwelling District to B-2 Secondary Highway Business District being Lot 1 and Common Area, Grover Commercial Plaza Subdivision Phase 1, also being 2929 W. Expressway 83, Weslaco, Hidalgo County, Texas.

SECTION II: That this ordinance shall become effective upon its passage.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 16th day of January 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 6th day February

ORDINANCE 2018-03

AN ORDINANCE AMENDING ORDINANCE NUMBER 2017-37, APPROVING AND ADOPTING A BUDGET FOR THE CITY OF WESLACO, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018, FINDING NEED TO AMEND THE 2017-2018 MUNICIPAL BUDGET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE, AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City Commission of the City of Weslaco utilized diligent thought and attention to the preparation of the 2017-2018 budget; and

WHEREAS, unusual and unforeseen conditions have arisen during the fiscal year which have, or will require, the expenditure of additional funds constituting an emergency expenditure; and

WHEREAS, Section 102.009 of the Texas Local Government Code authorizes the City to amend its budget in such a manner as to provide for emergency expenditures as an amendment to the original budget in a case of grave public necessity to meet an unusual and unforeseen condition; and

WHEREAS, the City Commission finds the amendments in the line items identified in the attached Exhibit are reasonable, necessary, and for municipal purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

SECTION 1. FINDINGS. The City Commission finds the statements made in the preamble above are true.

SECTION 2. BUDGET LINE ITEMS. The City Commission approves the budget amendments in the attached Exhibit as such change is necessary to meet an unusual and unforeseen condition as the result of an emergency.

SECTION 3. BUDGET TOTAL. The City Commission further finds the amended budget line items identified in such Exhibit will not cause the total expenditures in the budget to exceed the total amount of estimated revenue.

SECTION 4. APPROVAL. The 2017-2018 Official Budget, adopted by Ordinance 2017-37, is hereby reallocated, revised, amended and approved as set forth in the attached Exhibit.

SECTION 5. AUTHORIZATION. The City Manager is authorized to undertake action to execute such transfers in accordance with state law, and file, or cause to be filed, a true and correct copy of this Ordinance, with the attached budget amendment, with the City Secretary.

SECTION 6. SEVERABILITY CLAUSE. It is the intent of the City Commission that each sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be deemed severable and, should any such sentence, paragraph, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of the Ordinance left standing.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect upon final reading.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 16th day of January 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 6th day of February 2018.

ORDINANCE 2018-04

AN ORDINANCE AMENDING ORDINANCE NUMBER 1990-31, THE CITY OF WESLACO ANIMAL CONTROL ORDINANCE; CODIFIED AS ARTICLE II OF THE WESLACO CODE OF ORDINANCES, ADOPTING NEW REGULATIONS; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO TEXAS THAT:

SECTION I.

Ordinance 1990-31 passed and approved on December 18, 1990 as "Animal Control Ordinance" and Codified as Article II of the Weslaco Code of Ordinances is hereby amended.

SECTION II.

After second and final reading of this Ordinance the amended Animal Control ordinance sections will be adopted and codified as Article II of the Weslaco Code of Ordinances and said Chapter shall read as follows:

ARTICLE II ANIMAL CONTROL

SECTION 22-131- Removal

The local health authority "Health Official" may order any owner or person having care, control, or custody of any vicious animal or Animal causing a nuisance to take such animal permanently from the city. Such animal must be removed immediately following receipt of such an order, even if an appeal is initiated. This order may be appealed in writing within ten days to the city manager. The city manager may uphold, reverse or modify the animal as a condition to allowing the animal to remain in the city. If the city manager upholds the Health Official's order, the owner or person having care, control, or custody shall not bring the animal back inside the city limits.

DIVISION 6. - IMPOUNDMENT

SECTION 22-154. - Animals that may be impounded.

(8) Any animal causing a nuisance which its owners have been notified 3 times of the same offense within 12 months will get impounded 3 days and pay set fees.

(9) When offense is repeated for a 4th time within a 12 month period, animal will be relocated outside the City.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this this 16 day of January 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 6th day of February 2018.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:
/s/Juan E. Gonzalez, CITY ATTORNEY

For the record, the resolutions are as follows:

RESOLUTION NO. 2018-06

WHEREAS, The City of Weslaco finds it in the best interest of the citizens of Weslaco, Hidalgo County, Texas, that the Justice Assistance Grant Program – Weslaco PD Evidence Vehicle Grant be operated for the fiscal year 2018; and

WHEREAS, The City of Weslaco agrees to provide required matching funds for the said project as required by the Office of the Governor Criminal Justice Division Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

WHEREAS, The City of Weslaco agrees that in the event of loss or misuse of the Office of the Governor funds, The City of Weslaco assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The City of Weslaco designates Mayor David Suarez as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that The City of Weslaco approves submission of the grant application for the Justice Assistance Grant Program – Weslaco PD Evidence Vehicle Grant to the Office of the Governor.

Grant Number: 3526101

Passed and Approved this 6th day of February 2018.

RESOLUTION NO. 2018-07

WHEREAS, The City of Weslaco finds it in the best interest of the citizens of Weslaco, Texas, that the Weslaco High Risk Warrant Vehicle Grant be operated for the 2018; and

WHEREAS, The City of Weslaco agrees to provide applicable matching funds for the said project as required by the Homeland Security Grant Program grant application; and

WHEREAS, The City of Weslaco agrees that in the event of loss or misuse of the Office of the Governor funds, The City of Weslaco assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The City of Weslaco designates City of Weslaco Mayor David Suarez as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that The City of Weslaco approves submission of the grant application for the Weslaco High Risk Warrant Vehicle Grant to the Office of the Governor.

Grant Number: 3538301

Passed and Approved this 6th day of February 2018.

RESOLUTION NO. 2018-08

WHEREAS, The City of Weslaco finds it in the best interest of the citizens of Weslaco, Texas, that the SHSP Regular Projects Weslaco Emergency Radios Grant be operated for the FY2018; and

WHEREAS, The City of Weslaco agrees to provide applicable matching funds for the said project as required by the Office of the Governor – Homeland Security Grants Division 2018 SHSP Regular Projects grant application; and

WHEREAS, The City of Weslaco agrees that in the event of loss or misuse of the Office of the Governor funds, The City of Weslaco assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The City of Weslaco designates City of Weslaco Mayor David Suarez as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that The City of Weslaco approves submission of the grant application for the SHSP Regular Projects Weslaco Emergency Radios Grant to the Office of the Governor.

Grant Number: 3538501

Passed and Approved this 6th day of February 2018.

RESOLUTION NO. 2018-09

WHEREAS, The City of Weslaco finds it in the best interest of the citizens of Weslaco, that the Weslaco PD Motorcycle Unit Body Cameras be operated for the FY2018; and

WHEREAS, The City of Weslaco agrees to provide applicable matching funds for the said project as required by the Office of the Governor Criminal Justice Division Body-Worn Camera Program grant application; and

WHEREAS, The City of Weslaco agrees that in the event of loss or misuse of the Office of the Governor funds, The City of Weslaco assures that the funds will be returned to the Office of the Governor in full.

WHEREAS, The City of Weslaco designates Weslaco City Mayor David Suarez as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that The City of Weslaco approves submission of the grant application for the Weslaco PD Motorcycle Unit Body Cameras to the Office of the Governor.

Grant Number: 3526201

Passed and Approved this 6th day of February 2018.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Elizabeth M. Walker, CITY SECRETARY

APPROVED AS TO FORM:
/s/Juan E. Gonzalez, CITY ATTORNEY

IV. OLD BUSINESS

A. Discussion and consideration to approve on Second and Final Reading Ordinance 2018-02, amending Ordinance 320, Codified as Chapter 150 - Zoning Ordinance, adopting new regulations and ordaining other matters with respect to the subject matter hereof. Possible action. (First reading of Ordinance 2018-02 held January 16, 2018; Staffed by Planning and Code Enforcement Department.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting.

ORDINANCE 2018-02

AN ORDINANCE REPEALING ORDINANCE NUMBER 320, THE CITY OF WESLACO ZONING ORDINANCE; CODIFIED AS CHAPTER 150 OF THE WESLACO CODE OF ORDINANCES, ADOPTING NEW REGULATIONS; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO TEXAS THAT:

SECTION I.

Ordinance 320 passed and approved on December 1, 1959 as "Zoning Ordinance" and Codified as Chapter 150 of the Weslaco Code of Ordinances is hereby repealed in its entirety.

SECTION II.

After second and final reading of this Ordinance the new zoning ordinance will be adopted and codified as Chapter 150 of the Weslaco Code of Ordinances and said Chapter shall read as follows:

CHAPTER 150 ZONING ORDINANCE

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.

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 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 private owners occupied residence with one to 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 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.

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 the Texas Administrative Code, Title 40, Part 19, which provides care for more than 12 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, 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 except 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 six consecutive months or for a 18 months during any three-year period 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 studio, massage salon, nail salon 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 sewage holding tanks located within the trailer.

Recreational vehicle and/or mobile home park means a 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 means any change in the supporting 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 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.

Townhouse means a single-family dwelling unit constructed in a series, or a group of units having common walls, each on a separate lot.

Townhouse condominium means a single dwelling unit, meeting townhouse construction requirements, within which designated dwelling units are conveyed fee simple title, with an undivided interest in the building's common elements, to include, but not be limited to, parking spaces, common areas, and the land upon which the building is constructed.

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 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 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 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 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

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:

- 11) It shall bear the title "Zoning District Map- Weslaco, Texas";
- 12) It shall bear the date with the passing of the ordinance from which this chapter is derived; and
- 13) It shall bear the name of the Director of Planning.

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

- 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.
- 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.

- 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 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.
- 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.
 - 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 not for rent or used for commercial purposes.

- i. Signs: Signage shall be provided consistent with the requirements of Chapter 114.
 - 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.
- 2) *Height regulations.* No building shall exceed 2 ½ stories or 35 feet in height except as provided in section 150-12.
- 3) *Area regulations.*
 - a. *Frontyard.* 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-de-sac shall be 20 feet.
 - b. *Sideways.* 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.
 - 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.
- 5) *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. An exemption may be granted if constructed from brick pavers with a sand base.
- 6) *Additional use, height, and area regulations.* Additional height and area regulations and exceptions shall be as specified in section 150-12.
- 7) *Recreational Vehicles.* No recreational vehicles shall 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 residential 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
 - 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, Townhouse condominiums, Two-family or duplex dwellings.
 - c. Apartment houses or multiple-family dwellings.
 - d. Boarding, lodging, and rooming houses.
 - e. Hospitals, except 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 3 stories or 45 feet in height.
- 3) *Yard regulations.*
 - a. *Frontyard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be 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 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.
- b. *Sideyards.* 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 5 feet, except for townhomes where the side yard shall be zero.
 - c. *Rear yard.* The depth of the rear yard shall be less than 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 rear 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.
 2. A lot on which there is erected a townhouse dwelling shall not contain an area of not less than 2,000 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.
 - 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.
- 5) *Lot Coverage.* In no case shall more than 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. Townhouses are exempt from this requirement; however lots must meet drainage and landscaping regulations.
- 6) *Parking.* 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 shall be as provided in section 150-12.

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 900 square feet of floor space. Every mobile home must contain at least one 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.
 - c. Trailer camps, RV parks or mobile home parks shall be consistent with the requirements of Article II- Mobile Home and/or Recreational Vehicle Parks.
 - d. Signs: Signage shall be provided consistent with the requirements of Chapter 114.
- 2) *Height regulations.* No building shall exceed 2 ½ stories or 35 feet in height, except as provided in section 150-12.
- 3) *Yard regulations.*
 - a. *Frontyard.* 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.
 - b. *Sideyards.* The minimum side yard setback shall be 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.
 - c. *Rear yards.* The minimum rear yard setback shall be five feet from the alley.
- 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.*

Minimum lot size	6,000 square feet (inside lots)
Minimum width	60 feet (inside lots)
Minimum length	100 feet (inside and corner lots)

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

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 the following:
 - i. one (1) cow, bull, llama, horse, donkey or mule per acre of pasture land.
 - ii. two (2) lambs, sheep, billy goats, buck goats, pigs or miniature horses per acre of pasture land
 - iii. any livestock over the age of eight (8) months will be considered an adult.
 - c. The area must be located outside the boundaries of North of Mile 10 North Road, South of 18th Street, West of Midway and East of International Blvd./FM1015.
- 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.* 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 18 inches above the base flood elevation, whichever is greater. City's Flood Plain Administrator shall approve base flood elevation prior to issuance of building permit.
 - 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 asphalt, cement, or concrete and meet 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 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
 - d. Is located behind 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.
 - c. Automobile parking lots/ garages
 - d. Bakeries
 - e. Banks.
 - f. Personal services establishment
 - g. Billiard or pool halls.
 - h. Clinics.
 - i. Daycare facilities
 - j. Filling or service stations provided all storage tanks for gasoline are below the surface of the ground.
 - k. Laundries, self-service.
 - l. Nonmanufacturing ice retail distributing stations provided the capacity does not exceed five tons storage.
 - m. Print Shops
 - n. Lodge halls.
 - o. Mortuaries.
 - p. Restaurants, cafes, cafeterias, and taverns.
 - q. Stores and shops for the sale of products at retail only.
 - r. Studios (art, photo, music).
 - s. Hookah Bars/ Vape Bars
- 2) *Height regulations*. No building shall exceed 3 stories or 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 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.
 - b. *Sideways*. There shall be a side yard of not less than 5 feet, except that on a corner lot, the side yard on a street side shall be 10 feet.
 - c. *Rear yard*. Rear yard setbacks shall be 10 feet.
- 4) *Intensity of use*. There are no minimum lot area or lot width requirements.
- 5) *Parking regulations*. 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.

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. Billboards and poster boards.
 - e. Dance halls and skating rinks.
 - f. Frozen food locker plants.
 - g. Hotels.
 - h. Movie theaters/ performance art theaters.
 - i. Laundry and cleaning facilities.
 - j. Tourist courts or motels.
 - k. 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.
 - l. Post offices.
 - m. Wholesale trade.
- 2) *Height regulations.* No building shall exceed 3 stories or 45 feet in height.
- 3) *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.
 - b. *Side yards.* There shall be a side yard of not less than 5 feet, except that on a corner lot, the side yard on a street side shall be 10 feet.
 - c. *Rear yard.* The rear yard setback shall be 10 feet.
- 4) *Intensity of use.* There are no minimum lot area or lot width requirements.
- 5) *Parking regulations.* 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.

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, 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, no front yard is required.
 - b. *Sideways.* For uses permitted in the B-3 district, there are no side yard requirements.
 - c. *Rear yard.* For uses permitted in the B-3 district, there are no rear yard regulations.
- 4) *Intensity of use.* There are no minimum lot area or lot width requirements.
- 5) *Parking regulations.* 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.

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;
 - 1) Parking associated with such office or residential uses;
 - 2) Signage shall be provided consistent with the requirements of Chapter 114.
- b) *Lot size.* Lot sizes in the B-4 neighborhood office district shall be as follows:
 - 1) *Intensity of Use:* The minimum lot size shall be 6,000 square feet.
 - 2) *Yard Regulations:*
 - i. *Frontyard.* 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. *Sideways.* 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.
 - 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.
 - 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 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.
- 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.

Sec. 150-11. - I Industrial district.

The following regulations shall apply to the I Industrial district:

- a. *Use regulations.* Any building or premises may be used within the I district for any purpose not in conflict with any 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 the city commission following a recommendation by the planning commission:
 - b. Cement or lime manufacture.
 - c. Distillation of bones.
 - d. Explosives manufacture or storage.
 - e. Fat rendering.
 - f. Garbage, offal or dead animal incineration, reduction or dumping.
 - g. Junkyards or automobile wrecking yards.
 - h. Petroleum refinery.
 - i. Slaughter and dressing of animals (not including poultry and rabbits).
 - 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 raw [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.
 - t. Solar and wind farms
- 3) *Height regulations.* No building shall exceed a height of six stories or 75 feet and must be in compliance with airport regulations.
- 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.
- b. *Sideways*. There shall be a side yard of not less than 5 feet, except that on a corner lot, the side yard on a street side shall be 10 feet.
- c. *Rear yard*. Rear yard setback shall be 10 feet.
- 5) *Intensity of uses*. There are no minimum lot area or lot width requirements.
- 6) *Parking regulations*. 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.

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

Sec. 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 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 main 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. May have separate kitchen facilities
 - 3. Restricted to R-1 and R-3 districts only.
 - 4. Maids Quarters must have access through interior corridors or attached to main use building.
 - 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*. 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. of this section, the following uses are hereby declared to be conditional:

1. Billiard or pool halls.
2. Dance halls/Event Centers
3. Skating rinks.
4. Bowling alleys.
5. Amusement parks
6. Permanent circus (longer than two weeks)
7. A day care center in a residential district, subject to the satisfaction of the following mandatory minimum conditions designed to protect the single-family residential character of the neighborhood by remaining low impact and preserving the quality of life within the neighborhood:
 - i. 6' high screened opaque buffer fence is required along outdoor play area
 - ii. A maximum of twelve (12) children will be permitted.
 - iii. Must be secondary use to the home and the applicant must reside there
 - iv. No outside storage areas permitted
 - v. Business must take place in primary structure for home
 - vi. No exterior alterations indicating that a different use other than residential are permitted, the location must maintain the look of a residential area.
 - vii. Must meet state requirements
 - viii. Parking requirement shall be one space for every four (4) children.
 - ix. Only 1 daycare is permitted on dead-end streets and cul-de-sacs
 - x. The spacing between daycares must be 600ft
 - xi. If applicant is not the property owner, an authorization letter must be provided by owner
 - xii. The conditional use permit shall be renewable upon one-year terms:
 - i. Yearly facility inspection must be conducted by Planning, Fire Marshal, Health and Building Departments prior to one-year renewal.
 - ii. Applicant must pay an administrative fee to the City for permit renew in accordance with Article VI. - Master Fee Schedule.
 - iii. Property owners within a 200ft radius will be notified by letter.
 - iv. Renewal shall be presented for consideration to the Planning & Zoning Commission.
 - v. Renewal shall be presented for consideration to the City

Commission, only if the renewal has been denied by the Planning & Zoning Commission.

- xiii. No garages, carports or accessory buildings can be used for occupation
 - xiv. If Conditional Use Permit is revoked, applicant cannot request a permit within 1 year
 - xv. State Comptroller Registration must be provided and a copy submitted to the City
 - xvi. Property must be at least 50 ft wide
 - xvii. Property must be in compliance with latest adopted building permit at the time of application
 - xviii. A sign may be posted with a maximum size of 1.5ft X 1.5Ft and must be non-illuminated
 - xix. All outdoor decorations along walls, fences or lawns shall be prohibited.
 - xx. Exterior walls of the building and fencing must be painted in conformance with the surrounding color schemes of the existing neighborhood.
- 8. Mental, drug or alcohol group therapy centers.
 - 9. All businesses holding mixed beverage alcohol permits.
 - 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.
 - 11. Hospice facilities in R-2,B-1,B-2, B-3, or I zoning districts.
 - 12. Bed and breakfast businesses shall be a permitted use in all zoning districts except in the I industrial district where they are prohibited, 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 homestay and bed and breakfast inn;
 - ii. One off-street parking space must be provided for each guest room and the off-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;
 - iii. Compliance with all applicable fire, building and health codes;
 - iv. Signage shall 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.
 - vii. Guests may stay no longer than two weeks continuously in bed and breakfast classified as homestay or inn;
 - viii. The conditional use permit shall be renewable upon one-year terms:
 - i. Yearly facility inspection must be conducted by Planning, Fire Marshal, Health and Building Departments prior to one year

- renewal.
- ii. A police report of the location must be provided to the Commission as part of the renewal application.
- iii. Applicant will pay an administrative fee to the City for permit renewal in accordance with Article VI. - Master Fee Schedule.
- iv. Property owners within a 200ft radius will be notified by letter.
- v. Renewal shall be presented for consideration to the Planning & Zoning Commission.
- vi. Renewal shall be presented for consideration to the City Commission, only if the renewal has been denied by the Planning & Zoning Commission.
- 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 at 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
- xvi. 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.
- 13. The operation of a private or public school in an "R-1" district.
- 14. Any other use of a recreational nature as described in section 150-12(a) (3) a.
- 15. Businesses that require any of the following on-premise licenses/permits from the Texas Alcoholic Beverage Commission:
 - 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.
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 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 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 is published.
 - 2. The planning director or duly appointed representative 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 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 \$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 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 protect the general welfare, and to help prevent the impairment by the erection of structures, additions or alterations without proper attention to site planning.
2. *Contents.* The site plan shall contain:
 - i. The location of all structures on the subject 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.

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, 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 twelve months after the date granted, the permit is automatically cancelled. An applicant may be granted a six-month extension from the Planning & Code Enforcement Director as long as request is submitted in writing two weeks prior to expiration.
- 2. The conditional use permit 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).

- 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. 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.

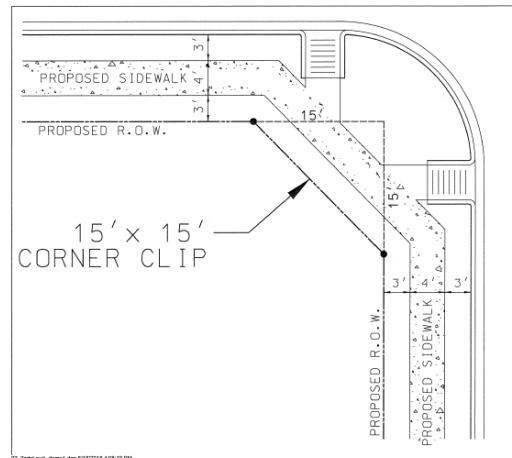
b) *Height regulations.*

- 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, 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.
- 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.
- 4) 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 not observed a front yard as described in subsection (c)(5)a 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 three 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.
- 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.
- 5) Side yard requirements shall be as follows:
- 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 corridor is identified on the Hidalgo County Thoroughfare Map and 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.
 - 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.
 - 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:
 - 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
 - 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.

- 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 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 eight feet in height, shall be required.
 - 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.
- 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 ten feet from the main use building on such lot or attached and may not be more than one story in height.
 - 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
 - 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.
 - f. 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 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 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 eight feet in height shall be required.

Sec. 150-13. - 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 period of six consecutive months or for a 18 months during any three-year period 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 for an unimproved residential lot 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. Permits will expire after one (1) year from date of issuance. Any permit may be renewed provided that the City adopted Building Codes have not changed within one year of renewal date, unless major inspections have been completed.

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) is 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 is 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.
- 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 and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, 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 plus \$20.00 for each additional variance 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 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 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.
- 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.
- 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.

- 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 \$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.
- 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.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 16th day of January, 2018.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission 6th day of February 2018.

B. Discussion and consideration regarding the Conditional Use Permit to operate a daycare at 610 W. 13th Street, Weslaco. (There was no action on this item January 16, 2018; Staffed by City Manager's Office.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting.

V. NEW BUSINESS

A. Discussion and consideration to approve Resolutions 2018-15 through 2018-22 expressing support for applications to the Texas Department of Housing and Community Affairs for 2018 for competitive nine-percent housing tax credits for the following proposed developments:

- 1) Avanti at Sienna Palms Legacy
- 2) Avanti at Westgate Legacy
- 3) Jasmine Village Apartments
- 4) Luna Vista
- 5) Midway North Village
- 6) Midway North Senior Village
- 7) Midway Villas
- 8) Weslaco Villas

and authorize the Mayor to execute any related documents. Possible action. (Staffed by the City Manager's Office.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

B. Discussion and consideration to approve an Interlocal agreement with Weslaco Independent School District for a joint school/city park at Clecker-Heald Elementary School to include improvements and utilization of facilities and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

C. Discussion and consideration to approve an Interlocal agreement with Weslaco Independent School District for a joint school/city park at Memorial Elementary School to include improvements and utilization of facilities and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

D. Discussion and consideration to approve a variance from Subdivision Ordinance 26-37, on behalf of Domain Development Corporation, to reduce park fees from The Villages at Westgate Subdivision in 50% and place remaining fees at building stage at builder's expense. Possible action. (Staffed by Planning and Code Enforcement Department.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

E. Discussion and consideration to submit individual liens for lots located on Sun Valley Subdivision from sanitary sewer improvements as stated on Resolution 2005-04 and filed at Hidalgo County Clerks Office Document No.1434619 and authorize Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

F. Discussion and consideration to approve Ordinance 2018-05 approving a four-way stop at the intersection of Frost Proof Drive and N. Trace Drive. First Reading of Ordinance 2018-05. Possible action. (Staffed by Planning and Code Enforcement.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

G. Discussion and consideration to approve the submission of the final proposed annual work plan for the City of Weslaco under the Hidalgo County Urban County Program, approve Resolution 2018-23 for year 31 (2018) to accept the allocation of approximately \$276,051.00, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Finance Department.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

H. Discussion and consideration to award the most advantageous proposal for financing of the purchase of Weslaco Fire Department 2018 Tahoe and 2018 F-250 Truck and authorize the Mayor to execute a Master Lease Agreement. Possible action. (Staffed by Finance Department.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

I. Discussion and consideration to amend Republic Services agreement to allow for additional charges for overfilling of commercial trash dumpsters in the amount of \$37.50 per yard. Possible action. (Staffed by Finance Department.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

J. Discussion and consideration to approve Ordinance 2018-06 amending the Master Fee Schedule to reflect the overfill charges and authorize the Mayor to execute any related documents. First Reading of Ordinance 2018-06. Possible action. (Staffed by Finance Department.)

Commissioner , seconded by Commissioner , moved to approve. The motion carried unanimously; Mayor Suarez was present and voting

VI. REPORTS

A. Report by Weslaco Area Chamber of Commerce.

B. Report by Economic Development Corporation of Weslaco.

C. Report by Inframark.

- D. Report by Fire Department.
- E. Report by Parks and Recreation Department.
- F. Report by Planning and Code Enforcement.
- G. Report by Public Works.

VII. EXECUTIVE SESSION

At _____ p.m. Commissioner _____, seconded by Commissioner Kerr, moved the regular meeting to convene in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

VIII. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

IX. ADJOURNMENT

Commissioner _____, seconded by Commissioner _____, moved to adjourn at _____ p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

CITY SECRETARY, Elizabeth Walker

MAYOR PRO-TEM, Gerardo “Jerry” Tafolla

COMMISSIONER, Leo Muñoz

COMMISSIONER, Greg Kerr

COMMISSIONER, Jose “J.P.” Rodriguez

COMMISSIONER, Letty Lopez

COMMISSIONER, Josh Pedraza