

Chapter 50 - ZONING

FOOTNOTE(S):

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State Law reference— Municipal zoning authority generally, V.T.C.A., Local Government Code § 211.001 et seq.; municipal planning and development generally, V.T.C.A., Local Government Code § 371.001 et seq.; municipal zoning boards of adjustment, V.T.C.A., Local Government Code § 211.008; issuance of local permits, V.T.C.A., Local Government Code § 245.001 et seq.; municipal and county authority to regulate subdivisions, V.T.C.A., Local Government Code § 242.001 et seq.; municipal comprehensive plans, V.T.C.A., Local Government Code § 213.001 et seq.; authority for municipal regulation of signs, V.T.C.A., Local Government Code § 216.001 et seq.

ARTICLE I. - IN GENERAL

Sec. 50-1. - 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:

Accessory building means a building or use ~~is one that: of an attached or detached structure which~~

- (1) ~~is~~ subordinate to and serves a principal building or principal use;
- (2) ~~is~~ subordinate in area, extent, or purpose to the principal building or principal use served;
- (3) ~~C~~ contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served; and
- (4) ~~is~~ located on the same building lot as the principal building or principal use served.

The terms "accessory building" and "accessory use" shall have the same meaning and may be used interchangeably. An accessory building may be a part of the principal building. Domestic employees' quarters, as defined, are an accessory building or use.

Adult arcade means any place to which the public is permitted or invited, wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are designed and maintained to show images to five or fewer persons per machine or device at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store, or adult video store means a business enterprise which has as a significant or substantial portion of its stock-in-trade or a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior floor space or advertising to the sale, rental or viewing for any form of consideration, of any one or more of the following to on-premises customers:

- (1) Books, magazines, or sound recordings, or printed, visual or audio material of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or
- (2) Non-contraceptive instruments, devices, toys, or paraphernalia designed for use in connection with specified sexual activities, books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, or sound recordings, or printed, visual or audio material of any kind, which, because of the depiction or description of specified sexual activities in the materials offered for sale, is restricted to adults. Novelty items designed as sight gags, advertised as such and not designed or advertised for sexual activity, are not instruments or devices as defined and regulated in this section.

Adult entertainment establishment means a nightclub, bar, restaurant "bottle club, "men's club," "gentlemen's club," "cabaret," or similar place of business, or portion thereof where live entertainment is provided for patrons, whether or not alcoholic beverages are served, which features as a significant portion of the entertainment an emphasis on the exhibition, depiction, or description of specified anatomical areas or specified sexual activities; or a place where entertainment is provided to patrons wherein, because of the nudity or semi-nudity of person(s) employed by or associated with the operation of the business, admittance is limited to adults, or admittance is advertised or promoted as being restricted to adults.

Adult motel means a motel, hotel, or similar commercial establishment which:

- (1) Offers public accommodations, in any form of consideration, which provides patrons with closed circuit television transmission, films, motion pictures, video cassettes, slides, or other photography reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (2) Advertises the availability of the foregoing sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets, leaflets, radio, or television.

Adult motion picture theater means a business place where one or more films, videos, slides, motion pictures, or similar photographic reproductions are shown that have as a dominant theme, or are distinguished by an emphasis on, the depiction or description of specified sexual activities for observation by patrons or guests, and where admittance to such showings are restricted to adults.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features employees, volunteer patrons, or independent contractors, who appear nude or semi-nude or engage in specified sexual activity, or live performances which are characterized by exposure of specified anatomical areas or engagement in specified sexual activities.

Apartment house means a building or any portion thereof, which contains three or more dwelling units. A low-rise apartment house is one which does not exceed 35 feet in height. A high-rise apartment building is one that is greater than 35 feet in height.

Assisted Living. Housing or living arrangements for the elderly, infirm, or disabled, in which housekeeping, meals, medical care, and other assistance is available to residents as needed[T1].

Basement or cellar means a story, wholly or partly (at least 50 percent), measured from floor to ceiling, below the average level of the ground surrounding the building. The portion of a

basement or cellar that is above ground level is counted when measuring the height of a building.

Board means the board of adjustment.

Brick material means hard fired kiln fired clay or slate material which meets the latest version of ASTM Standard C216 or C652, Standard Specifications for Facing Brick (Solid Masonry Unit made of Clay or Shale), and shall be Severe Weather (SW) grade, and Type FVA or FBS or better. Unfired or underfired clay, sand or shale brick are not allowed[T2].

Building, detached, means a building surrounded by yards or open spaces on the same building lot as the principal building.

Building height means the vertical distance between the highest point of a structure, including all portions of a roof but excluding projections other than chimneys and vents, and the lowest point of the structure above ground level.

Building-Integrated Solar Energy System means a solar energy system that is an integral part of a principal or accessory building rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights, and awnings.

Building lot means a single tract of land located within a single block which (at the time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership, or control. It shall front upon a street or approved place.

Building-Mounted Solar Energy System means a solar energy system affixed to a principal or accessory building or a structure.

Cementious fiber board means finish wall, soffit, and tile backing material which meet the U.S. HUD material release No. 1263d[T3].

Childcare center means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, 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[T4].

Clinic means the office of one or more doctors or practitioners of the healing arts legally licensed as such by the state.

Commission means the city zoning commission.

Continuing Care Facility. A facility which offers a tiered approach to the aging process, accommodating residences' changing needs with part independent living, part assisted living and part skilled nursing home[T5].

Community home means a facility as prescribed in Chapter 123 of the Texas Human Resources Code and all promulgations thereof[T6].

Day Care Center. A child-care facility that provides care at a location other than the residence of the director, owner, or operator of the child-care facility for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week. (Texas Human Resource Code 42.002)

District means a zoning district which is a part of the city where regulations of this chapter are uniform.

Domestic employees' quarters means an accessory building or portion of a main building located on the same lot as the principal building, occupied only by such persons and their families as are employed full time by the occupants of the principal residence.

Duplex means a building designed for occupancy by two families living independently of each other within separate units which have a common wall and are under one roof on a single platted lot having separate accommodations[T7].

Dwelling means a building or portion thereof, but not a trailer house, designed and intended to be used exclusively for residential occupancy, including one-family dwellings, two-family dwellings, and multiple-family dwellings, but not including hotels, motels, or lodginghouseslodging houses[T8].

Dwelling, multiple-family, means a building used, or intended to be used, by three or more families living independently of each other and containing three or more dwelling units.

Dwelling, single-family, means a building containing only one dwelling unit and used, or intended to be used, by only one family.

Dwelling, two-family, means a building containing two dwelling units used, or intended to be used, by two families living independently of each other[T9].

Dwelling unit means one or more rooms, arranged, designed, used or intended to be used for occupancy by a single family or a group of persons living together as a family or by a single person. Each installation of kitchen facilities consisting of at least a stove or cooking device and a sink shall constitute a separate dwelling unit. Apartment units in apartment hotels are dwelling units[T10].

Escort means a person who, for any form of consideration, agrees or offers to act as a companion or date for another person, and who also, for a consideration, models lingerie, performs a striptease, poses nude, or conducts escort services in a state of nudity or semi-nudity for that other person.

Escort agency means a person or business association or other business entity which furnishes, offers to furnish, or advertises to furnish escorts, as defined in this section, as one of its primary business purposes, for a fee, tip, or other consideration.

Family means one or more persons, each related to the other by blood, marriage, or adoption; or a group of not more than three unrelated persons who are living together in a dwelling unit[T11].

Fence means a manmade barrier or screening device constructed of the materials, singly or in combination, of the materials authorized in this chapter. No fence shall exceed eight feet in height, except in the G and H districts, as defined in article II of this chapter, where such fence shall not exceed ten feet in height.

Freestanding Solar Energy System means a solar energy system with a supporting framework that is placed on, or anchored in, the ground and that is independent of any building or other structure.

Guest house means living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests (six consecutive months or less) of the occupants of the premises, having kitchen and bathroom facilities, and not rented or otherwise used as a separate dwelling. (Other common names are mother-law-house, pool house, etc[T12].)

Home occupation means any activity carried out for gain by a resident and conducted as an accessory use in the residence or dwelling unit.

Hospice. The provision of palliative care for terminally ill patients, either at a specialized facility or at a residence, and support for the family, typically refraining from taking extraordinary measures to prolong life[T13].

Landscaped areas means areas which are devoted to and consist of plant material, including but not limited to: grass, trees, shrubs, flowers, vines and other ground cover, native plant materials, planters, brick pavers, stone, natural forms, water forms, public art forms, stone aggregate and other landscape features, but not including smooth concrete, asphalt or paving for vehicular traffic; provided however, that the use of brick, stone, aggregate or other inorganic materials shall not be greater in total area than that of organic plant material[T14].

Loading space means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks, and having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet[T15].

Lot. A parcel of land having its principal frontage upon or having legal access to a street or having legal access to or upon an officially approved right-of-way.

Lot area means the area of a horizontal plane intercepted by the vertical projections of the front, side and rear lots lines of a building lot.

Lot, corner, means a lot abutting upon two or more streets at their intersection. A corner lot shall be deemed to front on the street on which it has its least dimension, unless otherwise specified by the city manager.

Lot frontage means the portion of a lot that abuts a street. In the case of a lot that has frontage on more than one street, the narrowest portion of the lot abutting a street will be considered the front of the lot unless:

- (1) A legally recorded plat of the property indicates otherwise; or
- (2) The city manager determines from existing development on properties within a 1,000-foot radius from all property lines of the lot with more than one frontage that the front of the lot shall be the wider portion for setback purposes. If the wider portion becomes the front, no structure may extend in front of the front or side setback lines of adjacent properties.

Lot, interior, means a lot whose side lines do not abut upon any street[T16].

Lot of record means an area of land designated as a lot on a plat of a subdivision recorded pursuant to state law with the county clerk or an area of land held in single ownership described by metes and bounds upon a deed recorded or registered with the county clerk. (See Building lot.)

Lot, through, means an interior lot having frontage on two streets.

Masonry construction means all construction of stone material (including artificial stone), hard fired brick material, concrete masonry units, rock or other materials of equal characteristics laid up unit upon unit set and bonded to one another in mortar. It shall not include concrete masonry units commonly referred to as plain smooth concrete block[T17].

Massage parlor means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of, or in connection with, such treatment, manipulation, or service related thereto, exposes specified anatomical areas. The definition of a massage parlor shall not include the practice of massage by a licensed hospital, nor by a licensed massage therapist, licensed physical therapist or licensed occupational therapist, hospital, licensed physicians, surgeons, chiropractor, osteopath, nurse,

technician working under the supervision of a licensed physician, surgeon, chiropractor, or osteopath, nor by trainers of any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

Memory Care. Specialized care for people suffering from Alzheimer's disease or other cognitive diseases by providing a controlled environment that is safe and comfortable[T18].

Negative secondary effects mean any one of the following conditions caused by geographic proximity to a sexually oriented business:

- (1) Depreciation in surrounding property values;
- (2) Violations of law not limited to but including: indecent exposure, drug use, prostitution, pandering, exposing minors to harmful materials, possession and distribution of obscene materials, possession and distribution of controlled substances, public intoxication, disturbing the peace; or
- (3) Adverse impact upon the city as a primarily family-oriented residential area.

Nonconforming use or nonconforming structure means the use of land, or existence of a structure, in violation of this chapter. A legal nonconforming use or structure is one that was legal prior to the action of the city council to prohibit the use or structure.

Nude modeling studio means any place where a person who, for money or any form of consideration, appears in a state of nudity or displays specified anatomical areas, to be observed, sketched, drawn, painted, sculptured, photographed, or otherwise depicted by other persons. This definition shall not include nude modeling by an adult that occurs in conjunction with art classes of a university, college, or any art class supervised by an art instructor paid by an arts school.

Nude, nudity or state of nudity means a state of dress which fails to cover the human anus, genitals, pubic region, and the areola of the post-puberty female breast.

Nudity attraction establishment means any place of business where nudity or semi-nudity is regularly or routinely advertised as a characteristic of the business or which regularly attracts patrons with nudity or semi-nudity.

Office condominium means one of a group of not less than two or more than eight adjoining office units sharing a common wall with one or more of such adjoining office units, with each office unit being owned independently[T19].

Open storage means the storage of any equipment, machinery, commodities, raw, semi-finished materials, and building materials, which is visible from any point on the building lot line when viewed from ground level to six feet above ground level[T20].

Parking space means a surfaced area not less than nine feet by 18 feet, enclosed or unenclosed, sufficient in size to store one automobile together with a surfaced driveway connecting the parking space with the street or alley and permitting ingress and egress without encroachment on the street[T21].

Paved. To cover uniformly with impervious material.

Pervious/Permeable cover. A variety of types of pavement, pavers and other devices that provide storm water infiltration while reducing run off.

Planned Unit Development (PUD) means a tract of land developed according to plan as a single entity, in compliance with the use, density, intensity, and characteristics designated for such a district in this chapter.

Portable Construction Buildings. A structure transportable in one or more sections, which is built on a permanent chassis and is used solely as a construction office with or without a permanent foundation when connected to the required utilities. The structure shall not provide for and shall not be used as a temporary or permanent unit.

Preschool. A school or nursery intended for a child between infancy and school age.

Recreational vehicle means a motor vehicle or motor vehicle and attachment primarily designed as temporary living quarters for recreational camping or travel use 15 feet or more in length. The term "recreational vehicle" includes a travel trailer, camping trailer, truck camper, pop-up trailer and motor home. In determining the length of motor vehicle trailers and other attachments, the length shall be the combined length of all units[T22].

Respite Care. The provision of short-term relief to those who are caring for family members who might otherwise require permanent placement in a facility outside the home[T23].

Residence means a building or structure of one or two stories designed for single-family or multiple-family occupancy, constructed and maintained in accordance with city Code standards as a human dwelling, often referred to as a "home," "dwelling" or "dwelling unit."

Rest home or nursing home means a place of residence or care for persons suffering from infirmities of age or illness where care is provided on a prolonged or permanent basis. The term "rest home" or "nursing home" includes a convalescent home[T24].

Ribbon Driveway. A driveway that consists of two (2) ribbons of paving with a strip of grass, or other planted material or gravel in-between to minimize storm water drainage.

Screening device means a solid barrier of stone, brick, rock, stucco, wood, or other permanent material of equal character, density, and design acceptable to the city manager, at least six feet in height.

Semi-nude, semi-nudity or state of semi-nudity means a state of dress which fails to fully opaquely cover the crevice of the human buttocks, genitals, pubic region, and the areola of the pubescent female breast.

Setback means the minimum distance as identified in this chapter between the walls of any projection of the building, excluding steps and unenclosed porch, and the front, rear and side lot lines, and extending across the full width of the lot, on which no building or structure may be erected[T25].

Sexual encounter establishment means any business or commercial establishment that, as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas when one or more of the persons is in a state of nudity or semi-nudity. The term "sexual encounter establishment" does not include an establishment where a medical practitioner, psychologist, psychiatrist, or medical professional licensed by the state engages in medically approved and recognized therapy or treatment.

Sexually oriented business means and includes an adult arcade, an adult bookstore, an adult novelty store, an adult video store, an adult entertainment establishment, an adult motel, an adult motion picture theatre, a massage parlor, an adult theater, a nude modeling studio, a nudity attraction establishment, and an adult sexual encounter establishment.

Shared group housing for disabled persons means a licensed shared residential living arrangement which provides a family type of environment for up to and including six disabled persons, supervised by one or more primary caregivers and operated by the state department of aging and disability services, a community center organized under V.T.C.A., Health and Safety

Code § 591.001 et seq. which provides services to disabled persons, a nonprofit corporation, or an entity certified by the state department of aging and disability services as a provider under the intermediate care facilities for the mentally retarded programs[T26].

Short Term Rental means a rental of real property for a period shorter than 30 consecutive days[T27].

Sign. See chapter 34.

Solar Collector Surface means any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.

Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System means a device or structural design feature intended to provide for collection, storage, and distribution of solar energy for heating or cooling, electricity generating, or water heating.

Specified anatomical areas means the human genitals, crevice of the buttocks, pubic region, anus, and the areola of the pubescent female breast.

Specified sexual activity means actual and simulated human genitals in a state of sexual stimulation or arousal, actual or simulated human masturbation, sexual intercourse, sodomy, fellatio, cunnilingus, fondling or other erotic touching of human genitals, crevice of the buttocks, pubic region, anus, or the areola of the pubescent female breast, and excretory functions as part of or in connection with the above-described activity.

Stone material means granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone, dimensional stone, cast stone, and cultured stone are acceptable. Stone may also include cast or manufactured stone product, provided that such product yields a highly textured stone-like appearance, its coloration is integral to the masonry material and it is demonstrated to be highly durable and maintenance free; natural or manmade stone shall have a minimum thickness of three and five eighths inches when applied as a veneer[T28].

Street yard area means the area of a lot which lies between the property line at a dedicated street and the actual front wall line of the building or, if no building, to the rear property line. Such building wall lines extend between the outward from corners of the buildings.

Structure means anything constructed, erected, located, and placed on the ground or attached to something constructed, erected, and placed on the ground. A building is a structure.

Surface or surfaced means covered by only asphalt, concrete, pavers or brick. The term "pavers" are defined as sectional or separate pieces or units of brick, heavy tile or concrete, separately placed or embedded in the earth or on base material and spaced so as to provide both adequate support for vehicles moving over or parked thereon, and optionally for the soaking-in of rain or sprinkled water and the cultivating and tending of grass or other suitable ground cover in the spaces between the pavers[T29].

Surfaced. To finish the surface of; give a particular kind of surface to; make even or smooth[T30].

Tower means a unit with a supporting framework that is placed on, or anchored in, the ground and that is independent of any building or other structure.

Townhouse means one of a group of not less than two or more than eight adjoining single-family dwelling units sharing a common wall with one or more of such adjoining single-family dwelling units.

Trailer, travel trailer, cattle trailer, utility trailer, etc., means a vehicle designed to be drawn by another vehicle, attached to the towing vehicle or used in conjunction with a motor vehicle. Used for transporting property, passengers, animals, etc., wholly on its own structure[T31].

Trailer house means a vehicle used for living or sleeping purposes and standing on wheels or on rigid supports, but which when properly equipped and situated can be towed behind a motor vehicle. A trailer house is not a residence as herein defined.

Use means the purpose or activity for which the land, or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and includes any manner of such activity with respect to the standards of this chapter.

Use, principal, means the main use of land or buildings as distinguished from a subordinate or accessory use.

Utility vehicle means a motor vehicle that is not a golf cart or lawn mower and is equipped with side-by-side seating for the use of the operator and a passenger, designed to propel itself with at least four tires in contact with the ground, designed by the manufacturer for off-highway use only, and designed by the manufacturer primarily for utility work and not for recreational purposes.

Vehicle Queuing. A line of vehicles, in which the one at the front end is dealt with first, the one behind is dealt with next, and so on, and which newcomers join at the opposite end (the back).

Visual screen means a wall, not of living plant material, permanently affixed to the ground in which the area of all openings and cracks in each square foot of wall and entrance gates shall not exceed 14 square inches, and the wall is of sufficient height so that the objects being screened are not visible from any point on the lot line when viewed from any height between ground level and eight feet above ground level.

Wind Energy Unit (WEU) means a device or structural design using a shaft, gearing belt, or coupling to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device to convert the mechanical energy of the surface area into electrical energy, and the associated, tower, pylon, or other supporting structure, and rotor blades or other device.

Yard means an open space on the same building lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the building site and the lot line shall be used. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations of the zoning district in which such building lot is located.

Yard, front, means a yard extending along the whole length of the front lot line between the side lot lines, and being the minimum horizontal distance between the front lot line and any building or any projections thereof other than steps, planter box, and unenclosed porches.

Yard, rear, means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof other than steps, unenclosed balconies, planter boxes, or unenclosed porches.

Yard, side, means a yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building or projections thereof, except steps and unenclosed and uncovered porches and the side lot line, except for corner lots where the side lot line paralleling a right-of-way will extend from the front yard line past the rear of the principal building to the rear property line.

Zoning district map means the map or maps incorporated into this chapter as a part hereof by reference thereto.

(Code 1995, § 31.100; [Ord. No. 1101, 6-11-2013](#))

Sec. 50-2. - Applicability; exception.

- (a) All buildings or structures hereafter constructed, reconstructed, erected, moved, relocated, modified, demolished, or restored, and all land, buildings, or structures hereafter used or occupied, shall be subject to the requirements and regulations of this chapter, except as hereinafter provided.
- (b) Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of the ordinance from which this chapter is derived, and provided that construction is begun within 90 days of such effective date and diligently prosecuted to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, upon completion, may be occupied under a certificate of occupancy for the use for which originally designated, subject thereafter to applicable provisions of this chapter.

(Code 1995, §§ 31.201, 31.202)

Sec. 50-3. - Prohibitions; compliance required.

Except as provided in this chapter:

- (1) No land shall be used except for a purpose permitted in the district in which it is located.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved or altered, nor shall any building be used, except for a use permitted in the district in which such building is, or is proposed to be, located.
- (3) No building shall be erected, converted, enlarged, reconstructed, moved or altered to exceed the height limit herein established for the district in which such building is, or is proposed to be, located.
- (4) No building shall be erected, converted, enlarged, reconstructed, moved or altered except in conformity with the area regulations of the district in which such building is, or is proposed to be, located.
- (5) No building shall be erected, converted, enlarged, reconstructed, moved or altered except in conformity with the off-street parking and loading regulations of the district in which such building is located.
- (6) The minimum yards, parking spaces, and open spaces, including lot area per family, required by this chapter for each and every building existing at the effective date of the ordinance from which this chapter is derived or for any building hereafter erected, converted, enlarged, reconstructed, moved or altered shall not be encroached upon or

considered as part of the yard or parking space or open space required for any other building. Nor shall any lot area be reduced below the requirements of this chapter for the district in which such lot is located.

- (7) Every building hereafter erected, converted, enlarged, reconstructed, moved or altered shall be located on a lot as defined in this chapter, and, except as hereinafter provided, there shall not be more than one main building on one lot.

(Code 1995, § 31.203)

Sec. 50-4. - Enforcement and administration.

Except as otherwise provided in this chapter, the city manager, or designee, shall administer and enforce this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits and certificates of occupancy. No building permit or certificate of occupancy shall be issued unless the provisions of this chapter have been met.

(Code 1995, § 31.2200)

Sec. 50-5. - Penalties.

- (a) Any person or corporation who shall fail to comply with any of the provisions of this chapter or fail to comply with any of the requirements hereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, or who commits, takes part, directs, or assists in any such violation or who maintains or sues any building or premises or part thereof in which any violation exists shall be guilty of a misdemeanor, and any such person or corporation upon conviction thereof shall be fined as provided in section 1-17.
- (b) Any owner or owners of any building or premises or part thereof, who participates in, or knowingly and willingly permits a violation of this chapter, and any architect, builder, contractor, agent, person or corporation employed in connection therewith who assists 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.
- (c) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of the general law or of the terms of this chapter, in addition to imposing any other penalty, the city may institute any appropriate action or proceedings in court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, or to prevent the occupancy of such building, structure or land, or to prevent the illegal act, conduct, business or use, in or about such land.
- (d) The definition of any violation of the terms of this chapter as a misdemeanor shall not preclude the city from invoking the civil remedies given it by law in such cases, but the same shall be cumulative of and in addition to the penalties prescribed for such violation.

(Code 1995, § 31.2300)

Sec. 50-6. - Nonconforming uses.

- (a) Unless prohibited or amortized by city council, a legal nonconforming use or structure may be "grandfathered," or allowed to continue indefinitely; however, existing uses or structures allowed to continue may not be expanded or enlarged and future uses and structures will be subject to this Code.
- (b) Nonconforming uses or structures not "grandfathered" are subject to demolition, removal, cessation, and abatement; however, any nonconforming structure must be completely abated and the entire structure brought into compliance with current city ordinances if any one of the following conditions occurs:
 - (1) 50 percent or more of the structure is damaged or destroyed;
 - (2) Repairs to a structure will equal 50 percent or more of the replacement costs of the entire structure with costs determined within six months of the damage or destruction;
or
 - (3) Repairs to the structure will exceed 50 percent or more of the appraised value according to the Bexar Appraisal District at the time of the damage or destruction.

In the case of a building or structure, the replacement cost or appraised value will be based on the building or structure itself and not the land, furnishings, or other improvements.

- (c) A nonconforming use may not be expanded or altered unless a special use permit or zoning change is obtained. A nonconforming structure may not be expanded unless a variance is obtained.
- (d) If a nonconforming use or use of a nonconforming structure or premises is discontinued for a period of one year, the use of the same shall thereafter conform to the requirements of the district in which it is located.

(Code 1995, § 31.1601.1)

Sec. 50-7. - Amendment of chapter by city council.

The city council may from time to time by ordinance amend, supplement, change, modify or repeal the boundaries or uses of the districts or the regulations established in this chapter. Before taking any such action, the city council shall first receive and consider recommendations of the zoning commission.

(Code 1995, § 31.1709)

Secs. 50-8—50-32. - Reserved.

ARTICLE II. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 50-33. - Official zoning map.

The location and boundaries of the districts established in this chapter are shown upon the official zoning map, which is hereby incorporated into this chapter. The zoning map, together with all notations, references and other information shown thereon and all amendments thereto,

shall be as much a part of this chapter as if fully set forth and described herein. The zoning map is on file in the office of the city manager.

(Code 1995, § 31.301)

Sec. 50-34. - Establishment of districts and boundaries.

For the purpose of this chapter, the city is hereby divided into 12 districts and subdistricts as follows:

- District A Single-Family Residential District
- District AA Single-Family District
- District AAA Townhouse District
- District B Duplex Residential District
- District C Low-Rise Apartment District
- District D High-Rise Apartment District
- District E One-Story Office-Professional District
- District F Two-Story Office-Professional District
- District FF Office Condominium District
- District G General Business District
- District H Special Business District
- District I Planned Unit Development District

(Code 1995, § 31.301(a))

Sec. 50-35. - Rules for the interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts as shown on the zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be the boundaries.
- (2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale on the zoning map.

- (4) In non-subdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (5) In the case of a district boundary line dividing a property into two parts, the district boundary line shall be determined by use of the scale appearing on the zoning district map.
- (6) Whenever any street, alley, or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended districts.
- (7) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.

(Code 1995, § 31.302)

Sec. 50-36. - Requirements applicable to all districts.

- (a) Minimum parking for church area. A minimum of three parking spaces for each 200 square feet of indoor church area or 0.2 (one-fifth) parking space per church seat (including ministers and choir), whichever produces the greater number of parking spaces.
- (b) Vehicular driveway approaches. Any new construction or replacement, in whole or in part, of vehicular driveway approaches accessed from a public street or alley must be constructed to meet city specifications.
- (c) Vehicular area surfacing. All driveways and areas on private property used for driving, parking or storing of vehicles, trailers, or any item for transport or transportation must be surfaced, and no parking will be allowed on any area not meeting the surfaced requirements as defined in this chapter.
- (d) Screening devices. Gates in screening devices shall be solid. All screening devices shall be continuously maintained by the owners. Visual screening walls shall not exceed eight feet in height, except in the G and H districts where such wall shall not exceed ten feet in height.

(e) General Parking Requirements

- (1) Parking spaces shall not occupy any public land, such as the public right-of-way of a street or alley.
- (2) When computing the requirements for off-street parking results in a fraction of a parking space, the next larger whole number of spaces is required.
- (3) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- (4) In computing the parking requirements for any building or development with multiple uses, the total parking requirements shall be the sum of the specific parking requirements for each individual use included in the building or development.
- (5) Cooperative Parking Plan. Two (2) or more uses may share the same off-street parking facilities and each use may be considered as having provided such shared space individually. Cooperative parking shall be obtained within six hundred (600) feet of the property requiring the additional parking. This maximum distance shall be measured from

the property line to the driveway of the shared parking lot. The agreement must be approved by the city attorney, zoning commission and the city council.

(6) All parking lots, parking spaces, fire lanes and pedestrian crosswalks shall be permanently and clearly delineated through the use of striping, buttons, tiles, curbs, barriers, or other approved methods. Nonpermanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

(f) Accessory buildings, structures, and uses (ABSUs).

(1) ABSUs are subordinate to the main building, the use of which is incidental to and used only in conjunction with the main building. ABSUs include, but are not limited to automobile storage garages, storage buildings, greenhouses and workshops.

(2) There shall be a maximum of two detached ABSUs on any lot. The city manager may determine that any ABSU that does not rise above one foot at any point from the abutting natural grade of a yard shall not be counted as one of the two maximum ABSUs allowed. If an ABSU is not counted as one of the two ABSUs allowed, it shall also not count towards the percentage of maximum cover allowed on a lot.

(3) An ABSU shall be considered detached unless it is substantially connected to the main building. The term "substantially connected" shall mean attached to the main structure by a solid wall with or without a door or cased opening in the wall and surrounded by solid walls with or without windows and doors, and a roof covering the entire ABSU that meets the minimum requirements of a roof for a residential or commercial habitable building.

(4) Except for an attached garage, which can be in the side yard, an ABSU shall be in the back yard and at least 75 feet from the front property line and shall not encroach onto any recorded easement.

(5) A detached ABSU must observe the side and rear yard setbacks established in the district regulations for each district (6). The height of an ABSU shall not exceed the height of the main building or 25 feet, whichever is less.

(7) There shall be a minimum spacing of ten feet between any detached ABSU and the main building and any other ABSU on the property.

(8) Any accessory building larger than 120 square feet shall not be constructed of sheet metal[JT32].

General Lighting Standards

(1) Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort and/or aesthetics and not create or cause excessive glare onto adjacent properties and public street rights-of-way.

~~(2) Outdoor lighting must be hooded, shielded, and/or aimed downward.~~

(2) Any bright light shining onto an adjacent property or streets that would result in a safety hazard or nuisance is not permitted.

(3) When approved, commercial accent lighting shall be directed downward onto the structure or object and not toward the sky or adjacent properties. Direct light emissions shall not be visible above the roofline or beyond the building edge.

(Code 1995, § 31.204)

Secs. 50-37—50-60. - Reserved[T33].

DIVISION 2. - A SINGLE-FAMILY DISTRICT

Sec. 50-61. - Use regulations.

- (a) Generally. In the A single-family dwelling district, no land shall be used and no building shall be erected for or converted to any use other than single-family residences and accessory buildings and structures, usual and customary to permitted uses in this district when meeting the requirements of section 50-36(f). Habitable accessory uses shall not be rented, but may be occupied by occasional non-paying guests and by full-time employees living on the premises who function as domestic help or caregivers.
- (b) Municipally owned buildings and structures. In addition, the following uses are allowed if a special use permit (SUP) is approved by the city council in accordance with this chapter:
 - (1) Noncommercial public parks, playgrounds and athletic fields and public, private or denominational schools having a curriculum equivalent to grades 1 through 12 of a public school.
 - (2) Telephone exchange and telecommunication facilities, without business offices, storage, or maintenance facilities, if required by an overriding state or federal law[JT34].
 - (3) Railroad rights-of-way and tracks, bridges, signals, and other railroad appurtenances except railroad yards, classification tracks, team tracks, storage yards, passenger stations, freight stations, fueling facilities, fuel oil tanks, roundhouses, repair shops, offices, and tie treatment facilities.
 - (4) Electrical facilities and electrical energy facilities, transformers, relay and substations, poles and wires, natural gas handling and regulating stations, and private, public utility, and common pipelines subject to the approval required under other ordinances, except office buildings, storage facilities, repair and maintenance facilities, and generating facilities.
 - (5) Churches, so long as the lot frontage and all ingress and egress is from a street within a minimum 60-foot wide public right-of-way that meets all of the following conditions:
 - a. Minimum of two lanes at least 15 feet wide each and paved with asphalt, concrete, or municipally approved surface;
 - b. Designed and used as a through street where traffic can enter and leave the community; and
 - c. The predominant use of properties with the front yard of the lot on the street is other than single-family residential[T35].

(Code 1995, § 31.401)

Sec. 50-62. - Building area.

In the A single-family dwelling districts, there shall be a living area of not less than 1,800 square feet, except that in nonconforming lots the minimum living area may be 1,600 square feet.

(Code 1995, § 31.402)

Sec. 50-63. - Height regulations.

No building shall have more than two stories or exceed 35 feet in height.

(Code 1995, § 31.403)

Sec. 50-64. - Area regulations.

- (a) Front yard. There shall be a front yard having a minimum depth of 40 feet or 20 percent of the depth of the lot, whichever is greater, except where the area of a lot is less than 15,000 square feet, the front yard may have minimum depth of 35 feet.
- (b) Side yard. The minimum side yard setbacks for all buildings and structures shall be ten feet except that on a corner lot the street side yard shall be not less than 20 feet.
- (c) Rear yard. All buildings and structures shall be not less than 20 feet from the rear property line, except that a detached accessory building shall not be closer than five feet to a rear lot line.
- (d) Minimum lot area. All building lots in this district shall contain not less than 14,000 square feet.
- (e) Buildings. Buildings and structures on any one lot must not cover more than one-third of the entire lot area[T36].
- (f) Parking space. Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars[T37] for each dwelling unit; however, no portion of any garage, carport or other automobile storage structure shall be located within the required front yard.
- (g) Additions to house fronts. Except for steps, unenclosed balconies and porches, additions to residential structures shall not protrude past the front house line. Any permitted additions shall be built with exterior finish materials similar to the exterior finish materials of the main structure. ~~These regulations shall also apply to the AA Single-Family District zone.~~

(Code 1995, § 31.404)

Sec. 50-65. - Masonry construction required.

Dwellings shall be constructed of masonry to the extent of not less than 75 percent of overall exterior walls exclusive of window and door openings. Any accessory building larger than 120 square feet constructed to serve a single-or multiple-family structure must also be constructed of masonry to the extent of not less than 75 percent of exterior overall wall area exclusive of window and door openings. The non-masonry exterior of a dwelling or accessory building may not be constructed of sheet metal.

(Code 1995, § 31.405(i))

Sec. 50-66. - Fences.

- (a) Fences in the required front yard may not be higher than three feet and may not be constructed of materials other than wood, wrought iron, brick, stone, stucco or finished concrete, and side or rear yard fences may not be higher than eight feet and may not be constructed of materials other than galvanized chain link, wood, wrought iron, brick, stone, stucco or finished concrete. Fiber cement material, such as Hardie board or Hardie panel, is prohibited fence material.
- (b) The replacement of more than 25 percent in a one-year period of an existing fence not constructed of the materials authorized in this section shall require reconstruction of the fence with the materials authorized in this section.
- (c) On a corner lot, no fence, structure or shrubbery exceeding 18 inches in height may exist within the area created by a straight line connecting two points that are respectively 30 feet along the front and side property lines from a street ~~intersection~~[JT38].

(Code 1995, § 31.405(b))

Sec. 50-67. - Vehicle parking and storage.

- (a) Parking of vehicles in unenclosed front and side yards. No vehicle whatsoever shall be parked in the front yard or unenclosed side yard of any residential premises except on the paved driveway thereof, or in a carport or garage. ~~No vehicles whatsoever shall be parked beyond eight hours on city-owned unimproved right-of-way at any time~~[JT39].
- (b) Parking of utility and recreational vehicles.
 - (1) No mobile home, manufactured home, trailer, semi-trailer, commercial or agricultural tractor, boat, recreational vehicle or any other towed or self-propelled utility or recreational vehicle or device may be parked, stored, or placed in the A Single-Family District unless it meets the conditions of this section.
 - (2) If a vehicle described in this subsection is parked on the street (in compliance with other city regulations) or in the driveway in front of the house, or in a carport open on one or more sides, the vehicle must have legally affixed a current registration and license, must be otherwise street legal, must be capable of operating under its own power, must be titled to an owner, resident, or guest, must have not more than two axles, must be a vehicle designed and used for noncommercial purposes and for transporting nine or fewer passengers; and must not be a bus, recreational vehicle, tractor, or truck (except for personal pickup trucks not designed or used for agricultural or commercial purposes).
- (c) Inoperable vehicle parking permits. Upon obtaining a permit from the city manager's office, an inoperable vehicle may be parked or stored on the property while undergoing repairs or restoration for a period of up to 90 days if:
 - (1) The vehicle is parked in a garage that remains closed to view from the street, alley, and neighboring properties; or
 - (2) If parked in the rear yard inside the setbacks for a principal building and on a surfaced area accessed by a driveway and inside a perimeter fence enclosing the entire rear yard and meeting the definition of a "screening device," as long as no unhealthy, unsanitary, or hazardous conditions exist and none are created by the parking or storage of the inoperable vehicle.

The city manager shall not issue permits pursuant to this subsection (c) for more than three inoperable vehicles for any one property.

(d) Boats and recreational vehicles.

- (1) Garage or screened area parking. A boat with a trailer or a recreational vehicle less than ten feet wide and 20 feet long may be parked in a garage that remains closed to view from the street, alley, and neighboring properties or it may be parked in the rear yard inside the setbacks for a principal building and on a surfaced area accessed by a driveway and inside a perimeter fence enclosing the entire rear yard and meeting the definition of a screening device provided in section 50-1, as long as no unhealthy, unsanitary, or hazardous conditions exist and none are created by the parking or storage of the boat, trailer, or recreational vehicle.
- (2) Permits for driveway parking. A permit hereunder for boats and recreational vehicles only may be issued by the city manager or his designee for driveway parking for not more than three days in any 30-day period for the purpose of preparation for, and cleaning after, a recreational outing.

(Code 1995, § 31.405(c)—(h))

Sec. 50-68. - Moving permits required for structures moved into district.

No building may be moved into the A single-family dwelling district unless it complies with all regulations in the district.

(Code 1995, § 31.405(a))

Secs. 50-69—50-94. - Reserved.

DIVISION 3. - AA SINGLE-FAMILY DISTRICT

Sec. 50-95. - Use regulations.

In the AA Single-Family District, no land shall be used and no building shall be erected for or converted to any use other than a single-family residence, a non-habitable accessory building and structure usual and customary to permitted uses in this district when meeting the definition of section 50-1 and the requirements of section 50-36(f) or a municipally owned building or structure.

(Code 1995, § 31.410.1)

Sec. 50-96. - Building area.

In the AA single-family district, there shall be a living area of not less than 1,800 square feet.

(Code 1995, § 31.410.2)

Sec. 50-97. - Height regulations.

No building shall be more than two stories or exceed 35 feet in height.

(Code 1995, § 31.410.3)

Sec. 50-98. - Area regulations.

- (a) Front yard. The minimum front yard setbacks shall be 20 feet.
- (b) Side yard. The minimum side yard setbacks shall be five feet except that on a corner lot, the street side yard shall be no less than 20 feet.
- (c) Rear yard. The minimum rear yard setbacks shall be 20 feet.
- (d) Lot area. All building lots in this district shall contain not less than 7,500 square feet.
- (e) Parking. Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit; however, no portion of any garage, carport, or other automobile storage structure shall be located in the required front yard.
- (f) Additions to house fronts. Except for steps, unenclosed balconies and porches, additions to residential structures shall not protrude past the front house line. Any permitted additions shall be built with exterior finish materials similar to the exterior finish materials on the main structure.

(Code 1995, § 31.410.4)

Sec. 50-99. - Other requirements.

The requirements and regulations specified in sections 50-65—50-68 shall apply to all property within the AA single-family district.

(Code 1995, § 31.410.5(b))

Secs. 50-100—50-128. - Reserved.

DIVISION 4. - AAA TOWNHOUSE DISTRICT

Sec. 50-129. - Use regulations.

In the AAA Townhouse District, no land shall be used and no building shall be erected for or converted to any use other than single-family residences.

(Code 1995, § 31.420.1)

Sec. 50-130. - Building area.

In the AAA Townhouse District, there shall be a living area of not less than 1,000 square feet per townhouse unit. Lots in the AAA District shall not be less than 7,250 square feet. There shall not be more than six townhouse units per gross acre.

(Code 1995, § 31.420.2)

Sec. 50-131. - Height regulations.

No building shall be more than two stories or exceed 35 feet in height.

(Code 1995, § 31.420.3)

Sec. 50-132. - Area regulations.

- (a) Front yard. The minimum front yard setback shall be 20 feet.
- (b) Rear yard. The minimum rear yard setback shall be 20 feet.
- (c) Side yards on corner lots. The minimum side yard setback on a corner lot where not abutting a townhouse unit shall be 20 feet.
- (d) Side yards on non-corner lots. The minimum side yard setback on a non-corner lot where not abutting a townhouse unit shall be ten feet.

(Code 1995, § 31.420.4)

Sec. 50-133. - Parking regulations.

Off-street parking spaces shall be provided to accommodate a minimum of two motor cars for each townhouse unit. No portion of any garage, carport, or other automobile storage structure shall be located in the required front yard.

(Code 1995, § 31.420.5)

Sec. 50-134. - Masonry construction required.

Townhouses shall be constructed of masonry to the extent of not less than 75 percent of overall exterior walls exclusive of window and door openings. The non-masonry exterior of a townhouse may not be constructed of sheet metal.

(Code 1995, § 31.420.6(a))

Sec. 50-135. - Firewalls.

A firewall of materials and construction approved by the fire chief (or his designee) shall separate living areas of each connected townhouse unit. Firewalls shall be constructed continuously from the foundation to the roof.

(Code 1995, § 31.420.6(b))

Sec. 50-136. - Additions to townhouse fronts.

Except for steps, unenclosed balconies, and porches, additions to townhouse structures shall not protrude past the front house line. Any permitted additions shall be built with exterior finish materials similar to the exterior finish materials on the main structure.

(Code 1995, § 31.420.6(c))

Sec. 50-137. - Accessory buildings.

No accessory buildings may be located or placed on a lot in the AAA townhouse district.

(Code 1995, § 31.420.6(d))

Sec. 50-138. - Utility easements.

No structure may be built on any designated utility easement.

(Code 1995, § 31.420.6(e))

Sec. 50-139. - Fences.

- (a) Fences in the required front yard may not be higher than three feet and may not be constructed of materials other than wood, wrought iron, brick, stone, stucco or finished concrete. Side yard or rear yard fences may not be higher than eight feet and may not be constructed of materials other than galvanized chain link, wood, wrought iron, brick, stone, stucco or finished concrete. Fiber cement material, such as Hardie board or Hardie panel, is prohibited fence material.
- (b) If more than 25 percent of an existing fence is replaced in a one-year period, then the replacement fence must be constructed using materials authorized in this section.
- (c) No fence, structure or shrubbery exceeding 18 inches may exist within the area created by a straight line connecting two points that are respectively 30 feet along the front and side property lines from a street intersection.

(Code 1995, § 31.420.6(e))

Sec. 50-140. - Vehicle parking and storage.

- (a) No vehicles whatsoever shall be parked beyond eight hours on any city-owned unimproved right-of-way.
- (b) No mobile home, manufactured home, trailer, semi-trailer, commercial or agricultural tractor, boat, recreational vehicle, bus, or truck (other than personal pickup trucks not designed or used for agricultural or commercial purposes) may be parked, stored, or placed in the AAA townhouse district.
- (c) Covered off-street parking shall be provided on the basis of two spaces for each townhouse, provided that no supporting member of any garage, carport, or automobile storage structure shall be located within the required front yard.
- (d) No inoperable vehicles may be stored in the AAA townhouse district, except in an enclosed area.

(Code 1995, § 31.420.6(f)—(i))

Secs. 50-141—50-163. - Reserved.

DIVISION 5. - B DUPLEX RESIDENTIAL DISTRICT

Sec. 50-164. - Use regulations.

- (a) In the B duplex district, no land shall be used and no building shall be erected for or converted to any use other than:
 - (1) Single-family or two-family residences.
 - (2) Accessory buildings and structures usual and customary to permitted uses in this district when meeting the requirements of section 50-36(f). Habitable accessory uses shall not be rented, but may be occupied by occasional non-paying guests and by full-time employees living on the premises who function as domestic help or caregivers.
 - (3) Municipally owned buildings and structures.
- (b) In addition, the following uses are allowed if a special use permit (SUP) is approved by the city council in accordance with this chapter:
 - (1) Noncommercial public parks, playgrounds and athletic fields and public, private, or denominational schools having a curriculum equivalent to grades one through 12 of a public school.
 - (2) Telephone exchange facilities, without business offices, storage, or maintenance facilities, if required by an overriding state or federal law.
 - (3) Railroad rights-of-way and tracks, bridges, signals, and other railroad appurtenances except railroad yards, classification tracks, team tracks, storage yards, passenger stations, freight stations, fueling facilities, fuel oil tanks, roundhouses, repair shops, offices, and tie treatment facilities.
 - (4) Electrical facilities and electrical energy facilities, transformers, relay and substations, poles and wires, natural gas handling and regulating stations, and private, public utility, and common pipelines subject to the approval required under other ordinances, except office buildings, storage facilities, repair and maintenance facilities, and generating facilities.
 - (5) Churches, so long as the lot frontage and all ingress and egress is from a street having a minimum 60-foot public right-of-way that meets all of the following conditions:
 - a. A minimum of two lanes, each at least 15 feet wide and paved with asphalt, concrete, or municipally approved surface;
 - b. Designed and used as a secondary arterial or larger through-street where traffic can enter and leave the community; and
 - c. The predominant use of properties with front yards of the lots on the same street as, and within 200 feet of, the front yard of the church is other than single-family residential.

(Code 1995, § 31.501)

Sec. 50-165. - Building area.

In the B duplex district, there shall be a living area of not less than 1,600 square feet for a ~~single family~~single-family dwelling and 1,000 square feet per dwelling unit in a duplex.

(Code 1995, § 31.502)

Sec. 50-166. - Height regulations.

No building shall be more than two stories or exceed 35 feet in height.

(Code 1995, § 31.503)

Sec. 50-167. - Area regulations.

- (a) Front yard. There shall be a front yard having a minimum depth of 35 feet.
- (b) Side yard. The minimum side yard setback shall be ten feet, except on a corner lot the street side yard setback shall be not less than 20 feet.
- (c) Rear yard. All buildings shall be not less than 20 feet from the rear property line, except an accessory building located in the rear yard shall not be closer than five feet to the rear lot line.
- (d) Minimum lot area. Single-family dwelling, 14,000 square feet; duplex, 7,000 square feet per dwelling unit, with minimum lot of 14,000 square feet.
- (e) Buildings on the lot. The buildings or structures on any one lot may not cover more than one-third of total lot area.
- (f) Parking space. Off-street parking spaces shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit; however, no portion of any garage, carport or other automobile storage structure shall be located within the required front yard.
- (g) Additions to house fronts. Except for steps, unenclosed balconies and porches, additions to residential structures shall not protrude forward of the front house line. Any permitted additions shall be built with exterior finish materials similar to the exterior finish materials of the main structure.

(Code 1995, § 31.504)

Sec. 50-168. - Fences.

The provisions of section 50-66 apply to the B duplex district.

(Code 1995, § 31.505(b))

Sec. 50-169. - Vehicle parking and storage.

No inoperable vehicles or trailers of any type may be parked or stored in the front yard of the B duplex district, but may be parked or stored in the rear yard proper or in an enclosed area.

(Code 1995, § 31.505(b))

Sec. 50-170. - Moving permits.

No building may be moved into the B duplex district unless it complies with all regulations in the district.

(Code 1995, § 31.505(b))

Secs. 50-171—50-193. - Reserved.

DIVISION 6. - C LOW-RISE APARTMENT DISTRICT

Sec. 50-194. - Use regulations.

In the C Low-Rise Apartment District, no land shall be used and no building shall be erected for or converted to any use other than apartments and uses allowed in the B district.

(Code 1995, § 31.601)

Sec. 50-195. - Specifications.

In the C apartment district, there shall be a living area of not less than:

- (1) Single-family dwelling—1600 square feet.
- (2) Duplex—1,000 square feet per dwelling.
- (3) Apartments—700 square feet for a one-bedroom apartment, plus 150 square feet for each additional bedroom in the apartment unit.

(Code 1995, § 31.602)

Sec. 50-196. - Height regulations.

No building shall exceed two stories or 35 feet in height.

(Code 1995, § 31.603)

Sec. 50-197. - Area regulations.

- (a) Front yard. There shall be a front yard having a minimum depth of 25 feet.
- (b) Side yard. The minimum side yard setback shall be:
 - (1) Residences—ten feet, except an accessory building located in the rear yard may be located within five feet of the side lot line.
 - (2) Apartments—ten feet, except where adjacent to an A, AA, AAA, or B district side yard, when it must be 15 feet. On corner lots, front yards must be provided on both streets.

- (c) Rear yard. All buildings shall be not less than 20 feet from the rear property line except an accessory building located in the rear yard shall not be closer than five feet to the rear lot line.
- (d) Minimum lot area.
 - (1) Single-family dwelling—14,000 square feet.
 - (2) Duplex—7,000 square feet per dwelling unit; minimum lot area 14,000 square feet.
 - (3) Apartments—1,500 square feet per dwelling unit; minimum lot area 14,000 square feet.
- (e) Buildings. Buildings or structures on any one lot must not cover more than one-third of the entire lot area.
- (f) Parking space. Off-street under-cover parking spaces shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit; however, there shall be no parking in the required 25-foot front yard.

(Code 1995, § 31.604)

Sec. 50-198. - Fences.

The provisions of section 50-66 apply to the C Low-Rise Apartment District.

(Code 1995, § 31.605(b))

Sec. 50-199. - Vehicle parking and storage.

No inoperable vehicles or trailers of any type may be parked or stored in the front yard of a C apartment district, but may be parked or stored in an enclosed storage area.

(Code 1995, § 31.605(b))

Sec. 50-200. - Moving permits.

No building may be moved into the C apartment district unless it complies with all regulations in the district.

(Code 1995, § 31.605(c))

Secs. 50-201—50-223. - Reserved.

DIVISION 7. - D HIGH-RISE APARTMENT DISTRICT

Sec. 50-224. - Use regulations.

- (a) In the D High-Rise Apartment District, no land shall be used and no building shall be erected for or converted to any use other than:
 - (1) A use allowed in the C district.

- (2) High-rise apartment buildings as provided in this division.
 - (3) A restaurant, newsstand, lounge, drug store, retail food shop, and personal service shops such as beauty and barber shops, in a high-rise apartment unit or project, which is three or more stories in height and in which there are 50 or more dwelling units in the building or group of buildings in the project, provided that such commercial activities are services to the residents of the project located within a principal building and are accessible to the public only through the lobby of such a building and that there is no advertising visible from the outside of the building.
- (b) Uses listed in subsection (a)(3) of this section are required to obtain a special use permit in accordance with article III of this chapter.

(Code 1995, § 31.701)

Sec. 50-225. - Specifications.

In the D High-Rise Apartment District, there shall be a living area of not less than:

- (1) Single-family dwelling—1,600 square feet.
- (2) Duplex—1,000 square feet per dwelling unit.
- (3) Apartments—700 square feet for a **one-bedroom apartment** plus 150 square feet for each additional bedroom in the apartment unit.

(Code 1995, § 31.702)

Sec. 50-226. - Height regulations.

No building shall exceed 12 stories in height.

(Code 1995, § 31.703)

Sec. 50-227. - Area regulations.

- (a) Front yard. There shall be a front yard having a minimum depth of 25 feet.
- (b) Side yard. Minimum side yard setbacks shall be:
 - (1) Residences—15 feet, except an accessory building located in the rear yard shall not be closer than five feet to the side lot line.
 - (2) Apartments—15 feet minimum must be provided, except where adjacent to A, AA, AAA, or B districts, when it must be 20 feet, plus one additional foot of setback for each two feet of height over 20 feet, except an accessory building located in the rear yard shall not be closer than five feet to the side lot line.
- (c) Rear yards. The minimum rear yard shall be:
 - (1) Residences—20 feet from the rear property line, except an accessory building located in the rear yard may be located within five feet of the rear lot line.

- (2) Apartments—20 feet plus an additional foot of setback for each two feet of height over 20 feet, except an accessory building located in the rear yard shall not be closer than five feet to the rear lot line.
- (d) Minimum lot area.
 - (1) Single-family dwelling—14,000 square feet.
 - (2) Duplex—7,000 square feet per dwelling unit, minimum lot area 14,000 square feet.
 - (3) Apartments: Low-rise—1,500 square feet per dwelling unit, minimum lot area 14,000 square feet; high-rise—1,500 square feet per dwelling unit, minimum lot area 16,000 square feet.
- (e) Buildings or structures. Buildings or structures on any one lot must not cover more than one-third of the total lot area.
- (f) Parking space. Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit. However, no supporting member of any garage, carport, or automobile storage structure or any parking spaces except for loading and unloading shall be located within the required 25-foot front yard.

(Code 1995, § 31.704)

Sec. 50-228. - Fences.

- (a) Residences. The provisions of section 50-66 apply to the D High-Rise Apartment District.
- (b) Apartments. No fence may be erected in the required 25-foot front yard.

(Code 1995, § 31.705(b))

Sec. 50-229. - Vehicle parking and storage.

No inoperable vehicles or trailers of any type may be parked or stored in the front yard of the D High-Rise Apartment District, but may be parked or stored in an enclosed storage area.

(Code 1995, § 31.705(c))

Sec. 50-230. - Moving permits.

No building may be moved into the D High-Rise Apartment District unless it complies with all regulations in the district.

(Code 1995, § 31.705(a))

Secs. 50-231—50-253. - Reserved.

DIVISION 8. - E ONE STORY OFFICE-PROFESSIONAL DISTRICT

Sec. 50-254. - Use regulations.

In the E One-Story Office-Professional District, no land shall be used and no building shall be erected for or converted to any other use than:

~~(1) Any use allowed in the B district [T40].~~

- (2) Business and professional offices and office buildings, art galleries, studios for photographers, interior decorators or musicians, fine art studios, including fine arts instruction, provided that:
 - a. No building may be constructed or altered to produce a storefront show window or display window and there shall be no merchandise visible from the exterior of the building.
 - b. There shall be no machinery or equipment other than that which would be a usual and customary accessory to permitted uses.
 - c. No adverse effect on adjacent or neighborhood properties by reason of dust, odor, vibration, noise or lighting shall be created. In connection with such uses, only one principal structure shall be permitted on any lot.

(Code 1995, § 31.801; Ord. No. 997, 5-13-2008)

Sec. 50-255. - Building area.

In the E One-Story Office-Professional District, there shall be an enclosed area of not less than:

- (1) Single-family dwelling—1,600 square feet.
- (2) Duplex—1,000 square feet per dwelling unit.
- (3) Office buildings—1,500 square feet of floor area, exclusive of garages, carports, and porches.

(Code 1995, § 31.802)

Sec. 50-256. - Height regulations.

No building shall exceed one story or 20 feet in height.

(Code 1995, § 31.803)

Sec. 50-257. - Area regulations.

- (a) Front yard. There shall be a front yard having a minimum depth of 35 feet. On corner lots, front yards must be provided on both streets.
- (b) Side yard. Minimum side yard setbacks shall be:
 - (1) Residences—ten feet, except an accessory building located in the rear yard shall not be closer than five feet to the side lot line.
 - (2) Offices—ten feet except where adjacent to an A, AA, or AAA District side yard, when it must be 15 feet. Accessory buildings shall not be closer than five feet to the side property lines.

- (c) Rear yard. All buildings shall be not less than ten feet from the rear property line, except an accessory building shall not be closer than five feet to the rear lot line.
- (d) Minimum lot area.
 - (1) Single family dwelling—14,000 square feet.
 - (2) Duplex—7,000 square feet per dwelling unit; minimum lot area, 14,000 square feet.
 - (3) Offices—All building lots shall contain not less than 5,000 square feet.
- (e) Buildings. Lot coverage for offices must be not more than one-third of the total lot area.
- (f) Parking space.
 - (1) Residences. Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit; however, no supporting member of any garage, carport or other automobile storage structure shall be located within the required front yard.
 - (2) Offices. Off-street parking spaces shall be provided on the lot to equal a minimum of one space for each 200 square feet of gross floor area for those buildings having less than 8,000 square feet. Buildings having more than 8,000 gross square feet but less than 20,000 gross square feet shall provide a minimum of one parking space for each 250 square feet. All buildings over 20,000 gross square feet shall provide a minimum of one parking space for each 300 square feet.

(Code 1995, § 31.804)

Sec. 50-258. - Fences.

- (a) Residences. The provisions of section 50-66 apply to the E One-Story Office-Professional District.
- (b) Offices. No fence may be erected in the required front yard. An approved screening device shall be erected where an E One-Story Office-Professional District has a common side or rear yard with an A, AA, AAA, or B residential district.

(Code 1995, § 31.805(b))

Sec. 50-259. - Vehicle parking and storage.

No inoperable vehicles or trailers of any type may be parked or stored in the front yard of an E One-Story Office-Professional District, but may be parked or stored in an enclosed storage area.

(Code 1995, § 31.805(c))

Sec. 50-260. - Moving permits.

No building may be moved into the E One-Story Office-Professional District unless it complies with all regulations in the district.

(Code 1995, § 31.805(a))

Secs. 50-261—50-283. - Reserved.

DIVISION 9. - F TWO-STORY OFFICE-PROFESSIONAL DISTRICT

Sec. 50-284. - Use regulations.

In the F Two-Story Office-Professional District, no land shall be used and no building shall be erected for or converted to any use other than:

~~(1) Any use permitted in the E One-Story Office-Professional District regulations.~~

(2) Business and professional offices and office buildings, art galleries, studios for photographers, interior decorators or musicians, fine art studios, including fine arts instruction, provided that:

- a. No building may be constructed or altered to produce a storefront show window or display window and there shall be no merchandise visible from the exterior of the building.
- b. There shall be no machinery or equipment other than that which would be a usual and customary accessory to the permitted uses.

1. c. ~~Further, it is provided that no adverse effect on adjacent or neighborhood properties by reason of lighting, dust, odor, vibration or noise shall be created. In connection with such uses, only one principal structure shall be permitted on any lot. No adverse effect on adjacent or neighborhood properties by reason of dust, odor, vibration, noise, or lighting shall be created. In connection with such uses, only one principal structure shall be permitted on any lot.~~

(Code 1995, § 31.901)

Sec. 50-285. - Building area.

In the F Two-Story Office-Professional District, there shall be an area of not less than:

- (1) Single-family dwelling—1,600 square feet.
- (2) Duplex—1,000 square feet per dwelling unit.
- (3) Office buildings—1,500 square feet of floor area per floor, exclusive of garages, carports, and porches.

(Code 1995, § 31.902)

Sec. 50-286. - Height regulations.

No building shall exceed two stories or 35 feet in height.

(Code 1995, § 31.903)

Sec. 50-287. - Area regulations.

- (a) Front yard. There shall be a front yard having a minimum depth of 35 feet. On corner lots, front yards must be provided on both streets.
- (b) Side yard. Minimum side yard setbacks shall be:
 - (1) Residences—ten feet, except an accessory building located in the rear yard shall not be closer than five feet to the side lot line.
 - (2) Offices--ten feet except where adjacent to an A, AA, or AAA district side yard, when it must be 15 feet. Accessory buildings shall not be closer than five feet to the side property lines.
- (c) Rear yard. All buildings shall be not less than ten feet from the rear property line, except an accessory building shall not be closer than five feet to the rear lot line.
- (d) Minimum lot area.
 - (1) Residences.
 - a. Single-family dwelling—14,000 square feet;
 - b. Duplex—7,000 square feet per dwelling unit, minimum lot area, 14,000 square feet.
 - (2) Offices. All building lots shall contain not less than 5,000 square feet.
- (e) Buildings. Lot coverage must be not more than one-half of the total lot area.
- (f) Parking space.
 - (1) Residences. Off-street parking space shall be provided on the lot to accommodate a minimum of two motor cars for each dwelling unit. However, no supporting member of any garage, carport or other automobile storage structure shall be located within the required front yard.
 - (2) Offices. Off-street parking spaces shall be provided on the lot to equal a minimum of one space for each 200 square feet of gross floor area for those buildings having less than 8,000 square feet. Buildings having more than 8,000 gross square feet but less than 20,000 gross square feet shall provide a minimum of one parking space for each 250 square feet. All buildings over 20,000 gross square feet shall provide a minimum of one parking space for every 300 square feet.

(Code 1995, § 31.904(1) ~~—(6)~~)

Sec. 50-288. - Fences.

- (a) Residences. The provisions of section 50-66 apply to the F Two-Story Office-Professional District.
- (b) Offices. No fence may be erected in the required front yard. An approved screening device shall be erected where an F Two-Story Office-Professional District has a common side or rear yard with an A, AA, AAA, or B residential district.

(Code 1995, § 31.904(7))

Sec. 50-289. - Vehicle parking and storage.

No inoperable vehicles or trailers of any type may be parked or stored in the front yard of an F Two-Story Office-Professional District, but may be parked or stored in an enclosed storage area.

(Code 1995, § 31.904(8))

Secs. 50-290—50-311. - Reserved.

DIVISION 10. - FF OFFICE CONDOMINIUM DISTRICT

Sec. 50-312. - Use regulations.

- (a) In the FF Office Condominium District, no land shall be used and no building shall be erected for or converted to any use other than business and professional offices, art galleries, studios for photographers, interior decorators or musicians, fine art studios, including fine arts instruction.
- (b) No building may be constructed or altered to produce a storefront show window or display window and there shall be no merchandise visible from the exterior of the building.
- (c) There shall be no machinery or equipment other than that which would be a usual and customary accessory to permitted uses.
- (d) ~~No adverse effect on adjacent or neighborhood properties by reason of lighting, dust, odor, vibration, or noise shall be created.~~ No adverse effect on adjacent or neighborhood properties by reason of dust, odor, vibration, noise, or lighting shall be created. In connection with such uses, only one principal structure shall be permitted on any lot.

(Code 1995, § 31.951)

Sec. 50-313. - Building area.

In the FF Office Condominium District, there shall be an area of not less than 1,500 square feet per condominium unit, exclusive of garages, carports, and porches. Lots in the FF Office Condominium District shall be not less than 5,000 square feet.

(Code 1995, § 31.952)

Sec. 50-314. - Height regulations.

No building shall be more than two stories or exceed 35 feet in height.

(Code 1995, § 31.952)

Sec. 50-315. - Area regulations.

- (a) Front yard setback. The minimum front yard shall be 35 feet. On corner lots, front yards must be provided on both streets.

- (b) Rear yard setback. The minimum rear yard shall be ten feet except where adjacent to an A or AA district rear yard, when the minimum rear yard shall be 15 feet.
- (c) Side yard setback. The minimum side yard where not abutting an office condominium unit shall be ten feet except where adjacent to an A or AA district side yard, when the minimum side yard shall be 20 feet.

(Code 1995, § 31.953)

Sec. 50-316. - Parking regulations.

Off-street parking spaces shall be provided to accommodate a minimum of one space for each 200 square feet of gross floor area for those buildings having less than 8,000 square feet. Buildings having at least 8,000, but less than 20,000 gross square feet shall provide a minimum of one parking space for each 250 square feet. All buildings 20,000 gross square feet or more shall provide a minimum of one parking space for every 300 square feet.

(Code 1995, § 31.955)

Sec. 50-317. - Firewalls.

A firewall of materials and construction approved by the fire chief (or his designee) shall separate living areas of each connected condominium unit. Firewalls shall be constructed continuously from the foundation to the roof.

(Code 1995, § 31.956(a))

Sec. 50-318. - Accessory buildings.

No accessory buildings may be located or placed on a lot in the FF Office Condominium District.

(Code 1995, § 31.956(b))

Sec. 50-319. - Utility easements.

No structure may be built on any designated utility easement.

(Code 1995, § 31.956(c))

Sec. 50-320. - Fences.

No fence may be erected in the required front yard. An approved screening device shall be erected where an FF condominium district has a common side or rear yard with an A, AA, AAA, or B residential district.

(Code 1995, § 31.956(d))

Sec. 50-321. - Vehicle parking and storage.

No inoperable vehicles or trailers of any type may be parked or stored in the FF Office Condominium District except in an enclosed area.

(Code 1995, § 31.956(e))

Secs. 50-322—50-345. - Reserved.

DIVISION 11. - G GENERAL BUSINESS DISTRICT

Sec. 50-346. - Use regulations.

In the G General Business District, no land shall be used and no building shall be erected for or converted to any use other than one of the following uses. No building or premises in this zoning district shall be allowed if they are noxious or offensive because of the emission of odor, smoke, dust, noise, fumes, vibration, particulate matter or lighting. Uses permitted are:

- (1) Arts and crafts, pottery and ceramic products, fabrication and sales.
- (2) Automobile gasoline service stations, including service customarily incidental.
- (3) Automobile parts and accessories sales and installation, but not body repair shops.
- (4) Banks, including drive-in/drive-through facilities.
- (5) Blueprint and printing shops.
- (6) Bowling alleys and similar enclosed commercial recreational activities.
- (7) Clinics, including small animal veterinary clinics for house pets.
- (8) Commercial schools.
- (9) Dance studios.
- (10) Drug stores and pharmacies.
- (11) Kennels for boarding house pets under the following regulations:
 - a. All housing and care shall be in facilities that are totally enclosed, adequately ventilated and soundproofed.
 - b. Animal external exercise areas must be suitably fenced and supervised when animals are exercising. The supervisor shall be responsible for controlling the animals, limiting sound and collecting waste so as to control odor.
 - c. Waste shall be collected on a regular and routine basis, and disposed of in a secure airtight container.
 - d. Facilities shall be at least 300 feet from the nearest residential housing at the nearest point measured in a straight line.
- (12) Laboratories, medical and dental.
- (13) Launderettes, laundry, dry cleaning, and dyeing establishments.
- (14) Meeting and assembly halls.
- (15) Museums.

- (16) Newsstands, book, stationery and greeting card stores.
- (17) Nursery stock and garden ornament sales.
- (18) Parking lots and parking garages.
- (19) Pawnshops licensed by the state consumer credit commission.
- (20) Photographers, portrait or camera shops, photo finishing, and picture framing.
- (21) Physical health services, gymnasiums, and reducing salons.
- (22) Rental shops, except that there shall be no rental of trucks or heavy construction equipment in connection therewith, nor shall there be any unenclosed storage of rental equipment on the premises.
- (23) Restaurants, cafeterias and delicatessens, including drive-in/drive-through facilities.
- (24) Retail stores, personal and professional services establishments, and offices, but not tattoo parlors.
- (25) Shops for repair and servicing of bicycles, watches, clocks, electrical appliances, radio and televisions, electronic devices, computers, lawn mowers and garden tractors, shoes, and home appliances of any kind.
- (26) Tailoring and custom dressmaking shops.
- (27) Testing and technical laboratories.
- (28) Theaters, but not drive-in theaters.

(Code 1995, § 31.1001; Ord. No. 997, 5-13-2008)

Sec. 50-347. - Special use permits.

A special use permit shall be required for any use in the G district other than a use listed in article III of this chapter.

(Code 1995, § 31.1002)

Sec. 50-348. - Building area.

In the G General Business District, except with a special use permit, each building shall have not less than 1,500 square feet of floor area, exclusive of garages, carports, and porches.

(Code 1995, § 31.1003)

Sec. 50-349. - Height regulations.

No building shall exceed the greater of eight stories or 120 feet in height.

(Code 1995, § 31.1004)

Sec. 50-350. - Minimum setback and area regulations.

The following shall be the minimum setback and area regulations for the G General Business District:

- (1) Front yard setback: minimum ten feet.
- (2) Side yard setback: minimum ten feet except when adjacent to on an A, AA, AAA, or B District, where the minimum setback of 15 feet per story shall be provided.
- (3) Rear yard setback: minimum ten feet except when adjacent to an A, AA, AAA, or B district, where the minimum setback of 20 feet per story shall be provided.
- (4) Lot area. All building plots shall contain a minimum of 7,200 square feet.
- (5) Buildings on the lot: Lot coverage must be not more than one-third of the total lot area.

(Code 1995, § 31.1005)

Sec. 50-351. - Minimum off-street parking requirements.

- (a) When installing parking spaces, the parking area shall be graded and drained in such a manner that there will be no increase in the historical quantity or velocity of water onto adjacent properties.
- (b) Theaters, and meeting and assembly halls shall have a minimum of one parking space per 200 square feet of specified outdoor recreational area plus a minimum of one parking space per 100 square feet of indoor recreational area.
- (c) General business and retail shall have a minimum of one parking space per 200 square feet of gross retail sales/service area, plus one parking space per 800 square feet of all other area; or, one parking space per 400 square feet of combined retail sales/service and all other area[JT41].
- (d) Personal service establishments shall have one parking space per 100 square feet of gross floor area.
- (e) Restaurants, cafeterias, delicatessens and other food serving establishments, except drive-in establishments, shall have one parking space per 100 square feet of gross floor area.
- (f) Drive-in eating establishments, where food or drink is served to customers in their vehicles, shall have a minimum of two parking spaces per 100 square feet of gross floor area, with a minimum of 20 parking spaces for on-premises consumption.
- (g) Automotive, nursery (plant) and affiliated activities shall have a minimum of one parking space per 200 square feet of retail sales/service floor area and one parking space per 800 square feet of all other area.
- (h) Shopping centers exceeding 200,000 square feet gross leasable area shall have a minimum of one parking space per 200 square feet of gross leasable area (excluding theaters).
- (i) Institutional and educational facilities shall have parking as follows:
 - (1) Child/adult day care and nurseries shall have a minimum of one parking space per ten children/adults and a minimum of one parking space per office.
 - (2) Elementary, primary, kindergarten, middle and junior high schools shall have a minimum of three parking spaces per class room plus a minimum of three parking spaces per office.

- (3) College, trade and high schools shall have a minimum of ten parking spaces per classroom and a minimum of five parking spaces per office.
- (4) Institutional and educational college, trade and high schools holding classes only before or after the period of 8:00 a.m. and 5:00 p.m., Monday through Friday, and/or all day on Saturday and Sunday, shall have a minimum of one parking space per each 200 square feet of gross floor area.
- (j) Offices must have a minimum of one parking space shall be provided per each 200 square feet of gross floor area.
- (k) [JT42] Clinics - medical/dental/optometry/veterinary requiring a minimum of 1 parking space per 200 ~~or 250~~ square feet of waiting areas and examine rooms plus one parking space per 800 square feet of all other area.

(Code 1995, § 31.1006; Ord. No. 1089, 9-11-2012)

Sec. 50-352. - Fences.

No fence shall exceed ten feet in height. An approved screening device not less than eight feet nor greater than ten feet in height shall be erected where G General Business District has a common side or rear yard with an A, AA, AAA, or B residential district.

(Code 1995, § 31.1007(2))

Sec. 50-353. - Vehicle parking and storage.

No trailer, piece of equipment or inoperable vehicle may be stored in front of or on the side of any G General Business District building, but may be parked/stored behind the building in an opaque enclosed area.

(Code 1995, § 31.1007(3))

Sec. 50-354. - Moving permits.

No building may be moved into the G General Business District unless it complies with all regulations in the district.

(Code 1995, § 31.1007(1))

Secs. 50-355—50-381. - Reserved.

DIVISION 12. - H SPECIAL BUSINESS DISTRICT

Sec. 50-382. - Use regulations.

In the H Special Business District, no land shall be used and no building shall be erected for or converted to any use other than one of uses set out in this section. A building or premises in this zoning district shall not be noxious or offensive because of the emission of odor, smoke, dust, noise, fumes, vibration, particulate matters or lighting. Lumber yards, storage yards, mini-storage businesses, warehouse and any use permitted in the G district are allowed in H district.

(Code 1995, § 31.1101; Ord. No. 997, 5-13-2008)

Sec. 50-383. - Special use permits.

A special use permit shall be required for any use in the H District.

(Code 1995, § 31.1102)

Sec. 50-384. - Building area.

In the H Special Business District, except with a special use permit, each building shall have not less than 1,500 square feet of floor area, exclusive of garages, carports, and porches.

(Code 1995, § 31.1103)

Sec. 50-385. - Height regulations.

No building shall exceed the greater of eight stories or 120 feet in height.

(Code 1995, § 31.1104)

Sec. 50-386. - Area regulations.

The following shall be the area regulations for the H Special Business District:

- (1) Front yard. None.
- (2) Side yard. None, except when adjacent to an A, AA, AAA, or B district, where a minimum setback of 15 feet per story shall be provided.
- (3) Rear yard. None, except when adjacent to an A, AA, AAA, or B district, where a minimum setback of 20 feet per story shall be provided.
- (4) Lot area. All building plots shall contain a minimum of 7,200 square feet.
- (5) Buildings on the lot. Lot coverage must not be more than one-third of the total lot area.

(Code 1995, § 31.1105)

Sec. 50-387. - Fences.

No fence shall exceed ten feet in height. An approved screening device not less than eight feet nor greater than ten feet in height shall be erected where H Special Business District has a common side or rear yard with an A, AA, AAA, or B residential district.

(Code 1995, § 31.1106(b))

Sec. 50-388. - Vehicle parking and storage.

- (a) Inoperable vehicles and equipment. No inoperable trailer, piece of equipment or inoperable vehicle may be parked or stored in front of or on the side of any H Special Business District building, but may be parked or stored behind the building in an opaque enclosed area.
- (b) Other vehicles.
 - (1) For uses allowed in the H General Business District, parking requirements shall be as set out in section 50-351.
 - (2) Lumber yards shall meet the parking requirements set out in section 50-351(g).
 - (3) Storage yards shall have off-street parking at the rate of one parking space per 2,000 square feet of gross storage area.
 - (4) Warehouses shall have off-street parking at the rate of one parking space per 2,000 square feet of gross warehouse area.
 - (5) Mini-warehouses shall have a minimum of three off-street parking spaces per office area.
 - (6) Any other uses shall provide off-street parking at the rate of one parking space per 800 square feet of gross floor area.

(Code 1995, § 31.1106(c), (d))

Sec. 50-389. - Moving permits.

No building may be moved into the H special business district unless it complies with all regulations of the district.

(Code 1995, § 31.1106(a))

Secs. 50-390—50-406. - Reserved.

DIVISION 13. - I PLANNED UNIT DEVELOPMENT (PUD)

Sec. 50-407. - Uses.

~~(a) Permitted. The I PUD district is established to accommodate the development of planned units which do not conform in all respects with the land use pattern designated on the zoning map, the district regulations prescribed by the zoning ordinance, or the requirements of the subdivision chapter. Permitted uses shall be limited to the PUDs in accordance with the subdivision chapter requirements regarding PUDs.~~

~~(b) Prohibited. Any building erected or land used for other than the use shown on the PUD plan as approved by the city council is prohibited. Any use of property that does not meet the recorded PUD plan as approved by the city council; the required minimum lot size; the front, side and rear yard dimensions, and lot width; or that exceeds the maximum height, building coverage or density per gross acre, is prohibited.~~

50-407 PURPOSE

The Planned Unit Development District (PUD District) is a free-standing district designed to provide for the development of land as an integral unit for single or mixed uses in accordance with a plan that may vary from the established regulations of other zoning districts. It is the intent in such a district to insure compliance with good zoning practices while allowing certain desirable departures from the strict provisions of specific zoning classifications.

50-408 APPLICATION PROCEDURE

An application for a PUD District shall be processed in accordance with this chapter. A pre-planning conference is required between the applicant and the City Manager or the City Manager's designee prior to the actual filing of the initial application.

50-409 SPECIFICATION OF A BASE ZONING DISTRICT

A base zoning district shall be specified in the initial application. The regulations in the base zoning district shall control, except as otherwise provided in the approved detail plan for the PUD District.

50-410 TWO TYPES OF PLANS

There are two types of plans that may be used in the planned unit development application process. The general purpose and use of each plan is described as follows:

- 1) Concept plan. This plan is intended to be used as the first step in the planned unit development application process. It establishes the most general guidelines for the district by identifying the project boundaries, land use types, development standards, and approximate road locations; and it illustrates the integration of these elements into the plan for the whole district.
- 2) Detail plan. The detail plan is the final step of the planned unit development process. It contains the details of development for the property.

50-411 CONCEPT PLAN REQUIREMENTS

Concept plan requirements shall comply with or be more restrictive than the standards established in the base zoning district for the specific type uses allowed in the district, except that modifications in these regulations may be granted if it shall be found that such modifications are in the public interest, are in harmony with the purposes of this chapter and will not adversely affect nearby properties. Said concept plan shall include the following:

- 1) Relation to the Comprehensive Plan. A general statement setting forth how the proposed district will relate to the City's comprehensive plan and the degree to which it is consistent with that plan and with the proposed base zoning district.
- 2) Acreage. The total acreage within the proposed district.
- 3) Survey. An accurate legal description of the boundaries of the district.
- 4) Land uses. Proposed general land uses and the acreage for each use, including open space. For residential development, the total number of units and the number of units per acre.

- 5) General thoroughfare layout. All proposed streets.
- 6) Development standards. Development standards, if different from the base zoning district, for each proposed land use, as follows:
 - a) Minimum lot area.
 - b) Minimum lot width and depth.
 - c) Minimum front, side, and rear building setback areas.
 - d) Maximum height of buildings.
 - e) Maximum building coverage.
 - f) Maximum floor to area ratios for nonresidential uses.
 - g) Minimum parking standards for each general land use.
- 7) Existing condition. On a scaled map sufficient to determine detail, the following shall be shown for the area within the proposed district.
 - a) Topographic contours of ten feet or less.
 - b) Existing streets.
 - c) Existing 100-year floodplain, floodway and major drainage ways.
 - d) City limits.
 - e) Zoning districts within and adjacent to the proposed district.
 - f) Land use.
 - g) Utilities, including water, wastewater and electric lines.

50-412 DETAIL PLAN REQUIREMENTS

The final application for a PUD District shall include a detail plan consistent with the concept plan. A detail plan, with all of the information required of a concept plan, may be submitted simultaneously with a concept plan. A detail plan shall include the following:

- 1) Acreage. The acreage in the plan as shown by a survey, certified by a registered surveyor.
- 2) Land uses. Permitted uses, specified in detail, and the acreage for each use.
- 3) Off-site information. Adjacent or surrounding land uses, zoning, streets, drainage facilities and other existing or proposed off-site improvements, as specified by the City Manager, sufficient to demonstrate the relationship and compatibility of the district to the surrounding properties, uses, and facilities.
- 4) Traffic and transportation. The location and size of all streets, alleys, parking lots and parking spaces, loading areas or other areas to be used for vehicular traffic; the proposed access and connection to existing or proposed streets adjacent to the district; and the traffic generated by the proposed uses.
- 5) Buildings. The locations, maximum height, maximum floor area and minimum setbacks for all nonresidential buildings.
- 6) Residential development. The numbers, location, and dimensions of the lots, the minimum setbacks, the number of dwelling units, and number of units per acre (density).
- 7) Water and drainage. The location of all creeks, ponds, lakes, floodplains or other water retention or major drainage facilities and improvements. A drainage plan by a professional engineer shall be an integral part of this requirement.
- 8) Utilities. The location and route of all major sewer, water, or electrical lines and facilities necessary to serve the district.
- 9) Open space. The approximate location and size of greenbelt, open, common, or recreation areas, the proposed use of such areas, and whether they are to be for public or private use.
- 10) Sidewalks and bike paths. Sidewalks or other improved ways for pedestrian or bicycle use.
- 11) Landscape plan. If multifamily or nonresidential development, a landscape plan unless the project will fully comply with the landscape ordinance, as amended [T43].

- 12) Lighting. The number, locations, maximum height, and maximum light output for all outdoor lighting.
- 13) To the extent not otherwise provided, all information contained in the Concept Plan Requirements of Sec. 50-411 of this chapter.

50-413 ACTION ON CONCEPT PLAN. City Council may, after receiving a recommendation from the Zoning Commission, act on a proposed concept plan.

50-414 ACTION ON DETAIL PLAN

- 1) An applicant may submit a concept plan and a detail plan simultaneously for approval.
- 2) The Zoning Commission shall not approve the detail plan or an amended detail plan unless it finds that:
 - a) Compliance. The plan complies with the concept plan approved for that property and the standards and conditions of the PUD district;
 - b) Compatibility. The plan provides for a compatible arrangement of buildings and land uses and would not adversely affect adjoining neighborhood or properties outside the plan;
 - c) Circulation of vehicular traffic. The plan provides for the adequate and safe circulation of vehicular traffic; and
 - d) Police Chief and Fire Chief Approval. The City Police Chief and City Fire Chief have approved such plan.
- 3) If not considered simultaneously with a concept plan application, the City Council may, after receiving a recommendation from the Zoning Commission, act on a proposed detail plan for which a concept plan has previously been approved. An approved detail plan shall be made part of the ordinance establishing the PUD District. An approved detail plan shall be permanently filed with the [City][T44].

50-415 AMENDMENTS

- 1) Changes in concept plan. A previously approved concept plan may only be amended by City Council after receiving a recommendation from the Zoning Commission.
- 2) Changes in detail plan. A previously approved detail plan may only be amended by ordinance by City Council after receiving a recommendation from the Zoning Commission.
- 3) An amendment to the concept plan or an amendment to the detail plan will not extend the time limits in Section 50-416[T45].

50-416 CRITERIA FOR APPROVAL

The zoning commission, in making its recommendation, and the city council, in considering final action on a planned development district, should consider the following criteria:

- (1) Whether the proposed planned development district implements the policies of the adopted comprehensive land plan;
- (2) Whether the proposed planned development district promotes the health, safety, or general welfare of the city and the safe, orderly, efficient and healthful development of the city;

(3) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;

(4) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers or other public services and utilities to the area;

(5) The extent to which the proposed planned development district will result in a superior development than could be achieved through conventional zoning; or

(6) Other criteria which, at the discretion of the zoning commission and city council are deemed relevant and important in the consideration of the [amendment]T46].

50-417 TIME LIMIT

- 1) Expiration of concept plan. If an approved concept plan is not followed by a detail plan application filed with the City Manager within one year of such concept plan approval or if the respective detail plan is not approved by City Council within one year after the detail plan filing date, the concept plan shall automatically expire and no longer be valid.
- 2) Expiration of detail plan. A detail plan shall be valid for two years from the date of its approval. If a building permit has not been issued or construction begun on the detail plan within the two years, the detail plan shall automatically expire and no longer be valid. The City Council may, prior to expiration of the detail plan, for good cause shown, extend for up to 12 months the time for which the detail plan is valid.

50-418 MINIMUM DEVELOPMENT SIZE.

The total development of any PUD District shall not be less than two acres for nonresidential developments and 5 acres with a minimum lot size of 7500 square feet for residential developments.

(Code 1995, §§ 31.1201, 31.1202)

Secs. 50-401~~89~~—50-426. - Reserved.

DIVISION 14. - HOME OCCUPATIONS

DIVISION 14. – HOME OCCUPATIONS

Sec. 50-427. – General.

Home Business Occupations shall be permitted only in the A, AA, AAA, B, C, and D districts. The home occupation must be subordinate to the main use or dwelling unit for residential purposes.

Sec. 50-428. – Conditions of use.

Home occupations are permitted in any dwelling unit or properly permitted accessory building subject the following conditions:

(1) The appearance of the dwelling unit or properly permitted accessory building shall not be altered nor shall the home occupation be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, lighting, signs, increased traffic or emissions of odors, sounds, or vibrations. The city's noise and nuisance regulations are also applicable.

(2) No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.

(3) Only the resident occupants of the dwelling unit and one person not permanently residing in the dwelling unit shall be employed for hire or as a volunteer of the home occupation.

(4) Except for a home occupation for school or child care, the home occupation shall be conducted entirely within the dwelling unit or a properly permitted accessory building. Use of carports or front yards for a home occupation is prohibited. A home occupation for school or child care may use the rear yard for such home occupation during daylight.

(5) The use of electrical and mechanical equipment that would change the fire rating of the dwelling or create a visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited.

(6) The home occupation shall not involve the use of commercial vehicles larger than one ton or delivery of materials to and from the premises other than mail and private delivery service vehicles such as Federal Express or UPS between 8:00 a.m. and 7:00 p.m.

(7) Sales and services to patrons shall be arranged by appointment and scheduled so that not more than two (2) patron vehicles are on the premises at the same time.

(8) A minimum of two (2) additional parking spaces shall be provided on premises. All parking shall comply with the most recently adopted rules and ordinances for stopping, standing and parking.

(9) Except for advising or consulting, the home occupation shall not involve medical or dental care, including, but not limited to a clinic, hospital, nursing home, or laboratory.

(10) The home occupation shall not involve funeral or taxidermy services, tattoo parlors, furniture stores, restaurants, or clubs.

(11) The home occupation shall not involve vehicle or boat sales, repair, or painting; heating, plumbing, construction or air conditioning services; glazier's or painting services; or equipment or vehicle rental.

(12) The home occupation shall not involve animal care, such as a stable, kennel, veterinary practice, or boarding or breeding of animals.

(13) The home occupation shall not involve school or child care for more than four (4) children or adult care for more than two (2) adults.

(14) The owner of the property where a home occupation is conducted shall register the home occupation with the City by completing a registration from identifying the street address of the property where the home occupation is being conducted, the name(s) of the persons(s) conducting the home occupation, and a description of the home occupation.

Sec. 50-429. – Legal Nonconforming Uses

A legal nonconforming use (as defined in Section 50-1) in existence upon adoption of this Division 14 may be continued but is subject to the provisions of Section 50-6 concerning nonconforming uses.

(Code 1995, § 31.1300)

Secs. 50-429—50-454. - Reserved.

DIVISION 15. - SHARED GROUP HOUSING FOR DISABLED PERSONS

Sec. 50-455. - Permitted in all districts; conditions.

Shared group housing for disabled persons shall be permitted in all zoning districts, subject to the following conditions:

- (1) Not more than six disabled persons, regardless of their legal relationship to one another, and two supervisory personnel/care providers may reside in one group home for disabled persons at the same time.
- (2) A group home must provide the disabled residents the following services: food and shelter, personal guidance, care, habilitation services, and supervision.
- (3) Subject to other city regulations, the residents of a group home may not keep, on the premises of the home or on the public rights-of-way adjacent to the home, more than one motor vehicle per bedroom for the use of residents of the home.
- (4) A group home must meet all applicable licensing requirements.
- (5) A group home may not be established within a radius of one-half mile of a previously existing group home for disabled persons.
- (6) Any single-family dwelling unit that is proposed to be used for shared group housing for the disabled shall provide a minimum the following square footage in each bedroom:
 - a. To house one disabled person per bedroom, 120 square feet per bedroom is required for each bedroom so designated.
 - b. To house two disabled persons per bedroom, 150 square feet per bedroom is required for each bedroom so designated.

- (7) Any residence proposed to be used for shared group housing for disabled persons shall provide a separate bedroom for the supervisory personnel/care providers[T47].

(Code 1995, § 31.1400)

DIVISION 16 – ALTERNATIVE ENERGY PROVISIONS

Sec. 50-470. Solar Energy Systems

(a) Purpose. Regulations governing solar energy systems are established to provide for appropriate locations for solar energy systems, to ensure compatibility with surrounding uses, and to promote safe and effective use of solar energy to increase opportunities for generation of renewable energy.

(b) Specific Standards and Requirements

(1) In general. Solar energy systems are permitted in all zoning districts, subject to the standards and requirements of this section. Solar collector surfaces and all mounting devices shall comply with the minimum yard requirements of the district in which they are located. Screening of solar collector surfaces shall not be required.

(2) Building-mounted solar energy systems.

- (i) Building-mounted solar energy systems shall not extend higher than the maximum allowed height in the zoning district where the building is located.**
- (ii) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the roof surface on which the system is mounted. Solar energy systems that extend less than one (1) foot above the roof surface shall be exempt from this provision.**
- (iii) The solar collector surface and mounting devices shall not extend beyond the exterior perimeter of the building on which same is mounted.**

(3) Freestanding solar energy systems.

- (i) Freestanding solar energy systems, measured to the highest point of the system, shall not exceed fifteen (15) feet when oriented at maximum tilt. Freestanding solar energy systems shall be subject to the setback and minimum yard requirements in the zoning district where the building is located.**
- (ii) In A, AA, AAA, and B Districts, the area of the solar collector surface of freestanding solar systems shall not exceed three (3) percent of the lot area. In all other districts, the area of the solar collector surface of freestanding solar energy systems shall not exceed five (5) percent of the lot area. Notwithstanding any other provision to the contrary, the maximum area of**

solar energy systems shall be calculated independently of the floor area of all other accessory structures on a lot.

(iii) A freestanding solar energy system with panels four square feet or less in size is exempt from the requirements of this section.

(iv) All abandoned or unused freestanding solar energy systems shall be removed within six (6) months of the cessation of operations.

(4) *Electrical Requirements.* Electric solar system components must have an Underwriters Laboratory (UL) listing. All photovoltaic systems shall comply with the electrical code adopted by the City Council.

(5) *Special Use Permit Required.* A Special Use Permit (SUP) is required for any solar energy ~~system~~[T48].

Secs. 50-456—50-478. - Reserved.

ARTICLE III. - SEXUALLY ORIENTED BUSINESSES

FOOTNOTE(S):

--- (2) ---

State Law reference— Municipal and county authority to regulate sexually oriented businesses, V.T.C.A., Local Government Code § 243.001 et seq.

Sec. 50-479. - Applicability.

These regulations shall apply to all future and existing sexually oriented businesses upon the effective date of the ordinance from which this article is derived.

(Code 1995, § 31.1500)

Sec. 50-480. - Annexed businesses required to comply.

Any sexually oriented business annexed by the city after the effective date of this chapter shall be subject to all the requirements of this article.

(Code 1995, § 31.1505)

Sec. 50-481. - Certificate of occupancy required.

It is unlawful and a violation of this article for any person to use or occupy land or a building for the purpose of operating or maintaining a sexually oriented business within the city unless such person has made application for and been issued a certificate of occupancy as required in this article. Applications shall be made to the city secretary, accompanied by the documentation required in this article, together with a fee in the amount provided in the city fee schedule.

(Code 1995, § 31.1508)

Sec. 50-482. - Registration of names of owners required.

If the subject building or portion of the building is intended for use as a sexually oriented business, then no certificate of occupancy shall be issued unless and until the applicant has submitted a sworn affidavit stating the name and mailing address of all owners of the planned sexually oriented business and, if a corporate owner, the current name and street address of the corporate president and the registered agent for service on file with the secretary of state.

(Code 1995, § 31.1506)

Sec. 50-483. - Effect of failure to submit survey map or to register owner names.

It shall be a violation of this article for an owner of a sexually oriented business to fail or refuse to submit the requisite certified survey map or to fail or refuse to register the names and addresses of the owners. Without both the certified survey map and owner identification, no valid certificate of occupancy can be issued. Upon discovery of the absence of, or the incorrectness of either document, the certificate of occupancy shall be declared invalid by the city manager.

(Code 1995, § 31.1507)

Sec. 50-484. - Location restrictions.

Notwithstanding any other provision of this chapter, it shall be a violation to use or occupy land or a building for the purpose of operating or maintaining a sexually oriented business within 1,000 feet of another sexually oriented business, or within 1,000 feet from any property zoned for the following or devoted to a use classified as any of the following:

- (1) A, AA, AAA, B, C, D districts including any land zoned for one of the aforementioned residential uses;
- (2) Any church, synagogue, mosque, or other religious worship facility used primarily for religious worship;
- (3) Any public or private elementary, secondary or high school; or
- (4) Any public park.

(Code 1995, § 31.1501)

Sec. 50-485. - Method of measurement; survey requirements.

- (a) Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest property line of the protected properties described in section 50-484 which

requires separation. This method of measurement shall apply to a sexually oriented business which is the sole tenant, within one building, located on one platted lot.

- (b) Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest point of the occupied space of the sexually oriented business to the nearest property line of the protected property described in section 50-484 which requires separation. This method of measurement shall apply to a sexually oriented business which is a tenant within a multiple tenant building.
- (c) A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this section shall be submitted to the city manager for all sexually oriented businesses as part of the application for the certificate of occupancy. Any certificate of occupancy issued for a building or facility used to conduct a sexually oriented business without submission of the required survey shall be null and void.

(Code 1995, § 31.1502)

50-486 Compliance with State Regulations

Any use must comply with Texas Local Government Code provisions and same are adopted and incorporated herein by reference.

Secs. 50-48~~6~~⁷—50-495. - Reserved.

ARTICLE IV. - SPECIAL USE PERMITS

DIVISION 1. - GENERALLY

Sec. 50-496. - Definition and purpose.

- (a) A special use permit (SUP) is a grant of a use of land or a structure in a zoning district where the use is not specifically authorized by ordinance in that district. Special use permits may be granted to allow compatible and orderly uses which may be suitable only in certain locations in a zoning district and subject to certain conditions.
- (b) A special use permit is a zoning action to consider granting an additional use to a specific piece of property, but not to change the underlying zoning of the land. A special use permit is subject to the same procedures for an amendment and change in zoning as specified in state law and city ordinances.
- (c) Every special use permit granted as provided in this article shall be considered a change to the zoning applicable only to the property to which granted.
- (d) The city council may authorize the development of special uses as provided in this chapter. Such authorization shall be by grant of a special use permit.
- (e) For purposes of special use permits, a single-family residential use shall be considered the dominant use of the surrounding uses in the area, if any single-family residential use exists within 200 feet of the property that is the subject of a special use permit application.

(Code 1995, §§ 31.1701, 31.1702(a))

Sec. 50-497. - Uses that may be requested for designation as special uses.

(a) *All districts.* In any district, the following uses may be requested for designation as special uses:

- (1) Any special use specified in the district regulations.
- (2) Any use of a public building or public utility erected or used by a city or county government.
- (3) Private country club.
- (4) Satellite radio, microwave or television antennas of: dish, spheroid, lenticular, funnel, tube, spiral or other than ordinary grid and cross-arm array design and size commonly used for home television reception equipment, including, without limitation, earth stations and all such similar receiving and transmitting equipment, whether for radio wave or microwave reception or transmission, exceeding three feet in size by the largest length, width or diameter dimension.
- (5) Day nurseries, preschools or kindergartens in conjunction with an existing public, private or denominational school having a curriculum equivalent to grades 1 through 12 of a public school.

(b) *All districts except A districts.* In any district except A, the following uses may be requested for designation as special uses:

- (1) General-care hospitals.
- (2) Religious or philanthropic institutions.
- (3) Nursing homes.

(c) *G and H districts only.* In G and H districts, any use not specified in article II of this chapter as a permitted use may be requested for designation as a special use.

~~(c) *G and H districts only.* In G and H districts, any use not specified in article II of this chapter as a permitted use may be requested for designation as a special use.~~

(Code 1995, § 31.1703)

Sec. 50-498. - Application; site plan.

Applications for special use permits shall be filed with the city manager with site plans drawn to scale showing:

- (1) The arrangement of the proposed uses;
- (2) Off-street parking facilities to include dimensions, spaces, arrangement, landscaping, finish materials, and the minimum off-street parking requirements applicable in G general business districts;
- (3) Locations of all buildings, fences, signs, dumpsters, and improvements;
- (4) Means of ingress and egress to public streets and adjacent properties;
- (5) Visual screening if required;
- (6) The location of adjacent residences and other buildings;
- (7) The location and area of coverage of all outside lighting, including spill-over onto adjacent public and private properties;
- (8) Modifications to existing drainage characteristics, existing and proposed surface water entry and discharge locations, and any detention or retention facilities;
- (9) Uses to be permitted;

(10) Setbacks from lot lines; and

(11) Any other information requested by the city, the zoning commission, or the city council.

The City Manager shall reject an application that does not include all of the required items.

(Code 1995, § 31.1702(b))

Sec. 50-499. - Filing with zoning commission; commission recommendation to city council.

The city manager shall submit the application and a report on ~~file~~ the application ~~and report on the application~~ to the zoning commission, which shall conduct a public hearing and make a recommendation to the city council.

(Code 1995, § 31.1702(c))

Sec. 50-500. - Hearing; grounds for discretionary and mandatory denial.

- (a) After receiving the recommendation of the zoning commission, the city council shall conduct a public hearing regarding the special use permit application.
- (b) The city council shall deny any special use permit as submitted and pending before the council unless it finds the proposed use will not adversely affect traffic, public health, public utilities, public safety and the general welfare.
- (c) The city council shall deny a special use application if it finds that the proposed use:
 - (1) Is incompatible with the dominant use in the surrounding area;
 - (2) Alone or in conjunction with existing uses, results in a change of the character of use, or in the level of density or intensity of use, not compatible with the adjacent property;
or
 - (3) Would contribute to the loss, deterioration, destruction or degradation of existing neighborhood integrity.

(Code 1995, § 31.1704)

Sec. 50-501. - Statement of acceptance required; expiration on failure to submit.

No special use permit shall be effective, unless and until the applicant, owner and grantee of the special use permit, shall deliver to the city manager, and not later than 30 days of the grant of the special use permit by the city council, a signed written statement declaring that the applicant, owner and grantee accept and agree to comply with and be bound by the terms of the special use permit. In the event such written, signed declaration is not timely delivered, then the special use permit shall not be effective and shall automatically expire.

(Code 1995, § 31.1705)

Sec. 50-502. - Expiration on failure to obtain building permit within one year; extension.

If a building permit is not obtained within one year from the grant of a special use permit, then the SUP shall automatically expire. However, after a recommendation from the city manager, the city council may authorize an extension of this time.

(Code 1995, § 31.1706)

Sec. 50-503. - Conditions precedent to occupancy.

- (a) The city council may impose conditions on any special use permit. All conditions imposed on a special use permit shall be satisfied before a certificate of occupancy can be issued by the city for the use of the premises included in the special use permit. Such conditions as are articulated in writing at the time the special use permit is granted shall not be construed as conditions precedent to the grant of the special use permit, but shall be construed as conditions precedent to the issuance of a certificate of occupancy.
- (b) Any special use permit issued by the city without the written specification of the conditions upon which it was granted, shall be revocable by the city council, unless the special use permit was specifically granted with no conditions.

(Code 1995, § 31.1707)

Sec. 50-504. - Note on map.

The final action taken by the city council shall be noted, as soon as practicable, on the official zoning map and on any other administrative copies, as to the location of the property and the type of use permitted by each special use permit granted.

(Code 1995, § 31.1708)

Secs. 50-505—50-511. - Reserved.

DIVISION 2. - COMMERCIAL LANDSCAPING[T49]

Sec. 50-512. - Purpose and intent.

The standards of this division are a guide for the city council to use in granting special permits for the development of property in the G General Business District and H Special Business District. Such standards are also intended for the information and guidance of real estate developers and applicants and prospective applicants for special permits under this chapter.

(Code 1995, § 5.1001)

Sec. 50-513. - Deviations.

The council shall only permit deviations from the standards of this division in individual cases for good cause shown having to do only with the peculiarities of the particular tract in question (and for no other reason) and then only to the extent absolutely necessary to prevent injustice or absurdity.

(Code 1995, § 5.1002)

Sec. 50-514. - Minimum standards.

- (a) A buffer landscape area should be provided along all dedicated streets and highways. This area shall be a minimum of six feet from the property line to any vehicular paving. Entrance driveways from the street through this buffer shall not exceed 30 feet in width.
- (b) All public right-of-way area in front of a property, between the edge of the public street paving and the property line, with the exception of entry drives, shall be landscaped and maintained by the property owner. Any existing vehicular paving in this area shall be removed.
- (c) An overall percentage of the street yard area within the property line should be landscaped at least as follows:
 - (1) 20 percent for multifamily projects.
 - (2) 15 percent for office buildings, and ten percent for hotel, motel, retail, and other commercial projects.
 - (3) If a project consists of more than one building type, the percentage of landscaped area should be that derived by prorating the linear street frontage used by each particular building type.
- (d) In all street areas there should be a minimum number of trees depending on the size of the total street yard area. The minimum number of trees should be:
 - (1) For the first 9,000 square feet—one tree for each 1,500 square feet.
 - (2) Next 9,000 to 90,000 square feet—one tree for each 3,000 square feet.
 - (3) All over 90,000 square feet—one tree for each 6,000 square feet.
- (e) To encourage the saving of existing large trees and the planting of large new trees, a credit can be used toward either the total number of trees required or toward the amount of landscaped area required as follows:
 - (1) Each tree over four inches in diameter can count as two trees or the required landscape area can be reduced by 50 square feet
 - (2) Each tree over eight inches in diameter can count as three trees or the required landscape area can be reduced by 100 square feet
 - (3) Each tree over 12 inches in diameter can count as four trees or the required landscape area each can be reduced by 150 square feet

Tree diameter shall be measured at a height of 12 inches above ground level. This credit is given only for quality long-lived trees such as oaks, elms, sycamores, ~~etc~~ and other trees as determined by the city manager.

- (f) Parking lots and tree locations should be arranged so that no parking space within the street yard area is more than 50 feet from a tree.
- (g) All landscaped areas containing plant material should be provided with adequate irrigation as necessary for proper long-term maintenance of the plant material. In designing landscaped areas and selecting plant materials to be used, consideration should be given to water conservation.

- (h) ~~Utility service items such as transformers and dumpsters should be located in areas other than those that can be seen from the street, or if they are visible from the street they should not be visually dominant and shall be screened from view[T50].~~
- (i) Provisions must be made for proper root and soil aeration for all new and existing trees and for sufficient permeable area to be provided around all trees for their proper health. No vehicular paving shall be within four feet of any tree.

(Code 1995, § 5.1003)

Sec. 50-515. - Qualifying trees.

In order to qualify, single-trunk trees when planted must have a trunk that measures at least two inches in diameter measured at a height of 12 inches above the ground. For multiple-trunk trees, the total aggregate diameter of all trunks, measured at a height of 12 inches above the ground, must be not less than two inches[T51].

(Code 1995, § 5.1004)

Secs. 50-516—50-538. - Reserved.

ARTICLE V. – SHORT-TERM RENTAL

Sec. 50-516 Purpose.

The purpose of this article is to establish regulations for the use of privately-owned dwellings as Short-Term Rentals, to minimize negative ancillary impact on surrounding properties, and to ensure the collection and payment of Hotel Occupancy Tax.

Sec. 50-517. Definitions.

As used in this Article, the following terms shall have the following meanings:

- A. City - The City of Castle Hills, Texas.
- B. Guest - The overnight occupants renting a Short-Term Rental Unit for a specified period and the daytime visitors of the overnight occupants.
- C. Local Contact Person - The Owner, Operator, or person designated by the Owner or the Operator, who shall be available twenty-four (24) hours per day for the purpose of responding to concerns or requests for assistance related to the Owner's Short-Term Rental.
- D. Operator - The Owner or the Owner's authorized representative who is responsible for compliance with this Article while advertising and/ or operating a Short-Term Rental.
- E. Owner - 'The person or entity that holds legal or equitable title to the Short-Term Rental property.
- F. Short Term Rental - A privately owned dwelling, including but not limited to, a

single-family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging or sleeping purposes for any period less than thirty (30) consecutive days, but shall not include habitable accessory buildings as per 50-61 (a).

The following are exempt from the regulations under this Article: hotel, motel, public or private club, hospital and medical clinic, nursing home or convalescent home, foster home, halfway house, transitional housing facility, any housing operated or used exclusively for religious, charitable or educational purposes, and any housing owned by a governmental agency and used to house its employees or for governmental purposes.

F.G. Short-Term Rental Permit – A permit issued by the City authorizing the use of a privately-owned dwelling as a Short-Term Rental.

G.H. Short-Term Rental Unit - One or more habitable rooms forming a single habitable division within a Short-Term Rental, or an entire undivided Short-Term Rental, which is advertised to be occupied, is occupied, or is intended to be occupied by a single party of Guests under a single reservation and/or single rental payment.

Sec. 50- 518 Short Term Rental Permit required.

It shall be unlawful for any person or entity to rent, or offer to rent, any Short-Term Rental without a valid Short-Term Rental Permit issued under this Article.

Sec. 50-519. Short Term Rental Permit registration fee and application.

Prior to renting real property as a Short-Term Rental an applicant shall submit an application for a Short-Term Rental Permit using a format and method promulgated by the City Manager or his/her designee. The application form shall require, at a minimum, the following information from applicants:

1. The name, address, email and telephone number of the Owner of the Short-Term Rental.
2. The name, address, email and twenty-four (24) hour telephone number of the Local Contact Person.
3. The name and address of the Short-Term Rental.
4. The proposed occupancy limits of the Short-Term Rental.
5. A diagram showing the proposed layout of the property use and any on-site parking available for the Short-Term Rental which includes a diagram with metes and bounds.
6. Owner must submit a deed of the property.
7. A general description of any food service to be offered to Guests of the Short-Term Rental.

B. An applicant for a Short-Term Rental Permit shall pay to the City a permit fee.

C. A separate Short-Term Rental Permit application and permit fee must be submitted

for each individual Short-Term Rental Unit. Each individual Short-Term Rental Unit shall be assigned a unique permit number upon permit issuance by the City.

D. Prior to issuance of a Short-Term Rental Permit, the Operator shall allow an on-site inspection of the Short-Term Rental Unit by a City Code Enforcement officer, to ensure compliance with the following:

1. The requirements set forth in Section 50-520(A) of this Article; and
2. The requirements set forth in Sections 50-520(B) 1 through 50-520(C) 3 of this Article.

E. A Short-Term Rental Permit issued under this Article shall be valid for a period of one calendar year from the date of issuance. The Short-Term Rental Permit shall expire immediately upon any change in Owner of the Short-Term Rental Unit.

F. The Owner has a duty to notify the City within twenty (20) calendar days, in writing, of any changes to information submitted as part of a Short-Term Rental Permit application under this Article.

G. An application for Short Term Rental Permit may be denied if the Owner has had a Short-Term Rental Permit suspended or revoked during the previous 365 calendar days.

Sec. 50-520. Short Term Rental operational requirements.

- A. The Operator shall post the following information in a prominent location within the Short-Term Rental Unit, using a form promulgated by the City:
 1. The unique Short-Term Rental Permit number assigned to the Short-Term Rental Unit;
 2. Operator name and number;
 3. Local Contact Person name and number;
 4. The location of on-site parking spaces available for Guests;
 5. The occupancy limits;
 6. Instructions to Guests concerning disposal of garbage and handling of garbage containers;
 7. Notification that the Guests are responsible for compliance with all applicable laws, rules and regulations pertaining to the use and occupancy of the Short-Term Rental, and that Guests may be fined by the City for violations of this Article; and
 8. Notification that all functions such as weddings, parties or other gatherings are prohibited at the Short-Term Rental, excepting Short Term Rentals located in the G or H Zoning Districts.

B. The Operator shall operate a Short-Term Rental in compliance with the following:

1. Zoning regulations prescribed for the zoning district in which such Short-Term Rental is located, set forth in Chapter 50 of the Code of Ordinances.

2. Castle Hills Sign Ordinance, as applicable, set forth in Chapter 34 of the Code of Ordinances.
 3. Maximum occupancy limits prescribed by the Building Inspector pursuant to the International Property Maintenance Code, 2015, Section 404.4., Occupancy Limitations for bedroom square footage per occupant.
 4. Castle Hills Hotel Occupancy Tax Ordinance, any Castle Hills Hotel Occupancy Tax Ordinance on or after adoption of this ordinance.
 5. Swimming pool barrier requirements prescribed by the Building Inspector pursuant to the International Swimming Pool and Spa Code, 2015, Section 305.
 6. Street Parking prohibited set forth in Chapter 44 of the Code of Ordinances.
 7. Chapter 26 – Nuisances of the City of Castle Hills Code of Ordinances.
 8. Castle Hills Garbage Collection Ordinance, set forth in Chapter 20 of this Code of Ordinances.
 9. During any period when a Short-Term Rental is occupied or intended to be occupied by Guests, the Local Contact Person shall be available twenty-four (24) hours per day for the purpose of responding to concerns or requests for assistance related to the condition, operation, or conduct of Guests of the Short-Term Rental. The Local Contact Person shall respond within sixty (60) minutes of being notified of concerns or requests for assistance regarding the condition, operation, or conduct of Guests of the Short-Term Rental, and shall take immediate remedial action as needed to resolve such concerns or requests for assistance.
- C. Any advertisement that promotes the availability of a Short-Term Rental, listed in any medium, including but not limited to newspaper, magazine, brochure, website or mobile application, shall include the current Short-Term Rental Permit number assigned by the City.

Sec. 50-521. Notification of complaints.

Complaints related to the operation of a Short-Term Rental, including but not limited to complaints concerning noise, garbage, parking, and disorderly conduct by Guests, shall be reported to the City Code Enforcement office shall be reported to the City's Code Enforcement Office during business hours or to the Police Department after business hours.

Sec. 50-522. Compliance with other law.

The Owner, Operator, Local Contact Person, and Guests shall comply with all applicable laws, rules and regulations pertaining to the operation, use, and occupancy of a Short-Term Rental. The Owner shall not be relieved from any civil or criminal liability for a violation of this Article, regardless of whether such violation is committed by the Owner, Operator, Local Contact Person, or Guest of the Owner's Short-Term Rental.

Nothing in this Article shall be construed to relieve any person or Owner of any other applicable requirements of federal, state, or local law, rules, or regulations. Nothing in this Article shall be construed to provide any property owner with the right or privilege to violate any private conditions, covenants, and restrictions applicable to the Owner's

property that may prohibit the use of such Owner's property as a Short-Term Rental as defined in this Article.

Sec. 50-523. Compliance and Penalty provision.

A. It shall be unlawful for any person or entity to violate any provision of this Article. Proof that a violation of this Article occurred at a Short-Term Rental shall create a rebuttable presumption that the Owner of said Short Term Rental committed the violation.

B. Any violation of this Article is a Class C misdemeanor offense, and upon conviction, shall be punished by a fine as set forth in Section 1-17 of this Code of Ordinances.

C. Prosecution under this Article shall not require the pleading or proving of any culpable mental state.

D. Penalties provided for in this Article are in addition to any other criminal or civil remedies that the City may pursue under federal, state, or local law.

Sec. 50-524. Permit suspension or revocation; Appeal.

Upon conviction for a violation of this Article, the Municipal Court Judge may suspend or revoke any Short-Term Rental Permit issued for the same Short-Term Rental where the violation occurred. The City Manager shall notify an owner of a suspension or revocation under this Section in writing, sent by Certified Mail, Return Receipt Requested, and mailed to the address of the Owner as set forth on the most recent Short-Term Rental Permit application submitted to the City.

ARTICLE VII. - BOARD OF ADJUSTMENT

DIVISION 1. - GENERALLY

Sec. 50-539. - Established.

1. The Zoning Board of Adjustment shall consist of five members and two alternate members who shall be residents of the City of Castle Hills and not members of the City Council, the Zoning Commission, or the Architectural Review Committee. Prior to appointments, the mayor and aldermen are encouraged to solicit applications, resumes, or indications of interest from citizens. Each alderman shall appoint one member whose place on the committee shall correspond to the place of the appointing alderman. The mayor shall appoint a chairman from among the members appointed by each alderman. There shall be two alternates to this board, one appointed by the Mayor, one appointed by council at large. The minimum quorum for meetings of the Board of Adjustment shall be three members or alternates.
2. Members and alternates shall serve two-year terms after the initial appointments. A vacancy shall be filled for any unexpired term. The term of the initial appointments shall end June 1, 2020. Subsequent appointments for places 2, 3 and alternates shall end June 1, 2021; and places 1, 4, and 5 shall end on June 1, 2022.
3. Members may be removed for cause by action of the city council on written charges after notice and public hearing before the city council. The following constitute cause for removal under this section:
 - A. Malfeasance;

B. Failure to maintain reasonable familiarity with statutes, ordinances and rules governing the Board or failure to be governed thereby;

C. Failure to properly disclose a conflict of interest as required under Chapter 171 Texas Local Government Code.

D. Failure to recuse him or herself in the event of a conflict of interest or in any situation in which the member has a direct pecuniary interest in the outcome of a vote; or,

E. Member fails to attend three consecutive meetings of the Zoning Board of Adjustment without reasonable excuse and/or prior notice to or coordination with the City Manager.

4. The Mayor and City Manager shall insure that each newly appointed member of this board is informed generally of their duties and responsibilities under applicable law and regulations. However, if any required appointment is not made by the responsible person or entity by the second regular meeting following the presentation of the appointment item on the agenda, then the Mayor may make the appointment.

5. The members of the Zoning Board of Adjustment may set their own rules and procedures for efficient operation of committee activities, consistent with applicable law, the City Code of Ordinances, and guidance which may be provided from time to time by action of the city council.

Sec. 50-540. - Meetings; minutes and other records.

- (a) Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or, in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public.
- (b) The board of adjustment 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 city manager and shall be a public record.

(Code 1995, § 31.1802)

Sec. 50-541. - Powers and duties.

The board of adjustment shall have the power and duty:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the city manager in the enforcement of this chapter.
- (2) To hear and decide special exceptions to the terms of this chapter upon which the board of adjustment is required to pass under the provisions of this chapter.
- (3) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions,

a literal enforcement will result in unnecessary hardship, and so the spirit of the chapter shall be observed and substantial justice done.

- (4) To exercise such other powers and duties as may be assigned from time to time by the city council or as are permitted by state law.

(Code 1995, § 31.1803)

Secs. 50-542—50-560. - Reserved.

DIVISION 2. - PROCEDURE

Sec. 50-561. - Appeals; remedies available.

Appeals to the board of adjustment may be made by any person aggrieved or by any officer, department or board of the city affected by any decision of the administrative officer. In exercising its powers, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such determination as should be made within these chapter regulations, including, without limitation, the granting of special exceptions and variances.

(Code 1995, §§ 31.1804, 31.1808)

Sec. 50-562. - Stay of all proceedings.

An appeal stays all proceedings of the action appealed from, unless the city manager from whom the appeal is taken certifies to the board of adjustment that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by a court of record upon application, with notice to the city manager from whom the appeal is taken and on due cause shown.

(Code 1995, § 31.1806)

Sec. 50-563. - Public hearing required; posting of sign on property.

The board of adjustment shall set a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the interested parties in the manner required by this article. At the hearing, any party may appear in person or by agent or attorney. The applicant shall post a city-provided sign on the property in question advising the public of the application and of the hearing date on the application. A sign must be visible from each street that borders the property and shall be posted within seven days of filing of the application and be maintained until the day after the hearing. Sign location shall be subject to city approval.

(Code 1995, § 31.1807)

Sec. 50-564. - Notice of public hearings.

- (a) The notice of public hearings before the board of adjustment shall be given by publication once in a newspaper of general circulation in the city or the official newspaper, stating the time and place of such hearing, which time shall not be earlier than ten days from the date of such publication[T52].
- (b) In addition, the board of adjustment shall mail notices of hearing to the petitioner and to all owners of property lying within 250 feet or a minimum of the contiguous properties immediately adjacent to the applicant's property at any point of the lot on which a special exception or variance is desired, and to all other persons deemed by the board of adjustment to be affected thereby. These owners and persons shall be determined according to the last approved tax roll of the city. Such notice may be served by depositing the same, properly addressed and postage paid, in any post office.

(Code 1995, § 31.1813; Ord. of 9-14-2010)

Sec. 50-565. - Applications; filing with administrative officer; transmittal to board.

All applications for appeal and for special exceptions to and variances from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired and the grounds thereof. Each such application shall be filed, together with the applicable fee as provided in the city fee schedule, with the city manager, who, after investigation, shall transmit the application together with his report and all papers constituting the record of circumstances upon which the appeal is taken to the board of adjustment within ten days after receiving the application.

(Code 1995, § 31.1805)

Sec. 50-566. - Granting of special exceptions.

The board of adjustment is hereby empowered to permit the following exceptions, provided its action does not injure the health, safety, morals or the general welfare of the occupants of nearby properties and is in harmony with the general purpose and intent of this chapter:

- (1) Permit such modifications of the height, yard area, spacing and parking regulations as may be necessary to secure development of a parcel of land of such unusual topography or restricted area or shape that it cannot be appropriately developed without such modification.
- (2) Permit such modification of the parking regulations as may be warranted by the unusual character of a proposed use.
- (3) Permit the reconstruction of a building occupied by a nonconforming use provided such reconstruction does not prevent the return of the property to a conforming use.
- (4) Determine in case of uncertainty the classification as to district of a use not specifically named in this chapter; provided however, such use shall be in keeping with uses specifically named in the district regulations.

(Code 1995, § 31.1809)

Sec. 50-567. - Granting of variances.

The board of adjustment is hereby authorized upon appeal from the decision of the city manager to grant in specific cases such variance from the terms of this chapter as will not be

contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. A financial or a self-inflicted hardship by an applicant or a predecessor in title is not sufficient to show unnecessary hardship.

(Code 1995, § 31.1810)

Sec. 50-568. - Limitation on special exceptions and variances.

- (a) Any special exception or variance authorized by the board of adjustment shall constitute authority for the issuance of a building permit or a certificate of occupancy if applied for within 180 days from the date of favorable action, unless the board of adjustment authorizes a longer period. If the zoning permit or certificate of occupancy shall not have been applied for within this time frame, then the grant of the special exception or variance shall terminate. Such termination shall be without prejudice to subsequent application to the board in accordance with the regulations regarding applications.
- (b) No application to the board of adjustment for an identical or substantially similar variance or special exception shall be allowed on the same piece of property prior to the expiration of six months from the ruling of the board of adjustment, unless other property in the same block or within 500 feet thereof, within such six-month period, has been altered or changed by a ruling of this board. In this case, the change of circumstances shall permit the allowance of such application, but shall in nowise have any force to compel the board of adjustment, after a hearing, to grant such subsequent application. Such application shall be considered on its merits as in all other cases.

(Code 1995, § 31.1811)

Sec. 50-569. - Vote necessary for decision of board of adjustment.

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of the city manager to decide in favor of the applicant; or to authorize a variance from the terms of this chapter.

(Code 1995, § 31.1812)

Sec. 50-570. - Appeals from the board of adjustment.

Any person or persons jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any official, department, board or bureau of the city, may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision of the board of adjustment in the office of the city manager.

(Code 1995, § 31.1814)

Secs. 50-571—50-588. - Reserved.

ARTICLE VII. - ZONING COMMISSION

DIVISION 1. - GENERALLY

Sec. 50-589. - Established.

The council shall appoint a zoning commission as prescribed by V.T.C.A., Local Government Code § 211.007.

(Code 1995, § 31.1901)

Sec. 50-590. - Members; term.

Five members shall be appointed thereto by the city council, each to serve a term of two years, beginning on June 1 of each odd-numbered year and ending on May 31 of the next succeeding odd-numbered year.

(Code 1995, § 31.1902)

Sec. 50-591. - Duties.

The commission shall have those powers and exercise those duties set out in V.T.C.A., Local Government Code § 211.007.

(Code 1995, § 31.1903)

Secs. 50-592—50-615. - Reserved.

DIVISION 2. - PROCEDURE

Sec. 50-616. - Applications for change in zoning district classification (rezoning); fees.

All applications for changes in the zoning district classifications of property (rezoning), for special use permits, or for changes in the textual provisions of this chapter shall be filed with the zoning commission. An application for rezoning or for a special use permit shall be accompanied by a non-refundable filing fee in the amount provided in the city fee schedule. All applications shall be submitted in Adobe Acrobat format or another electronic form that is compatible with the city's computer software.

(Code 1995, § 31.2000(1))

Sec. 50-617. - Property owner's written permission to file application required.

No application for the rezoning of any property situated within the city shall be received, filed with the zoning commission, or considered unless the person making such application has permission in writing, signed by the owner or owners of record of the property proposed to be

considered for rezoning, for the filing of such an application. Such written permission must accompany any such application for rezoning.

(Code 1995, § 31.2000(2))

Sec. 50-618. - Review; public hearing; notice; posting of sign on property.

- (a) Public hearing required; publication of notice. The commission shall consider all proposed changes and hold a public hearing thereon before submitting its final report to the city council. Notice of the public hearing before the city council, giving the time and place, shall be published at least 15 days before the hearing in a newspaper as described above.
- (b) Mailing of notices to property affected property owners. The city shall mail written notice of all public hearings on proposed changes in classification before the zoning commission to owners of real property lying within 500 feet of the property on which the change in classification is proposed. Such notice shall be given, not less than ten days before the dates set for hearing, to all such owners who have rendered their property for city taxes as the ownership is reflected on the last approved city tax roll. Notice may be served by depositing same, properly addressed and postage paid, in the United States mail.
- (c) Posting of notice sign on property; written certification of posting. The applicant shall post a city-provided sign on the property in question advising the public of the application and of the zoning commission hearing date on the application. A sign must be visible from each street that borders the property and shall be posted within seven days of the filing date of the application and be maintained until the day after the hearing. Sign location shall be subject to city approval. The applicant shall provide to the zoning commission, at the commencement of the hearing, written certification that the notification sign has been posted for the required period of time prior to the hearing. If such written certification is not provided then the hearing shall be suspended.

(Code 1995, § 31.2000(4), (5), (8))

Sec. 50-619. - Review by commission; final report to city council.

All applications for rezoning which have received a final recommendation by the zoning commission shall be presented to the city council within 30 days from the date of the commission recommendation.

(Code 1995, § 31.2000(6))

Sec. 50-620. - Action on application by city council.

After the final report is submitted by the commission as provided above, the city council shall act upon the application after a public hearing at which interested parties and citizens shall have an opportunity to be heard.

(Code 1995, § 31.2000(7))

Sec. 50-621. - When three-fourths council vote required.

- (a) If written protest is filed. In case of a written protest against any change in zoning, signed by the owners of 20 percent or more either the area of the lots or land included in such proposed change or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all of the members of the city council.
- (b) To overrule commission recommendation. A vote of three-fourths of the members of the city council is also required to overrule a recommendation of the zoning commission that the proposed change be denied.

(Code 1995, §§ 31.2000(9), (10))

Sec. 50-622. - Restrictions on repeated filing; exception to waiting period.

- (a) No application for the rezoning of any lot, lots or block of land situated in the city shall be received or filed with the zoning commission if, within six months prior thereto, an application was received and withdrawn before a full, fair, complete and final hearing was had thereon, or if within six months prior thereto a full, fair, complete and final hearing was had thereon. However, if new, relevant and substantial evidence that could not have been secured at the time set for the original hearing shall be produced by the applicant under a sworn affidavit to that effect, then the zoning commission shall have the right to waive the six months provision and proceed to hear and consider such application.
- (b) No application for the rezoning of any lots or block of land located in the city shall be filed or received by the zoning commission if, within the last 6 months prior thereto, the city council has denied an application for rezoning of the same property.

Sec. 50-623. - Postponements

An applicant is permitted to obtain only one postponement of a zoning hearing before the zoning commission and one postponement before the city council.

(Code 1995, § 31.1904)

Secs. 50-62~~34~~—50-647. - Reserved.

ARTICLE V.III. - ZONING REVIEW COMMITTEE

Sec. 50-648. - Authority for discretionary establishment; purpose and function.

The mayor may, from time to time and with approval of the city council, appoint a city zoning review committee to consider and to recommend to the city zoning commission, zoning ordinance additions, deletions, amendments and other changes as may be requested or recommended to the city or to the committee by city residents, local businesses, local religious organizations, franchise holders of city services or by city and other government officials and agencies. The city manager may refer such requests and recommendations to an existing committee for its consideration and recommendations.

(Code 1995, § 31.2100(a))

Sec. 50-649. - Members; officers; rules of procedure.

The zoning review committee shall consist of a minimum of seven members selected for their knowledge, interest and experience in the city's zoning structure and application, who shall in turn, select from their number a chairperson, a vice chairperson and a secretary. Proceedings before the committee shall be in accordance with the provisions of the most recent edition of Robert's Rules of Order.

(Code 1995, § 31.2100(b))

Sec. 50-650. - Duration of committee determined at appointment.

The committee's term of service shall be as determined by the committee appointing authority, which may continue as an appointed committee on a "stand-by" basis. City and city staff support required for timely and effective committee work shall be considered and implemented by the city manager.

(Code 1995, § 31.2100(c))

Sec. 50-651. - Council to consider convening committee every six years.

Whenever a period of six years shall have passed with no zoning review committee functioning, city council shall consider the appointment and activation of a new zoning review committee to undertake, as a minimum, another complete review of the city's then current zoning code.

(Code 1995, § 31.2100(d))