

CHAPTER 14

ZONING

ARTICLE 14.100 GENERAL PROVISIONS^{*(1)}

(Reserved)

ARTICLE 14.200 ZONING ORDINANCE

Sec. 14.201 Adopted

The zoning ordinance, Ordinance 1858, adopted by the city on August 16, 2001, as amended, is included at the end of this chapter as exhibit A. Due to the nature of the zoning ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets. (Editorially supplied)

EXHIBIT A

ZONING ORDINANCE

Article 1 General Provisions

Sec. 101. Title

This Attachment “A” to [Chapter 14 of] the Code of Ordinances of the City of Brownfield, Texas, shall be known and may be cited as the “Zoning Ordinance of the City of Brownfield,” or simply as the “Zoning Ordinance.”

Sec. 102. Authority

This Zoning Ordinance is adopted pursuant to the powers granted and limitations imposed by the Constitution and laws of the State of Texas, the Charter of the City of Brownfield and other provisions of Texas statutory and common law that are relevant and appropriate.

Sec. 103. Applicability and Jurisdiction

The provisions of this Zoning Ordinance shall apply to the use and development of all land within the City of Brownfield, unless specifically provided otherwise in this Zoning Ordinance.

Sec. 104. Purpose

This Zoning Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of Brownfield. More specifically, this Zoning Ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with a comprehensive plan to achieve objectives that include, but are not limited to, the following:

1. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with a well considered plan;
2. Protect the character and the established pattern of desirable development in each area;
3. Prevent or minimize land use incompatibilities and conflicts among different land uses;

4. Maintain property values by stabilizing expectations and ensuring predictability in development; and
5. Establish a process that effectively and fairly applies the regulations and standards of this Zoning Ordinance and respects the rights of property owners and the interests of citizens.

Sec. 105. Design of These Regulations

A. Allocation of Activity. By allocating to each major type of activity sufficient space in appropriate locations for development, these regulations have been designed:

1. To distribute realistically the estimated maximum population which the City may have in the foreseeable future over the land available for residential purposes providing adequate light, air and usable open space; and
2. To encourage economic activities for the health and wellbeing of the City.

B. Interrelationship of Uses. By providing for the convenient and efficient interrelationship of related land uses, these regulations have been designed:

1. To provide appropriate space near residences for services which increase safety and amenity and are not objectionable to residents nearby;
2. To protect quasi-residential uses that benefit from a residential environment and which provide essential health and welfare services for the residents thereof; and
3. To encourage the tendency of retail and commercial development to cluster within defined areas to the mutual advantage of both consumers and merchants.

C. Incompatible Uses. By segregating incompatible land uses and thereby limiting danger and nuisance, these regulations have been designed:

1. To protect areas against fire, explosion, noxious fumes and other hazards;
2. To protect areas against noise, vibration, smoke, dust, odors, heat, glare and other objectionable influences;
3. To protect areas against heavy and hazardous trucking traffic; and

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4. To protect adjacent areas and to protect the labor force at other establishments engaged in less offensive types of manufacturing and related activities by restricting to appropriate areas those manufacturing activities which create objectionable influences.

D. Provision of Facilities. By requiring space off public streets for parking and loading and by limiting the bulk of buildings in relation to the land around them and to one another, these regulations have been designed:

1. To limit congestion in pedestrian and vehicular traffic and in living conditions;
2. To prevent overcrowding of land beyond capacity of streets and utilities;
3. To limit loads on traffic, transit and service facilities; and
4. To permit advance planning for possible requirements for social, sanitary and utility services, and thereby to facilitate the adequate provision of transportation, water, sewage, streets, parks and other public requirements.

E. Shape and Location of Buildings. By limiting the shape and location of buildings, these regulations have been designed:

1. To reduce the danger from conflagration;
2. To provide adequate light and air;
3. To provide privacy where desirable; and
4. To provide usable open space.

Sec. 106. Conflict with Other Laws

Wherever the requirements of this Zoning Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or laws, those imposing the higher standards or those deemed more restrictive shall govern. However, this Zoning Ordinance is not intended to supplant or replace private deed restrictions and covenants, except where coincident with the provisions of this Zoning Ordinance and any other lawfully adopted rules, regulations or laws.

Sec. 107. Compliance with Zoning District Standards

All development and use of land in the City shall comply with the following standards.

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1. No building, structure or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, installed or structurally altered, except in conformance with all the regulations specified in this Zoning Ordinance.
2. The lot area, required yards and other open spaces provided in connection with any structure or use, in order to comply with the regulation specified in this Zoning Ordinance, shall be situated on the same lot as the structure or use.
3. No part of a yard, open space or off-street parking and loading area required in connection with this Zoning Ordinance shall be included as part of a yard, open space, off-street parking or loading area similarly required for another building, except as allowed under specific provisions for shared parking facilities (see Sec. 511, Off-Street Parking Standards).
4. No yard or lot existing on the effective date of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Ordinance shall meet the minimum requirements established herein.

Sec. 108. Permits Issued in Conflict with Ordinance

Any permit issued in conflict with the provisions of this Zoning Ordinance shall be null and void and may not be construed as waiving any provisions of this Zoning Ordinance.

Sec. 109. Official Zoning Map

The boundaries of the zoning districts established by this Zoning Ordinance shall be shown on a map or series of maps entitled "Official Zoning Map," an up-to-date copy of which shall be maintained in the office of the Building Inspector. Furthermore, all special permits approved in accordance with the City of Brownfield Zoning Ordinances 1201 and 1328, as amended and in effect immediately prior to adoption of this present Zoning Ordinance, shall remain in force and effect.

Sec. 110. Transitional Provisions

1. This Zoning Ordinance is not intended to abrogate or annul (1) any permits issued before the effective date of this Zoning Ordinance, or (2) any easement, covenant or any other private agreement.

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2. Except as specifically provided, the provisions of this Zoning Ordinance shall not affect any building permit issued or any valid building permit application filed prior to the effective date of this Zoning Ordinance, provided that construction pursuant to such permit, if and when issued, is commenced within 6 months of the date of issuance of the permit and diligently pursued to completion.

3. No presently illegal use shall be deemed to have been legalized unless such use specifically falls within a zoning district where the actual use is a conforming use. Otherwise, such uses shall remain legally nonconforming uses where recognized, or an illegal use, as the case may be.

4. No offense committed, and no liability, penalty or forfeiture, either civil or criminal, shall be discharged or affected by the adoption of this Zoning Ordinance; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending be proceeded within all respects as if the prior zoning ordinance had not been repealed.

5. If a use lawfully occupying land or buildings is classified by the Use Table in Sec. 309 [308] as a conditional use in the zoning district in effect on the effective date of this Zoning Ordinance, such use shall not be considered a nonconforming use. The existing use shall be considered a lawful conditional use, the same as if the Planning Commission had expressly approved the location of that use on the lot where existing at the effective date of this Zoning Ordinance.

Sec. 111. Severability

If any Section, subsection, sentence, clause, phrase or portion of this Zoning Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Zoning Ordinance.

Article 2 Development Review

Sec. 201. Development Review: General

A. Pre-application Conference. An applicant for development approval may request a pre-application conference with the Building Inspector. Prior to the conference, the applicant shall provide a description of the character, location and magnitude of the proposed development. The purpose of this meeting is to acquaint the participants with the requirements of this Zoning Ordinance and the views and concerns of the City.

B. Application Forms. Every application for development approval shall be in a form

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specified by the Building Inspector.

C. Standard Application Submission Cycle. Applications that will be reviewed by the Planning Commission or the Zoning Board of Adjustment must be filed at least 21 days in advance of the scheduled public hearing, in order to allow adequate time for staff review and preparation of a staff report and publication of notice.

(Ordinance 1858 adopted 8/16/01)

D. Application Fees.

1. No application shall be processed until the established fee has been paid. This non-refundable fee shall be established from time-to-time by the City Council to defray the actual cost of processing the application and providing public notice. No application will be reviewed by the Planning Commission or the Zoning Board of Adjustment until all established fees have been paid for publication, postage and any other cost derived from the application. (Ordinance 1858 adopted 8/16/01; Ordinance 1869 adopted 4/4/02)

Editor's note—The last sentence of subsection (D)1. above deriving from Ordinance 1869 was included herein at the discretion of the editor.

2. No application fee shall be required when a text or map amendment is being proposed by the Building Inspector, City Manager, City Council or Planning Commission.

E. Completeness of Application. No application shall be processed until it has been deemed complete by the Building Inspector. The Building Inspector shall have 5 working days following the submission of the application to determine its completeness. If the application is deemed incomplete, the Building Inspector shall forward a letter to the applicant specifying the application's deficiencies, and no further review of the application shall proceed until the deficiencies are corrected. If the deficiencies are not corrected by the application deadline date, the application shall not be scheduled for public hearing.

F. Procedures Requiring Public Notice.

Procedure	Published	Mailed
Variance	—	*
Conditional Use	—	*
Special Use	*	*
Planned Development		

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Initial Approval	*	*
Minor Amendment	—	—
Major Amendment	*	*
Text Amendments	*	—
Other Zoning Map Amendments	*	*
Expansion of Nonconforming Use	—	*

G. Published Notice of Public Hearing Before City Council. Whenever the provisions of this Zoning Ordinance require a public hearing before the City Council, notice shall be published in a newspaper of general circulation in the City of Brownfield at least 15 days before the public hearing.

H. Mailed Notice of Public Hearing.

1. General. Notice of required public hearings shall also be sent by mail to owners of real property within at least 200 feet of the lot lines of the land that is the subject of the application. Owners of real property shall be identified by reference to the most recent tax records. Notice shall be deemed mailed by virtue of its deposit with the United States Postal Service, properly addressed with postage prepaid.
2. Planning Commission and Zoning Board of Adjustment. Mailed notice shall be deposited in the U.S. Mail before the 10th day before the Planning Commission or Zoning Board of Adjustment public hearing.

I. Content of Published and Mailed Notice. Published and mailed notices shall provide at least the following information:

1. The general location of the land that is the subject of the application;
2. A summary of the subject property's legal description or a street address or other locative information;
3. The substance of the application;
4. The time, date and location of the public hearing;
5. A contact person at the City and their telephone number; and
6. A statement that interested parties may appear at the public hearing and be heard with respect to the application.

J. Continuation of Public Hearings. A public hearing for which proper notice was given may be continued to a later date without complying with the notice provisions above, provided that the continuance is set for a date and time certain announced at the public hearing.

K. Postponement of Public Hearing/Withdrawal of Application.

1. Once a public hearing has been scheduled in accordance with this Section, the applicant may request postponement or withdrawal of the application by notifying the Building Inspector in writing. If the Building Inspector does not receive such notification, the case will be heard as scheduled. The appropriate municipal board, commission or council is then authorized to take action on the case, after the scheduled hearing.
2. After public hearing on any matter within the scope of this Zoning Ordinance, the appropriate municipal board, commission or council hearing such matter may defer action on it, for a period of time necessary to gather additional information.

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3. If an applicant withdraws an application for any of the following matters, such application shall not be heard within one year thereafter, except as specifically directed by majority vote of the City Council:
 - a. Amendment to the Official Zoning Map;
 - b. Conditional use approval; and
 - c. Special use approval[.]

L. Rehearing. The Planning Commission will not hear a request for amendment to the Official Zoning Map, conditional use approval or special use approval on the same tract of land within one year following the final decision on any previous such request unless:

1. The Planning Commission is specifically directed by majority vote of the City Council to hear the subsequent request; or
2. The subsequent request is for more restrictive zoning; or
3. The zoning classification of other nearby properties in the immediate vicinity has changed.

Sec. 202. Summary of Development Review Procedures

The following are the development review procedure provided for in this ordinance:

Sec. 203. Administrative Adjustments

A. Purpose. Administrative adjustments are specified deviations from otherwise applicable development standards where development is proposed that would be (1) compatible with surrounding land uses; (2) in keeping with the public interest and (3) consistent with the purposes of this Zoning Ordinance.

B. Administrative Adjustments Allowed. The Building Inspector shall have the authority to grant only the following administrative adjustments:

1. Allow an increase in the floor area of a residential accessory building above 50 percent of the total square footage of the principal structure, as long as the maximum floor area ratio for the District is not exceeded.
2. Allow a delay in the provision of paved surface for off-street parking spaces required

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under the terms of this Zoning Ordinance, for a period of time up to 90 days, provided that only one such delay shall be allowed.

3. Authorize the construction of a carport in the minimum front or side yard required for one-family or two-family homes, subject to the findings, criteria and general considerations set forth in Sec. 513.
4. Authorize a variance of up to 10 percent from the numerical standard set forth in Articles 4 or 5.

EXAMPLE: Minimum front yard requirement of 25 feet may be varied by up to 10% to a minimum of 22.5 feet.

5. Allow an all-weather surface to be substituted for the requirement to pave the minimum off-street parking spaces required for single-family residences, where the Building Inspector makes a finding that the character of the surrounding area is principally recreational or rustic in nature, with relatively narrow roadways not bordered by curbs and generally uncharacteristic of urban streets.

C. Submission of Application. A complete application for an Administrative Adjustment shall be submitted to the Building Inspector, along with the appropriate application fee.

D. Action by Building Inspector. After determining that the application is complete, the Building Inspector shall review the application and approve, approve with conditions or deny the application based upon the criteria below. A written decision including affirmative findings on the criteria set forth below shall be mailed to the applicant.

E. Administrative Adjustment Criteria. To approve an application for an Administrative Adjustment, the Building Inspector shall make an affirmative finding that the following criteria are met.

1. That granting the Administrative Adjustment will ensure the same general level of land use compatibility as the otherwise applicable standards.
2. That granting the Administrative Adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other environmental considerations.
3. That granting the Administrative Adjustment will not adversely affect value of nearby property in any material way.

4. That granting the Administrative Adjustment will be generally consistent with the purposes and intent of this Zoning Ordinance.

F. Appeals. Appeal of an administrative adjustment to the Zoning Board of Adjustment shall be made within 30 days of the mailing of the Building Inspector's decision in accordance with Sec. 214 [Section 213].

Sec. 204. Special Events

A. Purpose and Intent. The purpose and intent of this section is to allow the short-term use of land for special events, while protecting nearby property owners, residents and businesses from activities that may be disruptive, obnoxious or otherwise incompatible.

B. Permit Required. It shall be a violation of this Zoning Ordinance to conduct or operate any special event identified in this Section unless a permit has been granted in accordance with this Section. The conduct and operation of any special event shall be in compliance with all specific terms and conditions applied to a permit issued under this Section.

C. Types of Special Events. "Special events" shall be deemed to include short-term or seasonal uses that are not otherwise allowed by the zoning district regulations of this Ordinance. This section establishes two classifications of special events: Type 1 Special Events and Type 2 Special Events. Applications for Type 1 Special Events shall be subject to approval by the Building Inspector. Applications for Type 2 Special Events shall be reviewed by the Building Inspector and are subject to approval by the City Council.

D. Type 1 Special Events. The following uses and activities shall be considered Type 1 Special Events where such uses and activities are not ordinarily allowed by the district regulations of this Zoning Ordinance.

1. Activities by not-for-profits. Fundraising or non-commercial events for non-profit religious, educational or community service organizations, where the public is invited to participate in the activities and which last longer than 48 hours. Existing religious institutions and other not-for-profit facilities may be used for special events conducted entirely within such buildings, without a permit for special events as otherwise required by this Section.
2. Business promotional events. Promotional activities intended to attract attention to a specific place, business, organization, event or district, through the use of signs and attention-attracting devices, as determined by the Building Inspector.

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3. Special and seasonal sales events. Significant commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, including but not limited to: warehouse sales, tent sales, trade shows, flea markets, farmer's markets (including horticultural products), seasonal sales of holiday-related produce (e.g. Christmas trees and Halloween pumpkins), product demonstrations or parking lot sales of food, art work or other goods. A maximum of three such events per calendar year for each commercial business shall be exempt from approval under this Section.

E. Type 2 Special Events. Short-term cultural and entertainment events shall be considered Type 2 Special Events. The Type 2 category shall include public or private events intended primarily for entertainment or amusement, such as concerts, circuses, fairs, carnivals or festivals.

F. Levels of Review.

1. The Building Inspector may approve Type 1 special event permits after determining that the event will comply with all of the standards of this Section.
2. The following shall require review and approval by the City Council prior to being allowed:
 - a. Type 1 special event applications, which the Building Inspector determines should be reviewed by the City Council;
 - b. Type 1 special event applications that are denied by the Building Inspector for failure to comply with the standards of this Section; and
 - c. Type 2 special event applications.

G. Application. An application for a special event permit shall be accompanied by a fee established by the City Council. The application shall also include:

1. A written description of the proposed event, the duration of the event, the hours of operations, anticipated attendance, and any buildings/structures, signs or attention-attracting devices used in conjunction with the event, as well as a response to each of the criteria established in subsection I below.
2. A sketch plan showing the location of proposed structures (including on-site restrooms and trash receptacles), parking areas, activities, signs and attention-attracting devices in relation to existing buildings, parking areas, streets and property lines.

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3. Written confirmation from the property owner agreeing to the special event.
4. Any additional information deemed necessary by the Building Inspector.

H. Review Process.

1. Application should be made at least 10 working days in advance of the requested start date for a Type 1 special event and at least 45 days in advance of the requested start date for a Type 2 special event.
2. For Type 1 applications, the Building Inspector shall make a determination whether to approve, approve with conditions or deny the permit within 5 working days after the date of application. Any applicant denied a permit by the Building Inspector shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the City Council.
3. For Type 2 applications, the City Council shall make a determination whether to approve, approve with conditions, or deny the application within 35 calendar days after the date of application.

I. Special Event Approval Criteria. Special events shall comply with the following standards:

1. Land use compatibility. The special event must be compatible with the purpose and intent of this Zoning Ordinance and the zoning district in which it will be located. The special event shall not impair the normal, safe, and effective operation of a permanent use on the same site. The special event shall not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the special event, given the nature of the activity, its location on the site, and its relationship to parking and access points.
2. Compliance with other regulations. A temporary building permit or temporary certificate of occupancy may be required before any structure used in conjunction with the special event is constructed, installed or modified. All structures associated with the operation of the special event shall meet all applicable Building Code and Fire Code standards. All structures erected or installed specifically for the special event shall be promptly removed upon the cessation of the event. Upon cessation of the event or use, the site shall be returned to its previous condition (including the removal of all trash, debris, signage, attention-attracting devices or other evidence of the special event or use).
3. Hours of operation and duration. The duration and hours of operation of the special event shall be consistent with the intent of the event and compatible with the surrounding land uses. The duration and hours of operation of the special event shall be established by the Building Inspector or the City Council, whichever is applicable, at the time of approval of the special event permit.

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4. Traffic circulation. The special event is not anticipated to create undue traffic congestion or accident potential, given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
5. Off-street parking. Adequate off-street parking shall be provided for the special event, and it shall not create a parking shortage for any of the other existing uses on the site.

(Ordinance 1858 adopted 8/16/01)

6. Public conveniences and litter control. Adequate on-site restroom facilities shall be made available. Adequate on-site solid waste containers shall also be made available. The applicant shall provide a deposit, the amount of which will be set by the City Council, to guarantee that all litter generated by the event or use shall be removed at no expense to the City. No deposit shall be required for an event held on public property. (Ordinance 1890 adopted 9/18/03)
7. Appearance and nuisances. The special event shall be compatible in intensity, appearance and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
8. Signs and attention-attracting devices. A sign permit shall not be required; however, the Building Inspector shall review all signage in conjunction with the issuance of the special event permit. The Building Inspector may approve the temporary use of certain signs and attention-attracting devices for special events. The number and types of signs and attention-getting devices allowed shall be evaluated on the following criteria:
 - a. type and size of the proposed event or use;
 - b. safety considerations (sight distance setbacks, sidewalks in area, etc.);
 - c. lighting considerations (disturbance of nearby residents or adverse effects to traffic on adjacent streets); and
 - d. aesthetic concerns (appearance, illumination, number and size of signs and attention-attracting devices proposed).

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9. Other conditions. The Building Inspector and City Council may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to: time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the special event. These conditions may include, but shall not be limited to:
- a. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
 - b. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to required performance standards and City Council stipulations.
 - c. If the permit applicant requests the City to provide extraordinary services or equipment or if the Building Inspector otherwise determines that extraordinary services (e.g., traffic-control or security personnel) or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the City a fee sufficient to reimburse the City for the costs of these services if not provided by the applicant. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.
 - d. Obtaining liability and personal injury insurance in such form and amount as the Building Inspector finds necessary to protect the safety and general welfare of the community.

J. Appeals. Appeals of Type 1 Special Event permits denied by the Building Inspector shall be taken to the City Council within 10 days of mailing of the denial, in accordance with the procedures in Sec. 214 [212].

Sec. 205. Written Interpretations of Text or Official Zoning Map

- A. Authority. The Building Inspector shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.
- B. Request for Interpretation. A request for interpretation shall be submitted to the Building Inspector in a form established by the Building Inspector and made available to the public.
- C. Interpretation by Building Inspector. Within 10 working days after a request for

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interpretation has been submitted, the Building Inspector shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.

D. Official Record. The Building Inspector shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. Appeal.

1. Appeals of written interpretations made by the Building Inspector shall be taken to the Zoning Board of Adjustment within 10 days of mailing of the interpretation, in accordance with the procedures in Sec. 212.
2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.
3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Building Inspector in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

Sec. 206. Variances

A. Purpose. Variances are deviations from the applicable standards for the zoning district where existing or proposed development is located, that would not be contrary to the public interest and, due to special conditions of the site or its surroundings, a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship. Variances ensure that the spirit of this Zoning Ordinance is observed and substantial justice done. A variance shall not be granted to allow a use that is not allowed in the specific district in question by the use regulations in Article 3.

B. Submission of Application. A complete application for a variance shall be submitted to the Building Inspector on a form prescribed by the Building Inspector, along with the appropriate application fee.

C. Hearing and Action by Zoning Board of Adjustment. After due notice, the Zoning Board of Adjustment shall hold a public hearing on an application for a Variance. At the public hearing, the Zoning Board of Adjustment shall consider the application, the relevant support materials and the public testimony given at the public hearing in light of the criteria below. After the close of the public hearing, the Zoning Board of Adjustment shall vote to approve, approve with conditions or deny the application for a Variance, pursuant to the criteria below.

D. Allowed Variances. In exercising its authority to grant a variance, the Zoning Board of Adjustment shall affirmatively find that one or more of the following circumstances apply. In each instance, the Zoning Board of Adjustment shall further state in its minute record the specific nature of those circumstances which justify the variance.

1. Special circumstances resulting in unnecessary hardship. A variance may be granted where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.
2. Overriding Public Interest. A variance may be granted if it will further an overriding public interest or concern, including, but not limited to:
 - a. Preserving the natural environment;
 - b. Promoting maintenance or reuse of older urban or historic buildings; or
 - c. Helping to eliminate a nonconforming use at another location.
3. Equity. A variance may be granted to permit modifications of height or setback regulations as may be needed to secure equity in the development of a parcel of land where it has been demonstrated that, due to the existence of legally nonconforming structures, a substantial proportion of the other properties in the same area and zoning district are legally enjoying the conditions that the applicant is requesting.
4. Literal enforcement. A variance may be granted if it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.

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E. Variations Not Allowed. In exercising its authority, the Zoning Board of Adjustment shall not grant a variance that would create any of the following effects.

1. The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any City land use plan or policy.
2. The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.
3. The variance is not the minimum variance that will relieve the proven hardship.
4. The variance would allow a use not allowed in the use table for the district in which the parcel is located.
5. The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.
6. The variance will relieve the applicant of conditions or circumstances that are self-imposed.
7. The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
8. The variance will modify any condition imposed by the Planning Commission or City Council as part of a conditional use, special use, Planned Development District or Planned Industrial Park.
9. The variance would not only affect a specific parcel, but would be of such general nature as to constitute, in effect, a change in zoning of the parcel or a larger area, or would merit an amendment to this Zoning Ordinance.

F. Variance Criteria. To approve an application for a Variance, the Zoning Board of Adjustment shall make an affirmative finding that each and every one of the following criteria are met.

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.
2. These special circumstances are not the result of the actions of the applicant.

3. Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.
4. Granting the variance is the minimum action that will make possible the use of the land or structure, which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.
5. Granting the variance will not adversely affect adjacent land in a material way.
6. Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.

G. Conditions. The Zoning Board of Adjustment may impose such conditions on a variance as are necessary to accomplish the purposes of this Zoning Ordinance, to prevent or minimize adverse impacts upon the public and neighborhoods, and to ensure compatibility of the site with its surroundings. These conditions may include but are not limited to limitations on size, bulk and location; standards for landscaping, buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of performance; other on-site improvements; and limitations on the duration or hours of operation of an allowed use.

H. Effect of Variance.

1. Issuance of a variance shall authorize only the particular variation which is approved in the variance. A variance shall run with the land.
2. Unless otherwise specified in the variance, an application to commence construction of the improvements that were the subject of the variance request must be applied for and approved within 12 months of the date of the approval of the variance; otherwise, the variance shall automatically become null and void. Permitted timeframes do not change with successive owners. Upon written request, only one extension of the 12-month period may be granted by the Building Inspector if it is determined that conditions of the site and immediately surrounding area are substantially unchanged.

Sec. 207. Conditional Use Review

A. Who May File. An application for conditional use approval shall be submitted by the owner or agent authorized by affidavit to act on the owner's behalf, unless initiated by City officials ordinarily authorized to initiate amendments to the zoning map.

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B. Submission of Application. A complete application shall be submitted to the Building Inspector, along with the appropriate fee. The Building Inspector may require an application for conditional use approval to be accompanied by a site plan of existing and proposed development of the affected site.

C. Applicable Development Standards. Unless otherwise specified in this Zoning Ordinance, no conditional use approval shall be granted for any use that does not conform to standards of the district in which it is located. Each conditional use shall also be subject to any specific use requirements set forth in Articles 3 through 5.

D. Review by Building Inspector. After determining that the application is complete, the Building Inspector shall place the request on a meeting agenda for consideration by the Planning Commission.

E. Hearing and Action by Planning Commission.

1. The Planning Commission shall, after appropriate notice, conduct a public hearing on each request for approval of a conditional use.
2. At the public hearing, the Planning Commission shall consider the application, any pertinent comments by the City staff, and relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the Planning Commission shall approve the request, approve the request with additional conditions, or deny the request. The Planning Commission may attach such conditions to a conditional use approval as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: limitations on size, bulk and location, provision of adequate ingress and egress, duration of conditional use approval, and hours of operation for the specific allowed activity.

F. Conditional Use Approval Criteria. Approval of a conditional use by the Planning Commission shall be based upon the following criteria.

1. Impacts Minimized. Whether and the extent to which the proposed conditional use creates adverse effects, including adverse visual impacts, on adjacent properties.
2. Consistent with Zoning Ordinance. Whether and the extent to which the proposed conditional use would conflict with any portion of this Zoning Ordinance, including the applicable zoning district intent statement.

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3. Compatible with Surrounding Area. Whether and the extent to which the proposed conditional use is compatible with existing and anticipated uses surrounding the subject land.
4. Effect on Natural Environment. Whether and the extent to which the proposed conditional use would result in significant adverse impacts on the natural environment, including but not limited to, adverse impacts on water and air quality, noise, stormwater management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
5. Community Need. Whether and the extent to which the proposed conditional use addresses a demonstrated community need.
6. Development Patterns. Whether and the extent to which the proposed conditional use would result in a logical and orderly pattern of urban development in the community.

G. Expiration of Conditional Use Approval.

1. All conditional use approvals issued shall be subject to the requirement that the property for which the approval was issued must actually acquire a building permit for the approved use within 12 months from the granting of the conditional use approval, provided that the Building Inspector, with significant evidence that the designated use cannot be realistically implemented with due diligence within that time period, may grant a longer period of time, but in no event shall such extension period exceed an additional 12 months.
2. If the designated use is not made of the property within the time limitation granted, the conditional use approval shall be cancelled and revoked and be of no effect.

H. Appeal.

1. Appeal of the Planning Commission's decision on conditional use approval shall be made within 10 days of the final action by the Planning Commission, to the City Council. The appeal shall be in writing, submitted to the Building Inspector and processed in accordance with Sec. 214 [212]: Appeals.
2. In considering such an appeal, the City Council shall review the decision in light of the Comprehensive Plan, this Zoning Ordinance, the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable. The City Council shall modify or reject the decision of the Planning Commission only if it is not supported by substantial competent evidence or

if the Planning Commission's decision is contrary to the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

3. Appeal of the City Council's decision on any request for conditional use approval shall be made within 30 days of the final action by City Council, to a state District Court of competent jurisdiction in Terry County.

Sec. 208. Special Use Review

A. Purpose. Special use review allows for review of specified larger-scale uses that may be appropriate in designated areas, provided that consideration is given to conditions that will minimize any negative impacts of the use.

B. Who May File. An application for special use approval shall be submitted by the owner or an agent authorized by affidavit to act on the owner's behalf, unless initiated by City officials ordinarily authorized to initiate amendments to the zoning map.

C. Submission of Application. A complete application shall be submitted to the Building Inspector, along with the appropriate fee. The Building Inspector may require an application for special use approval to be accompanied by a site plan of existing and proposed development of the affected site. A written statement describing how the proposed development meets any specific use requirements set forth in Articles 3 through 5 shall accompany the site plan.

D. Applicable Development Standards. Unless otherwise specified in this Zoning Ordinance, no special use approval shall be granted for any use that does not conform with the dimensional standards of the district in which it is located. Each special use shall also be subject to any specific use requirements set forth in Articles 3 through 5.

E. Review by Building Inspector. After determining that the application is complete, the Building Inspector shall place the request on a meeting agenda for consideration by the Planning Commission.

F. Hearing and Recommendation by Planning Commission.

1. The Planning Commission shall, after appropriate notice, conduct a public hearing on each request for approval of a special use.
2. At the public hearing, the Planning Commission shall consider the application, any pertinent comments by City staff, other relevant support materials and public testimony given at the public hearing.

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3. After the close of the public hearing, the Planning Commission shall recommend that the City Council approve the request, approve the request with additional conditions, or deny the request. The Planning Commission may propose such conditions as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: limitations on size, bulk and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation for the special use so allowed.
4. A recommendation by the Planning Commission to deny a request for special use shall be the final decision on that matter, if not appealed in writing to the City Council with ten (10) days.

G. Hearing and Action by City Council.

1. The City Council shall, after appropriate notice and a recommendation from the Planning Commission, conduct a public hearing on each request for approval of a special use, except for such requests which are recommended by the Planning Commission to be denied and are not formally appealed to City Council.
2. At the public hearing, the City Council shall consider the application, any pertinent comments by City staff, the Planning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the City Council shall approve the request, approve the request with additional conditions, or deny the request. The Council may attach such conditions to a special use approval as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: limitations on size, bulk and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation of the special use.
4. Where the Planning Commission has recommended denial of a proposed special use, or written protest against a proposed special use is made and signed by (a) the owners of 20 percent or more of the area subject to the special use or (b) the owners of 20 percent or more of the land area within 200 feet of the affected area, then the proposed special use shall require a favorable vote of at least three-fourths of all the members of the City Council to become effective. The area of rights-of-way and streets shall be included in any computation of land area under this subsection.

H. Special Use Approval Criteria. Approval of a special use by the Planning Commission and City Council shall be based upon the following criteria.

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1. Impacts Minimized. Whether and the extent to which the site plan minimizes adverse effects, including adverse visual impacts, on adjacent properties.
2. Consistent with Zoning Ordinance. Whether and the extent to which the proposed special use would conflict with any portion of this Zoning Ordinance, including the applicable zoning district intent statement.
3. Compatible with Surrounding Area. Whether and the extent to which the proposed special use is compatible with existing and anticipated uses surrounding the subject land.
4. Traffic Circulation. Whether and the extent to which the proposed special use is likely to result in extraordinarily prolonged or recurrent congestion of surrounding streets, especially minor residential streets.
5. Effect on Natural Environment. Whether and the extent to which the proposed special use would result in significant adverse impacts on the natural environment, including but not limited to water or air quality, noise, stormwater management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
6. Community Need. Whether and the extent to which the proposed special use addresses a demonstrated community need.
7. Development Patterns. Whether and the extent to which the proposed special use would result in a logical and orderly pattern of urban development in the community.

I. Expiration of Special Use Approval.

1. All special use approvals issued shall be subject to the requirement that the property for which the approval was issued must actually acquire a building permit for the approved use within 12 months from the granting of the special use approval, provided that the Building Inspector, with significant evidence that the designated use cannot be realistically implemented with due diligence within that time period, may grant a longer period of time, but in no event shall such extension period exceed an additional 12 months.
2. If the designated use is not made of the property within the time limitation granted, the special use approval shall be cancelled and revoked and be of no effect.

J. Appeal. Appeal of a request for special use approval shall be made within 30 days of the final action by City Council to a state District Court of competent jurisdiction in Terry County.

Sec. 209. Planned Development Review

A. Who May File. An application for rezoning to a Planned Development (PD) District may be submitted by an owner or an agent authorized by affidavit to act on the owner's behalf, unless initiated by City officials ordinarily authorized to initiate amendments to the zoning map. No application shall be accepted for a property less than one acre in land area.

B. Pre-application Conference.

1. A prospective applicant for a PD District is encouraged to request a pre-application conference with the Building Inspector prior to submission of a formal application.
2. At the pre-application conference, the applicant shall present a draft concept plan in order for the staff to better assist the developer and ensure timely processing of the application.
3. Based on the information provided by the applicant, the Building Inspector or a designee shall provide preliminary comments concerning the proposed development and shall inform the applicant of any additional requirements for preparation of a formal application for rezoning to the PD District.

C. Submission of Application.

1. A complete application for review of a PD District shall be submitted to the Building Inspector on a form prescribed by the Building Inspector, along with the appropriate fee.
2. The applicant shall submit a concept plan and a rezoning application, as well as any proposed covenants and restrictions governing the operation of any proposed common open space or facilities. The concept plan shall include at least a graphic element that illustrates those details of the proposed planned development that are appropriate for the application. The concept plan may also be accompanied by written text describing appropriate details of the proposed planned development.
3. The applicant may also submit an initial site plan of actual building construction and other such improvements planned on the subject property.
4. A subdivision plat meeting the submittal requirements of the City's Land Development and Subdivision Ordinance may also be submitted. An applicant for a single-family detached residential development may submit a final subdivision plat in

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lieu of a site plan for the first phase or phases of the project for approval in conjunction with adoption of the PD District.

D. Review and Report by Building Inspector. After determining that the application is complete, the Building Inspector shall prepare a staff report, which may include a recommendation for approval or denial. A copy of the staff report on a proposed planned development shall be mailed to the applicant at least 5 working days prior to the public hearing on the application.

E. Hearing and Recommendation by Planning Commission.

1. The Planning Commission shall, after appropriate notice, conduct a public hearing on each request for rezoning to the PD District.
2. At the public hearing, the Planning Commission shall consider the application, the comments and recommendations of City staff, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the Planning Commission shall prepare and deliver a report and recommendation to the City Council to approve or deny the proposed PD District. The Planning Commission may recommend conditions necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: limitations on size, bulk and location, provision of adequate ingress and egress, and hours of operation. A recommendation by the Planning Commission to deny a request for a proposed PD District shall be the final decision on the matter, if not appealed in writing to the City Council within ten (10) days.
4. The Commission may simultaneously make its required findings on any final plat submitted by the applicant, in accordance with the standards set forth in the City's Land Development and Subdivision Ordinance.

F. Hearing and Action by City Council.

1. After receipt of the final report from the Planning Commission, and after appropriate notice, a public hearing shall be held by the City Council before adopting any proposed PD District, except for such requests which are recommended by the Planning Commission to be denied and are not formally appealed to City Council.
2. At the public hearing, the City Council shall consider the application, the comments and recommendations of City staff, the Planning Commission recommendation, other

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relevant support materials and public testimony given at the public hearing.

3. After the close of the public hearing, the City Council shall approve, approve with conditions, or deny the application. The Council may require such conditions relating to the height, floor area, density, setback, landscaping, off-street/on-site parking and all other applicable standards as are necessary to ensure the health, safety and general welfare of the community.
4. The City Council, upon consideration of the findings by the Planning Commission regarding plat approval, and if City Council approval is necessary, may approve a subdivision plat submitted by the applicant, which meets the standards set forth in the City's Land Development and Subdivision Ordinance, concurrently with approval of the specific PD District ordinance.
5. If the applicant has included an initial site plan of actual building construction and/or other such improvements planned on the subject property, the Council shall take action on such request, if City Council approval is necessary as provided in this Section.
6. Where the Planning Commission has recommended denial of a proposed PD District, or written protest against a proposed PD District is made and signed by (a) the owners of 20 percent or more of the area subject to the PD District ordinance or (b) the owners of 20 percent or more of the land area within 200 feet of the affected area, then the proposed PD District shall require a favorable vote of at least three-fourths of all the members of the City Council to become effective. The area of rights-of-way and streets shall be included in any computation of land area under this subsection.

G. Amendments to PD District Ordinance. Any amendments to the terms and conditions of an approved PD District ordinance shall be subject to review and reconsideration, in accordance with procedures set forth in subsections A through F above.

H. Site Plan Required.

1. No building permit may be issued and no construction or development requiring a building permit and situated within a PD District may commence unless a site plan has been approved for that phase of the project that is consistent with the approved concept plan. A site plan that is not consistent with the approved concept plan and specific PD District ordinance shall not be approved.
2. Upon approval of a PD District, the applicant may submit a site plan to the Building Inspector for each phase of the development in accordance with the phasing schedule

of the concept plan.

I. Approval of Minor Site Plans by Building Inspector. The Building Inspector or his/her designee may approve a site plan for development within a Planned Development District under the following conditions:

1. The site plan is for the development of a use or uses allowed by the approved PD District ordinance specific to the subject site, and is not for the purpose of designating the allowable land uses on a particular tract or tracts, and meets the intent of the approved concept plan; or
2. The site plan represents a minor change from the approved site plan; or
3. The purpose of the site plan is to allow the expansion of an existing building, if the proposed expansion is consistent with the overall PD District conditions for that existing building, and if the proposed expansion meets all the requirements of the applicable PD District ordinance; and
4. The site plan meets all requirements of other applicable City ordinances.

J. Approval of Major Site Plans by Planning Commission.

1. The site plan for the first phase of a planned development may be considered and approved by the City Council simultaneously with approval of the PD District ordinance incorporating the concept plan.
2. For site plans which cannot be approved administratively by the Building Inspector as described above, the Building Inspector shall forward the site plan to the Planning Commission, which shall review the site plan and either approve, approve with conditions, or deny the site plan based on the criteria set forth below.
3. For developments consisting solely of single-family detached residential uses, a final plat may serve as the required site plan.

K. Site Plan Approval Criteria. In approving or denying a site plan submitted under this Section, the following criteria shall be considered:

1. safety of vehicular and pedestrian movements for the facility and area surrounding the site;
2. safety from fire hazards and required means of fire control;

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3. protection from flooding and water damage;
4. noise and lighting glare, and effect of such on adjacent neighborhoods;
5. relation of signs to traffic control and effect on adjacent properties;
6. adequacy of off-street parking and loading facilities;
7. appropriateness of ingress and egress points for access, parking and loading, including existing and proposed ingress/egress/access easements and internal circulation, and protection of the public health by appropriate surfacing of all parking areas to control dust;
8. appropriate placement of landscaping and screening;
9. site coverage by structures and other improvements, and resulting impacts;
10. siting of structures and other improvements relative to appropriate setbacks, height limitations, maintenance of views and sight lines, as well as other aesthetic considerations; and
11. such other measures as might secure and protect the public health, safety, and general welfare.

L. Amendments to Approved Site Plans. After approval of a site plan for construction in a PD District, minor alterations to the plan that do not affect the subdivision of the land, the general character or overall design of the plan may be approved by the Building Inspector. The Building Inspector may refer revisions to the Planning Commission in cases where the proposed revision constitutes a substantial alteration. Revisions submitted to the Planning Commission shall follow the same procedure required for approval of a major site plan.

M. Appeals.

1. Any minor site plan that is denied by the Building Inspector may be appealed by the applicant to the Planning Commission within 10 days of the final action in accordance with the procedures in Sec. 214 [212].
2. Any major site plan that is denied by the Planning Commission may be appealed by the applicant to the City Council within 10 days of the final action in accordance with the procedures in Sec. 214 [212].

Sec. 210. Amendments to Text or Official Zoning Map

A. Who May File.

1. Text Amendment. An application for amendment of the text of this Zoning Ordinance may be filed by the Building Inspector, City Manager, Planning Commission or City Council. Any citizen may petition the Planning Commission, as a whole, to initiate an application for amendment to the text of this Zoning Ordinance[.]
2. Map Amendment. An application for an amendment of the Official Zoning Map (including any amendment required by other procedures in this Article) shall only be filed by the following persons. Any citizen may petition the Planning Commission, as a whole, to initiate an application for amendment to the text of this Zoning Ordinance.
 - a. A person, firm or corporation that, together or separately, is an owner of the subject property.
 - b. An authorized representative of such a person, firm or corporation. A notarized affidavit shall be required from the property owner designating such a representative.
 - c. The City Council, or Planning Commission acting of its own volition or at petition of the public. A resolution to initiate the amendment process shall appear in the minutes of the official body initiating the request.
 - d. The Building Inspector, acting in his/her capacity as technical advisor to the Planning Commission.

B. Submission of Application. A complete application for amendment to the text of this Zoning Ordinance or the Official Zoning Map shall be submitted to the Building Inspector, along with the appropriate fee.

C. Review by Building Inspector. After determining that the application is complete, the Building Inspector shall place the request on a meeting agenda of the Planning Commission.

D. Hearing and Recommendation by Planning Commission.

1. The Planning Commission shall, after required notice, conduct a public hearing on each request for an amendment of the Official Zoning Map. Any citizen may petition

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the Planning Commission, as a whole, to initiate an application for amendment to the text of this Zoning Ordinance. The Planning Commission shall then have the prerogative of deciding whether to conduct a hearing on any such proposed amendment. If a hearing on a proposed text amendment is not scheduled in advance by the Building Inspector, the Planning Commission may resolve to schedule such a hearing. Regardless of whether a hearing is scheduled by the Building Inspector or by resolution of the Commission, no hearing on a proposed text amendment shall be conducted until after required notice.

2. At the public hearing, the Planning Commission shall consider the application, comments and recommendations of City staff, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the Planning Commission shall recommend that the City Council approve, approve with modifications, or deny the proposed amendment based on the criteria in subsection G below.

A recommendation by the Planning Commission to deny a request for amendment of the Official Zoning Map shall be the final decision on the matter, if not appealed in writing to the City Council within ten (10) days.

4. A tie vote by the Planning Commission on any proposed amendment to the Official Zoning Map or the text of this Zoning Ordinance shall be forwarded without recommendation to the City Council.

E. Hearing and Action by City Council.

1. After receipt of the recommendation from the Planning Commission, and after appropriate notice, the City Council shall conduct a public hearing on each proposed change, except for requests to amend the Official Zoning Map, which are recommended by the Planning Commission to be denied and are not formally appealed to City Council.
2. At the public hearing, the City Council shall consider the application, comments and recommendations by City staff, the Planning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. The City Council may approve, approve with modifications, or deny the proposed amendment.
4. Where the Planning Commission has recommended denial of the proposed

amendment, or written protest against such amendment is made and signed by (a) the owners of 20 percent or more of the area subject to the zone change or (b) the owners of 20 percent or more of the area within 200 feet of the affected area, then the proposed amendment shall require a favorable vote of at least three-fourths of all the members of the City Council to become effective. The area of rights-of-way and streets shall be included in any computation of land area under this subsection.

F. Appeal. Appeal of an amendment to the text of this Zoning Ordinance or the Official Zoning Map shall be made within 30 days of the final action by the City Council to a state District Court of competent jurisdiction in the Terry County.

G. Amendment Criteria. The wisdom of amending the text of this Zoning Ordinance or the Official Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt, adopt with modifications or deny the proposed amendment, the City Council shall at a minimum consider the following factors.

1. Compatible with Plans and Policies. Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning Commission or City Council.
2. Consistent with Zoning Ordinance. Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance.
3. Compatible with Surrounding Area. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.
4. Changed Conditions. Whether and the extent to which there are changed conditions that require an amendment.
5. Effect on Natural Environment. Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, stormwater management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
6. Community Need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.
7. Development Patterns. Whether and the extent to which the proposed amendment

would result in a logical and orderly pattern of urban development in the community.

Sec. 211. Development Allowed By Right

Uses allowed by right are those uses that are deemed compatible with other allowed uses of land in a zoning district, provided they are developed in conformity with other applicable regulations of this Zoning Ordinance. A complete application for development allowed by right shall be submitted to the Building Inspector, along with the appropriate review and inspection fee. If the Building Inspector determines that the proposed development is in compliance with all requirements of the City's Code of Ordinances, including but not limited to this Zoning Ordinance and the adopted building code, the Building Official shall issue a building permit.

Sec. 212. Appeals

A. Who May File. An appeal may be initiated by any owner, applicant, affected adjacent property owner, or resident of the City of Brownfield.

B. Appropriate Review Body.

1. Planning Commission. The Planning Commission shall review appeals from the following decisions.
 - a. Decision by the Building Inspector in regard to a minor site plan or amendment thereto in a PD District (Sec. 209)[.]
2. City Council. The City Council shall review appeals from the following decisions.
 - a. Decision by the Building Inspector in regard to a Type 1 Special Event (Sec. 204).
 - b. Decision by the Planning Commission in regard to a conditional use (Sec. 207) or a major site plan or amendment thereto in a PD District (Sec. 209).
 - c. Decision by the Planning Commission in regard to a request for expansion of a nonconforming use (Sec. 609).
3. Zoning Board of Adjustment. Unless otherwise specified in the subsections above, an appeal that alleges error in a decision or determination made by any administrative official in the routine enforcement of this Zoning Ordinance shall be reviewed by the Zoning Board of Adjustment.

C. Submission of Application. A complete notice of appeal shall be submitted to the Building Inspector, along with the appropriate application fee.

D. Action. The appropriate review body may reverse, affirm or modify the previous decision or interpretation appealed from, and in so doing, the review body shall be deemed to have all the powers of the officer or decision-making body from whom the appeal was taken, including the power to impose reasonable conditions.

Sec. 213. Decision-Making Bodies and Officials

The City decision-making bodies and officials described in this Section, without limitation upon the authority each possesses by law, have responsibility for implementing and administering this Zoning Ordinance in the manner described in this Section.

A. Building Inspector. For the purposes of this Zoning Ordinance, the Building Inspector, shall be required to:

1. Serve as the Secretary and provide technical assistance to the Planning Commission, and Zoning Board of Adjustment on regulations in this Zoning Ordinance;
2. Render administrative adjustments to development standards;
3. Render written interpretations of the map and text of this Zoning Ordinance;
4. Render administrative decisions on Type 1 special events, urban design review, minor site plans for or amendments thereto in any PD District;
5. Perform such other functions and duties as authorized in the City's Code of Ordinances and as may be duly delegated by the City Manager; and
6. Initiate amendments to the map and text of this Zoning Ordinance.

B. Planning Commission. For the purposes of this Zoning Ordinance, the Planning Commission shall be required to:

1. Review and recommend to the City Council changes to the text of this Zoning Ordinance, changes to the Official Zoning Map (including designation of PD Districts), and approval of special uses;
2. Hear and decide appeals from decisions of the Building Inspector in regard to

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minor site plans for development in any PD District;

3. Render decisions on conditional uses and major site plans or amendments thereto in any PD District; and
 4. Perform such other functions and duties as authorized in the City's Code of Ordinances and as may be duly delegated to them by the City Council.
- C. City Council. For the purposes of this Zoning Ordinance, the City Council shall be required to:
1. Take final action on changes to the text of this Zoning Ordinance, changes to the Official Zoning Map (including designation of PD Districts), approval of Type 2 special events, and approval of special uses;
 2. Hear and decide appeals from decisions of the Building Inspector in regard to Type 1 special events;
 3. Hear and decide appeals from decisions of the Planning Commission in regard to conditional uses and major site plans for or amendments thereto in any PD District; and
- D. Zoning Board of Adjustment. The Zoning Board of Adjustment shall exercise the following powers and be required to:
1. Hear and decide appeals that allege error in a decision or determination made by any administrative official in the routine enforcement of this Zoning Ordinance;
 2. Hear and decide appeals of any administrative adjustment by the Building Inspector;
 3. Hear and decide requests for variances from the terms of this Zoning Ordinance.

Article 3 Use Regulations

Sec. 301. Establishment of Districts

In order to carry out the provisions of this Zoning Ordinance, the City is hereby divided into distinct zoning districts upon which may be applied certain overlay zones.

A. Base Zoning Districts.

“R&E” Ranch and Estate District

“R-1” Single-Family Dwelling District

“R-2” Two-Family Dwelling District

“R-3” Multi-Family Dwelling District

“R-G” Zero Lot Line, Gardenhome Residence District

“C-1” Local Retail District

“C-2” General Commercial District

“C-3” Commercial District

“M-1” Industrial and Manufacturing

“PD” Planned Development District

“PIP” Planned Industrial Park District

Sec. 302. Zoning of Newly Annexed Areas

All territory annexed to the City of Brownfield after the effective date of this Zoning Ordinance shall be classified as R&E, Ranch and Estate District. The Planning Commission shall, as soon as practicable after the annexation of any territory, recommend to the City Council a zoning plan of all the land within each newly annexed area. The zoning plan may or may not describe districts other than the R&E, Ranch and Estate District, as appropriate. The procedure used by the City Council to adopt such a zoning plan shall be the same as is provided by Texas state law for the adoption of an original zoning map and regulations. In so doing, the Planning Commission may hold a public hearing on rezoning concurrent with proceedings to undertake a

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proposed annexation, so that the City Council may take final action to approve rezoning and annexation of the same territory on the same meeting agenda.

Sec. 303. Residential District Intent Statements

A. R&E (Ranch and Estate) District. The Ranch and Estate District is intended to provide opportunities for development of low density, detached single-family residences on lots of at least one acre in a suburban or rural setting. This District is also intended to serve as a holding zone for vacant land areas annexed to the City.

B. R-1 (Single-Family Residential) District. The Single-Family Residential District is intended to provide opportunities for development of detached single-family residences at medium densities.

C. R-2 (Two-Family Residential) District. The Two-Family Residential District is intended to provide opportunities for development of detached single-family residences and two-family residences at medium densities.

D. R-3 (Multifamily Residential) District. The Multifamily Residential District is intended to provide opportunities for development of apartments.

E. R-G (Zero Lot Line, Gardenhome Residential) District. The Zero Lot Line, Gardenhome District is intended to provide opportunities for medium density residential development using the gardenhome, and zero lot line concepts to incorporate (1) more efficient use of land than typical single-family development, making needed housing more affordable; (2) design of dwellings that integrate and relate internal/external living areas resulting in more pleasant and enjoyable housing; and (3) placement of dwellings against the property line, permitting outdoor space to be grouped and utilized to its maximum benefit. Regardless of any provisions in this ordinance to the contrary, gardenhomes shall comply with the following:

1. Zero lot lines are those lines situated so that one side wall or roof line of a structure can be located on the side lot boundary without any setback required.
2. Only one Zero Lot Line will be allowed per lot.
3. The minimum lot size shall be 5,500 square feet.
4. The minimum front yard shall be fifteen feet with the front of the garage being set back twenty (20) feet.
5. The minimum rear yard shall be five (5) feet for a single-story structure and fifteen (15) for any two-story structure.
6. There shall be at least ten (10) feet of separation between structures. Five (5) feet of

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the lot adjacent to the zero setback will be deducted as an access easement for construction and repair of the adjacent zero setback structure. The roofline of any structure will be allowed to overhang the access easement of the adjacent property.

7. The combined lot coverage of all structures shall not exceed sixty-five percent of the lot area. Trellises and open porches shall not be included in the combined area.
8. No structure shall exceed two stories or thirty-five (35) feet in height.
9. No doors or windows shall be located on any wall located on a Zero Lot Line, except that windows shall be allowed on a Zero Lot Line adjacent to a street.

Sec. 304. Commercial District Intent Statements

A. C-1 (Local Commercial) District. The Local Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area—a neighborhood. Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

B. C-2 (General Commercial) District. The General Commercial District is intended to provide opportunities for development of commercial establishments of higher intensity, with larger trade area, floor area and traffic generation than Neighborhood Commercial uses. Limited outdoor storage, screened from adjacent residential uses, may be appropriate.

C. C-3 (Heavy Commercial) District. The Heavy Commercial District is intended to provide opportunities for development of wholesale trade, retail sales, warehousing development, repair and service establishments, heavy and bulk equipment supply dealers or other such establishments that typically are characterized by outside storage of materials or merchandise.

Sec. 305. Manufacturing and Industrial District Intent Statements

A. M-1 (Light Manufacturing) District. The Light Manufacturing District is intended to provide opportunities for businesses in the processing, manufacturing, storage and service industries, each of which are characterized by a relatively low degree of nuisance and adverse impact on neighboring property.

B. M-2 (Heavy Manufacturing) District. The Heavy Manufacturing District is intended to provide opportunities for processing and manufacturing that is inherently noxious or dangerous due to the chemicals or processes involved. Outdoor storage is allowed.

Sec. 306. PD (Planned Development) District

A. Purpose. The purposes of the Planned Development District include, but are not limited to the following.

1. To allow diversification of uses, structures, and open spaces and to promote flexibility of design in a manner compatible with existing and allowed uses of land on adjacent properties.
2. To preserve the natural amenities and environmental assets of the land by encouraging the preservation and improvement of open space.
3. To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services.
4. To promote the efficient use of land to facilitate a more economic arrangement of buildings, uses of land and utilities.
5. To promote the development of vacant property within the presently developed urban area.

B. Allowed Uses.

1. Any use or combination of uses otherwise authorized by these zoning regulations is allowed in a Planned Development (PD) District, if such use or uses is consistent with, and meets the standards for, the concept plan and PD District approved by the City Council. Allowable uses shall be listed in a use schedule in the specific ordinance establishing each PD District.
2. It is intended that PD Districts conform as closely as possible to established zoning and subdivision regulations while still allowing maximum flexibility of design to make planned developments as desirable as possible.
3. Each PD District ordinance is incorporated by reference into this Zoning Ordinance. Every individual PD District approved under the provisions of this Zoning Ordinance shall be considered as a zoning amendment applicable to the property involved.

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Conditions specified for the development of a PD District shall be construed as conditions precedent to the granting of a Certificate of Occupancy by the Building Official and compliance as required by the City of Brownfield.

C. Review of Planned Development. A PD District shall be reviewed in accordance with the procedures in Sec. 209 and shall comply with the development standards in Sec. 505.

Sec. 307. PIP (Planned Industrial Park) District

A. Purpose. The purposes of the Planned Industrial Park (PIP) District include, but are not limited to the following.

1. To allow diversification of uses, structures, and open spaces and to promote flexibility of design in a manner compatible with existing and allowed uses of land on adjacent properties.
2. To preserve the natural amenities and environmental assets of the land by encouraging the preservation and improvement of open space.
3. To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services.
4. To promote the efficient use of land to facilitate a more economic arrangement of buildings, uses of land and utilities.
5. To promote the development of vacant property within the presently developed urban area.

B. Allowed Uses.

1. No residential uses shall be allowed within the PIP District, except those designated for caretakers or security personnel employed on the premises.
2. Any nonresidential use or combination of uses otherwise authorized by these zoning regulations is allowed in a PIP District, if such use or uses is consistent with, and meets the standards for, the concept plan and PIP District ordinance approved by the City Council. Allowable uses shall be listed in a use schedule in the specific ordinance establishing each PIP District.
3. It is intended that PIP Districts conform as closely as possible to established zoning and subdivision regulations while still allowing maximum flexibility of design to

make planned developments as desirable as possible.

4. Each PIP District ordinance is incorporated by reference into this Zoning Ordinance. Every individual PIP District approved under the provisions of this Section shall be considered as a zoning amendment applicable to the property involved. Conditions specified for the development of a PIP District shall be construed as conditions precedent to the granting of a Certificate of Occupancy by the Building Official and compliance as required by the City of Brownfield.

C. Review of Planned Industrial Park. A PIP District shall be reviewed in accordance with the procedures in Sec. 209 and shall comply with the development standards in Sec. 506.

Sec. 308. Use Table

All of the use categories listed in the Table below are explained in Sec. 310 through 315. The second column of the use table contains an abbreviated explanation of the respective use category. If there is a conflict between the abbreviated definition and the full explanation in Sec. 310 through 315, the provisions of Sec. 310 through 315 shall control.

- A. Allowed Uses. Uses identified with an “A” are allowed by right as set forth in Sec. 211. A “*” identifies uses that may be subject to additional specific use regulations set forth later in Article 4.
- B. Conditional Uses. Uses identified with a “C” are allowed subject to approval by the Planning Commission as set forth in Sec. 207. A “*” identifies uses that may be subject to additional specific use regulations set forth later in Article 4.
- C. Special Uses. Uses identified with an “S” are allowed subject to approval by the City Council as set forth in Sec. 208. A “*” identifies uses that may be subject to additional specific use regulations set forth later in Article 4.
- D. Excluded Uses. The following uses shall be excluded from any and all zoning districts within the City limits of Brownfield:
 1. Meat and poultry rendering of byproducts; and
 2. Chemical and nuclear waste storage dumps.
- E. Use Table. Allowed, conditional and mandatory planned development uses are set forth in the following Table. Uses that may be subject to additional specific use standards set forth in Article 4 are designated with a “*”.

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(Ordinance 1858 adopted 8/16/01)

A = Allowed

S = Special Use

C = Conditional

* = Specific Use Regulations may Apply

Use Category	Short Definition (see also Chap. 8)	*	R&E	R1	R2	R3	RG	C1	C2	C3	M1
Group Living	Residential occupancy that does not meet the definition of "household living"	*		*		A	-	A	A	A	-
Household Living	Residential occupancy of a dwelling by a "household"	*	A	A	A	A	A	C	C	C	C
Recovery Facility, Alcohol and Drug	Residential programs that provide care and training or treatment for psychiatric, alcohol or drug problems	*	-	-	-	-	-	-	A	A	A
College	Institutions of higher learning	*	-	-	-	-	-	-	A	A	-
Community Services	Public, nonprofit, or charitable uses providing service to the community		-	-	-	-	-	A	A	A	C
Day Care	Care, protection and supervision for children or adults on a regular basis	*	-	-	-	-	-	A	A	A	C
Detention Facilities	Facilities for detention of incarcerated people		-	-	-	-	-	-	-	S	S
Golf Course, Golf Driving Range	Facilities for golf, including practice areas	*	S	S	S	S	S	S	S	S	S
Hospital	Medical or surgical care, with overnight care	-	-	-	-	-	-	-	C	C	C
Parks and Open Areas	Natural areas consisting mostly of vegetative landscaping, outdoor recreation, gardens, etc.		A	A	A	A	A	A	A	A	A
Religious Institutions	Meeting areas for religious activities		C	C	C	C	C	A	A	A	A
Safety Services	Public safety and emergency services		C	C	C	C	C	A	A	A	A
Schools	Elementary, middle, or high school level schools		C	C	C	C	C	C	A	A	-
Special Event, Type 1	Fundraising, business promotion, special and seasonal events	*	A	A	A	A	A	A	A	A	A
Special Event, Type 2	Carnival, concert, circus, fair or festival	*	-	-	-	-	-	-	-	A	A

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Utilities, Basic	Infrastructure that needs to be located in or near the area where the service is provided		A	A	A	A	A	A	A	A	A	
Auto and Boat Dealer	Sales of cars, light trucks and boats	*	-	-	-	-	-	-	-	-	A	A
Bed & Breakfast	A single-family dwelling offering overnight accommodations	*	S	S	S	S	-	C	C	A	C	
Campground/ Recreational Vehicle Park	Temporary, often overnight accommodations for camping units and recreational vehicles		S	-	-	-	-	-	-	-	S	S
Use Category	Short Definition (see also Chap. 8)	*	R&E	R1	R2	R3	RG	C1	C2	C3	M1	
Game Hall	A game arcade, bingo, billiard or pool hall	*	-	-	-	-	-	-	-	-	C	C
Office	Activities in an office setting focusing on business, government, professional, medical or financial services		-	-	-	-	-	A	A	A	A	
Bars & Taverns	The sale of alcoholic beverages for consumption on the premises exceeds 75% of gross revenue		-	-	-	-	-	-	-	-	S	-
Parking, Commercial	Parking not accessory to an allowed use, fees may be charged		-	-	-	-	-	C	A	A	A	
Recreation and Entertainment, Outdoor	Large commercial uses that provide continuous recreation or entertainment		-	-	-	-	-	-	-	-	S	S
Rental, Equipment	Firms leasing or renting heavy vehicles, equipment and machinery under 3.5 tons to the public, may also provide product repair	*	-	-	-	-	-	-	-	-	A	A
Retail Sales and Service	Firms involved in the sale of new or used products to the public, may provide personal services, entertainment or product repair	*	-	-	-	-	-	A	A	A	A	C
Self-Service Storage	Uses providing separate storage areas for individuals or businesses	*	-	-	-	-	-	C	C	A	A	
Vehicle Repair	Service to passenger vehicles, light or medium trucks, other consumer motor vehicles, generally, the customer does not wait at site while service is being	*	-	-	-	-	-	-	-	A	A	A

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Use Category	Short Definition (see also Chap. 8)	*	R&E	R1	R2	R3	RG	C1	C2	C3	M1	1
Manufacturing and Production, Heavy	Firms involved in heavy manufacturing, production or fabrication of goods		-	-	-	-	-	-	-	-	-	
Warehouse and Freight Movement	Firms involved in storage or movement of goods		-	-	-	-	-	-	-	C	A	
Waste-Related Use	Uses that receive recycled materials or wastes for disposal on site or transfer to another location, uses that collect sanitary wastes, or that produce goods or energy from composting	*	-	-	-	-	-	C	C	C	A	
Wholesale Trade	Firms involved in sale, lease, or rental of products for industrial, institutional, or commercial business	*	-	-	-	-	-	-	-	C	A	
Agriculture	Raising or producing plants		A	-	-	-	-	-	-	-	C	
Animal Kennel	Facilities for overnight care of animals, except horses		-	-	-	-	-	-	-	-	C	
Entertainment Event, Major	Activity or structure that draws large numbers of people to specific events		-	-	-	-	-	-	-	S	S	
Firearms Range	Indoor or outdoor facilities for discharging firearms	*	S	-	-	-	-	-	-	S	S	
Horse Boarding and Riding Academy	Overnight care of horses, with or without related equestrian facilities		S	-	-	-	-	-	-	-	C	
Mining	Extraction of mineral or aggregate resources for off-site use		S	-	-	-	-	-	-	-	C	
Passenger Terminals	Facilities for the arrival or departure of airplanes, trains or buses		-	-	-	-	-	-	-	C	C	
Plant Nursery	Facilities producing flowers, shrubs, horticultural or household plants for retail or wholesale trade		A	-	-	-	-	-	-	-	A	
Telecommunications Facilities	Devices and supporting elements necessary to produce non-ionizing electro-magnetic radiation operating to produce a signal	*	C	C	C	C	C	C	C	C	A	
Any Use(s) Deemed Appropriate	Only where such uses(s) can provide effective transition between less restrictive and more restrictive zoning districts	*	S	S	S	S	S	S	S	S	S	

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Use Category	Short Definition (see also Chap. 8)	*	R&E	R1	R2	R3	RG	C1	C2	C3	M1	1
Food and beverage processing; drug processing; tobacco manufacture; building materials processing; light metal fabrication; jewelry fabrication; processing and fabrication of optical and scientific instruments; artificial limb fabrication; broom fabrication; manufacture of wearing apparel including boots and shoes; bags and mattress manufacture	Light Manufacturing		-	-	-	-	-	-	-	-	A	

(Ordinance 1858 adopted 8/16/01; Ordinance 1984 adopted 11/6/08; Ordinance 1991 adopted 8/20/09)

Sec. 309. Residential Structure Types

Household and Group Living uses must comply with the following table in regard to location of individual structure types. Residential uses allowed in nonresidential districts may be housed in any type of residential structure except single-family detached and mobile and manufactured homes. All structure types are defined in Article 7 [8], and additional standards are included in Sec. 501 for zero lot line dwellings.

Structure Type	R&E	R1	R2	R3	RG	MHP	MHS
Single-Family Detached	A	A	A	-	-	-	A
Accessory Apartment	-	-	A	-	-	-	-
Two-Family Dwelling	-	-	A	-	-	-	-
Gardenhome	-	-	-	-	A	-	-
Multifamily Dwelling	-	-	-	A		-	-
Group Living Structure**		-		A	-	-	-

* Refer to Sec. 501 for additional standards.

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** Structure type allowed only with approved group living use.

Sec. 310. Use Categories; General

A. Basis for Classifications. Use categories classify land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

B. Principal Use Characteristics. Principal uses are assigned to the category that most closely describes the nature of the principal use. The “Characteristics” subsection of each use category describes the common characteristics of each principal use.

1. Considerations Used in Categorizing Principal Uses. The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses.
 - a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
 - b. The relative amount of site area or floor space and equipment devoted to the activity.
 - c. Relative amounts of sales from each activity.
 - d. The customer type for each activity.
 - e. The relative number of employees in each activity.
 - f. Hours of operation.
 - g. Building and site arrangement.
 - h. Vehicles used with the activity.
 - i. The relative number of vehicle trips generated by the use.
 - j. Signs.
 - k. How the use advertises itself.
 - l. Whether the activity is likely to be found independent of the other activities on

the site.

2. Developments with Multiple Principal Uses. When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore and bakery, for example, would be classified in the Retail Sales and Service category because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that category.

C. Accessory Uses. Accessory uses are allowed by right only in conjunction with a principal use. Unless otherwise stated, accessory uses are subject to the same regulations as the principal use. See also Sec. 402 [401]. Common accessory uses are listed as examples in the use category descriptions.

D. Use of Examples. The "Examples" subsection of each use category lists common examples of uses included in the respective use category. The names of these sample uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "Wholesale Warehouse" but that sells mostly to consumers, is included in the Retail Sales and Service category rather than the Wholesale Trade category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

Sec. 311. Residential Use Categories

A. Group Living.

1. Characteristics. Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Generally, Group Living structures may often, but are not required to, have a common eating area for residents. The residents may receive care, training, or treatment.
2. Accessory Uses. Accessory uses commonly associated with Group Living are recreational facilities and parking of vehicles for occupants and staff.

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3. Examples. Examples of Group Living include dormitories; fraternities and sororities; monasteries and convents; rooming and boarding houses; assisted living facilities for elderly residents; nursing and convalescent homes; some group homes for the physically or developmentally disabled, mentally or emotionally disturbed.

4. Exceptions.

- a. Lodging where tenancy may be arranged for periods of less than 30 days is considered a hotel or motel use and classified in the Retail Sales and Service category.
- b. Lodging where the residents meet the definition of Household and where tenancy is arranged on a month-to-month basis, or for a longer period, is classified as Household Living.
- c. Facilities for rehabilitation of residents with alcohol or drug-related dependencies are considered Recovery Facilities.
- d. Facilities for people who are under judicial detainment and under the supervision of sworn officers are included in the Detention Facilities category.
- e. A Community Home for occupancy by as many as 6 disabled persons and 2 supervisors may be classified as either Household Living or as Group Living, so long as such facility conforms to all applicable standards of Article 4 in this Zoning Ordinance.

B. Household Living.

1. Characteristics. Household Living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories).
2. Accessory Uses. Accessory uses commonly associated with Household Living are recreational activities, raising of pets, hobbies, home occupations, storage of household goods, storage of supplies and equipment for maintaining the dwelling and associated yard, and parking and occasional maintenance of the occupants' vehicles.
3. Examples. Uses include living in dwelling units found in single-family houses, duplexes, triplexes, fourplexes, gardenhomes and other multi-dwelling structures, retirement center apartments, manufactured housing and other structures with self-contained dwelling units. A Community Home for occupancy by as many as 6 disabled persons and 2 supervisors may be classified as Household Living, so long as such facility conforms to all applicable standards of Article 4 in this Zoning Ordinance.

4. Exceptions. Lodging in a dwelling unit rented on less than a monthly basis, or where less than two-thirds of the units are rented on a monthly or longer basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.

C. Recovery Facilities.

1. Characteristics. Recovery facilities are characterized by programs that provide care and training or treatment for psychiatric, alcohol or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers. The size of the group may be larger than the average size of a household. Generally, Recovery Facilities may often, but are not required to, have a common eating area for residents. The residents may also receive care, training, or treatment.
2. Accessory Uses. Accessory uses commonly associated with Recovery Facilities are recreational facilities and parking of vehicles for occupants and staff.
3. Examples. Examples of Recovery Facilities include psychiatric, alcohol or drug-dependency or rehabilitation centers.
4. Exceptions. Facilities for people who are under judicial detainment and under the supervision of sworn officers are included in the Detention Facilities category.

Sec. 312. Institutional and Civic Use Categories

A. Colleges.

1. Characteristics. This category includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks.
2. Accessory Uses. Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities and support commercial.
3. Examples. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital and seminaries.
4. Exceptions. Business and trade schools are classified as Retail Sales and Service.

B. Community Services.

1. Characteristics. Community Services are uses of a public, non-governmental but not-for-profit, social service, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions should be open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may provide special counseling, education, or training of a public, nonprofit or charitable nature.
2. Accessory Uses. Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; and athletic facilities.
3. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, social service facilities, temporary shelters, vocational training for persons with physical or mental disabilities, crematoriums, columbariums and mausoleums.
4. Exceptions.
 - a. Private lodges, clubs and private or commercial athletic or health clubs are classified as Retail Sales and Service.
 - b. Commercial museums are classified as Retail Sales and Service.
 - c. Parks are classified as Parks and Open Areas.
 - d. Uses where tenancy is arranged on a month-to-month basis, or for a longer period, are residential and are classified as Household or Group Living.

C. Day Care.

1. Characteristics. Day Care uses provide care, protection and supervision for children or adults on a regular basis, away from their primary residence, for less than 24 hours per day.
2. Accessory Uses. Accessory uses include offices, outdoor recreation areas and parking.
3. Examples. Examples include preschools, childcare centers, nursery schools, latch key

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(after school) programs and adult day care programs.

4. Exceptions. Day Care does not include public or private schools or facilities operated in connection with an employment use, shopping center or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity. Certain limited day care operations are allowed in all residential districts, as customary home occupations, subject to specific standards of Sec. 410 [411].

D. Detention Facilities.

1. Characteristics. Detention Facilities includes facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by sworn officers, except when on an approved leave.
2. Accessory Uses. Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, hobby and manufacturing activities.
3. Examples. Examples include prisons, jails, probation centers and juvenile detention homes.
4. Exceptions.
 - a. Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by sworn officers, are classified as Group Living.
 - b. Programs that provide transitional living experience for criminal offenders, such as halfway houses or restitution centers where residents are not under 24-hour supervision, are classified as Group Living.

E. Hospitals.

1. Characteristics. Hospitals include uses providing medical or surgical care to patients and offering overnight care.
2. Accessory Uses. Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias and other support commercial activity, parking, maintenance facilities and housing facilities for staff or trainees.
3. Examples. Examples include medical centers and hospitals.

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4. Exceptions.

- a. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Recovery Facility category.
- b. Medical clinics that provide outpatient medical or surgical care exclusively, where patients are not kept overnight, are classified as Office.
- c. Emergency medical clinics are classified as Retail Sales and Service.
- d. Nursing and convalescent homes are classified as Group Living.

F. Parks and Open Areas.

1. Characteristics. Parks and Open Areas are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Land characterized as Parks and Open Area tends to have few structures.
2. Accessory Uses. Accessory uses may include clubhouses, maintenance facilities, concessions, indoor recreation or education centers, caretaker's quarters and parking.
3. Examples. Examples include parks, cemeteries, public squares, plazas, recreational trails, botanical gardens, nature preserves and land used for grazing animals (not part of a farm or ranch) kept for personal use and enjoyment.
4. Exceptions.
 - a. Golf courses and golf driving ranges are not classified as Parks and Open Areas. Golf courses and golf driving ranges comprise a separate use category.
 - b. Facilities intended to draw large numbers of people to specific events or shows are classified as Entertainment Events, Major. These include fairgrounds, sports arenas and outdoor amphitheaters.

G. Religious Institutions.

1. Characteristics. Religious Institutions primarily provide meeting areas for religious worship and education.

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2. Accessory Uses. Accessory uses include classroom and meeting facilities used primarily for religious education, parking, caretaker's housing and on-site group living facilities such as convents, parsonages and rectories.
3. Examples. Examples include churches, temples, synagogues and mosques.
4. Exceptions. Ministries offering service to the general public, such as marriage counseling, are classified as Office.

H. Safety Services.

1. Characteristics. Safety Services are uses that provide public safety and emergency response services. They often need to be located in or near the area where the service is provided. Employees are regularly present on site.
2. Accessory Uses. Accessory uses include offices and parking.
3. Examples. Examples include fire stations, police stations and emergency medical and ambulance stations.

I. Schools.

1. Characteristics. This category includes public and private schools providing a basic curriculum equivalent to an elementary or secondary school.
2. Accessory Uses. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums and before- or after-school day care.
3. Examples. Examples include public and private daytime schools, boarding schools and military academies.
4. Exceptions.
 - a. Preschools are classified as Day Care uses.
 - b. Business and trade schools are classified as Retail Sales and Service.

J. Utilities, Basic.

1. Characteristics. Basic Utilities are infrastructure service facilities that need to be located in or near the area where the service is provided. Basic Utility uses generally

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do not regularly have employees at the site. Services may be publicly provided, or provided by locally franchised private utility services.

2. Accessory Uses. Accessory uses may include parking and control, monitoring, data or transmission equipment.
3. Examples. Examples include water and sewage pump stations; electrical substations; water towers and reservoirs; stormwater retention and detention facilities; telephone exchanges; and park-and-ride facilities for mass transit.
4. Exceptions.
 - a. Services where people are generally present are classified as Community Services, Offices, or Safety Services.
 - b. Utility offices where employees or customers are generally present are classified as Offices.
 - c. Bus barns are classified as Warehouse and Freight Movement.
 - d. Yards and structures used for storage and servicing of utility-related vehicles, material and equipment are classified Industrial Services.

Sec. 313. Commercial Use Categories

A. Auto and Boat Dealers.

1. Characteristics. Auto Sales firms involve the sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, recreational vehicles and boats.
2. Accessory Uses. Vehicle Repair and maintenance shall be allowed on the same lot as an Auto or Boat Dealer, so long as such repair and maintenance is clearly subordinate, accessory and incidental to the Auto or Boat Dealer.
3. Exceptions.
 - a. Sales, rental or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.

B. Campground/Recreational Vehicle Park.

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1. Characteristics. Campgrounds and recreational vehicle parks are intended for camping units or recreational vehicles (of the general public) occupied as temporary living quarters for recreational, educational or vacation purposes.
2. Accessory Uses. Accessory uses include laundry facilities, convenience groceries, indoor/outdoor games and boat rental.
3. Exceptions. Travel trailers, motorized recreational vehicles and other such relocatable housing that does not meet the definition of either a “mobile home” or of “manufactured housing” may be occupied within a manufactured housing park, provided these types of accommodations do not exceed 30 percent of the total units in the park.

C. Office.

1. Characteristics. Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
2. Accessory Uses. Accessory uses may include sundry shops, cafeterias, health facilities, parking, or other amenities intended primarily for the use of employees in the firm or building.
3. Examples. Examples include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics (not including veterinary clinics), medical and dental labs; and blood-collection facilities.
4. Exceptions.
 - a. Offices that are part of and located with a principal use in another category are considered accessory to the firm’s primary activity. Headquarters offices, when located on the same premises as or adjacent to a principal use in another category, are considered part of the other category.
 - b. Offices for construction contractors and others who perform services off site are included in the Office category if equipment and materials are not stored on the office site and fabrication, services, or similar work is not carried on at the office site.

- c. Veterinary clinics for small, non-hoofed animals shall be classified as a separate use category. Veterinary clinics for large, hoofed animals shall be classified as Industrial Services.

D. Parking, Commercial.

1. Characteristics. Commercial Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility.
2. Accessory Use. In a parking structure only, accessory uses may include gasoline sales, carwashing and vehicle repair activities if these uses provide service only to vehicles parked in the garage.
3. Examples. Examples include short- and long-term fee parking facilities and mixed parking lots (partially accessory to a specific use, partly for rent to others).
4. Exceptions.
 - a. Parking facilities that are accessory to a use, but for which a fee is charged to the public to park for occasional events nearby, are not considered Commercial Parking facilities.
 - b. Parking facilities that are accessory to a principal use are not considered Commercial Parking uses, even if the operator leases the parking facility to the principal use or charges a fee to the individuals who park in the facility.
 - c. Public transit park-and-ride facilities are classified as Basic Utilities.

E. Plant Nurseries.

1. Characteristics. Plant Nurseries are comprised of land and buildings used for floricultural or horticultural plant production for retail or wholesale trade. This use category includes commercial greenhouses where the roof and sides of such buildings are made largely of transparent/translucent materials and in which temperature and humidity can be regulated for cultivation of delicate or out-of-season plants, for subsequent sale.
2. Accessory Uses. Accessory uses include office buildings, barns and sheds for storing

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materials and equipment, buildings for allowable retail sales. Selling lawn and garden supplies and equipment as well as plant material produced off premises is ordinarily allowed in conjunction with a plant nursery, except in an R&E District.

3. Exceptions. In R&E Districts, the only retail sales allowed are of plant material produced on those same premises. In R&E Districts, plant nurseries shall not include sales of lawn and garden supplies and equipment, nor shall the sale of plant material produced off premises be allowed.

F. Recreation and Entertainment, Outdoor.

1. Characteristics. Outdoor Recreation and Entertainment uses are large, generally commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting.
2. Accessory Uses. Accessory uses may include concessions, restaurants, parking, caretaker's quarters and maintenance facilities.
3. Examples. Examples include amusement parks, theme parks, miniature golf facilities and zoos.
4. Exceptions.
 - a. Golf courses and golf driving ranges are classified as a separate, distinct use category.
 - b. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Entertainment Events.
 - c. An amusement facility housed entirely indoors is classified as Retail Sales and Service.

G. Retail Sales and Service.

1. Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
2. Accessory Uses. Accessory uses may include offices, storage of goods and

equipment, manufacture or repackaging of goods for on-site sale, and parking.

3. Examples. Examples include uses from the four following groups:

- a. Sales-Oriented. Stores selling, leasing, or renting consumer, home and business goods generally intended for actual use by the buyer or renter and not for resale, including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden equipment and supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos.
- b. Personal Service-Oriented. Branch banks; emergency medical care; laundromats; photographic studios; photocopy and blueprint services; print shops and lithographers (where finished goods are sold primarily on site and to the general public, not to wholesalers); hair, tanning and personal care services; photo developing and clothes cleaning, with customer drop-off and pickup; business, martial arts and other trade schools; dance or music classes; taxidermists; mortuaries; and animal grooming.

(Ordinance 1858 adopted 8/16/01)

- c. Entertainment-Oriented. Restaurants, cafes, delicatessens, indoor continuous entertainment activities such as bowling alleys and ice rinks; dance halls; theaters, health clubs, gyms, membership clubs and lodges; hotels, motels, campgrounds, recreational vehicle parks and other temporary lodging with an average length of stay of less than 30 days. (Ordinance 1984 adopted 11/6/08)
- d. Repair-Oriented. Repair of televisions, bicycles, clocks, watches, shoes, guns, appliances and office equipment; tailor; locksmith; and upholsterer.

4. Exceptions.

- a. Repair and service of household consumer motor vehicles, motorcycles and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment and heavy trucks is classified as Industrial Service.
- b. Sales, rental, or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.
- c. Hotels, restaurants and other services that are part of a truck stop are considered

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accessory to the truck stop, which is classified as Industrial Service. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See “Community Services.”

- d. Game arcades, billiard and pool halls are not classified as Retail Sales and Services. Game halls are classified as a separate use category.
- e. Auto and boat dealers are not classified as Retail Sales and Services. Auto and boat dealers are classified as a separate use category.
- f. Sales of farm and ranch supplies and/or equipment are classified as Wholesale Trade.

(Ordinance 1858 adopted 8/16/01)

- g. Bars and Taverns are not classified as Retail Sales and Services. Bars and Taverns are classified as a separate use category. (Ordinance 1984 adopted 11/6/08)

H. Self-Service Storage.

- 1. Characteristics. Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.
- 2. Accessory Uses. Accessory uses may include living quarters for a resident manager or security and leasing offices. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self-Service Storage use.
- 3. Examples. Examples include facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.
- 4. Exceptions. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

I. Vehicle Repair.

- 1. Characteristics. Vehicle Repair firms service passenger vehicles, light and medium

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trucks and other household consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.

2. Accessory Uses. Accessory uses may include offices, sales of parts and vehicle storage.
3. Examples. Examples include general automotive repair; specialty shops for transmission, brake, muffler, radiator or alignment repair; auto body shop; auto upholstery shop; auto customizing; and tire sales and mounting.
4. Exceptions. Repair and service of industrial vehicles and equipment and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

J. Vehicle Service, Limited.

1. Characteristics. Limited Vehicle Service uses provide direct services to motor vehicles where the driver or passengers generally wait in the car or nearby while the service is performed.
2. Accessory Uses. Accessory uses may include minor auto repair and minor auto parts sales.
3. Examples. Examples include full-service, mini-service and self-service fuel stations; and quick lubrication services.
4. Exceptions. Refueling facilities for vehicles that belong to a specific use (fleet vehicles) are considered accessory uses if they are located on the site of the principal use.

K. Veterinary Clinics, Small Animals.

1. Characteristics. Diagnosis and treatment of diseases and injuries of animals, especially domestic animals. On-site diagnosis and treatment of large, hooved animals shall not be allowed at such veterinary clinics. Outside boarding of any animals shall not be allowed.
2. Accessory Uses. Accessory Uses shall include laboratories, parking, and fenced-in areas for exercising (not boarding) animals admitted for treatment or care.

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3. Exceptions. Veterinary clinics for on-site diagnosis and treatment of large, hoofed animals shall be classified as Industrial Services.

(Ordinance 1858 adopted 8/16/01)

L. Bars and Taverns.

1. Characteristics. The sale of alcoholic beverages for consumption on the premises exceeds 75% of the gross revenues of the establishment.

(Ordinance 1984 adopted 11/6/08)

Sec. 314. Industrial Use Categories

A. Industrial Service.

1. Characteristics. Industrial Service firms are engaged in the repair or servicing of industrial, business or household consumer machinery, equipment, products or byproducts. Firms that service household consumer goods do so by mainly providing centralized services for separate retail outlets. Construction contractors and building maintenance services and similar uses typically perform services off site. Relatively few customers, especially the general public, come to the site.
2. Accessory Uses. Accessory activities may include offices, parking and storage.
3. Examples. Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing (including wash) and repair; tire retreading or recapping; building, heating, plumbing or electrical contractors; utility, paving and road building contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; sign making; solid fuel yards; research and development laboratories; laundry, dry-cleaning and carpet cleaning plants; veterinary clinics for large hoofed animals and photo finishing laboratories that accept work only from separate retail outlets, not directly from the public.
4. Exceptions.
 - a. Construction-related contractors and others who perform services off site are included in the Office category, if major equipment and materials are not stored

at the site and fabrication or similar work is not carried on at the site.

- b. Hotels, restaurants and other services that are part of a truck stop are considered accessory to the truck stop.
- c. Printing, publishing and lithography in which finished goods are sold primarily on site and to the general public are included in the Retail Sales and Service category.

B. Manufacturing and Production.

1. Characteristics.

Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of overall sales. Relatively few customers come to the manufacturing site.

In general, the difference between light and heavy uses is their effect on the surrounding area. If the uses routinely subject the surrounding area to noxious or malodorous impacts, they are considered heavy manufacturing and production. Light manufacturing in general is considered to have fewer noxious effects produced by noise, smoke, odor, dust, vibration or glare, in comparison with heavy manufacturing and production. See Sec. 413 in the Specific Use Standards.

2. Accessory Uses. Accessory activities may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets and caretaker's quarters.

3. Examples.

Examples include processing of food and related products; weaving or production of textiles or apparel; wood products manufacturing; woodworking, including cabinetmakers; movie production facilities; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items and other electrical items; production of artwork and toys for mass distribution and marketing; and production of prefabricated structures,

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including manufactured homes.

Examples that are expressly included in the heavy manufacturing and production category include, but are not limited to each of the following:

- a. slaughterhouses and meatpacking;
- b. tanning or curing of furs, skins, leather or hides;
- c. wool pulling and scouring;
- d. cottonseed oil mills;
- e. refining of petroleum and coal products;
- f. manufacture and processing of stone, clay and concrete products;
- g. mixing and batching of concrete and asphalt;
- h. fabrication of boilers and tanks;
- i. manufacture and processing of chemicals, including gaseous products and fertilizer.

4. Exceptions.

- a. Manufacturing of goods (including printed material) to be sold primarily on site and to the general public are classified as Retail Sales and Service.
- b. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.
- c. Rendering of meat and poultry byproducts shall be prohibited from all zoning districts.

C. Warehouse and Freight Movement.

1. Characteristics. Warehouse and Freight Movement firms are involved in the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some occasional will-call pickups. There is little on-site sales activity with the customer present.

2. Accessory Uses. Accessory uses may include offices, truck fleet parking and maintenance areas.
3. Examples. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; wholesale distribution centers; truck or air freight terminals; freight forwarding services; bus barns; parcel services; major post offices; grain terminals; gasoline and petroleum product terminals and the stockpiling of sand, gravel, or other aggregate materials.
4. Exceptions.
 - a. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
 - b. Mini-warehouses are classified as Self-Service Storage uses.
 - c. Warehousing or freight facilities characterized by stabling or storage of livestock shall be classified as Heavy Manufacturing and Production.

D. Waste-Related Use.

1. Characteristics. Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material. Waste-Related uses also includes uses that receive hazardous wastes from others.
2. Accessory Uses. Accessory uses may include recycling of materials, offices and repackaging and transshipment of byproducts.
3. Examples. Examples include sanitary landfills, recyclable materials collection centers, waste composting, energy recovery plants, sewage plants and hazardous-waste collection sites.
4. Exceptions. Disposal of dirt, concrete, asphalt and similar non-decomposable materials is considered fill. Chemical and nuclear waste storage dumps are prohibited from all zoning districts.

E. Wholesale Trade.

1. Characteristics. Wholesale Trade firms are involved in the sale, lease, or rent of products primarily intended for distribution to other merchants or firms who will, in turn, distribute them to the ultimate consumer. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer.
2. Accessory Uses. Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services and repackaging of goods.
3. Examples. Examples include sale or rental of machinery, heavy equipment, heavy trucks, farm and ranch supplies, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware.
4. Exceptions.
 - a. Firms that engage primarily in sales to the general public or on a membership basis are classified as Retail Sales and Service.
 - b. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.
 - c. Livestock auctions, or any wholesale trade facilities characterized by stabling or storage of livestock, shall be classified as Heavy Manufacturing and Production.

Sec. 315. Other Use Categories

A. Agriculture.

1. Characteristics. Agriculture includes activities that primarily involve raising or producing plants.
2. Accessory Uses. A single dwelling is allowed on each lot or tract of land used for agriculture. Barns, sheds and bins for storage of material, equipment and farm products (used or produced on premises) are considered accessory and incidental to agricultural use. Stands for the sale of agricultural produce grown on the premises are allowed in conjunction with agricultural use.

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3. Examples. Examples include farming (except dairy farms); truck gardening; forestry or tree farming; horticulture and floriculture; and wholesale plant nurseries.
4. Exceptions.
 - a. For the purpose of this Zoning Ordinance, agriculture does not include the use of property for production, processing or sale of animals.
 - b. Dairy farms, milk production and animal feed lots are classified as Heavy Manufacturing and production.
 - c. Livestock auctions, stockyards and sale barns are classified as Heavy Manufacturing and production.

B. Animal Kennel.

1. Characteristics. An animal kennel includes any structure or premises where animals ordinarily considered household pets are kept, boarded, bred or trained, for commercial gain.
2. Accessory Uses. Accessory uses may include an office building, as well as pens, barns and other enclosed structures necessary for sheltering animals. In nonresidential districts, accessory uses may also include multiple dwellings for proprietors and/or employees of the use.
3. Examples. Examples include a dog kennel intended for breeding, training and/or boarding dogs.
4. Exceptions. Animals kept on premises for personal use and enjoyment of the owners and/or residents of those premises shall be allowed in any district, so long as such animal keeping conforms with provisions of the Animal Control Ordinance in the City's Code of Ordinances.

C. Entertainment Event, Major.

1. Characteristics. Major Entertainment Event uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.
2. Accessory Uses. Accessory uses may include restaurants, concessions, parking and

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maintenance facilities.

3. Examples. Examples include stadiums, sports arenas, coliseums, auditoriums, exhibition and meeting areas, outdoor amphitheaters and fairgrounds.
4. Exceptions.
 - a. Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Retail Sales and Service.
 - b. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
 - c. Theaters, including drive-in theaters, are classified as Retail Sales and Service.
 - d. Recreation or entertainment uses conducted on a continuous basis are classified as Outdoor Recreation and Entertainment or as Retail Sales and Service uses.

D. Horse Boarding and/or Riding Academy.

1. Characteristics. Horse boarding includes any structure or premises where equine animals are housed or boarded for a service charge or for hire. A riding academy includes any premises where horses are boarded and/or where instruction in riding, jumping or showing is offered and/or where the general public may, for a fee, hire horses for riding.
2. Accessory Uses. Accessory uses may include an office building, as well as pens, stables, barns and other enclosed structures necessary for sheltering animals. In nonresidential districts, accessory uses may also include multiple dwellings for proprietors and/or employees of the use. In R&E Districts, only one dwelling unit is allowed on the premises.
3. Examples. Examples include horse boarding stables and horse riding academies.
4. Exceptions. Horses kept on premises for personal use and enjoyment of the owners and/or residents of those premises shall be allowed in any district, so long as such horse keeping conforms with provisions of Chapter 3 [2] (Animal Control) in the City's Code of Ordinances.

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E. Passenger Terminals.

1. Characteristics. Passenger Terminals includes facilities for the landing and takeoff of flying vehicles, including loading and unloading areas. Aviation facilities may be improved or unimproved. Passenger Terminals also includes passenger terminals for aircraft, regional bus service and regional rail service.
2. Accessory Uses. Accessory uses include freight handling areas, concessions, offices, parking and maintenance and fueling facilities.
3. Examples. Examples include airports, bus passenger terminals for regional bus service, railroad passenger stations for regional rail service and helicopter landing facilities.
4. Exceptions.
 - a. Bus and rail passenger stations for subregional service such as mass transit stops and park-and-ride facilities are classified as Basic Utilities.
 - b. Private helicopter landing facilities that are accessory to another use are considered accessory uses. However, they are subject to all the regulations and approval criteria for helicopter landing facilities.

F. Mining.

1. Characteristics. Mining includes mining or extraction of mineral or aggregate resources from the ground for off-site use.
2. Accessory Uses. Accessory uses include storage, sorting, stockpiling, or transfer off site of the mined material.
3. Examples. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and drilling and production of oil, natural gas, or geothermal resources.

G. Telecommunications Facilities.

1. Characteristics. Telecommunications facilities include all devices, equipment, machinery, structures or supporting elements which in combination extend above a height of 35 feet (including the height of other structures or buildings on which such facilities are located) and are necessary to produce nonionizing electromagnetic

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radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, mounted on poles, other structures, light posts, power poles, or buildings. Facilities shall also include intertie and interconnection translators, connections from over-the-air to cable, fiber optic, or other landline transmission system.

2. Accessory Uses. Accessory use may include transmitter facility buildings.
3. Examples. Examples include broadcast towers, communication towers and point-to-point microwave towers.
4. Exceptions.
 - a. Radio and television studios are classified in the Office category.
 - b. Radio and television broadcast facilities that are public safety facilities are classified as Basic Utilities.
 - c. A receive-only satellite or other dish antenna less than 18 inches in diameter is considered an accessory use.

H. Any Uses Deemed Appropriate.

1. Characteristics. This entry allows consideration of uses not ordinarily allowed in the zoning district where those uses are proposed, but only where and in a manner that such uses provide an effective transition between less restrictive and more restrictive zoning districts. Such special uses can integrate otherwise hard edges between zoning districts of starkly contrasting character and, furthermore, help make use of long-vacant tracts on the boundary between different zoning districts.
2. Accessory Uses. Accessory uses commonly associated with transitional uses include off-street parking for occupants and/or customers, storage of supplies and equipment for maintaining the facilities for such use(s) and offices directly associated with such use(s) of a nonresidential character.
3. Examples. Examples include limited commercial storage in residential districts, and day care in residential districts.
4. Exceptions. Mobile homes and manufactured homes shall not be allowed (by approval of a special use) at any location where otherwise prohibited by this zoning ordinance.

(Ordinance 1858 adopted 8/16/01)

I. Garage Sales.

1. Definitions. As used herein Garage Sale shall mean the sale of items normally accumulated by a household.
2. Frequency. No more than three (3) Garage Sales shall be allowed for the same location in any year. The duration of each Garage Sale shall not exceed three (3) consecutive days.
3. Resale. No items of personal property shall be purchased with the intent or for the purpose of resale. If an item is purchased within thirty (30) days of the garage sale, it is presumed that it was purchased with the intent or for the purpose of resale.
4. Outside Sales. Items for sale may be displayed inside of the residence, garage, carport or driveway.
5. Signs.
 - a. One unlighted sign (the “sign”) not exceeding twelve (12) square feet in area shall be permitted.
 - b. The sign shall pertain only to the Garage Sale, shall be located on the property where the sale is located, and shall only be permitted during the three (3) day period of the sale.
6. Penalty. Violations of this provision shall be punished in accordance with Section 703 of the Zoning Ordinance.

(Ordinance 1985 adopted 11/6/08)

Article 4 Specific Use Standards

Sec. 401. Accessory Uses and Structures

Principal uses classified as allowed uses by the district regulations of this Zoning Ordinance shall be deemed to include accessory uses and activities that are customarily associated with, as well as appropriate, incidental and subordinate to allowed principal uses. Accessory uses and

activities shall be subject to the same regulations as principal uses unless otherwise expressly stated.

A. Accessory Buildings or Structures.

1. Setbacks. An accessory building may be detached from the principal building, or constructed such that it is physically attached to the principal building.
 - a. An accessory building attached to a principal building, or located within 10 feet of a principal building, shall be considered integral to the principal building, and shall meet the same minimum side and rear setback requirements as the principal building.
 - b. Except for those carports allowed in Sec. 513, no accessory building, either attached or detached, shall be allowed within the minimum front yard required on the lot.
 - c. An accessory building that is detached from the principal building, or attached with only a breezeway, shall be allowed to extend into the required side or rear yard as follows:
 - i. Where the wall or edge of the roof will adjoin a street or alley right-of-way, no setback shall be required; and
 - ii. Where the wall or edge of the roof will adjoin any other side or rear lot line, a minimum setback of two feet from that side or rear lot line shall be maintained.
2. Size. A maximum accessory building floor area of 600 square feet or 50 percent of the floor area of the principal building, whichever is greater, shall be permitted on any residential lot. Bona fide farm and agricultural buildings shall be exempt from this requirement.
3. Prohibited Structures. Shipping crates, railroad cars, truck or bus bodies and other similar containers shall not be used as accessory buildings in any residential district.

B. Satellite Dish Antennas in Nonresidential Districts. Satellite dish antennas in nonresidential districts shall meet the following conditions for installation.

1. All permanent installations shall require a building permit, shall be installed

according to the manufacturer's requirements and shall meet appropriate building setbacks.

2. All antennas, whether for sales and service or for permanent installation, shall be located in a manner that will not interfere with pedestrian or vehicular movement, shall not be a visual obstruction to traffic, and will not eliminate off-street parking spaces required by this Zoning Ordinance.
- C. Satellite Dish Antennas in Residential Districts. Satellite dish antennas in residential districts shall meet the following conditions for installation.
1. Antennas shall not be located in required front or side yards.
 2. The minimum distance between any point of the antenna and any property line shall be two feet.
 3. Installation on a roof is allowed, provided the total height of the structure and the antenna does not exceed the district standard set forth in Article 5.

Sec. 402. Adult Entertainment Enterprise/Sexually Oriented Businesses

- A. Location. All structures housing adult entertainment enterprises shall be located as follows.
1. At least 1000 feet from the property boundary line of any lot used for church purposes, or any lot occupied by a public or private school having a curriculum equivalent to an elementary or secondary school (including outdoor athletic and recreation facilities directly associated with such a school).
 2. At least 1000 feet from another structure housing an adult entertainment enterprise.
 3. At least 500 feet from the boundary line of any residentially zoned lot or any lot or tract used for public park purposes.
- B. Measurements.
1. Measurements for determining the distances described above are to be measured in a straight line in all directions from the structure housing the adult entertainment enterprise to the nearest property line of any lot in a residentially zoned district, or any lot used for church or school, or any public park, or to any structure housing another adult entertainment enterprise.

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2. The measurements for a structure shall be taken from the furthest point that a structure extends in any direction, including overhanging roofs and all other projections or portions of said structure.
3. Should the adult entertainment enterprise be located in conjunction with other buildings in a manner where the adult entertainment enterprise is clearly separated from other portions of the structure (for example, an adult bookstore in a shopping center), the adult entertainment enterprise structure's measurements shall be taken from the boundaries of the space in which the adult entertainment enterprise is housed or confined (not the entire shopping center, motel, or other such structure).
4. Should the adult entertainment enterprise be located in conjunction with other buildings in a manner where the adult entertainment enterprise is situated above the ground level of a multi-story structure and is clearly separate from other activities within the structure (for example, an adult bookstore on an upper level of an office tower or hotel), the adult entertainment enterprise measurements shall be taken from the nearest entry to that portion of the structure housing the adult bookstore, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line to the nearest point on any lot in a residential district, or any lot or tract used for church, school or public park purposes, and to any structure housing another adult entertainment enterprise.

C. Compliance Review. Any person wishing to establish an adult entertainment enterprise must submit a site plan to the Building Inspector setting out the dimensions and specific location of the adult entertainment enterprise in relation to lot boundaries, in addition to a signed and notarized statement certifying the proposed adult entertainment enterprise (represented on the accompanying site plan) complies with the location requirements set forth above. It shall be the responsibility of said applicant to provide the site plan and assure compliance with the location requirements of this Section. The applicant's submission of this site plan and certification shall signify initiation of the review process. The Building Inspector shall have no more than 30 days to review the site plan and cite, in writing, any potential violations of provisions of this Zoning Ordinance.

D. Non-Enlargement and Priority By Time. If two or more adult entertainment enterprises are within 1000 feet of one another and otherwise in a permissible location, the adult entertainment enterprise which was first established and continually operating at a particular location is the conforming use, and the later established business is nonconforming. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

E. Expansion of Neighbors. An adult entertainment enterprise lawfully operating as a *Franklin Legal Publishing, Inc.*

conforming use after adoption of this Zoning Ordinance is not rendered a nonconforming use by the location of a church, school, public park, or residentially zoned lot established after approval of the adult entertainment enterprise.

F. Exemption from Location Requirements.

1. In the event an owner of an existing or proposed adult entertainment enterprise wishes to claim an exemption from the provisions of this Section, the owner shall make application for a location exemption from the requirements of this Section.
2. The City Council shall grant an exemption from the location restrictions, only if it makes all of the following findings:
 - a. that the location of the adult entertainment enterprise will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
 - b. that the granting of the exemption will not violate the spirit and intent of this Zoning Ordinance;
 - c. that the location of the adult entertainment enterprise will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;
 - d. that the location of adult entertainment enterprise will not be contrary to any program of neighborhood conservation, nor will it interfere with any urban renewal or restoration efforts; and
 - e. that all other applicable provisions of this Zoning Ordinance will be observed.
3. If an exemption is denied by the City Council, the applicant may seek prompt judicial review of such action in any court of competent jurisdiction.
4. If the City Council grants an exemption, the exemption is valid for one year from the date of the City Council's action. Upon the expiration of an exemption, an adult entertainment enterprise will be in violation of the location restrictions of this Section and the nonconforming use shall be illegal and shall terminate, unless the applicant applies for and receives another exemption. Such application shall be made with the Brownfield City Clerk at least 60 days prior to the expiration of the exemption.
5. The grant of an exemption does not exempt the applicant from any provisions of this Zoning Ordinance, other than the location restrictions of this Section.

G. Appeal of Administrative Determinations. If existing or potential violations of any provisions of this Section are cited by the Building Inspector, the person wishing to establish an adult entertainment enterprise shall have the right to appeal such interpretation to the Zoning Board of Adjustment which shall hear the case within 45 days of the appeal. The Board shall render its decision at or before the conclusion of the meeting. If the Zoning Board of Adjustment upholds the Building Inspector's interpretation of potential violations, the person may seek prompt judicial review of such action in any court of competent jurisdiction. The action shall be promptly reviewed by the court.

(Ordinance 1858 adopted 8/16/01)

Sec. 403. Alcoholic Beverage Sales

A. Location.

1. The retail sale of alcoholic beverages for on-premises consumption shall always be considered a principal use. Such establishments may be located on the same lot or in the same building occupied by another principal use such as a restaurant or hotel if the use meets the requirements for the type of alcohol sales allowed in that district.
2. The sale of beer, wine or liquor is prohibited in the residential zones of the City. Beer may only be sold during the hours of 10:00 a.m. until midnight.
3. The sale of alcoholic beverages for off-premises consumption is prohibited by a dealer whose place of business is within 300 feet of a church, public or private school or public hospital.

B. Measurements.

1. The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be:
 - (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
 - (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.

Section 403(c) [sic] does not apply to:

1. an alcohol permit sales holder who also holds a food and beverage certificate who is located within 300 feet of a private school

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2. a alcohol permittee whose premises prohibits minors from entering pursuant to Section 109.53 of the Texas Alcoholic Beverage Code who is located within 300 feet of a private school.

(Ordinance 1984 adopted 11/6/08)

Sec. 404. Auto and Truck Sales

No outdoor speakers used in conjunction with the sales of cars or trucks are permitted within 500 feet of any residential zoning district or any lot or tract of land occupied by a residential use.

Sec. 405. Bed and Breakfast Establishments

A Bed and Breakfast may be allowed as a special use in residential zoning districts where transient lodging is not ordinarily allowed, subject to the following standards.

1. The operator of the Bed and Breakfast is a full-time resident of the dwelling in which the Bed and Breakfast establishment is housed.
2. No more than one person who is not a full-time resident of the dwelling shall be employed by the Bed and Breakfast establishment.
3. A minimum of two off-street parking spaces, plus one additional space per guest room, shall be provided on the same lot or tract of land as the Bed and Breakfast establishment.
4. A maximum of four guest rooms shall be provided in any one Bed and Breakfast establishment.
5. No exterior evidence of the Bed and Breakfast shall be allowed, except for one attached sign no larger than twelve square feet.
6. No food preparation, except beverages, is allowed within individual guest rooms. Meal service shall be provided to overnight guests only.
7. Preparation and service of food for guests shall conform to all applicable regulations of the State of Texas and the City of Brownfield.
8. The resident operator shall keep a current guest register including names, permanent addresses, dates of occupancy and motor vehicle license numbers for all guests.

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9. In approving a special use allowing any Bed and Breakfast in R-1, R-2 or R-3 zoning districts, City Council shall make a finding that the subject site shall be located in a transitional area. For the purpose of this paragraph, a transitional area shall be:
 - a. An area situated between land uses of different intensity and compatibility, and which is impacted by its proximity to one or more such uses; or
 - b. An area situated on the boundary of a residential district adjacent to a more intensive zoning classification; or
 - c. An area situated adjacent to an arterial street.

Sec. 406. Community Homes

To qualify as a community home allowable as either Household Living or Group Living, a residence must conform to all standards of this Section.

1. A Community Home must be:
 - a. a community-based residential home operated by:
 - i. the Texas Department of Mental Health and Mental Retardation,
 - ii. community center organized under Subchapter A, Chapter 534, Health and Safety Code, that provides services to persons with disabilities,
 - iii. an entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), or
 - iv. an entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation; or
 - b. a personal care facility licensed under Chapter 247, Health and Safety Code, provided that the exterior structure retains compatibility with surrounding residential buildings. See Section 123.004 in the Texas Human Relations Code.
2. A Community Home shall provide all the following services to persons with disabilities who reside in the home:
 - a. food and shelter;

- b. personal guidance;
 - c. care;
 - d. habitation services; and
 - e. supervision.
3. Not more than six persons with disabilities (as defined in this Zoning Ordinance) and two supervisors may reside in a community home at the same time. The limitation or number of persons with disabilities applies regardless of the legal relationship of those persons to one another.
 4. A Community Home must meet all applicable licensing requirements.
 5. A Community Home shall not be established within one half mile of an existing Community Home.
 6. The residents of a Community Home shall not keep for the use of residents of the home, either on the premises or on a public right-of-way adjacent to that home, motor vehicles in numbers exceeding the number of bedrooms in that home.

Sec. 407. Firearms Range

line, provided the posts, bases and other supporting structures are set back a minimum of 20 feet from the property line where the pump island is not situated parallel to the public [sic] In all except M-L and M-H Districts, the following limitations shall apply to operation of firearms ranges:

1. Firearms ranges shall be completely enclosed within a building.
2. Any noise emanating from discharge of firearms shall not be audible beyond the boundaries of the lot or tract of land where the firearms range is located.

Sec. 408. Game Hall (Video Arcade, Bingo, Billiard/Pool Hall)

No Game Hall shall be allowed within 500 feet of a lot or tract of land occupied by any building used for a public or private school offering a curriculum equivalent to an elementary or secondary school.

Sec. 409. Gasoline Pump Island Canopies

A. Parallel to the Public Right-of-Way. Gasoline pump island canopies that are not connected to another structure may extend to the property line, provided the posts, poles, bases and other supporting structures are set back a minimum of 12 feet from the property line where the pump island is situated parallel to the public right-of-way.

B. Not Parallel to the Public Right-of-Way. Gasoline pump island canopies that are not connected to another structure may extend to the property right-of-way. The measurements are to be made at right angles to the property line.

Sec. 410. Golf Driving Range

In approving a special use allowing a golf driving range in or nearby a residential zoning district, City Council shall take appropriate measures to minimize ill effects of harsh or uncomfortably bright light (i.e., glare) emanating from nighttime illumination, on any residentially zoned lot located outside the golf driving range.

Sec. 411. Home Occupations

In order to provide peace, quiet and domestic tranquility within all residential neighborhoods within the City and in order to help all residents gain freedom from excessive noise, excessive traffic, nuisance, fire hazards and other possible side effects of commercial uses being conducted in residential areas, the following standards shall apply to all home occupations.

A. Criteria.

1. No person, other than members of the family who reside in the dwelling where a home occupation occurs, may engage in such occupation, profession, domestic craft, instructional or economic enterprise.
2. The area utilized for the home occupation shall not exceed 25% of the gross floor area of the principal building where the home occupation occurs.
3. In no way shall the appearance of the structure be altered or the occupation be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or the emissions of sounds, noise or vibrations. A home occupation shall produce no offensive noise, dust, odors or heat. A home occupation shall be completely contained within the principal building. Any noise, vibration, smoke, electrical interference, dust, odors, heat or visual or audio interference

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detectable beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multi-family structure, shall constitute a violation of the terms of this Section.

4. No detached accessory building may be used in conjunction with a home occupation.
5. All material, equipment, and/or supplies used in conjunction with a home occupation shall be completely enclosed with no exterior storage, temporary or permanent, allowed.
6. No stock, goods, wares or merchandise shall be sold on the premises other than that which is prepared or produced upon the premises. Direct sales on the premises of other merchandise is allowed by prior individualized invitation.
7. Signage for home occupations shall be limited to one non-illuminated sign with a maximum area of two square feet.
8. Delivery and pickup of materials to and from the home occupation shall not exceed two trips per week by a commercial vehicle. A “commercial vehicle” is that which is defined in Section 10.1001 [12.201] of the City’s Code of Ordinances.

B. Allowed Uses.

1. Allowed home occupations include, but are not limited to, the following.
 - a. Teaching, tutoring, counseling or treatment of persons at a residence, so long as such services are provided to no more than 10 persons per day (at that residence) and for no more than 6 days per week.
 - b. The care of not more than 6 children under the age of 14 years during any one calendar day (excluding the caregiver’s own children), and the care of an additional 6 elementary school age children during non-school hours only, so long as the total number of children (including a caregiver’s own minor children) does not exceed a maximum of 12 at any given time.
2. Allowable home occupations shall not include the following.
 - a. Hair cutting or styling shops, nail salons or other beauty or cosmetic-related business.

- b. Tattoo parlors.
 - c. Pet grooming.
 - d. Any form of repair shop.
- C. Inspection. Home Occupation operators shall permit a reasonable inspection of the premises by the Building Inspector to determine compliance with this Section.

Sec. 412. Manufactured Housing Park Standards

A. Land Area. The minimum land area required for a manufactured housing park is three acres.

B. Density Limitations. Any lot or tract of land occupied by a manufactured housing park shall have a maximum density of 8 dwelling units per gross acre.

C. Separation Requirements.

- 1. Manufactured housing units and all roof-covered structures shall meet the following separation requirements.
- 2. A maximum 2-foot eave overhang shall be permitted within the separation areas as required below.

	Required Separation		
	<u>Any Other Dwelling in Park</u>	<u>Curb or Edge of Pavement on Driveway Providing Common Access</u>	<u>B</u>
Manufactured Housing Unit/ All Roof-Covered Accessory Structures	10 feet	10 feet	:
Management, Maintenance or Recreational Buildings Serving Entire Park	15 feet	10 feet	:

D. Required Parking. A minimum of two off-street parking spaces shall be provided for each dwelling within a manufactured housing park.

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E. Skirting. Each manufactured housing unit shall be skirted with a material or product specifically designed for the skirting of manufactured homes. Required skirting shall be maintained so as not to provide a harborage for animals or create a fire hazard.

F. Mobile Homes, Travel Trailers and Recreational Vehicles (RV's).

1. A mobile home shall be allowed in any manufactured housing park subject to the requirements of this Section.
2. Travel trailers, motorized recreational vehicles and other such relocatable housing that does not meet the definition of either a “mobile home” or a “HUD-Code Manufactured Home” shall be permitted within any manufactured housing park, subject to the requirements of this Section, provided these types of accommodation do not exceed 30 percent of the total units in the park.

G. State Standards. All mobile homes and manufactured housing units shall conform to the State of Texas Standards for manufactured housing anchorage, tie downs and blocking.

H. Fire Protection. Every dwelling within a manufactured housing park shall be located no further than 500 feet from a fire hydrant.

I. Site Plan. Prior to the development of any new manufactured housing park established after the effective date of this Zoning Ordinance, and prior to the enlargement of any existing manufactured housing park, a site plan conforming to the requirements of this subsection shall be approved by the Building Inspector. The required site plan shall be drawn to scale and shall explicitly illustrate at least the following features.

1. Location and dimensions of all park boundaries.
2. Location of pavement on adjoining street rights-of-way.
3. Location and dimensions of any permanent improvements existing or planned within the park, including but not limited to the following:
 - a. Improved surfaces for common driveways, off-street parking and recreation areas.
 - b. Buildings for management, maintenance and recreational purposes.
 - c. Any other recreational facilities.

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- d. Any fences or walls.
- e. The location of pipelines and systems for potable water distribution, sewage collection and fire protection, including location of all fire hydrants.

Sec. 413. Manufacturing and Production

The following general performance standards shall be applicable to activity allowed (by right or by conditional approval) in Light Manufacturing Districts:

- 1. No vibration shall be produced which is transmitted through the ground (and is discernible without the aid of instruments) at or at any point beyond the lot line.
- 2. All noise shall be muffled so as to not be objectionable due to intermittence, beat frequency or shrillness.
- 3. Visible emissions of air pollutants of any kind at ground level, past the lot line of the lot on which the source of emissions is located, are prohibited.
- 4. No person shall cause or permit any materials to be handled, transported or stored in such a manner, which allows or may allow particulate matter to become airborne.
- 5. There shall be no emission or transmission of heat or heated air so as to be discernible from the lot line.
- 6. Any condition or operation which results in the creation of odors of such intensity or character as to unreasonably interfere with the comfort of the public shall be removed, stopped or modified so as to remove the odor.

(Ordinance 1858 adopted 8/16/01)

Sec. 414. Signs

Sec. 414.01. Signs Requiring Permits

Upon application to the City Manager, permits may be granted for erection and alteration of signs as a matter of right in each district according to the standards set forth for each zoning district and subject to the additional regulations set forth below:

- (a) Classes of Signs; general restrictions: Signs are hereby classified by general types for ease of administration and interpretation with general restrictions as follows:

- (i) Type A Sign: These are signs attached against building fronts, or parallel to the face of the building or atop a canopy. No such sign shall extend more than 24 inches from any building surface to which it is attached and shall not project beyond the corner formed by the front and any other wall; nor above the highest point of either the roof or the parapet. Signs atop canopies shall not extend beyond the canopy, and shall be parallel to the wall from which the canopy extends. Not more than 75% of building frontage length shall be occupied by sign.
- (ii) Type B Sign: These are signs designed to be used alone or as a supplement to Type A signs, where allowed, but subject to height and location restrictions in all districts where allowed. Such signs shall not exceed seven feet in height above grade, except where otherwise allowed and shall be located at least fifteen feet behind the curb of any street. The lowest part of the sign shall not be higher than three (3) feet above grade. Such signs shall not be located in any visibility triangle and shall not obstruct the view of driveways or parking areas. Such signs shall be limited to identification of a building or advertising message. This section shall include portable signs, either lighted or unlighted, which shall not require a permit.
- (iii) Type C Sign: These are the signs commonly referred to as pole signs and freestanding signs and include signs supported by a building and extending toward a street, but excluding other types enumerated specifically in other paragraphs, such as Type D and Type E signs. Type C signs where allowed shall be located no closer to any street than fifteen (15) feet behind the curbline separating the street from the business property and at least 10 feet from any adjacent common private property line. Such signs shall be at least eight and no more than thirty (30) feet above grade, except for those uses specifically allowed additional height. Such signs shall be subject to size limitations as set forth in the zoning districts where such signs are allowed. Such signs shall only identify the business conducted on the premises, the name of the building or tenant. No more than one pole sign on any street shall be allowed for any single building whether it contains multiple uses or not. The frontage for multiple occupancy buildings is the street frontage of the business use or uses to be served by the sign. No sign shall be erected on a lot within forty (40) feet of any existing Type C sign on such lot.
- (iv) Type D Sign. These signs are used for identification of multiple use occupancies under centralized site management, such as a shopping center. Type D signs may be thirty-five (35) feet in height above grade. A Type D sign

shall have no more than two upright standards and may be located on any street on which the multiple occupancy fronts. The total area of such sign shall be 20 square feet per business up to a maximum of 300 square feet; provided, however, for less than ten businesses, the maximum total area of such sign shall be one square foot per linear foot of street frontage up to 200 square feet. Type D signs shall not be allowed if there are also Type B or Type C signs on the property; provided, however, if there is more than one building on the site to be served, single occupancy buildings thereon shall be entitled to Type C signs. Type D signs shall only identify the multiple use occupancy site by name, the businesses therein and may contain a canopy with changeable letters for theater features or other advertising purpose. Such sign shall be located at least fifteen (15) feet behind any curb, at least 300 feet from any property zoned for residential use and at least 50 feet from any other property.

- (v) Type E Sign: Type E signs are those signs commonly referred to as billboards or poster boards which are designed to deliver an advertising message, which message may, but not necessarily, be changed or removed and which may, but not necessarily, advertise products or services not available upon the premises where the sign is located. Such signs shall be located in the C-2, C-3, M-1, and M-2 Districts. Such signs shall not be located closer to any street than twenty (20) feet behind the property line. Such a sign shall not exceed the height of any building upon which it is mounted or forty (40) feet, whichever is greater. Such signs may be unlighted or have shielded lighting. Type E signs shall not be closer than 500 feet on the same side of street. Maximum size allowed is 300 square feet.
- (vi) Type F Sign: These signs are used for identification of a new project such as a subdivision, where property is being sold for the first time to a user; new buildings, public projects and the like. These signs are not permanent but may be required for a longer period of time than most temporary signs. Such signs may be located on any property within the same zoning district or a zoning district allowing the same type of project being advertised; provided, however, if the project is located on a street with more than two marked traffic lanes, such signs shall be located only on the property where the project is located. In no event shall there be more than one on-site and one off-site Type F sign for a project and such signs shall be removed at the end of three years, completion of the project or occupancy of seventy-five (75) percent of the project, whichever comes first. Type F signs shall not exceed 20 feet in height and shall be located at least 20 feet behind the curb of any street, outside any visibility triangle, and not within any parking area. Off-site Type F signs shall not exceed 300 square feet in area. On-site signs shall not exceed the total area of all other types of

signs allowed.

Sec. 414.02. Sign Area Measurement

Because signs displayed apart from a building are deemed to have greater impact than those consisting of symbols attached to a building, a different method of measurement is provided for different types and combination of signs.

- (a) Type A and B signs when used alone or in combination with each other: If the sign consists of letters painted on or attached to a building surface or a Type B sign surface without a background distinguished by color or internal lighting or enclosed in some type of painted or designed frame, then the allowable sign for Type A or Type B, signs shall be the sum of the area of the rectangles necessary to enclose each feature, symbol, letter, and number displayed on all exposed sign message surfaces of the sign. If the sign lettering is enclosed in a painted or designed frame, or is in an area distinguished from the surface on which it is mounted by color, or if the sign is internally lighted, then the entire area so lighted, colored, or framed shall be deemed to be the area of the sign. One exposed sign message surface shall be considered in determining sign area.
- (b) Type A signs when used in conjunction with Type C, D or E signs: The allowable sign area for Type A signs when used with the Type C, D or E signs shall be the area of exposure of one (1) sign message surface. If such sign consists of letters attached to a building, such sign message shall be deemed to have a surface area equal to the smallest square, rectangle or circle which will encompass all symbols, letters and numbers comprising the sign.
- (c) Type C, D, E and F Signs: The allowable sign area for Type C, D, E and F signs shall be the combined area of exposure on one (1) sign message surface. Supports shall not be measured, except for Type B signs, where they shall be measured.
- (d) For all types of signs, allowable sign area based on building or property frontages shall apply only to each respective street frontage and sign area for all street frontages shall not be combined along one street frontage.
- (e) Signs within PD, Planned Development Districts shall conform to the regulations of the base district, or in which the permit is granted or which is combined therewith, unless a site plan further restricts the signs. No sign will be allowed in a district which requires a site plan unless the site plan shows such sign.

Sec. 414.03. Frontage on More Than One Street

(a) If a use has street frontage on a corner, street frontage for the purpose of calculation of sign area shall be either:

- (i) In the case of a sign erected on a building, the frontage of the building on the street which the sign faces;
- (ii) In the case of a freestanding sign, more than 300 feet from an intersection of any public street, the frontage of the street closest to the sign, or if equidistant from two or more streets, the longest such frontage.
- (iii) In the case of a freestanding sign, less than 300 feet from an intersection, the frontage of the street upon which the largest business building on such lot faces.

(b) If a use has street frontage on more than one street, but not on a corner, such business shall be entitled to signs by formula on each street. Table 9.1 depicts the type, size and other restrictions of signs generally allowed within each zoning districts, except as may be otherwise provided for a particular use by the section governing a particular zoning district or by this Section; and also except as may be otherwise limited by this zoning ordinance. In case of conflicting provisions, the more restrictive shall apply.

Sec. 414.04. Symbols

Symbols which are designed as integral part of the building structure, and symbols and signs which are not visible or readable from the public street shall not be limited by the sign regulations of the zoning district.

Sec. 414.05. Traffic-Control Conflicts

No sign or lighting permitted under these regulations shall be erected, placed or allowed to remain whereby such sign creates confusion, impairs hearing or vision, or otherwise distracts the automotive driver using any public street. Specifically prohibited are:

- (i) High intensity bare bulb lighting or any lighting which creates a glare or any sign so placed as to make traffic signs or signals unreadable at the normal viewing range by a driver on the public street;
- (ii) Signs duplicating colors, characteristics or symbols of traffic signs or signals, or signs which cause confusion in reading such traffic signs or signal at normal viewing range;

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- (iii) Signs or equipment which produce noises simulating sirens, bells, or whistles which may be confused with the warning devices of emergency vehicles traveling with the public streets; and
- (iv) This section does not apply to public service signs or message center signs, such as time and temperature displays.

Sec. 414.06. Residential Area Nuisance

No sign or lighting permitted under these regulations shall be authorized whereby such sign or lighting by reason of placement, lack of shielding, noise generation or character of operation would be adverse to the normal sensibilities of a person residing on adjacent property or would interfere with the reasonable use, enjoyment or right of privacy on his property. Specifically:

- (i) The source of lighting shall not be directly visible from the adjacent residential property and light shall be shielded to prevent such exposure;
- (ii) The noise level of signs and lighting fixtures, when measured within the adjacent dwelling unit, shall not be greater than the noise levels of equipment customarily in operation in the home including air conditioning and kitchen refrigerators.

Sec. 414.07. Signs In or Over Right-of-Way Prohibited

No sign, whether requiring a permit or not, shall be located within or project over any public right-of-way. This provision shall not be applicable to official traffic-control signs, or entrance and exit signs less than 30 inches above grade placed with permission of the City.

Sec. 414.08. Maintenance

All signs for which a permit is required, together with all supports, braces, guys and anchors shall be kept in repair. The City administrator may order the removal of any sign that is not maintained in accordance with this section. Such removal shall be accomplished at the expense of the owner or person in charge of the premises. Failure to comply with such order shall constitute a misdemeanor.

Sec. 414.09. Enforcement

All signs in existence on and in compliance with the zoning regulations as of April 1, 2006, shall be exempt from the provisions of Article 6; provided, however, that all alterations to such existing signs must be made in accordance with, and are subject to, the provisions herein contained. Any nonconforming sign which is damaged or is deteriorated to a point where its

restoration costs exceeds 50% of its replacement value shall be removed.

TABLE 9.1 PERMITTED USE OF SIGNS

Zone	Type A Building Sign	Type B Ground Sign	Type C Pole Sign	Special Provisions	Limitation of Signs
R&E	Not Allowed	Not Allowed	Not Allowed	Churches, colleges, public buildings and institutional/educational uses allowed Type A and B signs with a maximum areas of 50 sq. ft. and Type B signs shall not exceed 7 ft in height for such uses	50 sq. ft.
R-1 R-2	Not Allowed	Not Allowed	Not Allowed	Churches, colleges, public buildings and institutional/educational uses allowed Type A and B signs with a maximum areas of 50 sq. ft. and Type B signs shall not exceed 7 ft in height for such uses	50 sq. ft.
R-3	80 sq. ft. area Maximum	50 sq. ft. maximum area. Height maximum 7 ft to highest point of sign or support	Not Allowed	Churches, colleges, public buildings and institutional/educational uses allowed Type A and B signs with a maximum areas of 50 sq. ft. and Type B signs shall not exceed 10 ft in height for such uses	80 sq. ft.
Zone	Type A Building Sign	Type B Ground Sign	Type C Pole Sign	Special Provisions	Limitation of Signs
RG	Not Allowed	Not Allowed	Not Allowed	Churches, colleges, public buildings and institutional/educational uses allowed Type A and B signs with a maximum areas of 50 sq. ft. and Type B signs shall not exceed 7 ft in height for such uses	50 sq. ft.
C1 C2	2 sq. ft area per lineal foot of building frontage up to 200 sq. ft.	Maximum height 10 feet from grade to highest point of sign or support. Max, area: 1 sq. ft. per lineal ft of street frontage up to 50 sq. ft.	Maximum area: 1.5 sq. ft. per lineal foot of street frontage up to 200 sq. ft.	Type D signs permitted. Type B signs for churches, colleges, schools and public buildings may be up to 10 feet. Type E signs permitted in C2 with a maximum area of 300 sq. ft. regardless of street frontage	200 sq. ft except for Type E signs in C4 which are allowed up to 300 sq. ft.
C3 M1	2 sq. ft. area per lineal ft	Maximum height 10	Maximum area: 1.5	Type D signs permitted. Type B signs for churches, colleges, schools and	300 sq. ft.

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M2	of building frontage up to 200 sq. ft.	feet from grade to highest point of sign or support. Max, area: 1 sq. ft. per lineal ft of street frontage up to 50 sq. ft	sq. ft. per lineal foot of street frontage up to 200 sq. ft.	public buildings may be up to 20 feet. Type E signs permitted with a maximum area of 300 sq. ft. regardless of street frontage	
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(Ordinance 1937 adopted 7/6/06)

Sec. 415. Recovery Facility, Alcohol and Drug

Drug and alcohol recovery facilities shall be subject to the following standards.

1. The facility shall meet all building, housing, and fire codes of the City.
2. The facility shall have adequate off-street parking space for every vehicle possessed or utilized by occupants of the building. Such parking spaces must meet all applicable standards of the City.
3. The facility shall be compatible with the neighborhood and shall not create undue density and congestion.
4. The boundary line of any lot or tract of land occupied by such facilities shall be located no less than 300 feet (measured in a straight line between nearest boundaries) from each of the following:
 - a. Any lot or tract of land occupied by a public or private school offering a curriculum equivalent to an elementary or secondary school;
 - b. Any lot or tract of land located within an R-1, R-2 or R-3 District.
5. Appropriate licenses and/or certifications from any federal or state agency shall be acquired and kept current.
6. Professional staff must be on the premises at all times. Professional staff shall be defined as an individual with experience, training or knowledge in the appropriate rehabilitative field.

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7. No residential treatment shall be provided to any persons on parole from federal, state or county jails or prisons.
8. If deemed necessary by the Chief of Police, additional security lighting shall be provided.

Sec. 416. Restaurants, Bars and Taverns with Outdoor Seating

Outdoor seating areas shall be allowed in conjunction with existing or proposed restaurants, bars and taverns, subject to the following standards.

1. All lights must be arranged and controlled so as to deflect glare or any uncomfortably bright, harsh light away from any nearby residential use.
2. Outdoor seating areas may not generate noise in excess of 45 dB(A) between the hours of 10:00 p.m. and 6:00 a.m. or in excess of 55 dB(A) at all other times, as measured at the lot line of any residential use.
3. All outdoor seating areas shall be included in the calculation of off-street parking requirements in Article 5. The addition of outdoor seating without the requisite minimum number of off-street parking spaces shall be considered a violation of this Zoning Ordinance.

Sec. 417. Self-Service Storage

Self-service storage facilities shall be allowed as a conditional use following approval by the Planning Commission and subject to the following standards.

1. The facility shall be situated in a manner that avoids having substantial activity unreasonably close to any R-1 or R-2 or R-3 zoning district.
2. The use of the facility and its individual storage units shall be limited to storage purposes only.
3. No direct glare from any illumination on the site shall be visible from lots in any adjacent residential zoning district.
4. Electrical service to any individual storage unit shall be limited to a single circuit providing a maximum force of 20 amperes, with no more than one duplex outlet providing single-phase electrical service of no more than 110 volts.

5. Each individual unit shall be directly accessible from a paved apron that is improved to the same standards generally required for off-street parking areas, and the paved apron shall include a paved extension to the pavement on an adjoining street.

Sec. 418. Special Events

All special events shall comply with the permitting procedures in Sec. 205 [204].

Sec. 419. Telecommunication Facilities

A. Principal Use. Telecommunication transmission towers and other telecommunication facilities shall always be considered a principal use. They may be located on lots or on buildings occupied by another principal use.

B. Applicability. This Section shall only apply to those telecommunications towers and related facilities that exceed 35 feet in height, including the height of other structures or buildings on which the telecommunication facilities are located.

C. Setbacks. The following standards shall apply to all telecommunications facilities:

1. The minimum setback between telecommunication facilities and all boundaries of the lot on which those facilities are located shall be equal to 20 percent of the height of the tower.
2. Telecommunication facilities shall be set back a minimum of 50 feet from any existing right-of-way for any street.
3. Peripheral supports and guy anchors for telecommunication towers may be located within required setbacks for the tower, provided that they shall be located entirely within the boundaries of the lot on which the tower is located and shall be located no closer than 5 feet from the boundary of the lot on which the tower is located, and no closer than 10 feet from the boundary of an adjoining lot in a residential district.

D. Separation from Residential Districts. All telecommunications facilities that exceed a height of 35 feet (including the height of the building on which they may be located) shall be set back at least 50 feet from the boundary of any lot or tract in a residential zoning district.

E. Heights. The principal support structure for telecommunication facilities shall be allowed to exceed the height limit of the zoning district in which it is located, provided that the setback standards of this Section shall apply.

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F. Security Fences and Walls. Unless the telecommunication tower is located on top of a building, a fence or wall not less than 7 feet in height from finished grade shall be constructed around each telecommunication tower. The fence or wall shall comply with the following standards.

1. Access to the tower shall be through a locked gate in the required fence or wall.
2. If high voltage is necessary for the operation of the telecommunication tower and such high voltages are present in a ground grid or in the tower, signs located every 20 feet and attached to the fence or wall shall display in large bold letters the following: “HIGH VOLTAGE-DANGER.”

G. Removal of Obsolete Towers. All obsolete or unused telecommunication towers shall be removed within 12 months of cessation of use.

H. Electromagnetic Radiation. Telecommunication towers shall comply with all applicable Federal Communications Commission (FCC) standards for non-ionizing electromagnetic radiation.

Sec. 420. Temporary Uses

A. Construction-Related Offices.

1. Parking of a trailer housing construction-related offices shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction is occurring.
2. Parking of a trailer housing construction-related offices shall not require a building permit or other approval from the City, provided that the following standards are met.
 - a. Extension of temporary electric or plumbing service is made in accordance with all applicable codes, including required permits therefor.
 - b. Use of any such trailer shall be limited to administrative offices for ongoing construction activity on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract where construction activity is ongoing. The trailer shall not be used for dwelling purposes, even on a temporary basis.
 - c. Any such trailer shall be removed within 60 days following completion of the project to which the offices are considered accessory.

B. Construction-Related Storage.

1. Parking of trailers, semi-trailers and shipping containers shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction is occurring. Such parking shall not require a building permit or other approval by the City, provided that the following standards are met.
 - a. Use of such trailer or container shall be limited to storage of material and equipment used in conjunction with adjacent construction.
 - b. Any such trailer or container shall be removed within 60 days following completion of the project.
2. Yards for storage and marshaling of construction material and equipment shall be allowed on the same tract of land, or on a tract lying directly adjacent to or across the street from the tract, where related construction activity is occurring. All such material or equipment shall be for use in conjunction with the associated construction project. All such material and equipment shall be removed within 60 days following completion of the project.

C. Real Estate Sales Offices in Residential Districts.

1. A real estate sales office may be operated from a model home or other building located within a recorded subdivision, provided that the use is limited to sale of lots or new homes within that same subdivision. The temporary use approval shall expire at such time as 95 percent of the lots within the subdivision have been sold.
2. No mobile home, HUD-Code manufactured home or other portable building not constructed in conformance with the City's building code requirements shall be allowed as a temporary office for the sale of real estate.

D. Special Events and Seasonal Uses. All special events and seasonal uses shall comply with the permitting procedures in Sec. 205 [204.]

Sec. 421. Vehicle Service, Limited

In Commercial Districts, no vehicle service use shall occupy a facility with more than three service bays. Allowed services shall be limited to the following.

1. Fluid changes.
2. Lubrication.
3. Sales and replacement of minor parts such as batteries, belts, bulbs, lamps, fuses and wipers.
4. Battery recharging.
5. State-mandated inspections.
6. Tire sales, installation and repair.
7. Brake repair and replacement.
8. Replacement of shocks and struts.
9. Sales and installation of custom auto parts and accessories that are not intended to enhance the performance of the engine, and that do not alter the original or “stock” components of automotive electric, transmission, suspension or exhaust systems.

Sec. 422. Waste-Related Uses

Where allowed only as a conditional use, waste-related uses shall be subject to approval by the Planning Commission and shall furthermore be subject to the following conditions:

1. Use of the facility shall be limited to collection (from household and business consumers) of small items such as cans, glass, plastic and paper, for temporary storage and subsequent transport to another facility for processing.
2. No mechanical means of collection or processing shall be allowed, including but not limited to the crushing of cans.

Article 5 General Development Standards

Sec. 501. Residential District Standards

Except as specifically provided elsewhere in this Zoning Ordinance, dwelling height and building density shall be not more than, and yards and lot size shall not be less than are specified in the Table below for the type of use in the district in which such use is located.

A. Residential District Regulations. Development in residential districts shall conform to the following regulations.

Development Standard	R&E	RS-1	RS-2	RS-3	R-G	MHP	MHS
Minimum Lot Area (sq. ft.) [1]							
Single-Family Unit	43,560	5,500	5,500		-	-	-
Two-Family Unit	-	-	6,500	6,500		-	-
Gardenhome Unit	-	-	-		5,500	-	-
Multifamily Project or Group Home	-	-	-	7000		-	-
Manufactured Home	-	-	-		-	4,600	4,600
Mobile Home	-	-	-		-	4,600	4,600
Minimum Lot Dimensions (feet in width x feet in depth)							
Single-Family Unit	150x150	50x110	50x110			-	
Two-Family Unit	-	-	50x110	50x110		-	-
Gardenhome Unit	-	-	-		50x110	-	-
Multifamily Project or Group Home	150x150	5x100	50x100	-			-
Manufactured Home	-	-	-	-		40x115	
Mobile Home	-	-	-	-		-	40x115
Minimum Front Yard (feet)	40	25	25	15	15	20	20
Minimum Side Yard (feet)							
One side yard (minimum)	15	5	5	[3]	0	20	5
The other side yard (minimum)	15	5	5		5	20	5
Minimum Rear Yard (feet)	20	20	20	10	5/sing 15/Mul	20	20
Maximum Floor Area Ratio	.20	.40	.50	.60	.60	.40	.40
Maximum Height							

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In feet	35	35	35	35	-	-
In stories	2-1/2	2-1/2	2-1/2	2-1/2	-	-
Maximum Density (units/acre)	-	-	-	-	-	-

NOTES:

- [1] Additional lot area may be required in circumstances where disposal of septic wastewater will be discharged through on-site waste treatment facilities (including septic systems) in order to meet the requirements of the City’s Code of Ordinances.
- [2] Single-family and two-family units require a minimum 25-foot front yard; multifamily residential and group living structures require a minimum 25-foot front yard; zero lot line and gardenhome units require a minimum 15-foot front yard, except on arterial streets, where the minimum front yard shall be 25 feet.
- [3] Single-family and two-family units generally require a minimum 5-foot side yard on both sides; apartment dwelling units or group homes require a minimum 10-foot side yard on both sides; and zero lot line units generally require one side yard of at least 10 feet, and the other side may be reduced to 0 feet, but not more than one foot. See Subsection D [B] for side separation standards required of gardenhome units.
- [4] Single-family units and two-family units require a minimum 20-foot rear yard; zero lot line gardenhome units require a minimum 15-foot rear yard. Multifamily residential and group living structures require a minimum 20-foot rear yard.

B. Additional Standards for Zero Lot Line Dwellings.

- 1. Development of a zero lot line dwelling shall occur only on a lot that has been specifically platted in accordance with the provisions of the Brownfield Subdivision Ordinance to accommodate such a use.
- 2. See Section 303(E).

C. Standards for Nonresidential Uses Allowed in Residential Districts. Principal nonresidential uses allowed in residential zoning districts identified in the table below shall be subject to the same General Development Standards as that certain type of housing which corresponds to such residential district, as follows.

<u>District</u>	<u>Housing Type</u>
R&E	Single-Family Residential

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R-1	Single-Family Residential
R-2	Two-Family Residential
R-3	Multi-Family Residential

D. Yard Requirements along District Boundaries. Whenever a block face is intersected by a district boundary, all lots fronting on that block face shall conform with the minimum front yard requirements of the most restrictive district found on that block face.

E. Yard Requirements for Accessory Structures. See Sec. 402 [401]: Accessory Uses and Structures[.]

F. Yard Determination by Building Inspector. Where a lot does not conform to typical lot and block configuration, the Building Inspector shall determine which lot lines shall be considered front, side and rear lot lines. In making this determination, the Building Inspector shall take into consideration the pattern of adjacent lots, as well as the frontage of lots across an intervening street. Building orientation or address shall not determine yard requirements.

G. Additional Standards for Front and Side Yards.

1. Where 35% or more of a block face between intersecting streets is developed with buildings which have observed, with a variation of five feet or less, a front yard greater or lesser than required by this Section, new buildings shall not be erected closer to the street right-of-way than the building line so established by those existing buildings. This regulation shall not be interpreted as requiring a minimum front yard of more than 50 feet.
2. Where a building line is shown on a plat recorded with the Terry County Clerk, and such building line provides a front yard and/or side yard greater than required by this Section and is part of a comprehensive plan for orderly development of a subdivision with either a uniform or staggered building line, no building shall be located more than 5 feet closer to the street right-of-way than the building line established on the plat, as long as other minimum setback standards of this Section are met.
3. For all uses in residential districts and for residential uses in any district, on a corner lot where another lot abutting the rear of that corner fronts onto a side street, there shall be a front yard required on all street side boundaries of that corner lot. The minimum front yard required along street side boundaries (of such corner lots) shall be equal to that minimally required on the interior lot which immediately adjoins each respective required front yard on the corner lot. For the purpose of this subsection, any separation by an alley, utility-owned right-of-way, watercourse or other drainage feature with a minimum width of 10 feet shall cause nearby lots to not be abutting.

Sec. 502. Nonresidential District Standards

A. Residential Uses in Nonresidential Districts. Within any nonresidential district, allowed residential uses shall conform with the residential bulk regulations regarding maximum floor area ratio, required yards and height that are most closely associated with the proposed type of residential use.

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B. Nonresidential District Bulk Regulations. Except as specifically set forth elsewhere in this Zoning Ordinance, any nonresidential use in a nonresidential district shall conform to the following standards:

Standard	C-1	C-2	C-3	ML	MH
Maximum Height (ft)	35	-	-	-	-
Minimum Lot Area (sq. ft.)	6,000	6,000	6,000	6,000	6,000
Minimum Lot Width (ft)	50	50	50	50	50
Minimum Lot Depth (ft)	80	80	80	80	80
Minimum Front Yard (ft)	25	25	25	25	25
Minimum Side/Rear Yard (ft)					

*NOTE: For the purpose of this Section, separation by an alley, utility-owned right-of-way, watercourse or other drainage feature with a minimum width of 10 feet shall not be considered abutting.

C. Determination of Yard Requirements. Where a lot does not conform to the typical lot and block configuration, the Building Inspector shall determine which lot lines shall be considered front, side and rear lot lines. In making this determination, the Building Inspector shall take into account consideration of the pattern of adjacent lots, as well as frontage of lots across any intervening street. Addresses assigned to existing buildings shall not determine yard requirements.

Sec. 503. Multiple Principal Buildings or Uses

A. Residential. Only one principal building for single-family or two-family residential use shall be located upon a lot in a commercial zoning district.

B. Nonresidential. More than one principal nonresidential building may be located on a lot, subject to the following requirements:

1. The principal buildings shall conform to all of the open space, parking and density requirements applicable to the district where they are located.
2. The Building Inspector shall review such projects to ensure an appropriate arrangement of buildings is proposed. Such review shall be subject to appeal to the Zoning Board of Adjustment.

Sec. 504. Outdoor Storage and Display in Nonresidential Districts

Outdoor storage and display shall be allowed in any nonresidential district in accordance with this Section. Any merchandise, material or equipment situated outdoors shall be subject to the requirements of this Section. For the purpose of this section, outdoor storage and display shall be broken down into three types, as follows.

- A. Type 1: Outdoor Display. Type 1 Outdoor Display shall be allowed adjacent to a principal building wall and extending to a distance no greater than 5 feet from the wall. Such storage shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.
- B. Type 2: Limited Outdoor Storage. Type 2 Limited Outdoor Storage shall not exceed 1,000 square feet or 10 percent of the total site area (whichever is greater), except in OW Districts where additional outdoor storage and display is allowed so long as it is completely screened from view outside the site, by a solid opaque wall or fence at least 6 feet in height.
- C. Type 3: General Outdoor Storage. Type 3 General Outdoor Storage shall be allowed in unlimited quantity, subject only to the location restrictions below.
- D. Exceptions.
 - 1. Vehicles (including boats) shall not be considered merchandise, material or equipment subject to the restrictions of this Section.
 - 2. Waste generated on site and deposited in ordinary refuse containers shall not be subject to the restrictions of this Section.
 - 3. Areas enclosed by solid, opaque walls on at least three sides and covered by a solid, opaque roof shall not be considered outdoor.
- E. Location of Outdoor Storage and Display.
 - 1. Unless specifically authorized elsewhere in the City's Code of Ordinances, all outdoor storage and display shall be located outside the public right-of-way and/or at least 15 feet from the back edge of the adjacent curb or street pavement.
 - 2. No outdoor storage or display shall be allowed in required side yards.
- F. Allowed Storage Table. The three types of storage shall be allowed in the districts

designated in the Table below.

Use	C-1	C-2	C-3	MH
Type A: Outdoor Display	*	*		
Type B: Limited Outdoor Storage			*	
Type C: General Outdoor Storage				*

Sec. 505. Planned Development District Standards

A. General Guidelines.

1. If a Planned Development District ordinance does not establish specific guidelines for land uses, landscaping, facade treatment, screening, setbacks, signage, parking, etc., then the minimum standards of the most similar district shall apply, based on an interpretation by the Building Inspector. See the Table below.

Use	Standard
Single-Family Residential	Meet requirements of the single-family residential district that is closest in character to the proposed Planned Development
Multifamily Residential	Meet requirements of the multifamily residential district that is closest in character to the proposed Planned Development
Office	Meet CO, Office Commercial District requirements
C-1 Neighborhood Commercial	Meet CN, Neighborhood Commercial District requirements
C-2 General Commercial	Meet CG, General Commercial District requirements
C-3 Heavy Commercial	Meet CH, Heavy Commercial District requirements
Industrial	Meet ML, Light Manufacturing District requirements

2. In the case of differences between requirements of a Planned Development District specifically set forth in a particular PD District ordinance and the listed districts in the Table above, the PD District ordinance requirements shall apply.
3. In cases where the Building Inspector and applicant cannot reach agreement regarding the site plan's conformance with the concept plan or written standards in a

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PD District ordinance, then the site plan shall be processed as a major site plan by the Planning Commission according to the procedures contained in Sec. 209: Planned Development Review.

B. Development Standards. The following site development standards shall be considered minimum standards unless modified by the approved site plan:

1. Setback, landscaping, signage, and off-street parking standards which are as restrictive as those established for the particular districts in which the use would ordinarily be allowed.
2. Utility and street standards as established in the City's Land Development and Subdivision Ordinance. Street paving widths may be reduced, if other provisions are made for pedestrians, and/or if on-street parking is prohibited.
3. Drainage standards as required by the Director of Public Works.
4. All private park areas shall have grounds and equipment maintained in an attractive manner. The dedication of such areas to open space uses and the maintenance costs associated with such areas shall be assured by appropriate covenants and restrictions.
5. If in the opinion of the Planning Commission, adequate access for safety vehicles, and emergency ingress and egress by other vehicles, is not provided by the proposed public or private street system, additional safety lanes may be required. These safety lanes shall be a minimum of 20 feet in width. The type of surfacing required, if any, will be determined by the Planning Commission. The safety lanes must remain free of any and all obstructions to access by safety vehicles at all times. These safety lanes shall be delineated on the site plan.
6. Internal circulation, with approval of the Planning Commission, may be on private streets owned and maintained by an association, corporation, or other such legal entity approved by the City. A written agreement between the City and the legal entity shall be provided allowing vehicles and personnel of the City when on official business to use private streets or safety lanes for any purpose, at any time, without liability and further to allow the City to remove at any time any and all obstructions of any type in the safety lanes and assess the cost of removal to the owner or owners of the obstruction.
7. Where private streets are planned, the Planning Commission may require dedication of right-of-way and/or construction of paving for a public street or streets through or into the planned development, as the Planning Commission deems necessary.

8. In any planned development in which the provisions of this Zoning Ordinance and the City's subdivision regulations are in conflict, the Planning Commission, with recommendation from the Building Inspector, shall make the decision as to which shall prevail.

Sec. 506. Planned Industrial Park District Standards

A. General Guidelines.

1. A Planned Industrial Park ordinance shall establish specific guidelines for land uses, landscaping, facade treatment, screening, setbacks, signage, parking, etc.
2. Required development standards are set forth in the following Table.

<u>Standard</u>	<u>Requirement</u>
Lot Area (minimum)	6,000 square feet
Lot Width (minimum)	60 feet
Lot Depth (minimum)	100 feet
Front Yard (minimum)	25 feet
Side Yard (minimum)	10 feet
Rear Yard (minimum)	10 feet
Floor Area Ratio (maximum)	.80
Height (maximum)	35 feet/2 stories

3. In the case of differences between requirements of a particular Planned Industrial Park ordinance and the standards in the Table above, the Planned Industrial Park ordinance requirements shall apply.

B. Development Standards. The following site development standards shall be considered minimum standards unless modified by the approved site plan:

1. Setback, landscaping, signage, and off-street parking standards that are as restrictive as those established for the particular districts in which the use would ordinarily be allowed.
2. Utility and street standards as established in the City's Land Development and Subdivision Ordinance. Street paving widths may be reduced, if other provisions are made for pedestrians, and/or if on-street parking is prohibited.

3. Drainage standards as required by the Director of Public Works.
4. All private park areas shall have grounds and equipment maintained in an attractive manner. The dedication of such areas to open space uses and the maintenance costs associated with such areas shall be assured by appropriate covenants and restrictions.
5. If in the opinion of the Planning Commission, adequate access for safety vehicles, and emergency ingress and egress by other vehicles, is not provided by the proposed public or private street system, additional safety lanes may be required. These safety lanes shall be a minimum of 20 feet in width. The type of surfacing required, if any, will be determined by the Planning Commission. The safety lanes must remain free of any and all obstructions to access by safety vehicles at all times. These safety lanes shall be delineated on the site plan.
6. Internal circulation, with approval of the Planning Commission, may be on private streets owned and maintained by an association, corporation, or other such legal entity approved by the City. A written agreement between the City and the legal entity shall be provided allowing vehicles and personnel of the City when on official business to use private streets or safety lanes for any purpose, at any time, without liability and further to allow the City to remove at any time any and all obstructions of any type in the safety lanes and assess the cost of removal to the owner or owners of the obstruction.
7. Where private streets are planned, the Planning Commission may require dedication of right-of-way and/or construction of paving for a public street or streets through or into the planned development, as the Planning Commission deems necessary.
8. In any planned industrial park in which the provisions of this Zoning Ordinance and the City's subdivision regulations are in conflict, the Planning Commission, with recommendation from the Building Inspector, shall make the decision as to which shall prevail.

Sec. 507. Height

A. Structures Allowed Above Height Limits. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, steeples, roof signs, flagpoles, chimneys, smokestacks, radio and television antennas, water tanks, silos, or similar structure may be erected above the height limits in Sec. 501 and 502, but no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional floor

space.

B. Height in Aircraft Landing Approach Area.

1. No building or structure shall be erected, constructed, reconstructed, structurally altered, enlarged or moved within the limits of any restricted zone as set forth and designated by the Airport Zoning Regulations of the City's Code of Ordinances, so that its height, including all superstructures and appurtenances, will constitute a hazard to the safe landing and take-off of aircraft using the landing area of the airport to which the approach area is appurtenant.
2. The regulations referred to in this Section shall be in addition to any other regulations of this Zoning Ordinance establishing building height limits.
3. Where there is a question regarding the site-specific height allowed under this section, a determination shall be made by the Brownfield-Terry County Airport Zoning Board after consultation with the appropriate aeronautical authorities.

Sec. 508. Buffers for Industrial Uses

No uses allowed exclusively in the ML or MH districts shall be allowed within 100 feet of any adjoining residential district.

Sec. 509. Fences

A. Required Privacy Fences.

1. A privacy fence shall be required where the side or rear lot line of a nonresidential use is adjacent to either of the following.
 - a. A residential district boundary other than the R&E District.
 - b. An existing residential use.
2. This requirement shall not apply when an equivalent fence already exists.
3. Properties immediately across a body of water, transportation, drainage or utility right-of-way, street or alley shall be considered adjacent if the intervening body of water, transportation, drainage or utility right-of-way, street or alley, is less than 80 feet wide.

B. Height Standards for Required Privacy Fences.

1. All privacy fences shall meet the visual clearance requirements of Sec. 510 below.
2. Maximum Fence Height in Residential Districts.
 - a. No portion of any fence or enclosure in any residential district, excluding an R&E district, shall exceed a height of 8 feet.
 - b. A substantially open fence with a ratio of solid portion to open portion equal to or less than 1 (solid) to 4 (open) may be constructed up to a height of 10 feet.
3. Maximum Height in Required Front Yards.
 - a. Any fence or enclosure extending into a required front yard shall not exceed a height of four feet.
 - b. Fences on land located in the CH, CBD, ML and MH Districts shall be exempt

from this requirement.

- c. In the R&E District, a substantially open fence with a ratio of solid portion to open portion equal to or less than 1 (solid) to 4 (open) may be constructed up to a height of 6 feet.

Sec. 510. Visual Clearance on Corner Lots

Except for freestanding signs with appropriate visual clearance below the display area, any fence, structure, sign, tree or landscaping on a corner lot and situated within 30 feet of the intersection of the two street property lines shall not exceed a height of three feet, including topography, measured from the top of the street curb or, in the absence of a raised curb, 3-1/2 feet above elevation of the center of the pavement. For this purpose, the restricted area shall be considered as a triangle rather than an area bounded by an arc.

Sec. 511. Off-Street Parking Standards

A. Off-Street Parking Required.

1. General Requirements. Except in the C-1 District, no Certificate of Occupancy shall be issued for the use of land or a building for residential, commercial, industrial or any other purpose until adequate off-street parking as required in this Section has been provided.
2. Major Repair or Alterations.
 - a. For the purpose of calculating parking, major repair or alteration shall refer to either of the following construction activities: 1) expansion of floor area of an existing building equal to or in excess of 25 percent of the present floor area of the building in question; or 2) repairs or alterations to an existing building that are expected to increase the monetary value of the building by a factor of 50 percent or more, as determined by the Building Official.
 - b. Except in the C-1 District, no Certificate of Occupancy shall be issued for major repair or alteration of an existing attached single-family, two-family, multifamily, commercial or industrial building or structure unless off-street parking in conformity with this Section has been provided.
 - c. Except in the C-1 District, no Certificate of Occupancy shall be issued for major repair or alteration of an existing detached single-family structure unless off-street parking in conformity with this Section is provided. For major repair

or alternation of a detached single-family structure, off-street parking and any connection to the right-of-way for the public street or alley may consist of an all-weather surface; a paved surface shall not be required.

3. Change of Occupancy. Except in the C-1 District, no Certificate of Occupancy shall be issued to allow a change from one major occupancy category to another (as identified by the Standard Building Code adopted by the City of Brownfield) unless off-street parking in conformity with minimum standards of this Section has been provided. The amount of additional parking shall be limited to the required parking calculated for the new use minus any required parking calculated for any previous use of the building before off-street parking standards were implemented on March 23, 1954, whether or not adequate parking actually existed for such previous use.

B. Required Off-Street Parking Table.

Use	Off-Street Parking Required
RESIDENTIAL	
Group housing, including assisted living facilities, retirement centers, rooming or boarding houses (not including dormitories or nursing or convalescent homes)	1 space/residential unit
Multifamily dwelling	
1 Bedroom apartment	1.5 spaces/unit
2 Bedroom apartment	1.75 spaces/unit
3 Bedroom apartment or larger	2.0 spaces/unit
Single-family dwelling or two-family dwelling	2 spaces/dwelling unit
NONRESIDENTIAL	
Day Care	1.5/employee
Furniture store, including home appliance stores	1 space/400 gross SF
Hotels, motels, dormitories	1 space/2 guestrooms plus 1 space/4 employees
Hospitals, convalescent homes, nursing homes	1 space/4 patient beds plus 1 space/staff doctor and 1 space/4 employees
Office buildings, including commercial, government and professional buildings, and medical and dental clinics	1 space/300 SF gross

Use	Off-Street Parking Required
Places of public assembly, private clubs and lodges, bowling alleys, sports arenas, stadiums, gymnasiums and fitness centers, amusement parks, race tracks, fairgrounds, churches, funeral homes, libraries, museums	1 space/400 SF gross or 1 space/10 seats for patron use, whichever is greater
Restaurants, bars, taverns, nightclubs, diners	1 space/4 seats for patron use
Retail trade and service establishments including personal service shops, equipment or repair shops, gas stations, motor vehicle sales or repair, banks and other financial institutions (not including furniture and home appliance stores)	1 space/200 SF gross
Schools	
Elementary school	1.5 spaces/classroom
Middle school	3 spaces/classroom
High school, college, university, business or trade school	9 spaces/classroom
Theaters, movie houses	1 space/10 seats for patron use
Manufacturing and industrial plants, warehouses, research labs, and food processing plants	1 space/4 employees

C. Rules for Determining Off-Street Parking Requirements.

1. When calculation of required off-street parking results in the requirement for a fractional space, any fraction up to and including 1/2 shall be disregarded in the calculation, and fractions over 1/2 shall require one additional off-street parking space.
2. In the case of a use not specifically listed in the table above, the Building Inspector shall determine a use on the table that is substantially similar to that proposed, and apply the accompanying off-street parking requirement.
3. No part of required off-street parking facilities shall be included as parking required for another structure or use, except as provided in subsection E, below.

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4. In the case of multiple principal uses located on a single lot or tract of land, the total required off-street parking shall equal the sum of the parking required for each of the various uses calculated separately. Except as provided in subsection E below, required off-street parking for one use shall not be considered as required off-street parking for any other use.
5. For the purpose of computing off-street parking requirements for various retail trade activities, floor area shall mean the gross floor area used or intended to be used for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not mean floors or parts of floors used principally for non-public purposes, such as the storage, incidental repair, processing or packaging of merchandise, for show windows, or for offices incidental to management or maintenance. Fitting rooms, dressing rooms and alteration rooms shall also be excluded from the definition of floor area for the purpose of computing off-street parking requirements for various retail trade activities.
6. Where an open surface is consistently used for an activity allowed by the zoning district where it is situated, such open area shall be considered the same as if it were floor area within a building.
7. In no circumstance shall new construction or installation of any principal building on a lot require any less than 2 off-street parking spaces to be provided in accordance with this Section.

D. Location of Off-Street Parking Facilities.

1. All required off-street parking spaces shall be located on the same lot or tract of land as the building and/or activity they are intended to serve, except as provided below.
2. The use of remote or off-premises parking shall be allowed to satisfy the requirements of this Section, including shared parking. Such parking shall be located no more than 400 feet from the facility or activity requiring such parking, and a permanent parking easement shall be secured and legally recorded. Remote or off-premises parking shall comply with all of the standards of this Section.
3. Required off-street parking spaces may be separated by an alley no more than 30 feet wide, from the same lot or tract of land as the building and/or activity, which those off-street parking spaces are intended to serve.

E. Shared Parking. Developments or uses with different operating hours or peak business

periods may share off-street parking spaces if approved as part of an Alternative Access and Parking Plan and if the shared parking complies with the all of following standards.

1. Shared parking spaces must be located within 400 feet of the primary entrance of all uses served, measured along the shortest legal, practical walking route.
2. A shared parking analysis shall be submitted to the Building Inspector, clearly demonstrating the feasibility of shared parking. The study must address, at a minimum, the size and type of the proposed development, the composition of users of the development sharing off-street parking, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces. A shared parking analysis found not acceptable by the Building Inspector may be appealed to the Zoning Board of Adjustment.
3. A shared parking plan shall be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be submitted to the Building Inspector for recording. Recording of the agreement must take place before issuance of a building permit for any use to be served by an off-site parking area. A shared parking agreement may be rescinded only if all required off-street parking spaces are otherwise provided in accordance with this Section.

F. Maintenance and Design of Public Off-Street Parking Facilities.

1. All required off-street parking facilities shall be adequately maintained by the owner in accordance with the specifications of this Zoning Ordinance, so as to continually provide a suitable area for off-street parking use.
2. The standards of this Section shall be a continuing obligation of the property owner. It shall be unlawful to discontinue, change or dispense with any required off-street parking spaces without establishing alternative parking that meets the requirements of this Section. It shall also be unlawful to use buildings or land without acquiring and developing appropriate areas for off-street parking that meet the requirements of this Section.
3. All areas used for required off-street parking shall be paved, unless specifically exempted by other provisions of this Section.
4. A curb, wheel stop or other suitable barrier may be required by the Building Inspector to separate off-street parking areas from public rights-of-way for streets.
5. All off-street parking facilities shall be so graded and drained as to suitably dispose of

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all surface water accumulated within the area.

6. Parking shall not be allowed in visual clearance triangles (see Sec. 510).
7. No open area in a required off-street parking area shall be consistently encroached upon by any other use, including, but not limited to refuse disposal or commercial display, sale, repair, dismantling or servicing of merchandise, materials, equipment or vehicles.
8. For off-street parking spaces accessory to residential uses in R&E districts, where parking spaces are located greater than 50 feet from the lot line adjacent to an existing or proposed driveway approach from the public street, paved parking and a paved connection to the public street right-of-way shall not be required. An all-weather surface may be substituted for the paving requirement.

G. Minimum Dimensions for Off-Street Parking.

Type of Parking	Width	Length	Maneuvering	
			1-Way	2-Way
90 degree angle parking	8 feet	17 feet	23 feet	23 feet
60 degree angle parking	8 feet	18 feet	18 feet	23 feet
45 degree angle parking	8 feet	17 feet	15 feet	23 feet

1. Minimum required parking width shall be measured perpendicular to the parking angle.
2. Minimum required parking length shall be measured along a line parallel to the parking angle.
3. Minimum required maneuvering area shall be measured behind each parking space, perpendicular to the building or parking line.
4. When off-street parking facilities are located adjacent to a public alley, the unobstructed width of the alley may be assumed to be a portion of the maneuvering space requirement shown above.
5. Any distinctly separate off-street parking area for two or fewer spaces may utilize public right-of-way for maneuvering. Otherwise, in any district, off-street parking shall not include head-in parking adjacent to a public street wherein the maneuvering is done.

6. Where off-street parking facilities are provided in excess of the minimum amounts specified, or where off-street parking facilities are provided but not required by this Section, said facilities shall comply with the minimum requirements for parking and maneuvering space herein specified.

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H. Vehicle Stacking Areas. A minimum number of off-street stacking spaces shall be provided as follows:

<u>Activity Type</u>	<u>Minimum Spaces</u>	<u>Measured From</u>
Bank teller lane	4	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	4	Order Box
	4	Order Box to Order Window
Carwash stall, automatic	4	Entrance
Carwash stall, self-service	3	Entrance
Gasoline pump island	2	Pump Island
Other	Determined by Building Inspector based on study by applicant	

Sec. 512. Loading Standards

A. Minimum Requirements. Every nonresidential building having at least 20,000 square feet of gross floor area hereafter erected, converted, extended or enlarged, shall provide and maintain the following off-street loading spaces.

1. A minimum of one off-street loading space is required.
2. For buildings that are occupied by manufacturing, storage, goods display, retail trade, wholesale trade and other similar industrial or commercial uses, one additional space for each additional 40,000 square feet or major fraction thereof shall be required.
3. For offices, hotels, hospitals, schools and similar institutional uses, one additional space for each additional 60,000 square feet or major fraction thereof shall be required.

B. Size of Loading Space. Each required loading space shall be not less than 10 feet in width, 45 feet in length and 14 feet in height.

C. Location of Loading Space.

1. All required off-street loading spaces shall be located entirely on the same lot or tract of land as the building they are accessory to.
2. All required off-street loading spaces shall be located entirely outside of public

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rights-of-way for streets and alleys.

3. No open area in a required off-street loading area shall be consistently encroached upon by any other use, including but not limited to refuse disposal, required off-street parking and maneuvering area, or the commercial display, sale, repair, dismantling or servicing of merchandise, materials, equipment or vehicles.
4. In no case shall off-street parking or vehicle stacking spaces required by this Zoning Ordinance be part of the area used to satisfy off-street loading requirements.
5. Access to required loading spaces shall be provided by nearby alleys and public streets, and preferably by means of exclusive service drives for trucks.

D. Maintenance and Design of Off-Street Loading Spaces.

1. All required off-street loading spaces shall be adequately maintained by the owner, in accordance with the specifications of this Zoning Ordinance, so as to continually provide a suitable area for off-street loading.
2. The standards of this Section shall be a continuing obligation of the property owner. It shall be unlawful to discontinue, change or dispense with any required off-street loading spaces without establishing alternative loading areas that meet the requirements of this Section. It shall also be unlawful to use buildings or land without acquiring and developing appropriate areas for off-street loading space that meet the requirements of this Section.
3. All areas used for required off-street loading shall be paved in accordance with minimum paving standards of this Zoning Ordinance.

E. Existing Loading Space. Loading space being maintained in connection with any existing principal use of a building on the effective date of this Zoning Ordinance shall thereafter be maintained so long as the building remains, unless equivalent replacement space is provided conforming to the requirements of this Section; provided, however, that maintenance of more loading spaces than are herein required for new construction shall not be required.

Editor's note—Subsections D. and E. of this section were numbered C. and D. in the original ordinance and were changed at the discretion of the editor.

(Ordinance 1858 adopted 8/16/01)

Sec. 513. Carports in Required Yards

The supporting structure of an open carport shall not be located within required front or side yards, except as set forth in this Section. Carports in required yards may be approved as an administrative adjustment in accordance with the provisions of Sec. 203, provided the standards of the following subsections A, B and C are met.

A. Location.

1. There is no other practical location on the subject property for a carport that would meet the minimum yard requirements established for the particular zoning district in which the subject lot is located.
2. In order to allow a carport to encroach within the required front yard, a previously constructed carport located within a required front yard must exist on a lot on the same or opposing block face.
3. The proposed carport must be compatible with the neighborhood and will not negatively affect other nearby properties.

(Ordinance 1992 adopted 7/23/09)

B. Construction. Construction of a carport in a required yard shall conform to all of the following criteria:

1. The front face of the roof shall be set back at least 10 feet from the front property line, and shall be separated by at least 15 feet from the back of the street curb (or edge of the street pavement if a curb does not exist) and shall not extend more than 18 feet into the minimum front yard required on the subject lot.
2. The roof edge and vertical structural supports for any carport shall not be located closer than two feet to the side property line.
3. A minimum of 7-1/2 feet from the finished floor level of any carport situated within the minimum front or side yard required on the lot shall be open and unencumbered by any walls, screening or glazing on the sides or front of the structure, except as may be necessary for vertical structural supports which shall be no greater than 12 inches in width or diameter, or unless the carport borders the side wall of the house, in which case that one side of the carport may be enclosed by the wall of the house.

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4. No more than 20 percent of the minimum front yard area required on a lot shall be covered by the roof on a carport allowed by this Section.

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- C. Continuing Compliance. Any carport authorized in accordance with this Section to extend into minimum required front or side yards shall be subject to continuing compliance with the following requirements.
1. The minimum clearance required on the sides of any such carport (along that portion which extends into required yards) shall continually remain open and unencumbered by any walls, screening or glazing.
 2. The area underneath any such carport shall continually remain clear of any junk, household trash, yard trash, debris or any and all other objectionable unsightly matter, as generally required by the Official Code of the City of Brownfield.
- D. Existing Carports. Existing carports which encroach into minimum front or side yards required by this Zoning Ordinance shall be exempted from the requirements of this Zoning Ordinance intended to prevent the installation of carports within minimum front or side yards, subject to each such carport's compliance with all the following conditions.
1. The carport was completed at that location prior to January 1, 2001.
 2. The carport does not encroach into the public right-of-way, into an easement specifically designated to be open or unencumbered by buildings, or onto an adjacent lot.
 3. The carport is set back a minimum of 5 feet from the back of a curb bordering pavement in an adjoining street right-of-way or, if a curb does not exist, from the edge of pavement in that adjoining street right-of-way.
 4. The carport is structurally sound, in the opinion of the Building Official.
 5. The carport is substantially open and unencumbered by sidewalls, screening or glazing in any of the minimum front or side yards required by this Zoning Ordinance.
 6. The area underneath any such carport is and remains continually clear of any junk, household trash, yard trash, debris or any and all other objectionable matter.
 7. The carport is accessory to a principal building located on the same lot as that carport, regardless of whether that carport is attached to or detached from the principal building.

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E. Carports Considered Legally Nonconforming.

1. Existing carports which encroach into minimum required front or side yards and which were installed before enactment of minimum yard requirements on March 23, 1954 shall be considered legally nonconforming.
2. Any existing carports which encroach into minimum front or side yards required by this Zoning Ordinance and which were authorized in accordance with a variance or special exception duly approved by the Zoning Board of Adjustment shall also be considered legally nonconforming.
3. In no case shall this Section be construed to legitimize any carport encroaching into a public right-of-way, into an easement specifically designated to be open or unencumbered by buildings, or onto an adjacent lot.

(Ordinance 1858 adopted 8/16/01)

Sec. 514. Landscaping Standards

The purpose of the landscaping regulations are to:

- A. Increase street longevity,
- B. Increase ground permeability,
- C. Encourage conservation of trees and vegetation,
- D. Promote energy and resource conservation,
- E. Maintain and increase the value of land, and
- F. Enhance the aesthetic quality of the community.

A. Applicability. The provisions of these regulations shall apply to all land within the corporate limits of the City of Brownfield and within the zoning districts specified in this section and shall be applied as follows:

1. When a building permit for a new structure is required, or when a paving permit for a new parking area is required;
2. When a building permit for the remodeling, renovation, or expansion of an existing

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structure that increases the gross floor area by 50% or more or a paving permit that increases the number of off street parking spaces by 50% or more is required.

As a minimum standard, this landscaping ordinance shall apply to the following zoning districts: C-1, C-2, C-3, M-1 and M-2.

Minimum standards for Planned Developments shall be determined at such time as the approval of a Planned Development site plan is requested or a Planned Development ordinance is established.

B. Landscaping Requirements.

Landscaping shall be provided within the front and side yard setbacks as well as adjacent public rights-of-way. All of the area between an existing or proposed sidewalk and adjacent right-of-way excluding existing and approved future driveways, as well as an additional 8% (eight percent) of other areas of the lot shall be utilized for landscaping.

Use of low water using plant materials and landscaping (xeriscaping) is encouraged. An application may be made for variance from the required plant materials contained herein if a xeriscape plan is substituted and approved by the City Building Official.

C. Irrigation. All required landscaping shall be irrigated by an underground sprinkler system. All sprinkler systems shall be designed in such a manner as to minimize water runoff into adjoining streets.

D. Plant Materials Required.

1. Landscaping shall consist of a combination of two or more of the following types of plant materials including but not limited to planted grass, trees, shrubs, ground cover, and/or other forms of plant material.
2. Trees with a minimum of 2" caliper (measured one foot above grade) shall be provided and replaced as necessary at the ratio of one (1) tree per fifty (50) linear feet of street frontage, or fraction thereof. However, no tree shall be required where all street frontage is used for driveway entrance. All existing trees of 2" caliper or greater will be counted towards satisfying the requirements of this ordinance, as long as such trees do not endanger safety, health and public welfare. No tree or shrub shall be placed in such a manner as to create a hazard to vehicular traffic. (Refer to Section 510 of Zoning Ordinance for corner lots).

In accordance with Section 514(D)(2), all parking lots with less than 101 parking spaces

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shall contain a minimum of one tree per ten parking spaces. For new or expanding parking lots where the number of parking spaces exceeds 100, a sliding scale of parking spaces per tree may be applied as follows:

<u>Number of Parking Spaces</u>	<u>Required Tree Ratio</u>
>100 but <200	One tree for the first 100 spaces; one tree for twenty-five spaces thereafter
>200 but <300	One tree for the first 100 spaces; one tree for twenty-five spaces thereafter
>300	One tree for the first 100 spaces; one tree for forty spaces there:

There may be circumstances in which the placement of trees in a new or expanded parking facility may be difficult or undesirable. In order to provide for a similar landscaping effect, parking lot trees may be waived in lieu of additional trees or larger caliper trees placed in the front and/or side yard setback area. In no case shall an alternative landscape proposal result in a net reduction of the tree requirement as measured in total tree caliper inches. Such a proposal may be submitted as part of the landscaping plan to be administratively approved by the City Building Official or his designee. Appeal of any such administrative decision may be made to the Planning and Zoning Commission.

All landscaping shall be maintained in a healthy and growing condition.

E. Landscaping Plan.

Prior to the issuance of a building permit or prior to the issuance of a paving permit, two (2) copies of a Landscaping Plan shall be submitted to the City Building Official for review and approval. The Landscaping Plan shall be drawn to scale, including all dimensions, and shall meet each of the following requirements:

1. Clearly show the location and size of any buildings or structures;
2. Clearly show the location of all paved off-street parking areas; and
3. Clearly show any fencing and the location, size, and description of all landscaping materials to be utilized.

No Certificate of Occupancy and/or paving permit shall be issued unless the landscaping plan required herein complies with this Section.

F. Exceptions.

When seasonal conditions warrant, the City Building Official may issue a temporary certificate of occupancy for up to one hundred and eighty (180) days pending completion of landscaping. No final certificate of occupancy shall be issued prior to completion of landscape requirements.

Upon application and hearing, the Planning and Zoning Commission may grant waivers from the application of these regulations on the finding of extreme hardship.

(Ordinance 1938 adopted 7/6/06)

Article 6 Nonconformities

Sec. 601. Continuance of Nonconformities

Nonconformities shall be allowed to continue in accordance with the regulations of this Article. If a use lawfully occupying land or buildings immediately before the effective date of this Zoning Ordinance is classified by the Use Table in Sec. 308 as a conditional use in the zoning district where that use is located, such use shall not be considered a nonconforming use. The existing use shall be considered a lawful conditional use, the same as if the Planning Commission had expressly approved the location of that use on the lot where existing at the effective date of this Zoning Ordinance.

Sec. 602. Expansion

A. Nonconforming Use. No nonconforming use may be enlarged, expanded or extended to occupy a greater area of land or floor area than was occupied on the effective date of this Zoning Ordinance, except upon authorization by the Planning Commission and in conformance with the procedures set forth in Sec. 609. Establishment or extension of a lawful use in a nonconforming structure shall not be deemed the extension of a nonconforming use.

B. Nonconforming Structure. No nonconforming structure may be enlarged, expanded or extended in such a manner that it shall be made more nonconforming (for example, by increasing the encroachment of a building into a required yard or by increasing the height of a structure above that allowed for the affected district). A nonconforming structure may be enlarged, expanded or extended so long as the nonconforming feature is not enlarged, expanded or extended, thereby making the structure more nonconforming.

Sec. 603. Change in Use

A nonconforming use may be changed to another use as follows.

1. A nonconforming use may be changed to a conforming use.
2. A nonconforming use may be changed to another nonconforming use, provided the new use is of the same general character or less intensive in character (and thus more closely conforming). The determination of whether a proposed use is less intensive shall be made by the Building Inspector in accordance with the provisions for written interpretations in Sec. 205. A nonconforming use, if changed to a less intensive nonconforming use, may not thereafter be changed back to a less conforming or more intensive use.

Sec. 604. Abandonment

If a nonconforming use or structure is not operated during a continuous period of 6 months, said nonconforming use or structure shall be considered abandoned, and the structure or tract of land where the nonconforming use previously existed shall thereafter be occupied and used only in conformity with this Zoning Ordinance.

Sec. 605. Damage and Destruction of Nonconformity

A. Total Destruction or Obsolescence. A nonconforming use or structure shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause.

B. Partial Destruction.

1. In the case of a nonconforming use or structure partially destroyed by any cause, the Building Official shall be authorized to issue permits for complete reconstruction, so long as the Building Official determines that the cost of such reconstruction does not exceed 50 percent of the current replacement value for the entire structure.
2. In the case of a nonconforming use or structure partially destroyed by any cause, where the costs of proposed reconstruction are determined by the Building Official to exceed 50 percent of the current replacement value for the entire structure, the Building Official shall be authorized to issue permits for reconstruction only when specifically authorized by the Planning Commission. Such rebuilding or restoration shall comply with the provisions of this Zoning Ordinance to the extent deemed reasonably practical, and the applicant shall make every reasonable effort to eliminate the nonconformities and bring the structure and site into substantial conformance with this Zoning Ordinance.

Sec. 606. Maintenance and Repairs to Nonconforming Uses

- A. Normal Maintenance. Normal maintenance of a building or a structure containing a nonconforming use is allowed, including necessary nonstructural repairs and incidental alterations not extending the nonconforming use.
- B. Structural Changes. No structural alteration shall be made in a building or other structure containing a nonconforming use except when required by law.
- C. Major Repairs. No major repairs or substantial alterations shall be allowed unless and until the off-street parking and off-street loading space requirements of Article 5 are met.

Sec. 607. Termination of Nonconforming Uses

1. When in its judgment, the public convenience, health, safety and welfare will be substantially served, the City Council may, after receiving a recommendation from the Planning Commission and after public notice and public hearing, take action relative to the discontinuance of a nonconforming use. Required public notice shall be by mail and by newspaper publication, in accordance with the standards of Sec. 201.
2. The City Council may require the discontinuance of a nonconforming use or structure under any plan whereby full value of the property can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform with the regulations of this Zoning Ordinance.
3. In addition, the City Council may require the removal of any structure or improvements located on property where discontinuance of a nonconforming use has been ordered if such improvements cannot, in the Council's opinion, be converted to a lawful use.

Sec. 608. Reserved.

Sec. 609. Authorizing Expansion of a Nonconforming Use

- A. Purpose and Applicability. Some uses of land will not conform to regulations of the zoning district in which they are located, even though such uses lawfully occupy that land before the effective date of this Zoning Ordinance. Such nonconforming uses require approval by the Planning Commission in order to be enlarged, expanded or extended to occupy more land or floor areas than prior to the effective date of this Zoning Ordinance.
- B. Submission of Application. A complete application for expansion of a nonconforming use shall be submitted to the Building Inspector on a form prescribed by the Director along with the

appropriate application fee. Any such application shall include plans or drawings sufficient in clarity and detail to describe existing use of the subject property as well as any proposed expansion.

C. Hearing and Action by Planning Commission. The Planning Commission shall hold a public hearing on an application for enlargement of a nonconforming use. At the public hearing, the Planning Commission shall consider the application, any pertinent comments by the City staff, any relevant support materials and the public testimony given at the public hearing in light of the criteria below. After the close of the public hearing, the Planning Commission shall vote to approve, approve with conditions, or deny the application for enlargement of a nonconforming use, pursuant to the criteria below.

D. Approval Criteria. Approval by the Planning Commission of any proposed enlargement of a nonconforming use shall be based upon the following criteria.

1. Impacts Minimized. Whether and the extent to which the proposed expansion of a nonconforming use creates adverse effects, including adverse visual impacts, on adjacent properties.
2. Compatible with Surrounding Area. Whether and the extent to which the proposed expansion of a nonconforming use is compatible with existing and anticipated uses surrounding the subject property.
3. Effect on Natural Environment. Whether and the extent to which the proposed expansion of a nonconforming use would result in significant adverse impacts on the natural environment, including but not limited to adverse impacts on water and air quality, noise, stormwater management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
4. Community Need. Whether and the extent to which the proposed expansion of a nonconforming use addresses a demonstrated community need.
5. Development Patterns. Whether and the extent to which the proposed expansion of a nonconforming use would result in a logical and orderly pattern of urban development in the community.

E. Conditions. The Planning Commission may impose such conditions on an expansion of a nonconforming use as are necessary to accomplish the purposes of this Zoning Ordinance, to prevent or minimize adverse impacts on the public and on neighborhoods, and to ensure compatibility of the site with its surroundings. These conditions may include, but are not limited to, limitations on size, bulk and location; requirements for landscaping, buffering and screening,

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lighting, and adequate ingress and egress; cash deposits, bonds or other guarantees of performance; other on-site improvements; and limitations on the duration or hours of operation of an expanded use.

F. Expiration of Approval. A building permit for any approved expansion of a nonconforming use must be acquired and construction must be substantially complete within 12 months from the date on which the expansion was approved. The Building Inspector may grant a longer period of time when provided with significant evidence that the approved expansion cannot realistically be constructed during the first 12 months, but in no event shall such extension period exceed an additional 12 months.

G. Appeal.

1. Appeal of the Planning Commission's decision on expansion of a nonconforming use shall be made to the City Council within 30 days of the final action by the Planning Commission. The appeal shall be submitted in writing to the Building Inspector and processed in accordance with Sec. 214 [212], Appeals.
2. In considering such an appeal, the City Council shall review the decision in light of the Comprehensive Plan, this Zoning Ordinance, the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable. The City Council shall modify or reject the decision of the Planning Commission only if it is not supported by substantial competent evidence or if the Planning Commission's decision is contrary to the Comprehensive Plan, this Zoning Ordinance, or the Official Zoning Map.
3. Appeal of the City Council's decision on any request for expansion of a nonconforming use shall be made within 30 days of the final action by City Council to a state District Court of competent jurisdiction in Terry County.

Article 7 Violations and Enforcement

Sec. 701. Enforcement

A. General. The provisions of this Zoning Ordinance shall be administered and enforced by the Building Inspector of the City of Brownfield or a duly authorized designee.

B. Right to Enter. The Building Inspector or any duly authorized person shall have the right to enter upon any premises at any reasonable time prior to the completion of buildings for the purpose of making inspections of buildings or premises when necessary to enforce this Zoning

Ordinance.

C. Stop Orders. Whenever any building work is being done contrary to the provisions of this Zoning Ordinance, the Building Inspector may direct the Building Official to order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such person shall immediately stop such work until authorized by the Building Official to proceed with the work.

Sec. 702. Inspection

The Building Inspector, or his duly designated representative, is hereby empowered to cause any building, other structure, or tract of land to be inspected and examined and to order in writing the remedying of any condition found to exist therein, or thereat, in violation of any provision of these regulations. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or to comply with an order of the Building Inspector.

Sec. 703. Violations

1. Any person who shall violate any of the provisions of this Zoning Ordinance or who shall fail to comply with any of the provisions of this Zoning Ordinance, or who shall build, alter or occupy any building in violation of any statement or plan submitted and approved hereunder, shall be guilty of a violation of this ordinance and may be fined in an amount of not less than \$1.00 or more than \$2,000.00. Each day such violation shall be continued, or shall be allowed to continue to exist, shall constitute a separate offense.

2. The owners or tenants of any building or property or part thereof where anything in violation of this Zoning Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person, firm or corporation employed in connection therewith and who has assisted in the commission of such violations, shall be guilty of a separate offense, and upon conviction thereof, shall be fined in accordance with the general penalty provisions in Section 703(1).

3. In addition to prosecution in Municipal Court, the City of Brownfield may use all remedies available to it for the enforcement of this Zoning Ordinance, including but not limited to summary abatement, civil suits for penalties, and injunctions.

4. In addition to the remedies provided for above, the enforcing officer may, in case any building or structures are erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Zoning Ordinance, institute any appropriate action or proceedings to prevent such unlawful erection, construction,

reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct of business or use in or about such premises.

Article 8 Definitions

Sec. 801. Rules of Construction

A. Meanings and Intent. All provisions, terms, phrases and expressions contained in this Zoning Ordinance shall be construed in accordance with the Ordinance's stated purposes.

B. Text. In case of any difference of meaning or implication between the text of this Zoning Ordinance and any drawing, figure or illustration, the text shall control.

C. Computation of Time. The time period within which an act is to be carried out shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded. Time-related words shall have the meanings ascribed below:

1. "Day" means a calendar day unless working day is specified;
2. "Week" means 7 calendar days;
3. "Month" means a calendar month; and
4. "Year" means a calendar year, unless a fiscal year is indicated.

D. Delegation of Authority. Whenever a provision appears requiring a department head or some other officer or employee to perform an act or duty, it shall be construed as authorizing that department head or other officer to delegate responsibility for performing the required act to other city employees, unless the provision specifies otherwise.

E. Technical and Non-Technical Words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a specific meaning in law shall be construed and understood according to such meaning.

F. Public Officials, Bodies and Agencies. All public officials, bodies and agencies to which reference is made are those of the City of Brownfield, Texas, unless otherwise indicated.

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G. Mandatory and Discretionary Terms. The word “shall” is always mandatory. The word “may” is permissive.

H. Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:

1. “And” indicates that all items, conditions, provisions or events are connected; and
2. “Or” indicates that one or more of the connected items, conditions, provisions or events shall apply.

I. Tense, Numbers and Gender.

1. Words used in the past or present tense include the future as well as the past and present tense, unless the context clearly indicates the contrary.
2. The singular shall include the plural and the plural shall include the singular, as the context suggests.
3. Words of one gender shall apply to persons regardless of gender.

Sec. 802. Rules for Interpretation of Official Zoning Map

A. Map Labels. A district name or letter-number combination shown on the Official Zoning Map indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines within which such name or letter-number combination is shown or indicated, except as otherwise provided by this Section.

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

1. In cases where a boundary line is given a position adjoining, coincident with, or within a street or alley or nonnavigable stream, it shall be deemed to be in the center of the street, alley or stream, and if the actual location of such street, alley or stream varies slightly from the location as shown on the district map, then the actual location shall control.
2. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

3. In cases where a boundary line is shown adjoining or coincident with a railroad or utility-owned right-of-way, it shall be deemed to be in the center of such right-of-way. Distances measured from a railroad shall be measured perpendicularly or radially from the center of the designated mainline track.
4. Where the district boundary lines are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be considered to be the lot lines, and where the districts designated on the Official Zoning Map are bounded approximately by lot lines, said lot lines shall be considered to be the boundary of such districts unless said boundaries are otherwise indicated on the map or by Ordinance.
5. In unsubdivided property, unless otherwise indicated, the district boundary line on the Official Zoning Map shall be determined by the use of the scale contained on such map.
6. Boundary lines indicated as approximately following City Limits shall be considered to follow the City Limits.
7. All water areas within the City Limits are considered to be within a zoning district and controlled by applicable district regulations. District boundary lines over water areas are located by noted and scaled dimensions, by relation to physical features, by coincidence with the City Limit line, or by a straight line projection of the centerlines of streets as indicated on the district maps. Straight line district boundaries over water areas shall be assumed to continue as straight line until they intersect with each other or with the City Limit line.
8. Boundary lines indicated as following shorelines shall be considered to follow such shorelines and, in the event of change in the shoreline, shall be considered as moving with the actual shoreline.
9. Where existing physical or natural features contradict those shown on the Official Zoning Map, or in case any other uncertainty exists, the location of district boundaries shall be determined by the Building Inspector.

Sec. 803. Measurements

A. Depth.

1. Lot Depth. The average horizontal distance between the front and rear lot lines.

2. Rear Yard Depth. The average horizontal distance between the rear line of a principal building and the rear lot line.

B. Fence Height. At every point along the run of a fence, the average distance between the top of the fence and the immediately adjacent ground surface on the two sides of the fence.

C. Floor Area.

1. The floor area (or gross floor area) of a building is the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two adjacent buildings on separate lots. In particular, the floor area of a building shall include basement space, elevator shafts and stairwells at each floor; floor space used for mechanical equipment; penthouses, attic space (whether or not a floor has actually been laid) providing structural headroom of 7 feet, 6 inches or more; interior balconies and mezzanines; enclosed porches; and accessory uses.
2. Floor area for the purpose of computing off-street parking requirements for various retail trade activities shall mean the gross floor area used or intended to be used for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not mean floors or parts of floors used principally for non-public purposes, such as the storage, incidental repair, processing or packaging of merchandise, for show windows, or for offices incidental to management or maintenance. Fitting rooms, dressing rooms and alteration rooms shall also be excluded from the definition of floor area for the purpose of computing off-street parking requirements for various retail trade activities.
3. The floor area ratio of a building is the gross floor area of the building divided by the total area of the lot on which it is constructed or proposed.

D. Height. The height of a building or portion of a building shall be measured from the average established grade at the street lot line or from the average natural ground level, if higher or where no street grade has been established, to the following point:

1. Flat Roof - the highest point of the roof's surface;
2. Mansard Roof - to the deck line; or
3. Hip or Gable Roof - to the mean height between eaves and ridge.

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The following structures shall be excluded when measuring the height of a building (except for Aircraft Landing Approach Areas; see Sec. 507): chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio or television towers, satellite dish antennas, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height.

E. Lot Area. The total horizontal area within the lot lines of a lot.

F. Lot Line.

1. Front Lot Line. For an interior lot or through lot, a front lot line is the street line. On a corner lot, the front lot line shall be any street line on which an immediate adjoining lot has a front boundary. A single lot may be required to have multiple front lot lines, for the purpose of this Zoning Ordinance. For one lot occupying an entire city block, the front lot line shall at a minimum include any boundary of that block which aligns with and/or lies across a street from any boundary of an adjoining block on which there are front lot lines.
2. Rear Lot Line. Any lot line that is parallel to the front lot line or within 45 degrees of being parallel to the front lot line. A rear lot line shall also include any lot lines on an off-set to a through lot that constitute the rear lot line of an adjacent lot.
3. Side Lot Line. A side lot line is any lot line which is not a front lot line or a rear lot line.

G. Seats. The seating capacity of a particular building. In the event individual seats are not provided, each 20 inches of benches or similar seating accommodations shall be considered as one seat for the purpose of this Zoning Ordinance.

H. Story.

1. That portion of a building included between the upper surface of any floor and the upper surface of the floor immediately above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.
2. If the finished floor level directly above a basement is more than 6 feet above the level of the immediately adjacent ground surface, such basement shall be considered a story.
3. A floor level having a height of not more than 7 feet 6 inches covering a floor area of

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not more than 75 percent of the area of the floor of the story below is considered a half-story.

I. Yards Defined. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Zoning Ordinance shall be included as a part of a yard or other open space similarly required for another building.

1. Front yard. All that space between the street right-of-way line and the front line of the principal building. The minimum required front yard shall be as prescribed for the district, measured from the outside front corners of the building to the property street line, along the building front extended and along the building sides extended.
2. Rear Yard. All that space between the rear line of the principal building and the rear lot line. The minimum required depth of rear yard shall be as prescribed for the district and shall be the distance between the rear line of the principal building and the rear lot lines, measured along the side lines of the building extended.
3. Side Yard. All that space adjoining the sides of the principal building and between the front and rear yards.

J. Yard Exceptions. Every part of any required yard shall be open and unobstructed, except for the following:

1. Ordinary projection of windowsills, belt courses and other ornamental features projecting a distance not to exceed 12 inches.
2. Projection of chimneys and flues for a distance not to exceed 3-1/2 feet into required front and rear yards.
3. Eaves and awnings on main residential buildings which project a distance of no more than two feet into required yards.
4. Open or lattice-enclosed fire escapes and fireproof outside stairs, as well as balconies opening onto them, which may project into required rear yards a distance not to exceed 3-1/2 feet.
5. Open carports allowed to extend into required front and side yards as set forth in Sec. 513.
6. Open and unenclosed porches covered by a roof (but being unencumbered by walls, glazing or rigid screening of any kind) may project into required front or rear yards

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for a distance not to exceed 6 feet, provided that no supporting structure for such extensions shall be located within the required front or rear yard.

7. Uncovered porches, decks and platforms that do not extend more than three feet above ground level may project into required rear yards and into required side yards, so long as such projections do not extend within less than two feet of any side lot line.
8. Detached accessory buildings may be built in required side and rear yards in accordance with Sec. 402 [401].
9. An attached garage shall be considered an integral part of the principal building, and all required minimum yards shall be maintained from the outside corners of said garage. A detached garage or other accessory structure shall meet the requirements for accessory buildings in Sec. 402 [401].

Sec. 804. Defined Terms

For the purpose of interpreting and administering the provisions of this Zoning Ordinance, the words defined in this Chapter shall be given the meanings set forth below. All other words shall be given their common, ordinary meanings, as the context may reasonably suggest. In case of dispute over the meaning of a term not defined here or over the application of a definition set forth here, the Building Inspector shall issue a written interpretation in accordance with Sec. 206 [205].

ABUTTING: See “Adjacent.”

ACCESSORY APARTMENT: An apartment containing full facilities (sleeping quarters, kitchen and bath) and on the same lot as an existing single-family residential dwelling unit that shares utilities and is clearly subordinate to the primary dwelling unit.

ACCESSORY STRUCTURE: A structure subordinate to the principal building on a lot, the use of which is customarily incidental to that of the principal building or to the principal use of the land.

ACCESSORY USE: A subordinate use or building customarily incidental to and located on the same lot with the main use or building.

ADJACENT (ADJOINING): Unless otherwise defined elsewhere in the text of this Zoning Ordinance, the terms adjacent and adjoining shall mean lying immediately next to one another, or having a common boundary.

ADULT ENTERTAINMENT ENTERPRISE/SEXUALLY ORIENTED BUSINESS: Any business activity whether in public, semi-public or private premises, which offers the opportunity to feel, handle, touch, paint, be in the presence of, or be entertained by the unclothed body or the unclothed specified anatomical areas of another person, or to observe, view, or photograph any such activity. Except as specifically provided otherwise herein, this definitions is not intended to include the following.

1. Any business operated by or employing psychologists, physical therapists, athletic trainers, registered massage therapists, cosmetologists, or barbers, licensed by the State of Texas, performing functions authorized under the licenses held.
2. Any business operated by or employing physicians, osteopaths, chiropractors or nurses, licensed by the State of Texas, engaged in practicing the healing arts.
3. Any retail establishment whose major business is the offering of wearing apparel for sale to customer.
4. A person appearing in a state of nudity, at a scheduled class for instruction in drawing, painting, sculpture, or photography operated as follows.
 - a. By a proprietary school, licensed by the State of Texas; a college, junior college, or university supported entirely or partly by taxation.
 - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
 - c. In a structure with all of the following characteristics.
 - (1) No sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.
 - (2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class.
 - (3) Where no more than one nude model is on the premises at any one time.

Adult Entertainment Enterprises furthermore include, but are not limited to, the following:

1. Adult Bookstore/Film Store. Any commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any

one or more of the following.

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas.”
- b. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities.”

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as an adult bookstore or adult film store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult film store, so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas.” A principal business purpose need not be a primary use of an establishment, so long as it is a significant use, based upon the visible inventory or commercial activity of the establishment.

2. Movie Arcade. Any business wherein is operated a film or videotape viewing device. A film or videotape viewing device or booth subject to these provisions is defined as:
 - a. Viewing Booths/Arcades. An establishment or commercial enterprise which has within its structure an electrical or mechanical device which projects or displays any film, videotape or reproduction into a viewing area obscured by a curtain, door, or wall, or other enclosure which is designed for occupancy by no more than 5 persons, and is used for presenting material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” for observation by 5 or fewer persons.
 - b. Adult Motion Picture Theater. An establishment or commercial enterprise which has an enclosed building with a capacity of more than 5 persons and is used for presenting material distinguished or characterized by a predominant emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” for observation by patrons.
3. Adult Cabaret. An establishment that regularly features the offering to customers of

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live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, including but not limited to dancing, posing, modeling, acting, and which is distinguished by or characterized by a predominant emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.”

4. *Adult Encounter Parlor*. An establishment whose business consists of premises where customers either congregate, associate, or consort with employees who engage in “specified sexual activities” with or in the presence of such customers, or who display “specified anatomical areas” in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.
5. *Adult Lounge*. An “adult cabaret” as defined above which is allowed or licensed pursuant to the Alcoholic Beverage Code, where alcoholic beverages may be served or sold.
6. *Adult Drive-In Theater*. A drive-in theater used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by a predominant emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”
7. *Adult Retail Store*. This is a retail establishment in which:
 - a. one of its principal business purposes is the sale or rental of items, products or equipment distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”; or
 - b. any person is excluded by virtue of age from all or part of the premises generally held open to the public, where products or equipment are distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

(Ordinance 1858 adopted 8/16/01)

ALCOHOLIC BEVERAGES, MIXED: Beer, beer by the bottle, wine, wine by the bottle and mixed alcoholic drinks. (Ordinance 1984 adopted 11/6/08)

ALLEY: A public space or thoroughfare which affords only secondary means of access to property abutting thereon.

ALTERATION: For the purpose of regulating historic landmarks or any property within a historic

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district, shall mean any physical change to the exterior appearance of a building or structure, including but not limited to certain miscellaneous modifications not requiring a permit from the Building Official, such as:

1. change of exterior color, by painting or other similar finish work;
2. installation of siding; and
3. window treatment, including but not limited to window replacements and awnings supported by an exterior wall.

ANIMAL FEED LOT: A relatively small, confined land area for fattening hooved animals or holding them temporarily for shipment.

ANIMAL KENNEL: Any structure or premises where animals ordinarily considered household pets are kept, boarded, bred or trained, for commercial gain.

APARTMENT: A room or suite of rooms in an apartment building used as a separate residence.

(Ordinance 1858 adopted 8/16/01)

BAR OR TAVERN: A place where the sale of alcoholic beverages for consumption on the premises exceeds 75% of the gross revenue of the establishment. (Ordinance 1984 adopted 11/6/08)

BASEMENT: That portion of a building below the ground floor which is located at least partly below grade, but located such that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling.

BED AND BREAKFAST: Overnight lodging and a morning meal provided in a dwelling unit, to transients and for compensation.

BLOCK: An area within the City enclosed by streets and occupied by or intended for buildings.

BLOCK FACE: The distance along one side of a street between the nearest two streets that intersect said street on the same side.

BOARDING HOUSE or ROOMING HOUSE: A dwelling unit or group home where lodging is provided:

1. For compensation;

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2. By prearrangement;
3. In rooms without kitchen facilities;
4. For 5 or more roomers or boarders;
5. For periods of one week or longer; and
6. With or without meals.

See also “Group Home.”

BREEZEWAY: A passage that is one story in height, covered by a roof, and for which the sole purpose is to provide a covered or walkway connection between a main building and an accessory building. In determining the minimum setback required for buildings, connection by a breezeway shall not make any accessory building an integral part of the principal building on the lot.

BUILDING: Any structure built for the support, shelter and enclosure of persons, animals, goods or movable property of any kind. Any roof-covered structure shall be considered a building.

CAMPGROUND: A lot or tract of land upon which two or more campsites are located, established or maintained for occupancy by camping units or recreational vehicles (of the general public) as temporary living quarters for recreational, education or vacation purposes.

CAMPING UNIT: Any tent, trailer, cabin, lean-to or similar structure established or maintained and operated in a campground as temporary living quarters for recreational, education or vacation purposes.

CARPORT: A roof-covered structure intended for the purpose of storing vehicles and remaining substantially open on at least two of its sides.

CONDITIONAL USE: A use allowed in a specific district, provided that approval is obtained from the Planning Commission and any special conditions are observed.

DISTRICT: A section of the City delineated for administrative purposes, within which regulations apply uniformly, for example, area, height, or use of buildings.

DISABILITY OR DISABLED PERSON: For the purpose of determining who is eligible for residency in a “community home” allowed as household living, a person with a disability means

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a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:

1. an orthopedic, visual, speech or hearing impairment;
2. Alzheimer's disease;
3. pre-senile dementia;
4. cerebral palsy;
5. epilepsy;
6. muscular dystrophy;
7. multiple sclerosis;
8. cancer;
9. heart disease;
10. diabetes;
11. mental retardation;
12. emotional illness.

DWELLING, SINGLE-FAMILY: A detached building having accommodations for and occupied by not more than one family or housekeeping unit, and which occupies a lot or tract of land on which no other dwelling unit (except an accessory apartment where explicitly allowed by this Zoning Ordinance) is situated. Separate guest quarters which do not include facilities for both cooking and sanitation are allowed to occupy a detached accessory structure on the same lot as a single-family dwelling.

DWELLING, TWO-FAMILY: A detached building having separate accommodations for and occupied by not more than two families or housekeeping units, and which occupies a lot or tract of land on which no other dwelling unit (except an accessory apartment where explicitly allowed by this Zoning Ordinance) is situated.

DWELLING, ZERO LOT LINE: A single-family dwelling unit built on or near one side lot line, with open yards required on all remaining sides, and constructed as a detached unit on an

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individual lot.

DWELLING UNIT: A building or portion thereof designed and used for residential occupancy by a single household and including exclusive sleeping, cooking, and sanitation facilities.

FAMILY: A family is any number of individuals living together as a single housekeeping unit in which not more than four individuals are unrelated by blood, marriage or adoption.

FENCE: An artificial barrier of any material or combination of materials erected to enclose or screen areas of land.

FENCE, PRIVACY: A fence of wood, masonry or metal, permanently constructed of products commercially sold as fence materials and which provides a solid, opaque barrier.

FLOOR AREA or FLOOR AREA RATIO: See Sec. 803, Measurements.

GLARE: Any intense, harsh or uncomfortably bright light.

GROUP HOME: A facility or dwelling unit housing more than four persons unrelated by blood, marriage or adoption, and that operates under a housekeeping management plan based on an intentionally structured relationship providing organization and stability. See also “Boarding House and Rooming House.”

HEIGHT: See Sec. 803, Measurements.

HISTORIC DISTRICT: An area encompassed within an H-O (Historic) Overlay Zone and which contains multiple properties that together constitute a distinct section of the city, that is united historically or aesthetically by plan or physical development.

HORSE BOARDING (PUBLIC STABLE): Any structure or premises where equine animals are housed or boarded for a service charge or for hire.

HORSE RIDING ACADEMY: Any premises where equine animals are boarded and/or where instruction in riding, jumping, or showing is offered, and/or where the general public may, for a fee, hire equine animals for riding.

HOTEL: A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

HOUSEHOLD or HOUSEKEEPING UNIT: Any one of the following.

1. One or more persons related by blood, marriage or adoption, living together in a dwelling unit.
2. A group of not more than four persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit.
3. Two unrelated persons and their children living together in a dwelling unit.

LANDMARK: Any individual building, structure, object or site that is significant for historic, architectural or archaeological reasons.

LOT: A developed or undeveloped tract or parcel of land suitable for building purposes and legally transferable as a single unit of land. For the purpose of this Zoning Ordinance, a lot may or may not coincide with a lot shown on any recorded plat.

LOT AREA: See Sec. 803, Measurements.

LOT TYPES: (See also, Sec. 803, Measurements.)

1. Corner Lot. A lot that adjoins the point of intersection of two or more street lines. Any lot adjoining a curved street at a point where the street line describes an arc subtended by an angle of 135 degrees or less shall also be considered a corner lot.
2. Through Lot. A through lot is a lot that has two street lines that are opposite each other, and that are parallel to (or within 45 degrees of being parallel to) each other, and that is not a corner lot.
3. Interior Lot. Any lot that is not a corner lot or a through lot.

LOT LINE: See Sec. 803, Measurements.

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Terry County, or a parcel of land, the deed for which has been recorded in the office of the County Clerk of Terry County.

MAJOR REPAIR or SUBSTANTIAL ALTERATION: For off-street parking and loading purposes, these terms shall refer to either one or both of the following construction activities.

1. Construction of additional floor area to an existing building equal to or in excess of

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25 percent of the present floor area of the building in question.

2. Repairs or alterations to an existing building, that are expected to increase the monetary value of that building by a factor of 50 percent or more, as determined by the Building Official.

NONCONFORMING USE or STRUCTURE: A building, structure or use of land lawfully occupied at the time of the effective date of this Zoning Ordinance, and which does not conform to the regulations of the district in which it is situated.

OFF-STREET PARKING SPACE: An area of appropriate dimensions for the parking of an automobile not located on a public street or alley. An off-street parking space may be enclosed or unenclosed, and includes a driveway connecting the parking space with a street or alley permitting free ingress and egress.

OFF-STREET LOADING SPACE: A space located on the subject property for the standing, loading and unloading of vehicles to avoid undue interference with the public use of streets and alleys.

OPEN SPACE: Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches.

OVERLAY ZONE: A set of zoning requirements that is described in the Zoning Ordinance text, is outlined on the Official Zoning Map for the City of Brownfield, and is imposed in addition to those requirements of the zoning district which underlies it. Development in the overlay zone must conform to requirements of the underlying district, except as otherwise amended or modified by requirements of the overlay zone.

PARKING, ALL-WEATHER SURFACE: A surface consisting of compacted caliche, gravel, or a surface consisting of any similar material approved by the Building Official.

PAVED SURFACE or PAVING: Any of the following methods of covering a surface upon which motor vehicles may be driven:

1. Hot Mix Asphaltic Concrete - Texas Highway Dept., Type F, minimum thickness of 1-1/4 inches.
2. Two Course Penetration - surface composed of two layers of crushed stone and asphalt. First Course - Texas Highway Department, Grade 2, Type D; Second Course - Texas Highway Department, Grade 4, Type D.

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3. Concrete - Reinforced concrete, minimum 28-day compressive strength of 3,000 psi, and minimum thickness of 5 inches.
4. Brick Pavers or Other Special Finish Surfaces - any proposed paved surface finish other than those specified above shall be subject to review and approval by the Building Official. The applicant shall provide technical and design information as required by the Building Official.

RECREATIONAL VEHICLE: A vehicular type of portable structure without permanent foundation, which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

RECREATIONAL VEHICLE PARK: See “Campground.”

RECYCLING CENTER: A parcel of land, with or without buildings, upon which small items such as cans, glass, plastic and paper (collected from household and business consumers) are separated and processed for shipment for eventual reuse in new products.

RECYCLABLE MATERIALS COLLECTION CENTER: A use characterized by the collection (from household and business consumers) of small items such as cans, glass, plastic and paper, for temporary storage and subsequent transport to another facility for processing. No mechanical means of processing or collecting shall be allowed, including, but not limited to the crushing of cans.

REHABILITATION: The upgrading of a building previously in a dilapidated or substandard condition, for human habitation or use.

RENDERING, MEAT AND POULTRY BYPRODUCTS: Converting waste from animal slaughterhouses, kitchen grease and/or livestock carcasses into industrial fats and oils (such as tallow for soap) and various other products (such as fertilizer).

(Ordinance 1858 adopted 8/16/01)

RESTAURANT: A place where the primary business is the preparation and sale, on the premises, of food to members of the general public, and providing kitchen facilities separate and apart from the area of the premises devoted to public dining and which may or may not provide live entertainment to patrons of the premises.

RESTAURANT KITCHEN FACILITIES: A separate area located in or on the premises of a

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restaurant, which area meets the following conditions or standards:

- a. Meets all requirements of other applicable city codes.
- b. Contains a stove and oven in working order.
- c. Provides refrigerated storage for food to be prepared and sold on the premises.
- d. Is staffed by a full-time cook or chef who must be on duty for the preparation of food during the hours that the restaurant is open to members of the general public until the hour of 11:00 p.m. each day said restaurant is open for business.
- e. Provides a full service menu with a variety of entrees to be available until 11:00 p.m. each day to members of the general public seeking food on the premises which lists all food items for sale together with the price of such items.
- f. Maintains a food inventory and condiments for use by the cook or chef in they preparation of food for sale to members of the general public.
- g. Provides pots, pans and utensils necessary for use by the cook or chef in the preparation of menu items for sale to members of the general public.

RESTAURANT WITH MIXED ALCOHOLIC BEVERAGE SALES AS INCIDENTAL USE: A place meeting the definition of “restaurant” as set forth in this Code and containing “Restaurant Kitchen Facilities” as defined in this Code that serves mixed alcoholic beverages to members of the general public as an incidental use to their primary business operation and which meets the following conditions:

- a. No outside or exterior entrance shall be provided for any area of the premises exclusively devoted to the preparation, sale and primary consumption of mixed alcoholic beverages.
- b. No outside sign, separate identification, or advertising of any type shall be allowed for the area within the restaurant devoted to the preparation, sale and primary consumption of mixed alcoholic beverages.
- c. No independent advertising of mixed alcoholic beverages for sale shall be allowed, however, it shall be permissible to advertise the sale of mixed alcoholic beverages with food offered for sale to the general public in any public advertisement.

(Ordinance 1984 adopted 11/6/08)

Franklin Legal Publishing, Inc.

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RESTORATION: The replication or reconstruction of a building's original architectural features, usually, with regard to historic landmarks.

ROOMING HOUSE: See "Boarding House or Rooming House."

SEATS: See Sec. 803, Measurements.

SIGN: Any object, device, display or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images, excluding religious symbols.

SPECIFIED ANATOMICAL AREAS: The following shall be considered specified anatomical areas:

1. Less than completely and opaquely covered:
 - a. human genitals, pubic region
 - b. buttock
 - c. female breast below a point immediately above the top of the areola; and
2. Human genitals in a discernibly erect state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: The following shall be considered specified sexual activities:

1. Human genitals in a state of sexual stimulation or arousal; or
2. Acts of human masturbation, sexual intercourse, sodomy, acts of bestiality;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STORY: See Sec. 803, Measurements.

STREET: Any vehicular thoroughfare or public driveway, other than an alley, that is more than 20 feet in width and that has been formally dedicated or is actually used by the public as a thoroughfare, usually, including sidewalks and drainage ways that line one or more of its sides.

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STRUCTURAL ALTERATION: Any change in a supporting member of a building, such as a bearing wall, column, beams or girders.

STRUCTURE: A combination of materials held or put together in a specific way to form a construction for use, occupancy or ornamentation, whether installed on, above, or below the surface of land or water. Note that all buildings are considered structures; however, not all structures are buildings. See also “Building.”

TANDEM PARKING: Parking two vehicles end to end in the same driveway.

USE: The purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

YARD: An open, unoccupied space on a lot on which a building is situated that is unobstructed from the ground to the sky (see also “Open Space”).

YARD, REQUIRED: A required yard is that portion of the open area on a lot extending open and unobstructed from the ground to the sky along a lot line and from that lot line for a depth (or width) specified by the regulations of the district in which the lot is located.

ZONING MAP: The Official Zoning Map, incorporated into this Zoning Ordinance and made a part hereof.

(Ordinance 1858 adopted 8/16/01)

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Endnotes

1 (Popup - Popup)

* **State law reference**—Planning and zoning generally, V.T.C.A., Local Government Code, chs. 211, 212, 371.