

CITY OF LONE OAK, TEXAS

ORDINANCE NO. 109-2007

ZONING ORDINANCE

AN ORDINANCE OF THE CITY OF LONE OAK, TEXAS, ADOPTING A COMPREHENSIVE ZONING PLAN AND ZONING MAP AND DIVIDING THE CITY INTO SEVERAL DISTRICTS; ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS AND CREATING ZONING DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; WITHIN SUCH DISTRICTS REGULATING SIZE AND LOCATIONS OF BUILDINGS; ESTABLISHING DENSITY, OPEN SPACE, SCREENING AND MINIMUM OFF-STREET PARKING REQUIREMENTS; REGULATING THE ERECTION, REPAIR AND ALTERATION OF ALL BUILDINGS AND STRUCTURES; PROVIDING FOR CONDITIONAL USE PERMITS FOR CERTAIN USES; RECOGNIZING NONCONFORMING USES AND STRUCTURES AND PROVIDING RULES FOR THE REGULATION THEREOF; CREATING PLANNING AND ZONING COMMISSION AND SETTING FORTH RULES FOR THEIR ORGANIZATION, JURISDICTION AND POWERS; CREATING A BOARD OF ADJUSTMENT AND SETTING FORTH RULES FOR THEIR ORGANIZATION, JURISDICTION AND POWERS; PROVIDING FOR CERTIFICATES OF OCCUPANCY AND COMPLIANCE; DEFINING CERTAIN TERMS; PROVIDING A METHOD OF AMENDMENT; PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE AND FOR INJUNCTIVE RELIEF TO PERSONS AFFECTED BY THE VIOLATION OF SAID ORDINANCE; PROVIDING A SAVING CLAUSE.

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SECTION AUTHORITY

This Ordinance is prepared under the authority of Section 1. Article 1011a, Vernon's Civil Statutes of the State of Texas, to promote health, safety, and morals, and for the protection and preservation of places and areas of historical and cultural importance and significance, or the general welfare of the community, and the legislative body is empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or purpose; and, in the case of designated places and areas of historic and cultural importance, to regulate and restrict the construction, alteration, reconstruction or razing of buildings and other structures.

SECTION 2: PURPOSE

These zoning regulations are made in accordance with the spirit of the community plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. These regulations are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

SECTION ADMINISTRATION, ENFORCEMENT AND FEES

A. ADMINISTRATION

The building official is hereby designated by the City Council as the administrative official to supervise the administration and enforcement of this Ordinance. The building official may be provided with the assistance of such other persons or, consultants as the City Council may direct.

If the administrative official finds that any te

provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures, removal of illegal buildings or structures or of illegal additions, alterations , or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

B. VIOLATION AND PENALTIES

The owner or general agent of a building or premises where a violation of any provision of the regulations of this Ordinance has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not more than two hundred dollars(\$200.00) for each and every day that such violation exists.

C. INTERPRETATION AND APPEALS

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the City Council and that such questions shall be presented to the zoning board of adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the zoning board of adjustment shall be to the courts as provided by law.

D. CITY COUNCIL DUTIES

It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in the Ordinance. Under this Ordinance the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law, and, of establishing a schedule of fees and charges as stated in

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subsection E here below.

E. FEES

The City Council shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for the administration, permits, certificates of occupancy, zoning charge requests, zoning board of adjustment appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in City Hall and may be altered or amended only by action of the City Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

SECTION 4: DEFINITION

For the purpose of this Ordinance, certain terms and words are defined and shall have the meaning ascribed in this Ordinance unless it is apparent from the context that different meanings are intended:

(1) Accessory Building- means a subordinate building that use of which is incidental to that of the main building on the same lot.

(2) Administrative Official is the officer or other designated authority charged with the administration and enforcement of this Ordinance, or his duly authorized representative.

(3) Alley - is a public minor way which is used primarily for secondary vehicular service access to the back or side of properties otherwise abutting on a street or highway.

(4) Apartment - is a room or suite of rooms in an apartment house arranged, designed or occupied as a dwelling unit residence by a single family, individual, or group of individuals living together as a single housekeeping unit.

(5) Apartment Hotel - is an apartment house which furnishes services for the use of tenants which are ordinarily furnished by hotels.

(6) Apartment House - is any building, or portion thereof, which is designed, built, rented, leased, let or hired out to be occupied as three (3) or more apartments or dwelling units or which is occupied as the home or residence of three (3) or more families living independently of each other and

maintaining separate cooking facilities.

(7) Automobile Repair, Major - is any area used for general repair, rebuilding or reconditioning engines, motor vehicles, trailers; collision services, including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.

(8) Automobile Repair, Minor is any area used for minor repair or replacement of parts, tires, tubes, batteries and minor motor services such as grease, oil, spark plug and filter changing or passenger cars and trucks but not including any operation named under "automobile repair, major" or any other similar use thereto.

(9) Automobile Sales Area - is an open area or lot used for the display or sale of automobiles, where no work is done.

(10) Automobile Service Station - is any building and/or premises where gasoline, oil, grease, batteries, tires and accessories may be supplied and dispensed at retail, including the servicing of vehicles designed or calculated to be performed by the customer. In addition, the following services may be rendered and sales made and other:

(a) Sale and service of spark plugs, batteries and distributors and distributor parts;

(b) Tire servicing and repair, but not recapping or reproofing;

(c) Replacement or adjustment of automobile accessories;

(d) Radiator cleaning and flushing; provision water, antifreeze and other additives;

(e) Washing and polishing and sale of automotive washing and polishing materials;

(f) Greasing and lubrication;

(g) Providing and repairing fuel pumps, oil pumps and lines;

(h) Servicing and repair of carburetors;

(I) Adjusting and repairing brakes;

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(j) Emergency wiring repairs;

(k) Motor adjustments not involving removal of head or crankcase;

(l) Trailer rental;

(m) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for customers, but only as accessory and incidental to the principal operation;

(n) Provision of road maps and other information material;

(o) Provision of rest-room facilities;

(p) Parking lot as an accessory use;

(q) Wrecker service; and

(r) User permissible at a service station do not include body work; transmission or brake overhauling; straightening of frames or body parts; steam cleaning, painting, welding, storage of automobiles not in operating condition nor the operation of a commercial garage as an accessory use.

(11) Automobile Wash or Laundry - See Car Wash.

(12) Basement - is a building story the floor line of which is below grade at any entrance or exit, but may have at least one-half (.5) of its height above the average level of the adjoining grade level.

(13) Block - means that property abutting on one side of a street and lying between the nearest intersecting or intercepting streets or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier to or gap in the continuity of development along such street.

(14) Boarding-Lodging House - means a dwelling wherein lodging or meals for three (3) or more persons, not members of the principal family therein, is provided for compensation, but not including a building in which ten (10) or more guest rooms are provided.

(15) Building is any structure built for the support,

shelter, or enclosure of persons, chattels, or movable property of any kind. When such structure is divided into separate parts by one (1) or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yards.

(16) Building Height - is the vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

(17) Building Line - a line parallel or approximately parallel to the street line at a specific distance therefore marking the minimum distance from the street line that a building may be erected.

(18) Building Official - See Administrative Official.

(19) Cemetery - is land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including columbarium's, crematories, mausoleums, if operated in connection with and within the boundaries of such cemetery.

(20) Certificate of Occupancy - is an official certificate issued by the building inspector which indicates conformance with or approved conditional waiver from the zoning regulations and authorized legal use of the premises for which it is issued.

(21) City Planner - Person designated by the City Council to provide technical advice on all planning related matters affecting the City.

(22) Clinic is a public or private, profit or nonprofit facility for the reception and treatment of outpatient persons physically or mentally ill, injured, handicapped or otherwise in need of physical or mental diagnosis, treatment, care or similar service.

(23) Club - is a nonprofit association of persons who are bona fide members, paying regular dues and are organized for common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

(24) Club, Private (Class I) is an establishment or

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enterprise wherein activities are carried on by or for a group or association of dues-paying members organized for some common purpose.

(25) Club Private (Class II) - is a club as defined above, except such establishments shall have been issued an alcoholic beverage permit by the Texas Alcoholic Beverage Commission.

(26) Community Center, Public - means building and grounds owned and operated by the governmental body for the social, recreational, health and welfare of the community served.

(27) Conditional use - means any building, structure, and use which complies with the applicable regulations and standards governing conditional uses of the zoning district in which such building, structure, and use is located and for which a permit is granted.

(28) Convalescent (rest) Home - is a home designed for the care of patients after they leave the hospital but before they are released from observation and treatment.

(29) Convenience Store See Neighborhood convenience Center.

(30) Court - means an open, unoccupied space on the same lot with a building and bounded on two (2) sides by such building, or the open space provided for access to a dwelling group.

(31) Display Sign - is a structure that is arranged, intended, designed or used as an advertisement, announcement or direction, including sign, billboard and advertising device of any kind.

(32) District means a portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. The term "R District" shall mean R1, R2, and R3 District; the term "I District" shall mean the I1 District; and the term "C District" shall mean any C-1 or C2 District.

(33) Dwelling Unit - means a room or group of rooms including cooking accommodations, occupied by one (1) family, and in which not more than two (2) persons, other than members of the family, are lodged or boarded for compensation at any one time.

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(34) Dwelling Unit, Single-Family, Attached - means a dwelling which is joined to another dwelling at one (1) or more sides by a party wall or abutting separate walls and is designed for occupancy by one (1) family and is on a separate lot delineated by front, rear and side lot lines.

(35) Dwelling Unit, Single-Family, Detached - means a building containing one (1) dwelling unit and located on a lot or separate building tract and having no physical connection to a building or any other lot.

(36) Dwelling Unit, Two-Family - means a building containing two (2) dwelling units.

(37) Dwelling Unit, Multiple - means a building containing three (3) or more dwelling units.

(38) Dwelling Group - means a group or row of dwellings, each containing one (1) or more dwelling units and all occupying one (1) lot or site, as defined herein, and having a court in common; including a bungalow court or apartment court, but not including an automobile court or automobile camp.

(39) Essential Services - means the erection, construction, alteration, maintenance by public utilities or by governmental departments or commissions of such underground or overhead gas, electrical, steam, or water transmission or distribution systems and structures, collection, communication, supply or disposal systems and structures, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, street lights, traffic signals, hydrants and other similar equipment, and accessories in connection therewith, but not including building or microwave radio relay structures, as are reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commission or as are required for protection of the public health, safety, or general welfare. For the purpose of this definition, the work "building" does not include "structures" for essential services.

(40) Family - means two (2) or more persons, related by blood, marriage, or adoption, occupying a dwelling unit as a single, nonprofit housekeeping unit, but not including a group occupying a hotel, boardinghouse, club, dormitory, fraternity or sorority house.

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(41) Farm - is an area of two (2) acres or more which is used for the growing of usual farm products such as vegetables, fruit, trees and grain and storage on the area as well as the raising thereon of the usual farm poultry and farm animals such as horses, cattle, sheep and swine, including dairy farms with necessary accessory uses and for treating and storing the produce; provided, however, the operation of such accessory shall be secondary to that of the normal activities; and provided further that it does not include the commercial feeding of offal or garbage to swine or other animals.

(42) Flood Plain - is the relatively flat low lands adjoining the channel of a river, stream or watercourse which has been or may be covered by flood water. Any land covered by the water of a one hundred (100) year frequency storm is considered in the flood plain.

(43) Frontage - is all the property abutting on one (1) side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, or village boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts. Where a lot abuts more than one (1) street, the Planning and Zoning Commission shall determine the frontage for purposes of this Ordinance.

(44) Front Yard - is an open, unoccupied space on a lot facing a street and extending across the front of the lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than the projection of the usual steps or eave overhang.

(45) Garage, Private - means an accessory building or portion of a main building on the same lot and used for the storage only of private passenger motor vehicles, not more than two (2) of which are owned by others than the occupants of the main building.

(46) Garage, Public - means a building or portion of a building, except that herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire; in which any sale of gasoline, oil, and accessories is only incidental to the principal use.

(47) Garage, Repair means a building or space for

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repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments of junkyards.

(48) Garden Apartment - is a multi-family dwelling unit with not more than two and one-half (2 1/2) stories. The building generally has private outdoor space, either on grade, or a private balcony.

(49) Grade - when used as a reference point in measuring height of building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.

(50) Green Belt - is a piece of land, normally relatively narrow in comparison to its length, reserved to provide for both passive and active recreation, to function as a corridor connecting park areas, to serve as a buffer between various land uses, or to provide for open space. It frequently utilizes flood plains along creeks and is often left in its natural state.

(51) Gross Floor Area - means the **living** area of a building, including the walls thereof, but excluding all porches, open breezeways and garages.

(52) Height of Building - means the vertical distance from the grade to the highest point of a coping of a flat roof or to the deck line of a mansard roof, or to a point midway between elevation of the eaves and elevation of the ridges, gable, hip and gambrel roof.

(53) Home Occupation - means any occupation customarily conducted for gain or support entirely within a dwelling by a member or members of a family while residing therein, and which is clearly incidental and secondary to the residential use of the premises and does not change the character thereof.

(54) Hospital - may be a public or private, profit or nonprofit institution for the reception and treatment of the physically or mentally handicapped, sick or injured, and shall be distinguished by its in-patient facilities. It may also be an institutional sanctuary for the reception of the aged, or for the physically or mentally ill, retarded, infirm or deficient. Permitted accessory uses shall include medical and psychiatric clinics, doctors offices, sale of medical and surgical specialties and supplies, crutches, artificial members and appliances, training in the use of

artificial services, pharmacies and similar uses; provided, however, that any such accessory use is so use-wide related to the principal use as to be in fact an integral part of the total purpose and is incorporated within the same building or building complex; and provided further, that the floor area occupied by all accessory uses does not exceed one-third (1/3) of the total floor area. Whether or not a questionable use is "similar" or an "integral" part of the total purpose shall be subject to determination by the board of adjustment. Hospital related x-ray and laboratory facilities shall not be considered accessory uses in computation or area occupancy.

(55) Hotel - means a building or portion thereof in which ten (10) or more guest rooms are provided for occupancy for compensation by transient guests.

(56) Industry - is the storage, repair, manufacture, preparation or treatment of any article, substance or commodity.

(57) Junkyard or Salvage Yard - means any area used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery, or parts thereof.

(58) Kennel - is any structure or premises on which more than three (3) dogs over six (6) months of age and seven (7) dogs under six (6) months of age are kept.

(59) Land Use Plan - is the long-range plan for the desirable use of land in the City of Lone Oak as officially adopted and as amended from time-to-time by the City Council; the purpose of such plan being, among other things, to serve as a guide in the zoning and progressive changes in the zoning of land to meet the changing needs, in the subdividing and use of undeveloped land, and in the acquisition of rights-of-way or sites for public purposes such as streets, parks, schools and public buildings.

(60) Loading Space - is an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

(61) Lodging house - means the same as boardinghouse.

(62) Lot - means the entire parcel of land occupied or to be occupied by a main building and its accessory buildings, or by a group such as a dwelling group or automobile court and their accessory buildings, including the yards and open spaces required therefore this title and other applicable law.

(63) Lot, Corner - means a lot abutting to two (2) intercepting or intersecting streets where the interior angle of intersection or interception does not exceed one hundred thirty-five (135) degrees.

(64) Lot Coverage - the percentage of the total area of a lot occupied by the base (first story or floor) of building located on the lot.

(65) Lot, Interior - means a lot other than a corner lot.

(66) Lot, Lines means the property lines bound the lot as defined herein.

(67) Lot, Through - means a lot having its front and rear lines on different streets, or having its front or rear line on a street and the other line on a river, lake, creek or other permanent body of water.

(68) Lot, Depth means the average depth from the front line of the lot to the rear line of the lot.

(69) Lot, Width - means the width measured at a distance back from the front line equal to the minimum depth required for a front yard.

(70) Lot of Record - is a lot which is part of a subdivision, the plat of which has been recorded in the Office of the County Clerk of Hunt County, or a parcel of land, the deed for which was recorded in the Office of the County Clerk, Hunt County, prior to January 1, 1987.

(71) Main Building - means a building in which is conducted the principal use of the lot on which it situated.

(72) Manufactured Home, HUD Code - means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is

320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. References in this Ordinance to "mobile home(s)" shall be taken to be references to HUD Code manufactured home(s).

(73) Mobile Home - See "Manufactured Home, HUD Code.

(74) Mobile Home Park or Subdivision - means a parcel of land which is owned by an individual, a firm, trust, partnership, public or private association or corporation, and has been developed for rental or sale of lots to persons with HUD Code manufactured homes (mobile homes).

(75) Mobile Home Lot - means that part of a parcel of land (mobile home site) in a mobile home park which has been reserved for the placement of one (1) HUD Code manufactured home (mobile home).

(79) Nonconformity Use - means use of a building or land which existed previously that does not conform to the present regulations as to use for the district in which it is situated.

(80) Nursing Home - is a home where ill or elderly people are provided with lodging and meals with or without nursing care.

(81) Open Space - is that part of any lot or tract that is used for recreational purposes, both passive and active, but not including areas used for parking or maneuvering of automobiles, or drives or approaches to and from parking areas. Flood plains, or 50 percent of any standing surface water, may be considered as open space, provided such open space is contiguous and part of the platted lot and is maintained and utilized in the same manner and to the same degree as all other open space areas as designated on the site plan as filed with the building permit application.

(82) Parking Area, Private - means a permanently surfaced open area for the same uses as a private garage.

(83) Parking Area, Public - means a predominantly surfaced open area, other than street, or other public way, used for parking of automobiles and available to the public for a fee, free, or as an accommodation for clients or customers.

(84) Parking Space - means a permanently surfaced area not less than one hundred eighty (180) square feet (measured approximately nine (9) feet by twenty (20) feet) either within a structure or in the open, not on public right-of-way, exclusive of driveways or access drives, for the parking of one (1) vehicle.

(85) Planned Development - shall mean land under unified control, planned and developed as a whole; in a single development operation or a definitely programmed series of development operations, including all lands and buildings; for principal and accessory structures and uses substantially related to the character of the district; according to comprehensive and detailed plans which include not only streets, utilities, and lots or building sites, but also site plans, floor plans, and elevations of all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings; and with a program for provision, operation and maintenance of such areas, improvements, facilities, and services as will be for common use by some or all of the occupants of the district, but will not be provided, operated, or maintained at general public expense.

Planned development is both a concept and a zoning in classification which may include, addition to planned unit development, commercial, shopping center, and industrial uses or combination thereof, which may be intended to serve areas within the district and areas without the district.

(86) Private Garage - is an accessory building housing vehicles owned and used by the occupant of the main building; if occupied by vehicles of others; it is a storage space.

(87) Rear Yard - means the required rear yard is an open space unoccupied and unobstructed except for accessory uses extending across the rear of a lot from one side lot line to the other side lot line, the depth of which is dependent upon the zoning district in which the lot is located.

(88) Recreational Vehicle - is a vehicular, portable structure designed to be transported over the highways and containing living or sleeping accommodations, such structure being designed and actually used as a temporary dwelling during travel for recreation and pleasure purposes, and not exceeding eight (8) feet in width and not exceeding twenty-

two (22) feet in length.

(89) Rooming House - is a dwelling occupied by a resident family or resident occupant and three (3) or more rent-paying persons.

(90) School, Business or Trade - means a business organized to operate for a profit and offering instruction and training in service or art such as a secretarial school, barber college, beauty school or commercial art school.

(91) School, Elementary and High means an institution of learning which offers instruction in several branches of learning and study required to be taught in public school. High schools include junior and senior grades.

(92) Screening Element (Device) - or suitably screened as herein referred, shall mean any of the following:

(a) Any solid material constructed of brick, masonry, or of a concrete or metal frame, or wood or base which supports a permanent type material, the vertical surface of which is not more than 30 percent open; or

(b) Any dense evergreen hedge or plant material suitable for providing a visual barrier, for which such material shall be maintained in a healthy growing condition.

© Landscaped earth berms may, when appropriate in soale, be considered and used as a screening element in lieu of a fence, wall, hedge, or other dense planting material.

(93) Service Stations - See Automobile Service Station.

(94) Shopping Center is an area consisting of one (1) acre or more arranged according to a site plan to be submitted to and to be approved by the Planning and Zoning Commission and the City Council on which is indicated the amount of land to be devoted to the shopping center, the detailed arrangement of various buildings, parking area, streets and type of zoning desired. The installation of all utilities, drainage structure, paving of streets, parking area, alley and installation of sidewalks shall be in accordance with the City of Lone Oak specifications for each type of improvement.

(95) Story - means that portion of a building included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it. A basement shall be counted

as a story for the purposes of height regulations, if the vertical distance from grade to the ceiling is more than seven (7) feet.

(96) Story, Half - means the topmost story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor or such story.

(97) Street - means of public or private thoroughfare which affords the principal means of access to abutting property.

(98) Structural Alteration - means any change, addition, or modification in construction in the supporting members of a building, such as exterior walls, bearing walls, beams, columns, foundations, girders, joists, roof joists, rafters, or trusses.

(99) Towers (Radio, Television or Microwave) - means structures supporting antennae for transmitting or receiving any of the radio spectrum, but excluding non-commercial antennae installations for home use of radio.

(100) Tourist Home - is a building or part thereof, other than hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in home for compensation, mainly for transients.

(101) Trailer including automobile trailer and trailer coach - is any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade, or occupation or use as a selling, or advertising device, or use for storage or conveyance of tools, equipment, and machinery and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

(102) Trailer Park - means any lot or part thereof or any parcel of land which is used or offered as a location for one (1) or more trailers.

(103) Thoroughfare - means an officially designated federal or state numbered highway or county or other road or street designated as a primary thoroughfare on the official thoroughfare plan of the City.

(104) Thoroughfare Plan - means the official thoroughfare plan of the City adopted by the City Council establishing

the location and official right-of-way width of principal highways and streets in the city, together with all amendments thereto subsequently adopted.

(105) Townhouse or Row House - means three (3) or more dwelling units attached by common vertical walls.

(106) Use - means the purpose for which land or a building or structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.

(107) Use, Accessory - means a subordinate use on the same lot with the principal use and incidental and accessory thereto.

(108) Used Car Lot - is a lot or tract of land used for the sale or display for sale of two (2) or more previously owned motor vehicles, including but not limited to passenger automobiles, motorcycles, trucks, dune buggies and other types of motor vehicles designed for use upon the public roads or for pleasure off public roads, but not including farm implements, mobile homes, campers and recreational, vehicles, or construction equipment such as cranes, bulldozers and related equipment and trucks over one ton capacity.

(109) Vehicle Service Center - means a center for the repair and maintenance of, or diagnosis upon, motor vehicles, including tire installation, but not including the sale of gasoline, body work, or spray painting.

(110) Yard - means an open space, other than a court, on the same lot with a building.

(111) Yard, Front - means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the front line of the lot and the nearest portion of the main building, including an enclosed or covered porch, provided that the front yard depth shall be measured from the future street line for a street on which a lot fronts, when such line is shown on the official map or is otherwise established.

(112) Yard, Rear - means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear line of the lot and the main building.

(113) Yard, Side means a yard between the side line

the lot and the main building extending from the front yard to the rear yard and having a width equal to the shortest distance between said line and the main building.

(114) Zoning Map - means the official zoning map of the City together with all amendments subsequently adopted.

Section GENERAL PROVISIONS

A. ESTABLISHMENT OF DISTRICTS

For the purpose of this Ordinance, the City of Lone Oak, Texas, is hereby divided into eight (8) districts as follows:

- R1 Single-Family Residential low Density District
- R2 - Single-Family Residential Medium Density District
- R3 - Multiple-Family Residential High Density District
- C1 - Retail District
- C2 - General Commercial District
- Ii - Light Industrial District
- MH - Mobile Home Park District
- PD - Planned Development District

B. FLOOD PLAIN DESIGNATION OVERLAY

Notwithstanding the foregoing, there shall be a district known as a "FP" flood plain district which may be coextensive with or overlap any or all of the foregoing districts or portions thereof and any tract of land or portion thereof may, at the same time, be zoned for the uses in one of the foregoing districts and be zoned "FP" flood plains.

Where a tract of land or portion thereof is zoned for the uses of one of the foregoing districts and is also zoned 'FP' flood plain, the restrictions contained in the 'FP' flood plain district shall be applicable to said tract or portion thereof and shall take precedence over the other zoning districts.

C. OFFICIAL ZONING MAP

The city is hereby divided into zones, or districts as shown on the official zoning map, which together with all explanatory matter thereon, is in existence and is hereby adopted and declared to be apart of this ordinance.

D. MAP CERTIFIED

The official zoning map shall be identified by the signature of the mayor, attested by the city clerk and bearing the seal of the city under the following words:

"This is to certify that this is the official zoning map

adopted as part of Ordinance No. ____ of the City of Lone Oak.

E. LOCATION OF MAP

The official zoning map shall be in the custody of and shall remain on file in the office of the city secretary.

F. PUBLIC INSPECTION OF MAP

The official zoning map shall be available for public inspection for all matters which are of public record.

G. AMENDMENT OF OFFICIAL ZONING MAP

When changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council. No amendment to this chapter. Which involves matters portrayed on the official zoning map shall become effective until after councils approval and after such change has been made to said map.

H. OFFICIAL ZONING MAP REPLACEMENT

The city council may by ordinance adopt a new official zoning map should the original reproducible tracing of the official zoning map be damaged, destroyed, lost or become ambiguous because of the nature or number of changes and additions. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the city under the following words:

"This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as a part of the Zoning Ordinance of the City of Lone Oak, Texas.

I. INTERPRETATION

(1) When the district boundaries are either roads or streets, unless otherwise shown, and where the designation of the district map indicates that the various districts are bounded by a road or street line, the center line such as streets shall be construed to be in the district boundary

line.

(2) Where the district boundaries are not otherwise indicated and where property has been subdivided into lots and blocks, the subdivision boundaries shall be construed to be the boundary line.

(3) Where the district boundaries are not otherwise indicated for unsubsidized property, the district boundaries are property lines or section lines, or quarter section lines.

(4) Where district boundaries are disputed or not otherwise clearly designated, or where the physical or structural features are at variance with the official zoning map or other circumstances not covered in this section, the board of adjustment shall interpret the district boundaries.

J. Rules for words and phrases

For the purpose of this Ordinance words used in the present tense include the future tense; words in the singular number include the plural number and words in the plural number include the singular number; the word "shall" is mandatory, not directory ; the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, foundation, company, or corporation as well as an individual : the word "used" includes designed and intended or arranged to be used; the word "building" includes the word "structure" the word "lot" includes "building lot" or parcel. Wherever this ordinance imposes a greater restriction that imposed by this Ordinance shall govern.

K. COMPLAINE WITH REGULATIONS

The regulations set by the Ordinance within each district shall be medium regulations and shall apply uniformly to each class and kind of structure or land, except as hereinafter provided.

(1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, repaired moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

(2) No building or other structure shall hereafter be erected or altered to exceed the height or bulk, to

accommodate or house a greater number of families, or to occupy a greater percentage of lot area than that specified for the district in which it is located.

(3) No building or other structure shall have narrower or small rear yards, front yards side yards, or other open spaces than herein required or in any other manner contrary to the provisions of this Ordinance.

(4) No part of a yard, other open space, off-street parking or loading space required about or in connection with any building for the purpose of complying with this selection shall be included as a part of the yard, open space, off street, parking, or loading space similarly required for any other building.

L. STRUCTURE TO HAVE ACCESS

Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structure shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and requiring off street parking.

M. VISIBILITY AT INTERSECTIONS

On a corner lot, nothing shall be erected , placed, planted, or allowed to grow in such a manner materially to interfere with traffic visibility across the corner. This visibility area shall be a triangle measured twenty (20) feet from the point of right-of-way line intersection. All objects on the ground in said triangle should not exceed two and a one-half(2 1/2) feet in height and vegetation should not drop to less that ten (10) feet from the ground.

N. FENCES, WALLS, AND HEDGES

Except as provided by other sections of this chapter, a fence, wall, or hedge may be erected, placed, maintained, or grown along a lot line or residentially-zoned property to a height not exceeding eight (8) feet above the ground level. The board of adjustment may grant a variance from this subsection after a public hearing if it is found that such action is within the general purpose and intent of this chapter.

O. HEIGHT AND AREA EXCEPTIONS

The regulations contained herein relating to the height

building or structure and the size of yards and other open spaces shall be subject to the following exceptions.

(1) Churches, schools, and other public and quasi- public buildings may be erected to a height not exceeding sixty (60) feet or five (5) stories, provided the front, side, and rear yards required in the district in which such a building or structure is to be located are each increased at least one (1) foot for each foot of additional height above the height otherwise established for the district in which such building or structure is to be located.

(2) Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, microwaves. Radio relay or broadcasting towers, masts or aerials and necessary mechanical appurtenances are hereby excepted from the height regulations of this chapter.

(3) When a lot has an area less than the minimum number of square feet per family, as required for the district in which it is located, and was of record as such at the time of the passage of this Ordinance, such lot may be occupied by one (1) family subject to the setback, rear yard, and side yard regulations for the district in which it is located.

P. HOME OCCUPATIONS

The purpose of the home occupation provisions is to permit the conduct of home occupations which are compatible with the neighborhoods in which they are located Home occupations are a permitted accessory use in all residential districts and are subject to the requirements of the district in which the use is located, in addition to the following:

(1) Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation.

(2) The home occupation shall be conducted only within the enclosed area of the dwelling unit or the garage

(3) No more than 25 percent (25%) of the area of (1) story of the principal building shall be devoted to the home occupation.

(4) There shall be no exterior alternations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district.

(5) No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.

(6) No use shall create smoke, glares, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.

(7) The home occupation shall not create any increase in vehicular flow or parking by more than two (2) additional vehicles at a time and shall not create greater pedestrian traffic than normal for the district.

(8) No home occupation shall cause an increase in the use of any (1) or more utilities beyond the average of the residents in the neighborhood.

(9) No more than one (1) advertising sign with a maximum of four (4) square feet of a non-illuminating nature may be placed on the main building.

(10) Examples of home occupation:

The following are examples of uses in which can often be conducted within the limits of this section. Uses listed in this paragraph do not automatically qualify as a home occupation nor does this listing limit the uses which may qualify as home occupations: handicraft, dressmaker, preserving, accountant, artist, author, consultant, individual tutoring, millinery, and realtor.

(11) Prohibited uses:

The following uses have a tendency to violate the provisions for home occupations and thereby impair the character of residential areas. Therefore, the uses specified shall not be permitted as accessory uses in residential districts: auto repairs, painting of vehicles or boats, private schools, photo studios, dance instruction, and television repair.

(12) Interpretation of home occupation:

The board of adjustment shall interpret the provisions of this selection to determine the validity of a home occupation. A use considered not within the scope of the

home occupation provisions shall be subject to the provisions of the commercial zones of this chapter.

SECTION 6: CONDITIONAL USES

After public hearing and proper notice and after recommendation by the planning and zoning Commission, the City Council may authorize the issuance of conditional use permits when the council finds all of the following conditions present:

(1) That the establishment, maintenance, or operation of the conditional use will not be materially detrimental to or endanger the public health, safety, morals, or general welfare.

(2) That the uses, values and enjoyment of other property in the neighborhood for the purpose already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment maintenance, or operation of the condition use:

(3) That the establishment of the conditional use will not significantly impede the normal and orderly development and improvement of the surrounding property for use permitted in the district:

(4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided:

(5) That adequate measure have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and

(6) That the conditional use shall conform to all applicable yard area regulations of the district in which it is located.

Prior to the granting of any conditional use, the City Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary to protect the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in subsections (1) through (6) of Section 6. In all cases in which conditional uses are granted, the council shall require such evidence and guarantees as it may deem necessary as proof that the

conditions stipulated in connection therewith are being and will be complied with.

No application for a conditional use which has been denied wholly or in part by the City Council shall be resubmitted for a period of six (6) months from the date of said denial.

SECTION 7: ANNEXED TERRITORY

A. ANNEXED TERRITORY TO BE ZONED R1

All territory hereafter annexed to the City of Lone Oak shall be temporarily classified as Single-Family 1 (R1) District until permanent zoning is established by the City Council, except as provided in Section 7.0 below. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations.

REGULATIONS FOR TEMPORARY R1 DISTRICTS

an area temporarily classified as R :

(1) No person shall erect, construct or add to any building or structure or cause same to be done in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the building official or City Council as required herein.

(2) No permit for the construction of a building or use of land shall be issued other than a permit which will allow construction of a building permitted in R1 district(s) unless and until such territory has been classified in a zoning district other than a Single-Family 1 (R1) District.

(3) An application for a permit for any use other than that specified above shall be made to the zoning administrative official and by him referred to the Planning and Zoning Commission for consideration and recommendation to the City Council. The Planning and Zoning Commission in making its recommendation shall take into consideration the appropriate land use for the area and the overall plan for the city. The City Council, after receiving and reviewing the recommendations of the Planning and Commission may, by majority vote, authorize the issuance of a building permit or certificate of occupancy or may disapprove the application as their findings may indicate appropriate in the public interest.

C. CONCURRENT REZONING AND ANNEXATION

Application(s) for permanent zoning of a newly annexed area may be considered by the city at the same time as the area is being considered for annexation although annexation procedures must be completed prior to any final zoning actions by the city council.

SECTION CLASSIFIED OF NEW AND UNLISTED USES

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

(1) The zoning administrative official shall refer the question of ant new or unlisted use to the Planning and Zoning Commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity , sales, processing, type of product, storage, and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

(2) The Planning and Zoning Commission shall consider the nature and described performance of the proposed use and compatibility with the uses permitted in the various districts and after public hearing determine the zoning district or districts within which such use should be permitted.

(3) The Planning and Zoning Commission shall transmit its findings and recommendations to the city council as to the classification proposed for ant new or unlisted use. The City Council may approve the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate after giving consideration to the facts and recommendation.

SECTION RI SINGLE FAMILY RESIDENTIAL - LOW DENSITY

A. PURPOSE

The RI District is established to allow for larger lots with one (1) family dwelling structure per lot. This district is intended to provide for residential lands to accommodate more rural setting and accessory yard uses. These lots should be generally located in groups, blocks or areas where the accessory uses of the land do not either materially or in an obnoxious manner influence neighboring properties. The RI District is also a temporary classification for newly annexed land.

B. USES PERMITTED

The following uses shall be permitted:

- (1) One family dwellings, detached,
- (2) Agriculture uses, but not including commercial dairies, commercial dog kennels, commercial hatcheries, and commercial mink, fox, or other forbearing animal farms and rat farms, Buildings and structure used for sheltering or feeding livestock shall be located not less than twenty five (25) feet from any adjoining lot in any residential district.
- (3) Parks and Playgrounds.
- (4) Accessory uses, including but not limited to the following:
 - (a) Athletics field and play-fields, non-commercial including stadiums or grandstands.
 - (b) Dwelling units and lodging rooms in detached buildings for persons regularly employed on the premises and employees' immediate families.

C. CONDITIONAL USES

The following conditional use may be allowed in a district subject to the provisions of Section 6 and the distances specified in this subsection shall prevail unless they are modified by the board of adjustment in accordance with the provisions of Section 6.

- (1) Public utility and public service uses as follows:
 - (a) Electric substations.

(b) Gas odorizing stations and gate stations.

Radio and television towers.

(d) Railroad right-Of-way, but not including railroad yards and shops, freight and service buildings, or right-of-way for switch, lead, spur, or tem tracks.

(e) Telephone exchanges and transmission equipment buildings.

(f) Privately owned water pumping stations and water reservoirs.

(2) Outdoor recreational premises, clubs and grounds for swimming, tennis, boating, horse riding, skiing, and other sports. Accessory clubhouses and maintenance buildings.

(3) Churches, parish houses, and convents.

(4) Public and private schools.

(5) Day care centers.

D. AREA: YARD, HEIGHT; AND LOT COVERAGE REQUIREMENTS.

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear) maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of Section 18, "Schedule of District Regulations" and other applicable provisions of Section 19, "Supplementary District Regulations."

E. AUTOMOBILE PARKING SPACE REGULATIONS For

automobile parking requirements, see Section 21.

Section 10: R2 SINGLE-FAMILY RESIDENTIAL MEDIUM DENSITY

A. PURPOSE

This district is the predominant single-family housing district in the city. Unless otherwise specified or requested, all residentially suited areas presently undeveloped should be zoned in this district. Development in the R2 district is limited primarily to single-family

dwellings and certain community and recreational facilities to serve residents and the district.

B. USES PERMITTED

The following uses shall be permitted:

- (1) One-family dwellings, detached.
- (2) Parks and playgrounds.
- (3) Athletic fields and play-fields, non-commercial, including stadiums and grandstands.

C. CONDITIONAL USES

In addition to all conditional uses allowed in the R1 District, the following conditional uses may be allowed in the R2 District, subject to the provisions of Section 6, and the distances specified in this subsection shall prevail unless they are modified by the board of adjustment in accordance with the provisions of Section 6.

- (1) Public utility and public services uses as follows:
 - (a) Electric substations.
 - (b) Gas odorizing stations and gate stations.
 - (c) Railroad right-of-way, but not including railroad yards and shops, freight and service buildings, or right-of-way for switch, lead, spur or team tracks.
 - (d) Telephone exchanges and telephone transmission equipment buildings.
 - (e) Privately owned water pumping stations and water reservoirs.
- (2) College and universities, provided that the zoning lot shall be not less than forty (40) acres.
- (3) Churches, parish houses, convents.
- (4) Public and private schools.

D. AREA; YARD; HEIGHT; AND LOT COVERAGE REQUIREMENTS.

The requirements regulating the minimum lot size, minimum yard sizes (front), side, and rear), maximum building height

(stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of Section 18, "Schedule of District Regulations" and other applicable provisions of Section 19 "Supplementary District Regulations."

E. AUTOMOBILE PARKING SPACE REGULATIONS.

For parking space requirements, see Section 21.

SECTION 11: R3 -MULTIPLE FAMILY RESIDENTIAL HIGH DENSITY

A. PURPOSE

The R3 District is established to meet the needs for higher density residential areas where such development is in concert with area aesthetics, is environmentally sound, is compatible to the neighborhood, and promotes the character of the community.

B. USES PERMITTED

In addition to those uses allowed in the R2 District, the following uses shall be permitted:

(1) Multiple family dwellings and clustered multiple family dwellings, which clustered multiple family dwelling have a site plan approved by the Planning and Zoning Commission for the particular project in which they are proposed;

(2) Townhouses

(3) Two-family dwelling units;

(4) Public and private schools;

(5) Churches, parish houses, convents;

(6) Country clubs, tennis courts, and such additional recreational uses as are for private recreation purposes or private club recreational purposes. Clubhouses and maintenance buildings shall be located not less than two hundred (200) feet from any adjacent lot in an adjoining residence district;

(7) Parks and playgrounds;

(8) Accessory uses, including but not limited to the following:

(a) Athletic field and play-fields, non-commercial including stadiums and grandstands;

(b) Temporary buildings for storage of building materials and equipment and construction purposes, when on the same or adjoining lot as the principal use, for a period not to exceed the duration of such construction;

(9) Day care centers.

C. CONDITIONAL USES

The following conditional uses may be allowed e R3 District subject to the provisions of Section 6:

(1) Any uses allowed as a conditional use in the R2 District unless permitted above.

D. AREA; YARD; HEIGHT; AND LOT COVERAGE REQUIREMENTS

The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), and maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of Section 18, "Schedule of District Regulations," and other applicable provisions of Section 19, "Supplementary District Regulations."

E. AUTOMOBILE PARKING SPACE REGULATIONS For

parking space regulations, see Section 21.

SECTION 12: C1 RETAIL DISTRICT

A. PURPOSE

The C1 District is established to accommodate the shopping needs of residents in adjacent residential areas. This district is meant to be used in limited areas where retail or service establishments deal directly with customers. Businesses in the C1 District should be oriented to satisfying the daily and frequent shopping needs of the neighborhood consumer.

B. GENERALLY

(1) Business uses above the ground floor are permitted on any floor above the ground floor except in those buildings where dwelling units are established.

(2) All business establishments shall be retail or service establishments which deal directly with the customers. All goods produced on the premises shall be sold to consumers only on the premises where produced.

(3) All business, servicing or processing, except for off street parking, off-street loading, temporary display of merchandise such as garden, lawn, and recreational supplies and equipment for sale to the public, and automobile service station operation, shall be conducted within completely enclosed buildings.

(4) Business establishments are restricted to a maximum gross floor area of five thousand (5,000) square feet on the ground floor, exclusive of any floor area devoted to off-street parking or loading.

(5) Parking of trucks as an accessory use, when used in the conduct of a permitted business listed in this section, shall be limited to vehicles of not over one and one-half (1 ;.1) ton capacity when located within one hundred-fifty (150) feet of a residence district boundary line.

C. USES PERMITTED

The following uses shall be permitted:

(1) Existing residential dwelling units and lodging used as such on the effective date of this Ordinance.

(2) Neighborhood retail sales and service such as:

(a) Art shops, artist's and professional studios, beauty parlors, clothing stores, drug stores, grocery stores, markets or supermarkets, hardware stores, household appliance and fixture repair shops, post office stations, self-service laundries.

(b) Shops for the following and similar occupations; barber, cabinet maker, electrician, jeweler, watchmaker, locksmith, optician, painter, plumber, shoemaker, tailor:

(3) Business and professional offices:

(4) Professional offices such as doctors, dentists, attorneys, chiropractors, psychologists, insurance, real estate, architects, engineers, accountants, building contractors, and other similar uses.

(5) Clinics, both medical and dental that could include pharmaceutical sales provided that such pharmacies are complementary to the primary clinic use of the structure. Other similar medical or dental, diagnostic or therapeutic facilities (except residences) are permitted.

(6) Bakeries, cafes, confectionaries, ice cream shops, and restaurants which prepare foodstuffs for on-site retail sale only;

(7) Automobile parking lots and structures;

(8) Other neighborhood retail sales or service uses which are similar in character to those enumerated above and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment or value of any property, but not including any use permitted in a C2, or I1 District;

(9) Churches;

(10) Public utility and public service uses as follows:

(a) Electric substations,

(b) Gas odorizing stations, and gate stations,

(c) Radio and television towers,

(d) Railroad right-of-way, but not including railroad yards and shops, freight and service buildings, or rights-of-way for switch, lead, spur or team tracks.

(e) Telephone exchanges and transmission equipment buildings.

(f) Privately owned water pumping stations and water reservoir.

D. CONDITIONAL USES

The following conditional uses may be allowed in the C1 District subject to the provisions of Section 6.

(1) Hotels and motels, provided that the zoning lot shall be not less than on (1) acre;

(2) Dwelling units, restricted to a total gross floor area of five thousand (5,000) square feet above the ground floor of a commercial building.

(3) Other uses as may be permitted by the board adjustment under Section 24.

(4) Residential uses.

E. YARD; HEIGHT; AND LOT COVERAGE REQUIREMENTS

The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of Section 12, "Schedule of District Regulations," and other applicable provisions of Section 19, "Supplementary District Regulations."

F. AUTOMOBILE PARKING SPACE REGULATIONS For

parking space regulations, see Section 2

G. SCREENING

In the C1 District, wherever a C1 use abuts the R1, R2, and R3, a wall or fence of not less than six (6) feet in height is required.

SECTION 13: C2 - GENERAL COMMERCIAL DISTRICT

A. PURPOSE

The C2 District is established to accommodate those uses that are of city-wide and regional significance. Within this district are permitted retail, services, and office uses characteristic of retailing and wholesaling markets. This district is intended to accommodate commercial activities that cannot be accommodated in the C1 Retail Commercial District.

B. GENERALLY

(1) All business, servicing or processing, except for off-street parking, off-street loading and automobile service

station operation, shall be conducted within completely enclosed buildings except as otherwise provided.

(2) No use hereunder shall be permitted if said use entails storage or display of items for sale not enclosed by a building except for incidental display of sale or seasonal retail items and such incidental display shall be permitted only if it occupies no more than five percent (5%) of the total lot area.

(3) Accessory off-street parking is required for C2 districts as provided in Section 221.

C. USES PERMITTED

The following type of uses shall be permitted.

- (1) Any use permitted in the C1 District;
- (2) Existing residential dwelling units and lodging uses as such on the effective date of this Ordinance;
- (3) Bakery Shops;
- (4) Candy shops and candy making;
- (5) Cleaning and dyeing facilities;
- (6) Commercial recreation uses, including bowling alleys, arcades, golf driving ranges, gymnasiums, miniature golf courses, pool halls, swimming pools and skating rinks;
- (7) Creameries and ice cream plants;
- (8) Hotels, apartment hotels and motels;
- (9) Ice plants, cold - storage plants;
- (10) Laundries, including automobile washes;
- (11) Mortuaries;
- (12) Pumping stations;
- (13) Radio, AM or FM or television broadcasting stations or transmitters and microwave radio relay structures;
- (14) Printer;
- (15) Repair and storage garages;
- (16) Telephone exchanges;
- (17) Theaters, lodges, assembly halls, auditoriums;
- (18) Tire repair shops;
- (19) Auto body operations;
- (20) Spray-painting operations;
- (21) Antique shops;
- (22) Art galleries and museums;
- (23) Auction rooms;
- (24) Automobile accessory stores;
- (25) Automobile service stations, including the incidental storage of rental trucks and trailers, except that trucks and trailers for storage of rental may not be parked within the public right-of-way;

- (26) Banks and financial institutions;
- (27) Blueprinting and Photostatting establishments;
- (28) Business machine sales and service establishments;
- (29) Camera and photographic supply stores;
- (30) Carpet and rug stores;
- (31) Catering establishments;
- (32) China and glassware stores;
- (33) Clothing and costume rental stores;
- (34) Coin and philatelic stores;
- (35) Department stores;
- (36) Dry goods stores;
- (37) Employment agencies;
- (38) Exterminating shops;
- (39) Floor covering;
- (40) Florist shops and conservatories;
- (41) Fraternal, philanthropic and eleemosynary uses;
- (42) Furniture stores;
- (43) Furrier shops, including the incidental storage and conditioning of furs;
- (44) Hospitals and sanitariums;
- (45) Household appliance stores, including radio and television sales and service;
- (46) Interior decorating shops, including upholstering and making of draperies, slipcovers, and other similar articles when conducted as part of the retail operation and secondary to the principal use;
- (47) Laboratories for research development and testing,
- (48) Leather goods and luggage stores;
- (49) Loan offices;
- (50) Locksmith shops;
- (51) Meat markets, including sale of meat and meat products to restaurants, hotels, clubs and other similar establishments when such sale is conducted as part of the retail business sales and repair;
- (52) Musical instruments sales and repair;
- (53) Office supply stores;
- (54) Optical sales;
- (55) Orthopedic and medical appliance and supply stores;
- (56) Pant and wallpaper stores;
- (57) Phonograph, record, sound equipment and sheet music stores;
- (58) Physical culture and health services and reducing salons;
- (59) Picture framing;
- (60) Restaurants;
- (61) Schools for music, dance, business or trade;
- (62) Sewing machine sales and service, household appliances only;
- (63) Sporting goods stores;

- (64) Tailor shops;
- (65) Taxidermists;
- (66) Telegraph offices;
- (67) Theaters, indoor;
- (68) Ticket agencies, amusement;
- (69) Tobacco shops;
- (70) Travel bureaus and transportation ticket offices;
- (71) Upholstery shops;
- (72) Water softener sales and services;
- (73) Vehicle service centers;
- (74) Other retail sales and service uses which are similar in character to those enumerated in this subsection, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment or value of any not impair the use, enjoyment of value of any property, but not including any of the following uses;
 - (a) Any use permitted only in an I1 District.

(b) Manufacturing and processing other than an accessory use customarily incidental to permitted commercial sales and service uses.

(c) Any use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or which may impose hazard to health or property.

D. CONDITIONAL USES

Conditional uses in the C2 District shall include:

(1) Any uses not specifically enumerated in Section 12 that can be considered commercial in character.

(2) Machinery and equipment sales and service establishments for equipment under one and one-half (1 ;1) tons gross weight.

E. AREA; YARD; HEIGHT; AND LOT COVERAGE REQUIREMENTS

The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of Section 18, "Schedule of District Regulations," and other applicable provisions of Section 19, "Supplementary District Regulations."

F. AUTOMOBILE PARKING SPACE REGULATIONS

For parking space regulation, see Section 21.

SCREENING

In the C1 District, whenever a C2 use abuts an R1, R2, and R3 use, a wall or fence of not less than six (6) feet in height is required. Natural screening may be substituted for a wall or fence upon approval of the City Council. Walls must be of masonry construction. Fences must be solid and of metal or wooden material construction.

SECTION 14: I1 LIGHT INDUSTRIAL

A. STATEMENT OF PURPOSE

The I1 District is established to accommodate those uses which are of a non-nuisance type located in relative proximity to residential areas, and to preserve and protect lands designated on the comprehensive plan for industrial development and use from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purpose. Development in the I1 District is limited primarily to certain wholesale and jobbing commercial uses and certain industrial uses, such as the fabrication of materials, and specialized manufacturing and research institutions, all or a non-nuisance type.

B. GENERALLY

Uses permitted in the I1 District are subject following conditions:

(1) All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed buildings unless otherwise indicated in this section.

(2) All storage within one hundred (100) feet of a residence district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of such screening.

C. USES PERMITTED

Uses permitted in the Ii District shall be as follows:

- (1) Advertising products, such as signs and billboards;
- (2) Ambulance, bus, train, and taxi stations, truck yards;
- (3) Awnings, venation blinds, and window-shades;
- (4) Bakery, candy, dairy and other food products, but not including fish and meat products, sauerkraut, vinegar, yeast, alcohol and alcoholic beverages;
- (5) Boat-building of small craft and other similar assembling;
- (6) Bottling or distribution plants, milk or soft drinks;
- (7) Building materials yard, contractor's yard, lumberyard;
- (8) Cameras and other photographic equipment;
- (9) Ceramic products, such as pottery, figurines, and small glazed tiles;
- (10) Cleaning and dyeing plants;
- (11) Cosmetics and toiletries, drugs, perfumes, and perfumed soaps, and pharmaceutical products;
- (12) Electrical appliances, such as lighting fixtures, irons, fans, and toasters;
- (13) Electrical equipment assembly, such as home radio and television receivers and home-movie equipment, but not including electrical machinery;
- (14) Electrical supplies, manufacturing and assembly, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries;
- (15) Electronic instruments;
- (16) Furniture refinishing using a manufacturing or chemical dipping process;
- (17) Insecticide and pesticide, packaging only;
- (18) Jewelry;
- (19) Machine shops and fabrication of metal not more than ten (10) gauge in thickness;
- (20) Medical, dental, and optical supplies;
- (21) Metal finishing, plating, grinding, sharpening, polishing, cleaning, rust proofing, and heat treatment;
- (22) Metal stamping and extrusion of small product small blades, bottle caps, buttons, and kitchen utensils;
- (23) Milk and ice cream processing;
- (24) Monument works;
- (25) Musical instruments;
- (26) Orthopedic and medical appliances, such as artificial limbs, braces, supports, and stretchers;
- (27) Photo finishing associated with a manufacturing process;
- (28) Repair of farm, household, office machinery or equipment;
- (29) Scientific and precision instruments;
- (30) Sheet metal shops;

- (31) Silverware, plate and sterling;
- (32) Shell egg business, candling, cartooning, and distributing;
- (33) Existing commercial and residential uses in use as such on the effective date of this Ordinance;
- (34) Public utility and public service uses as follows:

- (a) Bus stations, bus terminals, bus turnaround (off-street), bus garages, and bus lots;

- (b) Electric substations;

- (c) Gas regulator stations, mixing stations, and stations;

- (d) Radio and television towers;

- (e) Railroad passenger stations;

- (f) Telephone exchanges, microwave relay towers, telephone transmission equipment buildings and service yards;

- (35) Radar installations and towers;

- (36) Radio and television studios and stations;

- (37) Schools, trade;

- (38) Stadiums, auditoriums, and arenas, open or enclosed;

- (39) Storage and warehousing establishments;

- (40) Storage yards, but not including junkyards;

- (41) Trailer sales and rental, for use with private passenger motor vehicles;

- (42) Weighing stations;

- (43) Wholesaling establishments;

- (44) Accessory uses, including but not limited to the following:

- Temporary buildings for construction purposes for a period not to exceed the duration of such construction;

- (45) Other wholesale, light manufacturing, construction or service uses which are similar in character to those enumerated in this subsection, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment, or value of any property;

- (46) Factory outlet retail or wholesale store for the sales and servicing of goods or materials on the same premises as the manufacturing company to which they are related, including sales and service in a separate building or buildings;

- (47) Any use permitted in the C1 or C2 District, other than that of a residential nature.

D. CONDITIONAL USES

The following conditional uses may be allowed in the II District subject to the provisions of Section 6:

- (1) Amusement establishments livestock exhibition halls, including fairgrounds, permanent carnivals, kiddy parks, and other similar outdoor amusement facilities;
- (2) Asphalt and concrete batching or ready-mix plants;
- (3) Concrete products casting;
- (4) Dwelling units may be permitted only as an accessory use and only for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.
- (5) Gasoline and oil storage, wholesale, provided all applicable safety regulations are complied with and provided, however, that the location is approved by the board of adjustment;
- (6) Motor freight terminals;
- (7) Railroad freight terminals, railroad switching and classification yards, repair shops, and roundhouses;
- (8) Restaurant;
- (9) Theaters, automobile drive-in;
- (10) Automobile and motorized vehicle and equipment display, sales, and service.

E. DENSITY; AREA; YARD; HEIGHT; AND LOT COVERAGE REQUIREMENTS

The requirements regulating the maximum permissible residential density, minimum lot size, minimum yard sizes (front, side, and rear), and maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of Section 18, "Schedule of District Regulations," and other applicable provisions of Section 19, "Supplementary District Regulations."

F. AUTOMOBILE PARKING SPACE REGULATIONS

For parking space regulations, see Section

2 SECTION 15: MH - MOBILE HOME PARK

A. PURPOSE AND SCOPE

It is the purpose of the MH Mobile Home Park District to provide areas for the location of mobile homes in an attractive, moderate density setting and insure the presence

of amenities required for satisfactory quality of life in areas designated for mobile home use.

B. PRINCIPAL PERMITTED USES

(1) HUD Code manufactured home (mobile home).

(2) Single-family dwellings, detached.

(3) Recreational Public parks, playgrounds, recreational and community center buildings and grounds, public golf courses, public swimming pools tennis courts and similar recreational uses, all of a non-commercial nature. Any principal building or any swimming pool shall be located not less than one hundred (100) feet from any other lot in any residential district.

NOTE: Mobile homes as defined in the Manufactured housing Standards Act Article 5221f, Section 3(a), V.T.C.S., shall not be used as dwelling units in the city of Emory.

C. CONDITIONAL USES

All conditional Uses permitted in the R1 Single-Family District.

D. ACCESORY USES

All accessory uses permitted in the R1 Single-family district.

E. HEIGHT REGULATIONS

No principal structure shall exceed two and one-half (2 ;1) stories or thirty-five (35) feet in height and no accessory structure shall exceed one (1) story or twenty (20) feet in height.

F. PARK PLAN REQUIRED

Applications for the establishment of a mobile home park shall be filled with the city planner and must accompanied by a plat, drawn to scale and certified by a registered public surveyor, civil engineer, landscape architect or architect. Six (6) blue and black copies of the plat shall be submitted to the city secretary at least fourteen days (14) days prior to the Planning and Zoning Commission meeting at which the plat is to be considered.

The plat shall be drawn on a 24"x 36" sheet at a scale of 1"= 100 ' unless a larger scale is authorized by the city planners. A scale of 1" = 200' is the smallest scale to be permitted. The city planner shall check the plat, and if he finds to be in compliance with the requirements of this section , he shall forward such to the Planning and Zoning Commission The city planner shall also advice the commission of the pending applications. The Planning And Zoning Commission shall review the plat for the mobile home park and summit a recommendation to City Council. The plat shall contain the following information.

- (1) Accurate dimensions of the proposed mobile home park
- (2) All roads and approaches and the method of ingress and egress from public streets:
- (3) Complete electric service installation , wire service outlets and lighting facilities all underground:
- (4) Complete location of any natural gas facilities to serve and park:
- (5) Complete layout of unit parking spaces and number square feet therein, together with the dimensions:
- (6) Location of electric power or gas distribution systems, water mains or wells for water supply outlets for domestic water users location of sanitary facilities, washrooms, garbage disposal units, incinerators, sanitary sewers or septic tanks, sewer drain lines, leaching beds, fire protection stalls, and other buildings or structure completed to be used by such applicant in connection with the mobile home park;
- (7) Name and address of the owner, engineer, surveyor, or land planner;
- (8) Proposed name of the park;.
- (9) A north point, scale of plat, and date of preparation;
- (10) Contours at intervals of five (5) vertical feet; and
- (11) Drainage plans for park.

G. ENLARGEMNET

Any enlargement or extension of any existing mobile home

park shall require applications for a building permit as if it were a new establishment.

Enlargement Existing facilities to comply. No enlargement or extensions to any mobile park shall be permitted unless the existing facility is made to conform with all the requirements for new construction for such an establishment.

H. MINIMUM STANDARD AND REQUIREMENTS

Mobile home parks shall be designed and maintained in accordance with the following requirements.:

(1) Park Area. The minimum mobile home park shall be ten (10) acres.

(2) Mobile Home lots Minimum requirements

Area	3,000 sq. ft	
Width	35	ft
Front yard	20	ft
Rear yard	10	ft
Side yard	7	ft

I. GENERAL REQUIREMENTS

(1) Area Requirements

Mobile home parks shall have a minimum land area of five (5) acres.

(2) Parking

All Areas used for automobiles access and parking shall comply with the applicable provisions of this ordinance provided that there shall be at least one (1) off-street parking spaces for each mobile home lot one and one (1) additional space for each (3) lots to accommodate guests.

(3) Entrance to Mobile Home Parks

No vehicular entrance to or exit from any mobile home park, wherever such may be located, shall be within two hundred (200) feet along streets from any school, public playground, church, hospital, library, or institution for dependent or for children, except where such property is an another block or another street which the premises in question do not abut.

(4) Landscaping - Unused Areas

All areas not used for access, parking, circulation, buildings, and services shall be completely and permanently landscaped and the entire site maintained in good condition. A landscape strip of land not less than ten (10) feet in width shall be established and maintained within the mobile home park along the exterior boundaries

(5) Screening

Screening shall provided according to the following requirements;

(a) In the Event that a mobile home park backs or sides upon a residential, commercial or industrial district a solid wood or masonry screening fence not less than six (6) feet in height shall be erected and maintained along the property . Line dividing the two districts.

(b) A wood or masonry screening fence shall consist materials of equal composition and characteristics.

(c) No such screening fence shall be so erected as to obstruct the vision of motorist at alley, street or drive intersections.

(6) Access

Each mobile home park shall abut a public street and each mobile home lot shall have direct access to a private interior street.

(7) Interior Streets

The minimum roadway width of interior streets will comply with the subdivision regulations and current devolvement standards for the city of Emory. Such streets shall be paved according to the city of Emory specifications for the residential streets and maintained in good condition and lighted at night.

(8) Distances Between Mobile homes

The minimum distance between mobile homes shall not be less than fifteen (15) feet.

(9) Concrete Slab

Each mobile home lot shall be equipped with a concrete slab of sufficient size to support the wheels and front parking jack. Said slab shall have a minimum horizontal dimension of eight (8) by ten (10) feet and a minimum thickness of four (4) inches.

(10) Utilities

Each mobile home unit shall be equipped with one (1) electrical outlet. A municipal sanitary sewer and municipal water system shall be installed in accordance with city specifications to every lot. Mobile home units not equipped with water and sewer facilities shall be located no more than two hundred (200) feet from the community utility building which shall provide separate toilet and shower facilities for each sex. Fire hydrants shall be located in accordance with the specifications of the National Board of fire Underwriters.

(11) Recreational Areas

There shall be provided within each mobile home park an adequate site or sites for recreation for the exclusive use of the park occupants. Such recreational site or sites shall have a minimum area of at least 5% of the gross land area of the mobile home park.

(12) Length of Occupancy

No trailer or mobile home shall remain in a mobile home park for a period exceeding ten (10) days without connection to the permanent sanitary sewer system of the park when city sewer service is available to the park site. Approval shall specify such standards. Development requirements on such development plans may be revised under the same review, notice and approval procedures as applied to the original approval of the plan and applications to amend the PD ordinance shall not be required.

(2) Review Process

The development plan review process shall include review by the Planning and Zoning Commission referral by the Planning and Zoning Commission to the City Council with a recommendation, and review and final approval of the development plan by the City Council.

(3) Courtesy Notice

A courtesy notice, issued at least ten (10) days prior to official action by the Planning And Zoning Commission, shall be provided to all property owners within two (200) hundred feet of a proposed project for which a planned development site plan has been submitted

(4) Modifications

The Planning And Zoning .Commission may recommend and the council may require such modifications of a development site plan that will ensure the proposed project will be in harmony with the existence and anticipated development of surrounding areas.

(5) Requirements

(a) General information eight (8) copies of development site plan; vicinity map or adequate reference to intersecting streets to locate specific property; north arrow, date, scale, (not less than 1'=100').

(b) Site/ Adjacent Property Information :

Site, indicating boundaries and project phase lines, if any ; public or private rights -of- way and easements on site or abutting or intersecting the site: adjacent properties with zoning and existing uses identified.

(c) Building layout : Existing and proposed structures, showing approximate outline of perimeter walls and including distance to property line and other structures; front, side and rear building setback lines: proposed category of use or uses of structures: elevation views or renderings indicating architectural design, building material proposed and window orientations (one copy required) ; number of stories, in height and feet gross floor area; location of entrances and exists

(d) Circulation and Parking: Location, dimensions and proposed construction of all streets, private drives, alleys, parking areas and drive approaches: street drives and alleys which are adjacent to or dead-end into the site, including the location of existing and proposed median opening and left-turn lanes in boulevard streets; number of dimensions of parking spaces and width of drive approaches and aisles: sidewalks and other faculties For pedestrian circulation; location, width and curve radii for required fire lanes.

(e) Drainage/Utilities/ Services: Existing and proposed topography, reflecting, proposed handling of on-site surface drainage; limits of the 100 year flood plain and floodway as shown on current FEMA mapping. Including location and acreage; proposed improvements and method of maintenance for any drainage channels; existing and proposed water and sanitary sewer layout; existing and proposed fire hydrant locations; proposed locations for solid waste container pad.

(f) Screening/Open Space/ Recreational Faculties:

Location, height and building material for height, location and type of any proposed berms or living screens; location and size (if applicable) of proposed recreation facilities (swimming pool, tennis courts, etc.) ; location of open play areas and playgrounds with play equipment landscape plan.

(g) Living Units; Table showing type of units by size, number of bedrooms, and number of each type; floor plans for all units.

D. ADMINISTRATIVE ACTION

Upon approval of a development sits plan by the City Council and approval of the preliminary plat, application may be made for the permits and certificates necessary for construction. Subsequent to such approval, minor changes may be authorized by the Planning and Zoning Commission when such changes will not cause any of the following circumstances to occur:

- (1) A change in the character of the developments.
- (2) An increase in the ratio of the gross floor area in structures to the area of any lot;
- (3) An increase in the intensity of use;
- (4) A reduction between buildings in the originally approved separations
- (5) An increase in utilities, the problems of circulations, safety,
- (6) An increase and in the external effects on adjacent property;
- (7) A reduction theirin originally approved setbacks from

property lines;

(8) an increases in ground coverage by structure;

Section 17: FP- Flood Plain District

A.. FLOOD PLAIN PREFIX TO DISTRICT DESINATION

The FP prefix designation constitutes a zoning overlay district, and the addition or removal .of the FP prefix constitutes zoning action requiring due process provided Under State law. Further public notice to all downstream property owners within the City of Emory with like FP zoning is required prior to any such zoning action.

To provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard and to promote the health, safety, and general welfare of the community, portions of certain districts are designated with a flood plain prefix FP and shall be subject to the following provisions.

B. PERMITTED USES

In this district no land shall be used except for one or more of the following permitted uses to the extent that they are not prohibited by other regulations or ordinances and provided that such uses do not require above ground structures, filling or storage of material or equipment except as herein specifically authorized.

(1) Agriculture activities, including the ordinary cultivation of land or legal forms of animal husbandry.

(2) Electrical substation.

(3) All types of location utilities, including but not limited to water distribution and waste water collection system, water and waste water treatment faculties and water quality /monitoring stations or other structure required to provide water and sewage, telephone, gas and electrical service.

(4) Parks, community centers, playgrounds, public golf courses.

(5) Private commercial open area amusement such as golf courses, driving ranges, archery courses and similar uses when approved by conditional use zoning action.

(6) Faculties that would warrant no flood protection such as accessory private open space in conjunction with commercial or residential development, community unit recreational areas or recreation developments

(7) Parking areas associated with a part of contiguous land use.

No building or structure shall be erected in that portion of a district designated with a flood plain FP prefix other than those listed in this section.

There shall be dumping , excavation, storage or filling operation within that portion of a district having a flood plain FP prefix designation except under conditions of this Ordinance.

C. CONDITIONS FOR ADDING FP PREFIX DESIGNATION

The City Council may, after a public hearing, amend the Zoning classification of any property by adding the flood plan FP prefix destination based on hydraulic engineering studies indicating new boundaries of the area that is subject to inundation by floodwaters. The City Council shall provide for the addition of such flood plain FP prefix Designation to the zoning district map.

D. CONDITION FOR REMOVAL OF FP PREFIX DESIGNATION

The City Council in considering and determining its decision relative to any application for the removal of the flood plain FP prefix designation, shall require the applicant to furnish to the administrator fill and development plans (hydraulic calculations concerning maximum high water and flow rates and their effect on abutting, lateral, and downstream properties) and data concerning the operation, location, function and characteristics of any use of land or building proposed The application will not be scheduled for public hearing until the city engineer certified information furnished is adequate for review and comment as required in this section. .

(b) Nonresidential uses in a residential district shall be suitably screened from view, to a height not less than six (6) feet of any adjacent residential lot or dwelling use along the side and rear property lines of such nonresidential use. Said screening requirements shall not be mandatory for public schools, parks or churches, except

where a parking lot of active outdoor intensive use area (such as a playground) is adjacent to a residential lot or dwelling parking lot screening need not be more than three and one-half (3 ¹/₂) feet in height. Off-street loading areas of any nonresidential use shall be ad quality screened from view of any residential dwelling or lot or of any other adjacent public or semi-public land use.

(c) Where a multi-family use abuts a one or two family district, the side and rear property lines of said multi-family district shall be suitably screened from view, to a height not less than six (6) feet of any adjacent dissimilar residential dwellings or lots.

(d) Garbage, refuse, and trash collection/storage areas in any multi-family development or other nonresidential use permitted in a residential district shall be enclosed on at least three (3) sides by a dense screening element to adequately screen such areas from view of the surrounding

(e) No screening element or fence shall be erected placed or planted beyond the front building line of any permitted building in a residential district either on a corner lot or interior lot unless otherwise allowed by the zoning board of adjustment.

(f) No screening element comprised o brick, masonry, concrete, or solid metal shall be erected or placed which would interfere with the installation or maintenance of any public utility line, service, or drainage way , within the easements reserved therefore.

(4) Nonresidential District - General

(a) Where a nonresidential use abuts a residential lot use or district, the side and rear property lines abutting said residential lot, use or

SECTION 18: SUPPLEMENTARY DISTRICT REGUALTIONS

A. ELEMENTS AND FENCES

In order to provide maximum safety to pedestrians and motorist at intersections and at ingress and egress points from public streets, highways, and alleys to private property , to conserve and protect aesthetic views and vistas, to secure hazardous areas from unauthorized entry, to contain live stock and other agriculture activities, and

to screen and protect permitted outside materials storage areas, the following regulations are prescribed for the location, type, and height of regulated required and non-required screening elements and fences. The terms "screening element" and "fence" as used herein, are defined in Section 4.

(1) Traffic Visibility at Intersection

On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and a one-half (2 ;1) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the streets lines of such corner lots and a line of joining points of the intersection.

(2) Traffic Visibility at Interior Lots

On an interior lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede the vision or in any way to create a traffic hazard to motorists entering or exiting any public highway, street, alley, or private street or driveway from or to adjacent private property.

(3) Residential Districts -General

(a) Screening elements and fences shall be restricted to a maximum height of eight (8) feet, measured from the adjacent grade line, except as otherwise allowed. District shall be suitably screened by the nonresidential use so as to obscure the view from the residential lot, use or district to the nonresidential use to a height not less than six (6) feet.

(b) Where a district boundary separating a residential district from a nonresidential district is along a street or alley, and automobile parking lot or parking area is located in the front yard of the nonresidential use, then said parking lot or parking area facing the residential lot, use, or district shall be suitably screened to a height of not less than three and one-half (3 1/2) feet.

(c) Where garbage, refuse, and trash collection/ storage is permitted and the screening thereof is required. Then such screening shall be provided around the exposed perimeter thereof of not less than six (6) feet in height.

(d) In all districts where open space is permitted and the

screening thereof is required, then such screening shall be provided around the exposed perimeter thereof of not less than six (6) feet in height.

(e) Off-street loading areas shall be adequately screened from view of any residential dwelling or any other adjacent residential land use.

(f) No screening element comprised of brick, masonry, concrete, or solid metal shall be erected or placed which would interfere with the installation or maintenance of any public utility line, service, or drainage-way, within the easement reserve therefore.

(g) All required screening elements shall be permanently and adequately maintained by the nonresidential property owner.

(5) Barbed Wire Fences

(a) Barbed wire fences used in conjunction with permitted agriculture and related activities and in industrial districts are permitted without restrictions, but are expressly prohibited in all other districts except as provided below.

(b) Barbed wire strands may be placed on top of permitted fences and screening elements in any district for the purpose of security from theft, entry, and hazard around public utility substation and uses of a similar nature. Provided the top strand is not higher than eight (8) feet nor the bottom strand lower than six (6) feet from the adjacent grade line.

B. ACCESSORY BUILDINGS

The following regulations shall govern the location, size, and use of any accessory buildings:

(1) No accessory building shall be erected in any required yard area as stipulated in this Ordinance, except as allowed in this following paragraphs.

(2) No accessory building shall be erected within ten (10) feet of any other building, except detached residential garages may be located within five (5) feet of the main dwelling and except as the provisions of paragraph (5) below are met.

(3) No detached residential garage or carport shall be erected or placed closer to any street or alley right-of-way line than the minimum yard requirements (building setback line) governing the district in which such garage or carport is located.

(4) No detached residential garage or carport shall be erected or placed within eight (8) feet from any side lot line.

(5) Residential accessory buildings and sheds housing domestic lawn and garden equipment and all other household effects may be detached or attached to the main building, but shall not encroach in any required front yard and may not occupy more than thirty percent (30%) of the rear yard.

(6) No accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises, as provided in the applicable zoning district.

(7) No accessory building shall be higher than the main building and in no case be in excess of eighteen (18) feet in height.

(8) No accessory building shall be erected or placed within five (5) feet of any side or rear lot line and shall not encroach upon any easement.

C. FRONT YARD ADJUSTMENTS

Front yard requirements as established in Section 22, "Schedule of District Regulations" may be adjusted where forty percent (40%) or more of the frontage on the same side of a street between two (2) intersecting streets is presently developed or may hereafter be developed with buildings that have (with a variation of ten (10) feet or less) a front yard greater or lesser in depth than herein required; new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

D. PROJECTIONS OF BUILDINGS, STRUCTURES, AND APPURTENANCES INTO REQUIRED YARDS

(1) Open or lattice enclosed fire escapes may project into a required yard not to exceed five (5) feet. The ordinary projections of chimney's pilasters shall be permitted by the city's building official when placed so as not to obstruct light and ventilation.

(2) Terraces, balconies, decks, uncovered porches and ornamental features which do not extend more than four (4) feet from the side wall line and being at least seven (7) feet above the floor level of the ground (first) story, may project into a required side yard, provided these projections be a distance at least four (4) feet from any adjacent side lot line. Such features may not project onto a required front or rear yard more than eight (8) feet from the front or rear wall line.

(3) An unenclosed porch containing not more than forty (40) square feet may project into a required front yard for a distance not to exceed five (5) feet.

(4) A carport or canopy may project into a required side yard, provided every part of such carport or canopy is unenclosed except for necessary structural supports, and not less than five (5) feet from any side lot line.

(5) Every part of a required yard shall be open to the sky, unobstructed by a building, except for the ordinary projections of sills, belt courses, cornices, and ornamental features not exceeding twelve (12) inches, or as otherwise excepted in paragraphs (1) through (4) above

E. PARKING, STORAGE OR USE OF MAJOR RECREATIONAL EQUIPMENT AND VEHICLES

No major recreational equipment shall be parked or stored on any required front yard in a residential district except that such equipment may be parked anywhere on a residential premises not to exceed twenty-four (24) hours during loading or unloading.

No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, except for the temporary housing of guests not to exceed two (2) consecutive weeks.

For the purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup cameras, or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

SECTION 20: BUILDING PERMITS AND CERTIFICATES OF

OCCUPANCY

A. BUILDING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to, enclosed, or structurally altered without a permit therefore where applicable, and issued by the administrative official. No building permit shall be issued by the administrative official except in conformity with the provisions of this Ordinance unless he receives a written order from the zoning board of adjustment in the form of an administrative review, special exception, or variance as provided by this Ordinance.

B. APPLICATION FOR BUILDING PERMIT

All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be build upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration, existing or proposed uses of the building and land, the number of families, housekeeping units, or rental unit's the building is designed to accommodate, conditions existing on the lot, and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

One (1) copy of the plans shall be returned to the applicant by the administrative official, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and on (1) copy of the plans, similarly marked, shall be retained by the administrative official.

C. EXPIRATION OF BUILDING PERMIT

If the work described in any building permit has not begun within six (6) calendar months from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official; and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

D. CERTIFICATE OF OCCUPANCY REQUIRED FOR NEW OR ALTERED BUILDINGS OR CHANGES IN USE OF NONCONFORMING USES

It shall be unlawful to use or occupy or permit the uses or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefore by the administrative official stating that the proposed use of the principal building or land conforms to the requirements of this Ordinance.

(1) No nonconforming building or use shall be maintained renewed, changed, or extended until a certificate of occupancy shall have been issued by the administrative official. The certificate of occupancy shall state specifically wherein the nonconforming use differs from the provisions of the Ordinance, provided that upon enactment or amendment of this Ordinance, owners or occupants of nonconforming uses or buildings shall have three (3) months to apply for certificates of occupancy. Failure to make such application within three (3) months shall be presumptive evidence that the property was in a nonconforming use at the time of enactment of this Ordinance.

(2) No permit for erection, alteration, moving, or structural repair of any building shall be issued until an application has been made for a certificate of occupancy, and the certificate shall be issued in conformity with the provisions of this Ordinance upon completion of the work.

(3) A temporary certificate of occupancy may be issued by the administrative official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that said temporary certificate may include such conditions and safeguards as well protect the safety of the occupants and the public.

(4) The administrative official shall maintain a public record of all certificates of occupancy.

(5) Failure to obtain a certificate of occupancy shall be a violation of this Ordinance and punishable under Section of this Ordinance.

E. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS,

PLANS, PERMITS, AND CERTIFICATES OF OCCUPANCY.

Building permits or certificates of occupancy issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, or construction set forth in such approved plans and applications and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 3.B hereof.

SECTION 21: PARKING SPACE REGULATIONS

A. AUTOMOBILE PARKING SPACE REGULATIONS

Whenever any ordinance, regulation, or plan enacted or adopted by the City Council is for the purpose of providing off-street automobile parking spaces or of establishing requirements that such spaces be provided within any section or sections of the city, then such plan or requirements shall govern within such sections. Otherwise off-street automobile parking spaces shall be provided as follows, applicable to buildings hereafter erected and uses hereafter established, to such nonconforming uses as may be required to conform to the regulations hereof, and to extensions and enlargements of building and uses.

(1) Except as otherwise provided in this section, off street parking spaces shall be provided as follows:

USE OF BUILDING FOR SITE	MINIMUM NUMBER OF PARKING SPACES REQUIRED
Residential:	
Single-Family	2.0 per dwelling unit
Multi-family	
Efficiency and one bedroom unit	1.0 per dwelling unit
Two or more bedrooms	1.5 per dwelling unit
Commercial:	
Offices floor area	2.0 per 1,000 sq. ft. gross
Retail gross floor area	3.0 per 1,000 sq. ft.

Restaurants	1.0 per seat
Hotels, Motels	1.0 per rentable room
plus	
shift	0.5 per employee on any one

Halls for meeting dancing, special events 5.0 per 1,000 sq. ft. gross floor area

Industrial:	0.8 per employee on any
one shift	

Auditoriums and Theaters	0.3 per seat
Churches:	1.0 per six seats

Elementary and Jr. High Schools:	1.0	per	staff
members			

Hospitals:	1.2 per bed plus 1.0 per
three staff members	
	On any one shift

Nursing Homes	1.0 per five beds plus
any one shift	1.0 per two staff members on

The required yard setbacks for any building shall not be included in calculating the minimum space requirements for off-street parking.

(2) Where a building or a site contains two (2) or more uses, the off-street parking requirement shall be computed as the sum of the required off-street parking spaces for each individual use.

(3) Each business, commercial, manufacturing or industrial use having deliveries made by truck more than once a day between the hours of 8:00 a.m. and 6:00 p.m., or where the time of loading and unloading materials or goods exceeds ten (10) minutes between those hours, shall provide off-street truck loading space on the lot, such space to be not less than thirty-five (35) feet in length, twelve (12) feet in width, and fifteen (15) feet in height.

(4) For the purpose of this subsection, one parking stall shall be not less than one hundred seventy-five (175) square feet in area, together with whatever area is required for means of ingress and egress thereto, except that in the case where attendants perform the act of parking in defined and

adequate stalls then each such stall shall be considered parking stall as required herein.

(5) A driveway for access to any single parking space or to a parking lot shall be not less than eleven (11) feet in width nor more than thirty (30) feet in width at the property line along the street and shall be so located as to minimize traffic hazard and congestion.

(6) All required parking stalls shall be located on the premises to which such requirement applies or within an off-street space distance not more than five hundred (500) feet from such premises, provided that such stalls as are required for employees and proprietors of any premises may be located within an off-street space distance not more than one thousand (1,000) feet from such premises except as otherwise provided in this subsection or other subsections of this Ordinance.

(7) Provision of parking stalls shared jointly by several persons in the same block or in the same vicinity is permissible, in which case the number of stalls required shall be the sum total of the individual requirements, provided that where it is found by the board of appeals, upon application thereto, that the parking demand generated by the different uses included in any joint arrangement to provide parking stalls required herein occurs at distinctly different times, as in the case of a theater generating demand for parking during such daytime hours, and in similar cases, the board may reduce the total number of parking stalls to be jointly provided.

(8) All parking spaces required for any use and provided in compliance with the provisions of this subsection on the same lot or plot as that occupied by such used shall be considered to be required spaces for the use or uses to which appurtenant and shall not be reduced or encroached upon in any manner.

(9) The surface of parking stalls and aisles, truck standing spaces, and access driveways therefore shall be treated, prepared and maintained for adequate drainage and the elimination of dust, dirt, and mud, according to city specifications.

(10) In a case where existing off-street parking facilities have unused parking capacity and where such facilities are open to the use of the public free of charge or at reasonable rates, the board may reduce the parking space

requirements for any use distance not more than eight hundred (800) feet from such facility or facilities, provided that the total number of stalls in such reduction shall be not greater than the total number of stalls of unused capacity.

(11) In a case where any public or private off-street parking facility, to be open to the use of the public free of charge or at a reasonable rate, is planned or is in process of development and where the board has reasonable assurance that such development will be carried to completion and will when completed relieve the parking demand in an area within five hundred (500) feet thereof in some measure or in full measure, the board may establish a reasonable time period within which any use or uses within such area shall provide required space for parking stalls. Upon completion of all or a portion of such development, the provision of paragraph (10) above may be applied by the board.

(12) In a case where the customary mode of transportation of a majority of the patrons, employees, and proprietors of any use, to and from the area in which such use is located, is other than by private automobile, the board may reduce by an amount not to exceed fifty percent (50%) the space required for parking stalls for such use.

(13) In a case where it is clearly shown by the applicant to the satisfaction of the board that the provision of the amount of space required herein for parking stalls, due to the particular nature of the proposed use or other condition, would be unnecessary hardship, the board may reduce such requirement.

B. RESIDENTIAL OFF-STREET PARKING

(1) Purpose

It is recognized that uncontrolled residential off-street parking, specifically in residential front yards, is a public nuisance. The purpose of this subsection is a public nuisance. The purpose of this subsection is to provide for the regulation of residential off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety, and welfare of the city.

(2) Definitions and Restrictions

It shall be illegal for any person to park or to allow to be parked on any property under his control any automobile, bus, truck, motorcycle, motor home, camper, trailer, boat or any vehicle on any portion of a front yard of any area which is zoned under the Comprehensive Zoning Ordinance unless:

(a) Said area is a part of a hard surfaced driveway or parking area;

(b) Said area is part of a gravel driveway •

(c) Said area is a part of a required driveway that provides access to a garage, carport or off-street parking area required by the Comprehensive Zoning Ordinance;

(e) The term "vehicle" as used herein shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved exclusively by human power. The term "hard surfaced" as used herein shall include cement, asphalt, brick and other commonly accepted pavement which may be approved by the building official;

(f) A single-width driveway running from the street access to a garage or other parking area shall not utilize more than fifteen percent (15%) of any residential front yard, except for front yards with a front footage width of less than seventy (70) feet, in which case the maximum width for single driveway shall be eleven (11) feet;

(g) A double-width driveway running from the street access to a garage or other parking area shall not utilize more than twenty-seven percent (27%) of any residential front yard, provided that the maximum width of a driveway shall not exceed twenty-four (24) feet in any case and shall not exceed eighteen (18) feet for front yards with a front footage width of less than seventy (70) feet;

(h) A triple-width driveway running from the street to a garage or other parking area shall not utilize more than thirty-three percent (33%) of any residential front yard, provided that the maximum width of a driveway shall not exceed thirty (30) feet in any case, and shall not be permitted for front yards with a front footage width of less than eighty (80) feet;

(i) A drive apron means the connection between a driveway and the traveled portion of a street, in the public right-of-way, including any sidewalk area abutting thereon; or

(j) Circular driveways used for turnarounds or through traffic shall not utilize more than fifty percent (50%) of any residential front yards or corner side yards with a front footage or less than eighty (80) feet.

SECTION 22: NONCONFORMING USES

A. INTENT

Within the districts established by this Ordinance, or amendments that may later be adopted, there exist:

Lots and uses of land;
Buildings and structures;
Uses of land and buildings in combination; and

Characteristics of use which were lawful before this Ordinance was passed and amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed. It is further the intent of this Ordinance that such nonconformities shall not be enlarged upon, expanded or extended, nor be used as ground for adding other buildings and structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A conforming use of a building or structure, a nonconforming use of land, or a nonconforming use of buildings and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding such excavation or demolition or

removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

B. NONCONFORMING LOTS OF RECORD

In any district in which residential, commercial, or industrial buildings are permitted, buildings may be erected on any single lot of record, or multiple lots of contiguous street frontage in the same ownership, which were recorded prior to the effective date of this Ordinance. This provision shall apply even though such lot or lots fail to meet the minimum requirements for area, width, or both, as governed by Section 18; however, all other provisions of Section 18 shall apply. Any required variances shall be obtained only through the zoning board of adjustment.

(1) Conformance When

The lawful use of a building or land existing at the date of enactment of this Ordinance, although such does not conform to the provisions hereof, may be continued, but if nonconforming use is discontinued for a period of six (6) consecutive calendar months it shall not thereafter be resumed and any future use of such building or land shall be in conformity with the provisions hereof.

The use of the land, if changed from a nonconforming use, shall be in conformity with the provisions hereof.

(2) Repairs - Cost Ceiling

The total structure repairs or alternations in a nonconforming building shall not, during its life, exceed fifty percent (50%) of the assesses value of the building unless changed to a conforming use. The use of a nonconforming building may be changed to another nonconforming use of the same or more restricted classification.

(3) Extension When

A nonconforming use of a building or land shall not extended unless changed to a conforming use.

(4) Classification changes

Whenever the nonconforming use of a structure is changed to the use of a more restricted classification, such us shall not thereafter be changed to a use of a less restricted classification.

For the purpose of this regulation uses permitted in R1 Districts shall be deemed to be those in the most restricted classification

(5) A nonconforming structure destroyed or damaged by fire, flood, wind, earthquake, explosion, or other casualty or by the public enemy to the extent where the cost of restoration would amount to less than fifty percent (50%) of its assessed value or restoration is not started within a period of six (6) months and carried diligently to completion, application for restoration shall be made to the board of adjustment to permit such restoration. Property owners, as shown by the city tax records on the effective date of this Ordinance, shall be able to restore their property regardless of the extent of destruction without making application to the board of adjustment. However said restoration shall comply with all construction codes then in effect within the city.

(6) Applicability

The provisions of this section shall apply to any use that may become a nonconforming use due to a change in the classification of the district in which located from the effective date of the ordinance making the change.

(7) Board Approved Use Conforms

Any use which is permitted in a district only upon action of the Board of Adjustment shall, upon its establishment, be considered a conforming uses in that district, provided that this regulation shall not be so interpreted as to waive any conditions of a conditional permit for such use.

SECTION 23: PLANNING AND ZONNING COMMISSION

A. ORGANIZATION OF PLANNING AND ZONNING COMMISSION

There is hereby created a Planning and Zoning Commission which shall be organized, appointed, and function as follows:

The Planning and Zoning Commission shall consist of five (5) members appointed by the City council of the City of Emory for overlapping two (2) year terms and removable for cause by the appointing authority upon written charges and after public hearing. The City Council shall designate one (1)

member as chairmen. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. All cases to be heard by the Planning and Zoning Commission will always be heard by a minimum of four (4) members.

B. OPERATIONAL PROCEDURE

(1) The officers of the Planning and Zoning Commission shall be chairmen and vice-chairmen and secretary. These officers shall be chosen by the commission for one-year terms beginning at the start of every calendar year.

(2) The chairman shall preside over all meetings of the commission. The vice-chairmen shall preside in the absence of the chairmen.

(3) Regular meetings shall be held in the City Hall, except as otherwise provided herein, when called by the chairman; provided, however, that the commission shall have at least one meeting each quarter. Special meetings may be called by the chairman provided that written notice thereof shall be mailed to each member forty-eight (48) hours prior to the time of the meeting. No approval or disapproval of any zoning application shall be given or any final action taken except at regular meetings as provided herein. All meetings shall be open to the public.

(4) Any motion by a member shall require a second. After a motion has been made and duly seconded, discussion of the motion may be had for a reasonable time. Discussion by members, or by opponents or proponents of a question before the Planning and Zoning Commission shall terminate whenever a member shall call for a vote upon the question or whenever the chairman shall so rule.

(5) whenever any question of procedure or qualifications is raised at a Planning and Zoning Commission meeting, the chairman shall rule thereon. A member may move to overrule the chairman's decision, which motion must be approved by a majority vote of the members present in order to carry.

(6) Voting on zoning applications shall be by roll-call vote, Voting on all other questions shall be by voice, vote, provided that a roll-call vote shall be taken upon demand of any member.

(7) A member shall not vote or participate in any matter

before the planning and Zoning Commission if the member has any interest in this matter whether such interest is direct or indirect and financial or otherwise. Where a question of a members interest is raised, the chairman shall rule on whether the members should be disqualified.

(8) The Planning and Zoning Commission may, at its option, consult with the city Planner regarding a recommendation or on technicalities of any zoning offered by the city planner shall be apart of the official minutes of the meeting.

(9) Minutes and records shall be kept of all proceeding as a matter of public record.

C. AMENDEMENTS

The regulations restrictions and boundaries established by this Ordinance may from time to time be amended, supplemented , changed, modified or repealed . The Planning and Zoning Commission shall make a preliminary report on all such proposed amendments, supplements, changes, modifications or repeals, hold public hearings and thereafter submit its final report to the City Council.

D, NOTICE OF HEARING BEFORE THE PLANNING AND ZONNING COMMISSION

The Planning and Zoning Commission shall hold a public hearing on all request made to it and written notice of such public hearing shall be sent to the applicant and all other persons who are owners of real property living within two hundred (200) feet of the property on which the zoning request is made. Such notice shall be given no less than fourteen (14) days before the data sent for hearing to all such property owners who have rendered their said property for city taxes as the ownership appears on the last city at role. Such notice may be served by depositing the same properly addressed and postage paid in in the United States Post Office. Notice shall also be given by publishing the same in the official publication of the City of Emory at least ten (10) days prior to the data set for hearing, which notice shall state the date, time and place set for the public hearing. .

E. JURSDICTION OF THE PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission shall exercise all powers vested in such bodies by State law. In addition, in order to

effectuate and carry out the purpose of this Ordinance, the Planning and Zoning Commission is also vested with the following powers and or duties

- (1) Preparation and adoption of a comprehension plan for the city.
- (2) Preparation and adoption of subdivision regulations and approval or disapproval of any subdivision plays.
- (3) Preparation and adoption of zoning regulations and the recommendation of zoning district boundaries including the power to hold public hearings enforce the regulations and recommend changes in the regulations and district boundaries.
- (4) Reporting on planning and zoning problems that are referred to it for review by the City Secretary or by the City Council.
- (5) Preparations of such surveys reports and studies as are required for the above and other authorized purposes.

SECTION 24: BOARD OF ADJUSTMENT

A. ORGANIZATION OF BOARD OF ADJUSTMENT

There is hereby created a Board of Adjustment which shall be organized, appointed, and function as follows:

The Board of Adjustment shall consist of five (5) members who are residents of the City of Lone Oak, each to be appointed by the City Council for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. The City Council shall designate one (1) member as chairman. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The City Council may appoint two (2) alternate members of the Board of Adjustment who shall serve in the absence. Of one (1) or more regular members when requested to do so by the chairman of the board or city administrator as the case may be. All cases to be heard by the Board of Adjustment will always be heard by a minimum of four (4) members, These alternate members when appointed shall serve for the same period as the regular members, which is for the term of two (2) years, and any vacancy shall be filled in the same manner and they shall be subject to removal the same as regular members.

OPERATIONAL PROCEDURE

(1) The board shall adopt rules to govern its procedures provided, however, that such rules are not inconsistent with this Ordinance or state law . Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine . The chairman, may administer oath and compel the attendance of witness.

(2) All meetings to the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question , and shall keep record of its examination and other official actions all of which shall be immediately filled on the office of the board and shall be a public record.

(3) Appeals to the Board of Adjustment can be taken by any person aggrieved or by an officer, department, or board of municipality affected by any decision of the building inspector Such appeal shall be taken within fifteen (15) days after the decision has been rendered by the administrative officer by filling with the officer from whom the appeal is taken and with the Board of Adjustment . A notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forth will transmit to the board all the papers consisting the records upon which the action appealed from the taken.

(4) An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filled with him that by reason of facts stated in the certificate a stay in his opinion cause imminent peril to life or property. In such case, proceedings shall not stayed otherwise than by the Board of Adjustment or a court of record on application or notice due to the officer from whom the appeal is taken and on due cause shown.

(5) No appeal to the Board of Adjustment for the same or related variance on the same piece of property shall be allowed prior to the expiration of six (6) months from a previous ruling of the board on any appeal to such body unless other property in the immediate vicinity has, within the said six (6) months period been changed or acted on by the Board of Adjustment or City Council so as to alter the facts and conditions on which the previous board action was based. Such change of circumstances shall permit the

rehearing of an appeal By the Board of Adjustment prior to the expiration if six (6) months period, but such conditions shall in no way have any force in law to compel the Board of adjustment, after a hearing to grant a subsequent appeal. Such subsequent appeal shall be considered entirely in its merit and the peculiar and specific condition related to the property on which the appeal is brought.

(6) At a public hearing relative to any appeal any interested party may appear in person or by agency or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board of Adjustment on any appeal. Any special exception or variance granted or authorized by the Board of Adjustment under the provisions of this Ordinance shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action of the board unless said board shall have in its action approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit and/or certificate of occupancy shall not have been applied for within said ninety (90) day period or such extended period as the board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. Such termination waiver shall be without prejudice to a subsequent appeal and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

C. ACTIONS OF THE BOARD OF ADJUSTMENT

(1) In exercising its powers, the board may, in conformity with the provisions of the Statutes of the State of Texas as existing or hereafter amended, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken. The board shall have the power to impose reasonable conditions to be complied with by the applicant.

(2) The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this Ordinance or to effect any variance in said Ordinance.

(3) Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment or any taxpayer or any officer, department, or board of the municipality may present to a court of record (District Court) a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board and not thereafter.

D. NOTICE OF HEARING BEFORE BOARD OF ADJUSTMENT REQUIRED

The Board of Adjustment shall hold a public hearing on all appeals made to it and written notice of such public hearings shall be sent to the applicant and all other persons who are owners of real property lying within two hundred (200) feet of the property on which the appeal is made. Such notice shall be given no less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last city tax roll. Such notice may be served by depositing the same properly addressed and postage paid in the United States Post Office. Notice shall also be given by publishing the same in the official publication of the City of Lone Oak at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing.

E JURISDISTION OF BOARD OF ADJUSTMENT

When, in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, authorize the following special variances and exceptions to the regulations herein established and take action relative to the continuance and discontinuance of a nonconforming use:

(1) Consider applications for conditional uses as set forth in Section 6;

(2) To hear and decide appeals where it is alleged there is error on any order, requirement, decision, or determination made by the building inspector in the enforcement of this Ordinance;

(3) Interpret the intent of the zoning district map where

uncertainty exists because the physical features on the ground vary from those on the zoning district map and none of the rules set forth in Section 5 apply;

(4) Initiate on its motion or cause presented by interested property owners action to bring about the discontinuance of a nonconforming use;

(5) Require the discontinuance of a nonconforming use under any plan whereby full value of the structure 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 to the regulations of this Ordinance;

(6) Permit the change of occupancy of a nonconforming use to another nonconforming use in accordance with the provisions of Section 16;

(7) Permit the enlargement of a nonconforming use in accordance with the provisions of Section 16;

(8) Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure and provided that such actions conform to the provisions of Section 16;

(9) Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated, or substandard;

(10) Permit such variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, off-street loading regulations, lot area, maximum height, building size or percent of masonry required, where the literal enforcement of the provisions of this Ordinance would result in a unnecessary hardship, or where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district.

SECTION 25: AMENDMENTS

A. GENERAL

The zoning regulations, restrictions, and boundaries may from time-to-time be amended, supplemented, changed, modified or repealed. Such amendments, supplements, changes, modifications, or repeal shall be deemed to amend, supplement, change, modify, or repeal the community plan of the City and shall become a part of such community plan. The Planning and Zoning Commission and its composition and duties are established by the City Council of Lone Oak.

B. AMENDMENT INITIATION

An amendment of this Ordinance may be initiated by

- (1) City Council on its own motion;
- (2) Planning and Zoning Commission;
- (3) Request by owner or agency of owner of property changed.

C. PROCEDURE

All requests for amendments to zoning district boundaries shall be submitted, together with required fees to the administrative official, which officer shall cause notices to be sent and the petition placed on the Planning and Zoning Commission agenda.

The City Council may not enact any proposed amendment until the Planning and Zoning Commission makes its final report to the City Council. The City Council may refer proposed amendments to the Planning and Zoning Commission for recommendation. Requests for changes in zoning districts shall include the proposed designation or designations for the area concerned. Alternative proposals may be made at the time of filing the original request for amendment; however, all hearings and deliberations shall be limited to the request as submitted by the applicant at the time of original filing.

D. PUBLIC HEARING AND NOTICE

Prior to making its report to the City Council the Planning and Zoning Commission shall hold at least one (1) public hearing thereon. Written notice of all public hearings on proposed changes in district boundaries shall be sent not less than fourteen (14) days before such hearing is held to

all owners of property which is located within the area proposed to be changed, within two hundred (200) feet of such property or within two hundred (200) feet of any other adjacent property under the same ownership as the tract to be rezoned. Measurements shall be taken exclusive of the public streets. Such notice may be served by using the last known address as listed on the City tax roll and depositing the notice, postage paid, in the United States Mail. No notice of hearing before the Planning and Zoning Commission on proposed changes in zoning regulations need be given except as may be required by state law.

E. COMMISSION REPORT

The Planning and Zoning Commission, after the public hearing is closed, shall vote on its recommendations on the proposed change to be sent in a report to the City Council. Such report may recommend for or against such proposed change or may, but need not, include reasons for such decision. The commission may defer its report for not more than sixty (60) days until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. If the commission fails to finally report after sixty (60) days, it would be deemed to have recommended negatively to the proposal.

F. FORWARDING FINAL REPORT

Every proposal receiving a final report by the commission shall be forwarded to the council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.

G. WITHDRAWAL

Any proposal or application may be withdrawn by the proponent after the commission makes its final report, and such proposal or application shall not be subject to the provision hereof that a period of time must pass before a new application is considered. If such proposal is withdrawn, the council will not consider it. Any proposal or application withdrawn may be re-submitted and shall be subject to all fees and notice requirements as an original application.

H. SIGN POSTING

The administrative official may have at least one (1) sign

erected on the property to be rezoned which sign shall have a total area of a least four (4) square feet. Such sign or signs shall, if possible, be located adjacent to streets. Such sign shall be erected on or before the first date of the first notice to property owners and shall be removed immediately after final action by the City Council or when the applicant withdraws the request, whichever comes first. The sign shall contain a notice the present zoning classification, the requested zoning, the name of the applicant and the telephone number of the public official from whom dates of public hearings may be obtained. The erection or continued maintenance of signs shall not be deemed a condition precedent to the granting of any zoning change or holding of any public hearing.

I. COUNCIL HEARING AND NOTICE

The City Council may from time-to-time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established. A public hearing on such amendment, supplement, or change shall be held by the council. Notice of council hearing shall be given by publication one (1) time in the official newspaper of the city, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the date of publication. No such amendment, supplement, or change shall be considered unless and until the commission makes its final report thereon. Publication of such change shall be accomplished by publishing the descriptive caption and penalty clause of the ordinance amending the comprehensive plan to incorporate the change.

J. APPLICATION NOT TO BE CONSIDERED FOR ANOTHER SIX MONTHS AFTER DENIAL OF REQUEST FOR REZONING

No application for rezoning shall be considered within six (6) months of denial of a request by the City Council for the same classification on the same property.

PROTEST AGAINST CHANGE

In case of a protest against such change signed by the owner of twenty percent (20%) or more either of the land included in such proposed change, or of the land within two hundred (200) feet thereof, excluding any intervening public street, such amendment shall not become effective except by the favorable vote of three-fourths (⁴1) of all the members of the City Council present and qualified to vote.

L. COUNCIL ACTION ON APPLICATION

The proponent of any zone change shall satisfy the City Council that either the general welfare of all the city affected by the area to be changed will be enhanced or that the property is unusable for the purposes allowed under

© Drainage ways and 100-year flood plain limits;

(d) Proposed treatment for screening the perimeter of the land embraced by the petition, including screening of internal separations of land use where required;

(e) Proposed internal no vehicular circulation linkages such as pedestrian paths and hike trails, bike trails, and equestrian bridle paths, where applicable, including their interrelationships with vehicular circulation systems and proposed handling of points of conflict;

(f) A tabular summary schedule indicating:

(I) The gross acreage and percent of each type zoning category proposed;

(ii) The gross acreage and percent of each type of land use proposed, with streets and open space categories listed separately, and residential uses further stratified as to type, I.e., single-family, two-family, multi-family townhouse, etc., including the total gross project acreage;

(iii) The gross residential density of each type of residential land use proposed, expressed in dwelling units per acre; and passed on net residential land use plus one-half (¹/₂) of any abutting street;

(iv) The quantitative number of dwelling units proposed for each residential dwelling type (I.e., single-family, two-family, etc.);

(v) Proposed maximum lot coverage by building types (I.e., single-family or multi-family residential, commercial, office, industrial, etc.) expressed in terms of percent or floor area ratio of the lot or site.

(2) Architectural Drawings

Elevations, concept sketches, or renderings depicting building types and other significant proposed improvements, including the treatment and use of open spaces, etc., where

the submission of such drawings would more clearly portray the nature and character of the applicant's land use and development proposals.

(3) Written Documents

In narrative form on 8 1/2" X 11" sheets, including:

(a) Statement(s) of planning objectives to be achieved in use/development proposal, including a narrative description of the character of the proposed development and rationale behind the assumptions and choices made by the applicant, including use and ownership of open spaces, etc.

(b) Legal description of the total site area proposed for rezoning, development, or conditional use permit.

(c) A development schedule indicating the approximate date(s) when construction of the proposed development, and subsequent stages or phases thereof, if any, can be expected to begin to be completed to the best of the applicant's knowledge and belief.

(d) A statement as to the present and proposed ownership of the sites or parcels thereof embraced by the application.

(e) Economic feasibility and/or market analysis studies, when deemed necessary by the reviewing body to adequately assess the necessity for zoning certain parcels to the sizes indicated by the applicant, or to evaluate the need for granting a conditional use permit.

(f) Environmental assessment statement, prepared pursuant to the National Environmental Policy Act of 1969, and any subsequent amendments thereto, when deemed necessary by the reviewing body to properly assess the impact of the proposed development/land use on the existing environment.

(g) Statement(s) as to how and when the applicant proposes to provide water and sewer to the development.

(h) Signature, title, and date of the applicant, at the conclusion of the written documents certifying the information presented in the plans and supporting documents reflecting a reasonably accurate portrayal of the general nature and character of the proposals.

SECTION 26: SEVERABILITY

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance hereby adopted are severable and if any phrase, clause, sentence, or section shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction. Such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections, since the same would have been enacted by the City Council without the incorporation of any unconstitutional phrase, clause, sentence, paragraph, or section.

This Ordinance shall take effect immediately from and after its passage and the publications of the caption as the law in such cases provides.

PAS AND APPROVED on this the 9th day of _____ 2007, by the City Council of the City of Lone Oak, Texas 75453.

APPROVED

~~HAROLD SLEMMONS, MAYOR~~ _____

ATTEST:

 tefv-t/ CITY SECRETARY _____