

ORDINANCE NO. _____

HUBBARD ZONING ORDINANCE

AN ORDINANCE TO REGULATE THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE AND OTHER PURPOSES; TO REGULATE THE HEIGHT OF BUILDINGS AND STRUCTURES; TO REGULATE AND DETERMINE THE AREA OF YARDS AND OTHER OPEN SPACES ABOUT BUILDINGS; TO REGULATE AND DETERMINE THE DENSITY OF USE OF LAND AND LOT AREAS, AND FOR THE SAID PURPOSES TO DIVIDE THE CITY INTO DISTRICTS, TO PROVIDE FOR ITS ENFORCEMENT AND FOR A BOARD OF ADJUSTMENT; TO PROVIDE FOR CHANGES AND AMENDMENTS, TO PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND PROVIDING A SEVERABILITY CLAUSE.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUBBARD, TEXAS THAT THE FOLLOWING PROVISIONS SHALL AND CONSTITUTE THE HUBBARD ZONING ORDINANCE AND THAT THIS ORDINANCE IS EFFECTIVE SEPTEMBER 30, 2015: PUBLIC HEARING ON ZONING ORDINANCE WILL BE SEPTEMBER 15, 2015.

PASSED, APPROVED AND ADOPTED THIS THE _____ day of _____, 20____.

Attest:

City Secretary, Amber Fuller
City of Hubbard, Texas

Mayor, Nancy Smith
City of Hubbard, Texas

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ARTICLE 1. TITLE

WHEREAS, the City of Hubbard, Texas is a General Law City operating pursuant to the General Laws of the State of Texas.

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has the authority to adopt a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential and other purposes, and to amend said ordinance and map for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, the City Council of the City of Hubbard, Texas, at a public hearing called by the City Council did consider its Comprehensive Plan in making a determination as to whether these changes should be granted or denied: and

WHEREAS, the City Council of the City of Hubbard, Texas, further considered among other things the character of the districts and their peculiar suitability for particular uses and the view to conserve the value of the buildings, and encourage the most appropriate use of the land throughout this City; and

WHEREAS, the City Council of the City of Hubbard, Texas, does find that there is a public necessity for the zoning changes, that the public demands them, that the public interest clearly requires them, and

WHEREAS, the City Council of the City of Hubbard, Texas, has determined that adopting a zoning ordinance is in the best interest of the public at large, the citizens of the City of Hubbard, Texas, and helps promote the general health, safety and welfare of the community.

This Ordinance shall be known as the Hubbard Zoning Ordinance No. _____.

ARTICLE 2. PURPOSE

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

ARTICLE 3. DISTRICTS AND GENERAL PROVISIONS

SECTION 3-1 Districts Established.

3-1. 01. Zoning districts as herein set forth are established. The City is hereby divided into five types of districts:

- A. "A" Agricultural District: There exists in certain fringe areas of the City, land which is presently used for agricultural purposes and to which all urban services are not yet available. These lands should appropriately continue to be used for agricultural purposes until needed for urban purposes in

conformity with the orderly growth of the City. The uses permitted in this district are intended to accommodate normal farming, ranching, and gardening activities. It is anticipated that lots in this district will be rezoned as they are developed.

- B. "R" Residential District: The purpose of this district is to provide for residential areas and to protect and conserve them; permitting only such accessory and supporting uses as are compatible with the primary purpose of residential use.
- C. "C" Commercial District: The purpose of this district is to provide suitable locations for a wide variety of retail uses and other similar commercial and service activities.
- D. "TC" Town Core District: The purpose of this district is to preserve the historical downtown area, which acts as a community gathering area and features local businesses, a variety of living choices, and pedestrian-friendly, human-scale designs that can be accessed by car, bicycle and pedestrians.
- E. "I" Industrial District: The purpose of this district is to provide suitable areas for industrial and commercial uses protected against intrusion of incompatible residential uses.
- F. "PD" Planned Development District: A PD is intended to allow for more efficient use of space, the provision of high-quality recreation and gathering areas, and/or a combination of uses not enabled in any other single district. PD projects must demonstrate site design that does not conflict with the existing built and natural environments.

3-1.02. The boundaries of the districts listed in 3-1.01 are shown on the attached Zoning District Map. The map and all markings, notations, references and other information shown on said map shall be and hereby made as much a part of this Ordinance as if said map and all notations, references and other information shown thereon were all fully set forth or described herein. The original drawing of this map, described herein and on file with the City Secretary.

SECTION 3-2 General Provisions.

3-2.01. Except as herein provided, the use of premises and buildings, the lot area and height of buildings in the City shall be in accordance with the minimum standards hereinafter established. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the protection of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties, except that if this Ordinance imposes a greater restriction, this Ordinance shall control.

3-2.02. Yards or lot area required for one building or use cannot be used for another building or use; nor can the size of a lot be reduced below the requirements of this Ordinance.

3-2.03. All land annexed to the City shall be accompanied by a proposal to zone the affected property to a base zoning district as identified in Section 3-1. Such zoning district shall be appropriate for the intended final use of the property and in accordance with the Comprehensive Plan.

SECTION 3-3 Zoning Map Amendments

3-3.01. Purpose: For the purpose of establishing and maintaining sound, stable, and desirable development within the territorial limits of the City, the Official Zoning Map shall not be amended except to confirm or acknowledge changed or changing conditions in a particular area, or to extend the boundary of an existing zoning district.

3-3.02. Initiation of Amendments. An amendment to the Official Zoning Map may be initiated by:

- A. City Council on its own motion;
- B. The Planning Commission; or
- C. Application by property owner.

3-3.03. Approval Process. Review and Report by Planning and Zoning Commission.

A. Review and Report by Planning Commission. The Planning Commission shall:

1. Publish and mail public notice in accordance with Texas Local Government Code Chapter 211 if the change request involves a zoning reclassification of a property. Notice describing all land subject to the proposed change(s) must be mailed at least 11 days before the public hearing date to all property owners within 200 feet of the affected property(s), according to the city's most recent tax roll. A request to change a zoning classification uniformly or to make an administrative change to a zoning classification does not require mailed notices to property owners.
2. The applicant shall have at least one (1) sign erected on the property for which zoning change consideration has been requested. The sign shall have a total area of at least four (4) square feet and shall be located adjacent to streets, if possible. 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 of hearing and a telephone number for the City of Hubbard where dates of the public hearing may be obtained.
3. Hold a public hearing on the zoning amendment request.
4. Review the proposed amendment to the Official Zoning Map, subject to the criteria enumerated in subsection 3-3.04 below.
5. Recommend approval, approval with modifications or conditions, or disapproval to the City Council.
6. The function of the Planning Commission shall be advisory only.
7. The City Council will serve as the Planning and Zoning Commission if a Commission is not appointed.
8. Give a verbal report to the City Council on the date of the scheduled public hearing at City Council that includes the rationale for the recommendation, according to the criteria as enumerated in subsection 3-3.04 below.

9. Any action or recommendation that would render a less restrictive change than was originally requested or that would increase the area to be rezoned originally described in the notice, would have to be re-advertised with new notices sent to property owners within 200 feet of the proposed change.

B. City Council Action. The City Council shall:

1. In accordance with Texas Local Government Code Chapter 211, 16 days prior to the public hearing publish a newspaper notice and mail a notice of the proposed change to each property owner whose property is within 200 feet of the proposed change.
2. Hold a public hearing and hear the Planning and Zoning Commission report before rendering a decision on an amendment to the Official Zoning Map. If the commission makes no report within thirty (30) days, it shall be considered to have made a report approving the proposed amendment, supplement, modification or change.
3. At least thirty (30) days after the newspaper advertisement is published and notices are sent to property owner, City Council votes on the proposed change. A three-fourths favorable vote of all members is required to approve an amendment if the Planning and Zoning Commission has recommended that the City Council disapprove a potential zoning map amendment.
4. Require a three-fourths favorable vote of all members to approve an amendment if, in accordance with Chapter 211.006 of the Texas Local Government Code, a written protest that meets the conditions below is presented to the City Secretary prior to the Public Hearing for the Map Amendment. The valid protest must be written and signed by the owners of at least twenty percent (20%) of either a) the area of the lots or land covered by the proposed change; or b) the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200') from that area.

C. Twenty Percent Rule.

If the Planning and Zoning Commission recommends against, or if a protest against such proposed amendment, supplement, change or modification shall be presented to the City Secretary, duly signed and acknowledged by the owners of twenty percent or more, either of the area of lots or land immediately adjoining the same and extending two hundred feet (200') therefrom, such amendment, supplement, change or modification shall not become effective except by the favorable vote of three-fourths of the members of the City Council.

3-3.04 Review Criteria. In determining whether to approve, approve with modifications or conditions or disapprove amendments to the Official Zoning Map, the City Council shall consider and make findings on the following matters regarding the proposed amendment:

- A. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;

- B. Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment;
- C. Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment; and
- D. Availability of water and wastewater facilities suitable and adequate for the proposed use.

3-3.05. Limitation on Reapplication. If an application for rezoning is disapproved by the City Council, another application for reclassification of the same property or any portion thereof to the same zoning district shall not be filed within a period of twelve (12) months from the date of final disapproval, unless upon initiation by the Planning Commission or City Council.

3-3.06. Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature and/or number of changes and additions, the City Council shall, by ordinance, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original 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 Secretary, and bearing the Seal of the City and date 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 part of Ordinance No. ____ of the City of Hubbard, Texas."

ARTICLE 4. USE OF LAND OR PREMISES

SECTION 4-1 Permitted Uses and Special Conditions.

Land or premises in each of the following classified districts in the City may be used for the following purposes only. Except as herein provided, any other use of such land or premises in such district or districts shall be unlawful and in violation of this Ordinance. The following table presents the zoning district classifications and the permitted uses within those classifications. Uses not listed as “permitted” are prohibited.

Permitted Use Table

■ = Permitted uses within each district; * = Permitted if part of an approved site plan
 Δ = Specific Use Permit required from the City Council

	DISTRICTS					
	A	R	C	TC	I	PD
Residential Uses						
Single-Family	■	■	Δ	Δ		*
Duplex, Triplex, and Quadplex		■	■	Δ		*
Multifamily Apartment		■	■	■		*
Manufactured Housing	■	■	■			*
Manufactured Housing Parks			■			*
Mobile Home			■			
Parish House or Parsonage	■	■	■	■		*
Group Living ¹	■	■	■			*
Public Uses						
Cemetery, Mausoleum, or Crematorium	■		■		■	*
Park or athletic field	■	■	■	■		*
Public administration	■		■	■		*
Public safety, fire, police, and emergency services	■	■	■	■	■	*
Religious institutions and fraternal organizations	■	■	■	■		*
School (public or private, including day care)		■	■	■		*
Minor utilities (e.g. on-site stormwater retention or detention, neighborhood-	■	■	■	■	■	*

¹ As specified in State law, any group home regulated by the Texas Human Resources Code, Section 123.001 is permitted in any district that allows residential uses if the exterior of the home is compatible with surrounding residential structures.

serving telephone switching center, gas/electric/cable transmission lines, water and wastewater pump station or lift station, water well)						
Major utilities (e.g. electrical substation, electric or gas generation plant, filter bed, wireless communication towers and facilities, waste treatment plant, water pumping facility, water tower)	■	■	■	■	■	*
Commercial Uses						
Auto and large equipment sales			■		■	*
Bed and Breakfast	■	■	■	■		*
Beauty, Barber, or Other Personal Service Shop		■	■	■		*
Convenience store with gas			■		■	*
Convenience store without gas			■	■	■	*
Grocery store			■	■		*
Kennels and stables	■					*
Indoor recreation			■	■		*
Laundry/Coin-operated or Dry Cleaning			■	■		*
Medical Office			■	■		*
Motels and hotels			■	■		*
News, Flowers and/or Refreshment Stand			■	■		*
Offices pertaining primarily to information services (e.g. law firms, real estate agents, banks, printing, and computer repair) or off-site services (e.g. catering, household cleaning, home health care)			■	■		*
Recreation Vehicle (RV)/Travel Trailer Park			■			*
Repair businesses (e.g. electrical appliances, lawn equipment, recreational equipment, air conditioning, plumbing, transportation and construction equipment).			■	■	■	*
Restaurants, cafes, bakeries, and other eateries		Δ	■	■		*
Retail outlets, except for auto and large equipment sales			■	■		*
Shooting Range, Skeet, or Target Range	■		■		■	*
Storage businesses (e.g. mini-storage)			■		■	*
Veterinary hospital/clinic	■		■	■		*
Industrial Uses						
Manufacturers/ Small Scale (< 3,000 sq ft.			■		■	*

manufacturing space)						
Manufacturers/ Large Scale (> 3,000 sq ft. manufacturing space)			■		■	*
Warehousing, freight and storage, including equipment rental and storage			■		■	*
Auto and large equipment service and washing			■		■	*
Welding or Machine Shop			■		■	*
Wholesale trade			■		■	*
Flour and Grain Storage Elevators					■	
Woodworking Shop					■	
Dairy Processing Plant					■	
Meat Packing Plant					■	

- 4-1.01. Uses not listed. The Zoning Administrator will determine which category is most appropriate for unlisted uses and which category is most appropriate when a use could be interpreted as belonging in multiple categories. When making a determination, the Zoning Administrator will consider whether:
- A. The use is consistent with the intent and purpose of the applicable zoning district;
 - B. The use is similar to and of the same general type as the uses listed in the zoning district;
 - C. The use has similar intensity, density, off-site impacts and impacts on community facilities as the uses listed in the zoning district

An appeal to the decision of the Zoning Administrator may be made to the Board of Adjustment.

4-1.02. Conditions and Regulations for Listed Uses. The following describe conditions and special regulations for uses. Additional requirements may be added to these herein by the City Council as deemed necessary to protect the health, safety, and general welfare of the citizens of Hubbard. No construction or occupancy shall commence for any permitted use until the conditions herein stated have been met.

- A. Site Plan for Building Permit. Site plan approval by the Planning and Zoning Commission and City Council will be required in accordance with Article 8, Site Plan Requirements.
- B. Mobile homes as defined in Tex.Rev.Civ.Stat.Ann. art. 5221f, § 3(17) are not permitted within the City of Hubbard
- C. Child care facility license required. Any child-care facility or school must provide a copy of the State of Texas Certification of licensing or registration as described in Section 42.052 of Chapter 42 - Texas Human Resources Code to the City.

- D. Sexually-oriented businesses are prohibited within 300-feet of a public school or a public or private day-care center or child-care facility located on a building ground floor.
- E. Establishments that sell alcohol shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.

SECTION 4-2 Specific Use Permits

4-2. 01. Purpose. The purpose of this section is to provide a procedure for the location of certain uses under specific conditions described by a Specific Use Permit reviewed by the Planning and Zoning Commission and granted by the City Council.

4-2. 02. The Specific Use Permit issued by the City Commission shall be deemed an amendment to the Zoning Ordinance, and the development shall be in keeping with the plans and specifications and other data submitted to the Planning and Zoning Commission and the City Council for the purpose of securing the permit. The applicant for a Specific Use must present his request to the Planning and Zoning Commission after making application for such use with the Zoning Administrator. After public notice and hearing required by law, the City Council may grant a Specific Use Permit.

4-2. 03. Specific Use permit uses and the districts in which they may be authorized are designated in Section 4-1: Permitted Use Table.

4-2. 04. Application Fee shall be as prescribed by the most recently adopted City Fee Schedule.

4-2. 05. Criteria for Granting a Specific Use Permit.

After public hearing and proper notice and after recommendation by the Planning and Zoning Commission, the City Council may authorize the issuance of a specific use permit when the council finds all of the following conditions present:

- A. That the effect of such proposed use will not be detrimental to the neighborhood character, traffic, public utilities, schools, public safety and general welfare;
- B. That the requested Specific Use will establish only those uses permitted under the ordinance;
- C. That the location of proposed activities and improvements are clearly defined on a site plan filed by the application;
- D. That the establishment of the conditional use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- E. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;

- F. That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
- G. That the specific use shall conform to all applicable yard area regulations of the district in which it is located.

4-2. 06. Additional Development Standards. The Commission may recommend and the Council may require additional development standards as deemed necessary for the protection of the immediate properties and the neighborhood of the application. Such recommendations may include utilities, drainage, landscaping, lighting, signs and advertising devices, screenings, fences; access ways, curb cuts, traffic control, height of buildings and setback of buildings. In all cases in which specific 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.

4-2. 07. Expiration of Specific Use Permit. A Specific Use Permit shall be deemed to have expired one year from the date of granting thereof unless the premises covered thereby are actually being used according to the permit. Additional time may be granted by the City Council or provisions may be made for extension of time by terms of the permit itself. The Council may grant the Specific Use Permit for a specified period of time. Whenever the use for which a Specific Use Permit is granted is terminated for any reason whatsoever, the Specific Use Permit shall be deemed to have expired.

No application for a specific use permit 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 4-3 Temporary Use Permits.

4-3. 01. Purpose. Certain temporary uses of land are essential to the full development and utilization of the land for its lawful purpose. The temporary uses hereinafter enumerated shall not be deemed violations of this ordinance when made under the conditions herein provided.

4-3. 02. Permitted Uses

Temporary Use	Districts
Construction Office. Temporary field or construction offices and temporary building material storage areas to be used solely for construction purposes in connection with the property on which they are erected may be permitted for specific periods of time when approved by the Zoning Administrator. Such temporary uses shall be discontinued by the order of the City and in no event shall such temporary uses continue to exist on the premises after the construction for which they	All

Real Estate Sales Office. Temporary field real estate sales offices may be permitted in single-family residential subdivisions for specific periods of time when approved by the Zoning Administrator. Such temporary uses may be located in a “Hubbard Home” or a portable building within the subdivision, but shall be discontinued by the order of the Zoning Administrator. In no event shall such temporary uses continue to exist after the subdivision or the increment of same in which the use is located shall have been substantially developed.	R
Outdoor seasonal sales. A sixty (60) day temporary use permit can be issued by the City provided that the lot to be utilized has adequate space for off-street parking, access to restroom facilities for employees, and means of ingress and egress are compatible with existing traffic flows. A trailer (for sales only) may be located on the lot for which the temporary use permit is issued to provide for office space.	All
Post-disaster housing. Temporary housing may be permitted in residential subdivisions for up to six (6) months when approved by the Zoning Administrator. Such temporary uses may be located in a portable building or recreational vehicle within the subdivision.	R

4-3. 03. Application for Temporary Use Permit

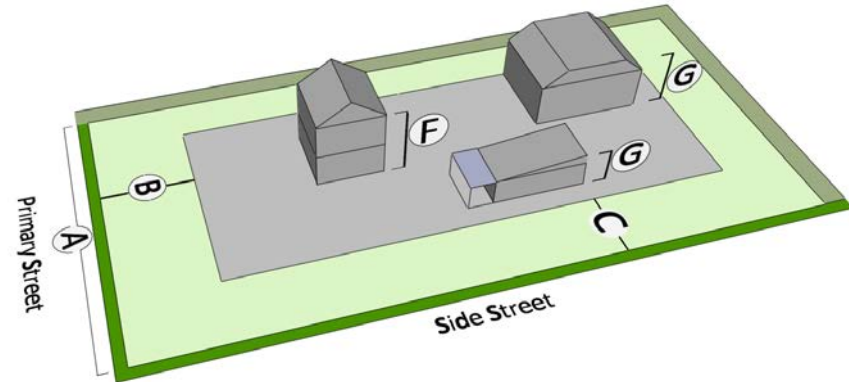
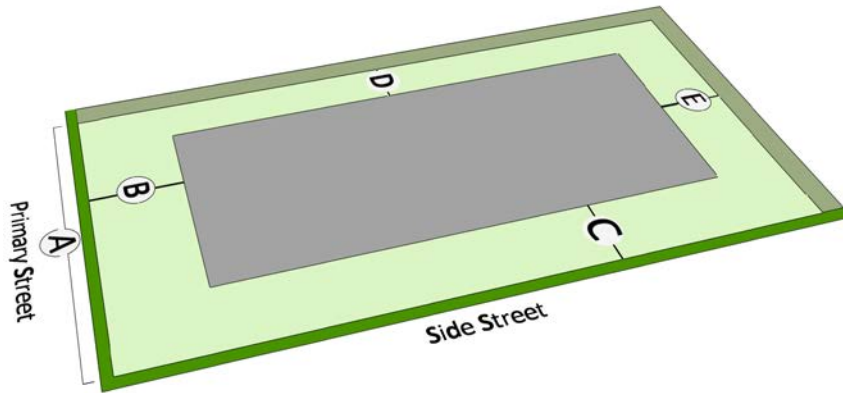
The applicant for a Temporary Use must present his request in writing to the Zoning Administrator.

4-3. 04. Application Fee shall be as prescribed by the most recently adopted City Fee Schedule.

ARTICLE 5. DESIGN STANDARDS

SECTION 5-1 Agricultural District

Agricultural District uses are specified in Article 4.

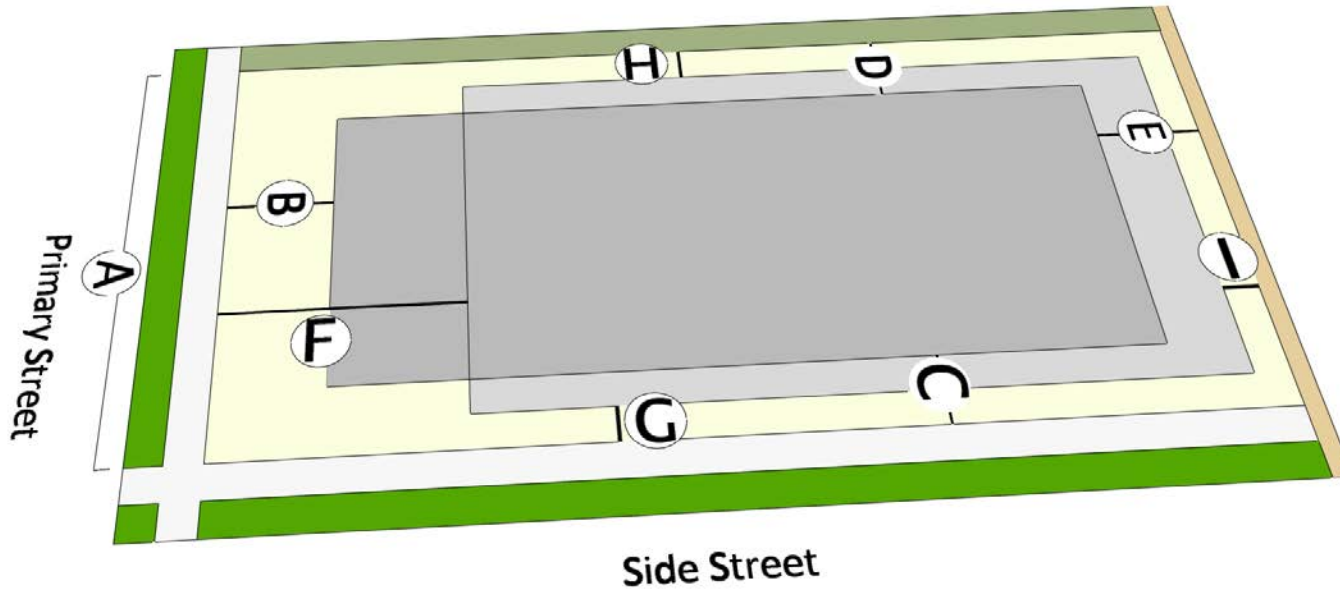


District:		A
Lot		
	Area (min acres)	5
(A)	Width (min)	300'
Structure Setbacks		
(B)	Front (min)	50'
(C)	Side, street (min)	50'
(D)	Side, interior (min)	30'
(E)	Rear (min)	50'

District:		A
Principal Structure Height		
(F)	Stories (max)	3
(F)	Feet (max)	50'
Accessory Structure Height		
(G)	Stories (max)	n/a
(G)	Feet (max)	50'

SECTION 5-2 Residential District

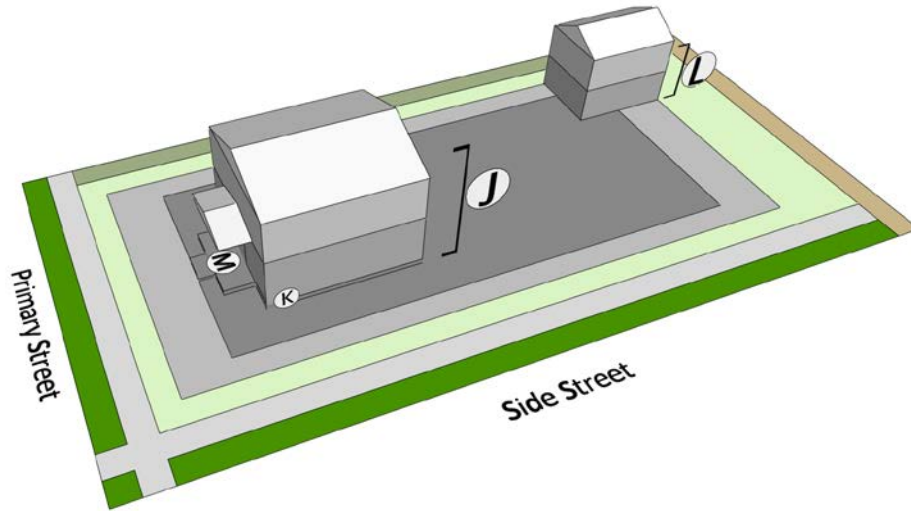
Residential District uses are specified in Article 4.



<i>District:</i>		R
Lot		
	Area (min SF)	7,200
	Maximum lot coverage (all structures)	35%
(A)	Width (min)	60'
Principal Structure Setbacks		
(B)	Front (min)	20'
(C)	Side, street (min)	15'
(D)	Side, interior (min)	5'
(E)	Rear (min)	15'

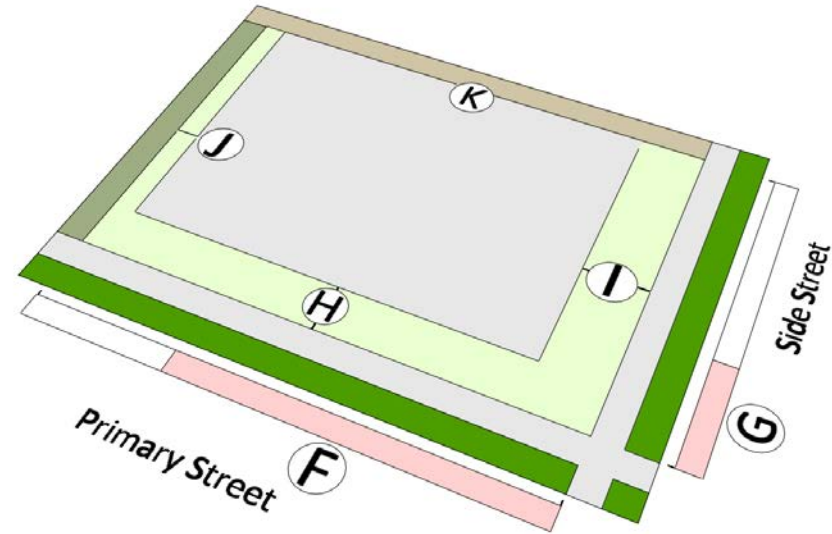
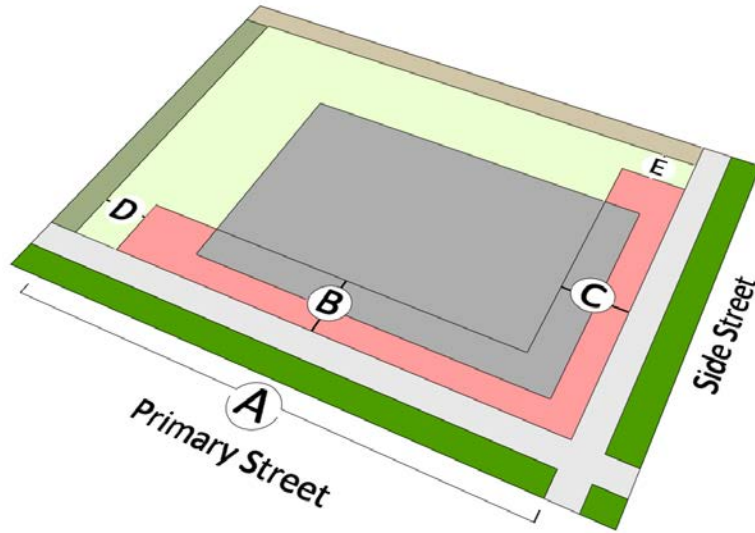
<i>District:</i>		R
Accessory Structure Setbacks		
(F)	Behind front façade of principal structure (min)	15'
(G)	Side, street (min)	10'
(H)	Side, interior (min)	3'
(I)	Rear, common lot line (min)	5'
(I)	Rear, alley (min)	5'

District:		R
Principal Structure Height		
(J)	Stories (max)	2
(J)	Feet (max)	35'
(K)	Ground story elevation (min)	18"
Accessory Structure Height		
(L)	Stories (max)	2
(L)	Feet (max)	30'
Building Entrance		
(M)	Street facing entrance required	yes
(N)	Entrance spacing (max; apartment buildings)	100'
Building Materials Allowed		
	Brick/Masonry	yes
	Solid wood planking	yes
	Fiber cement siding	yes
Transparency (apartment buildings)		
(O)	Ground story (min)	40%
(P)	Upper story (min)	30%
(Q)	Blank wall area (max)	30'



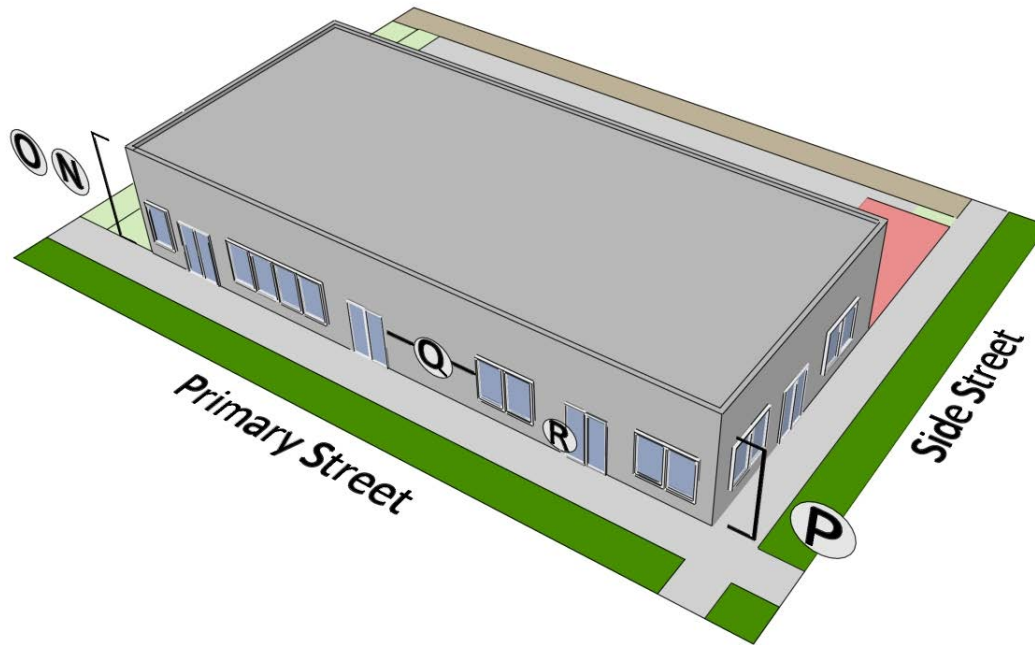
SECTION 5-3 Commercial District

Commercial District uses are specified in Article 4. In the Commercial District, storefront windows are provided to encourage interaction between pedestrians/drivers and ground story spaces. Primary entrances are prominent and street facing.



District:		C
Lot		
	Area (min SF)	None
(A)	Width (min)	50'
Structure Setbacks		
(B)	Primary street (min/max)	0'/60'
(C)	Side street (min/max)	0'/35'
(D)	Setback abutting R district (min)	30'
(D)	Setback abutting any other district (min)	10'
(E)	Setback abutting alley (min)	5'

District:		C
Building Facade		
(F)	Min % of lot width	50%
(G)	Min % of lot depth	20%
Parking Setbacks		
(H)	Primary street setback (min)	10'
(I)	Side street setback (min)	10'
(J)	Setback abutting R district (min)	20'
(J)	Setback abutting any other district (min)	5'
(K)	Setback abutting alley (min)	5'

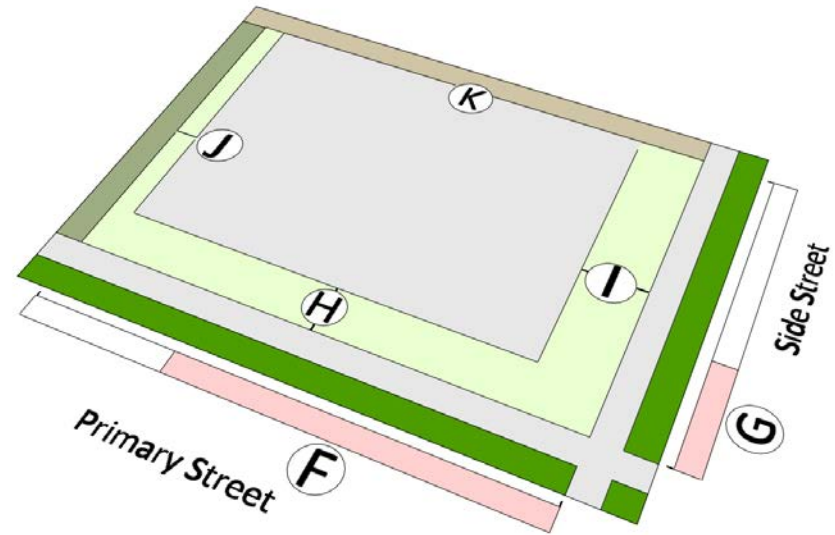
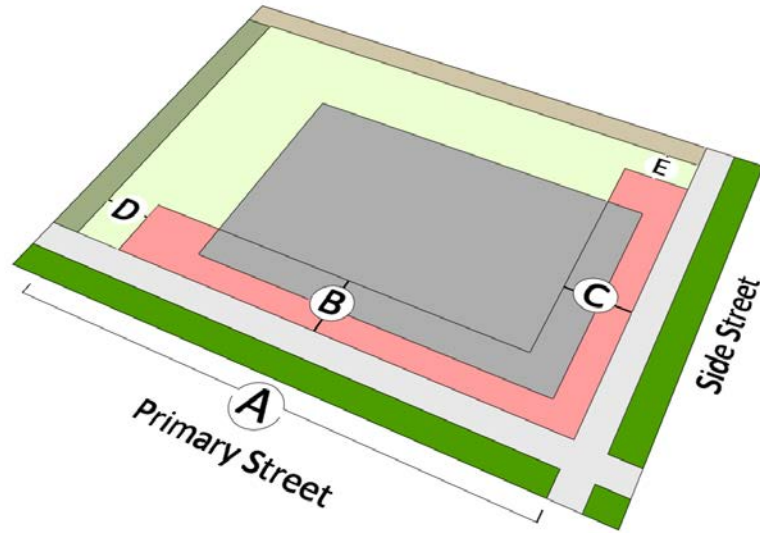


District:	C	
Height		
(N)	Stories (max)	2
(N)	Feet (max)	35'
(O)	Ground story floor height (min)	15'
Transparency		
(P)	Ground story (min)	35%
(Q)	Blank wall area (max)	50'
Building Entrance		
(R)	Street facing entrance required	yes

District:	C	
Building Elements Allowed		
	Gallery or awning	yes
	Porch, stoop	yes
Building Materials Allowed		
	Brick/Masonry	yes
	Solid wood planking	yes
	Fiber cement siding	yes

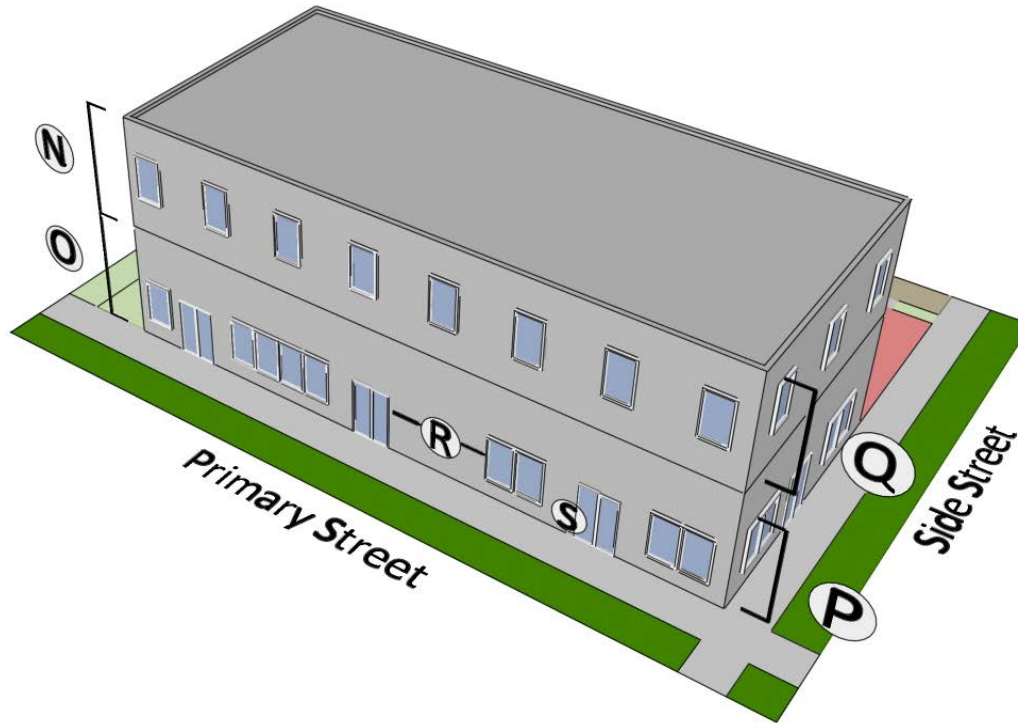
SECTION 5-4 Town Core District

Town Core District uses are specified in Article 4. The Town Core District permits ground floor commercial uses with upper-story residential or office uses. Windows on the ground floor and small building setbacks encourage interaction between pedestrians/drivers and ground story uses. Primary entrances are prominent and street facing.



District:		TC
Lot		
	Area (min SF)	3,500
(A)	Width (min)	25'
Structure Setbacks		
(B)	Primary street (min/max)	0'/5'
(C)	Side street (min/max)	0'/5'
(D)	Setback abutting R district (min)	20'
(D)	Setback abutting any other district (min)	10'
(E)	Setback abutting alley (min)	5'

District:		TC
Building Facade		
(F)	Min % of lot width	60%
(G)	Min % of lot depth	30%
Parking Setbacks		
(H)	Primary street setback (min)	10'
(I)	Side street setback (min)	10'
(J)	Setback abutting R district (min)	10'
(J)	Setback abutting any other district (min)	5'
(K)	Setback abutting alley (min)	0'

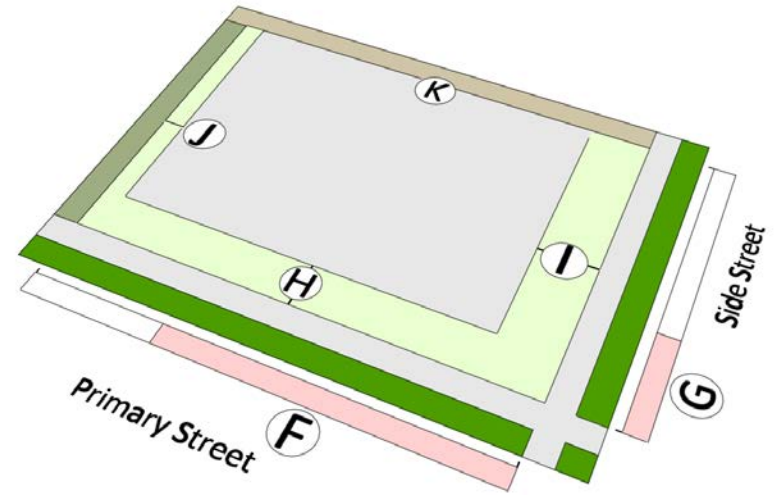
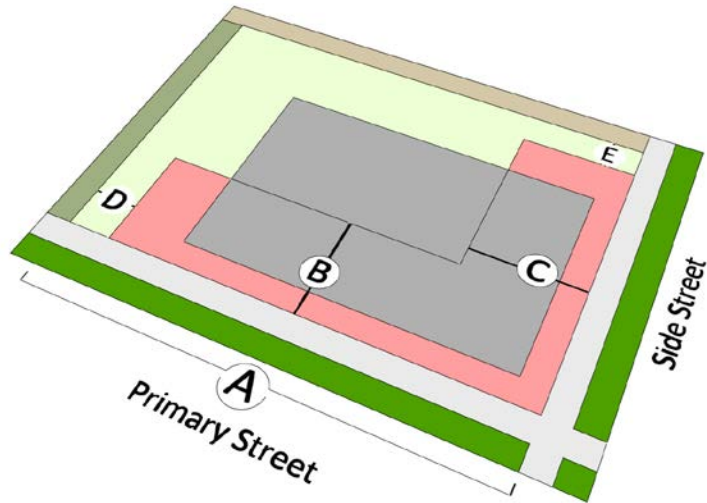


District:		C
Height		
(N)	Stories (max)	3
(N)	Feet (max)	45'
(O)	Ground story height (min)	12'
Transparency		
(P)	Ground story (min)	45%
(Q)	Upper story (min)	20%
(R)	Blank wall area (max)	35'
Building Entrance		
(S)	Street facing entrance required	yes

District:		C
Building Elements Allowed		
	Gallery or awning	yes
	Double gallery	yes
	Porch, stoop	yes
	Balcony	yes
Building Materials Allowed		
	Brick/Masonry	yes
	Solid wood planking	yes
	Fiber cement siding	yes

SECTION 5-5 Industrial District

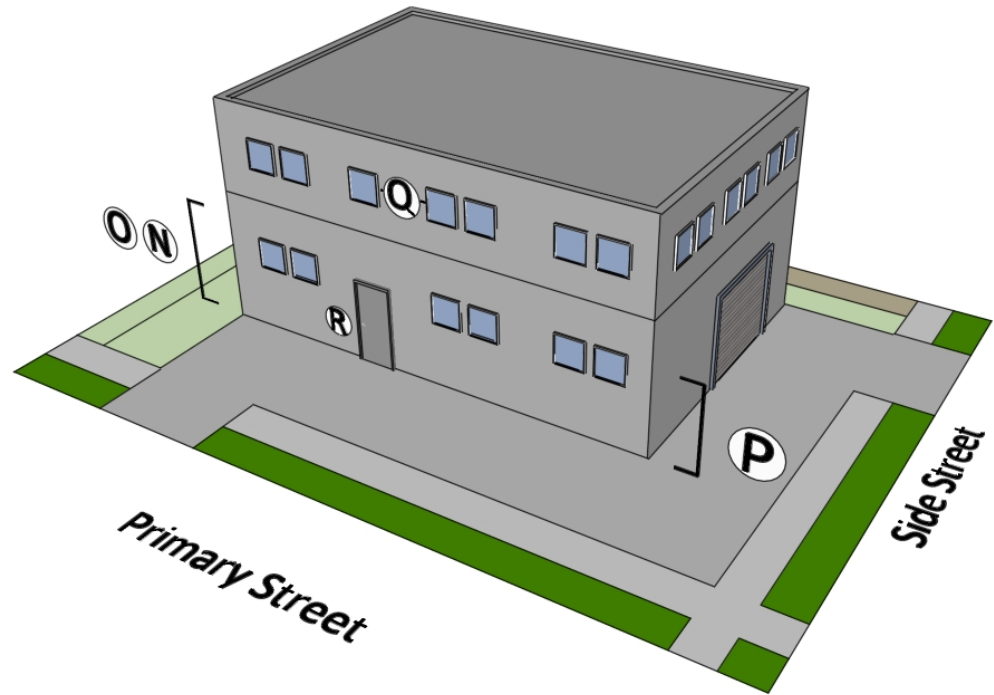
Industrial District uses are specified in Article 4.



District:		I
Lot		
	Area (min SF)	n/a
(A)	Width (min)	200'
Structure Setbacks		
(B)	Primary street (min/max)	50'/150'
(C)	Side street (min/max)	45'/150'
(D)	Setback abutting R district (min)	60'
(D)	Setback abutting any other district (min)	25'
(E)	Setback abutting alley (min)	30'

District:		I
Building Facade		
(F)	Min % of lot width	30%
(G)	Min % of lot depth	20%
Parking Setbacks		
(H)	Primary street setback (min)	15'
(I)	Side street setback (min)	15'
(J)	Setback abutting R district (min)	30'
(J)	Setback abutting any other district (min)	20'
(K)	Setback abutting alley (min)	5'

District:	I	
Height		
(N)	Stories (max)	3
(N)	Feet (max)	70'
(O)	Ground story height (min)	12'
Transparency		
(P)	Ground story (min)	n/a
(Q)	Blank wall area (max)	n/a
Building Entrance		
(R)	Street facing entrance required	no
Building Materials Allowed		
	Brick/Masonry	yes
	Solid wood planking	yes
	Fiber cement siding	yes
	Steel/Aluminum/Metal	yes



SECTION 5-6 Planned Development District

5-6. 01. Purpose. The PD District is a zoning district that accommodates multiple uses developed as integrated land use units either by a single owner or a combination of owners.

The PD District allows for the creative master planning of developments larger than five (5) acres. A PD District may be used to permit new or innovative concepts in land use not permitted by other zoning districts, to ensure the compatibility of land uses, and to allow for the adjustment of changing demands to meet the current needs of the community by meeting one or more of the following purposes:

1. To provide for a superior design of lots or buildings;
2. To provide for increased recreation and open space opportunities for public use and enjoyment;
3. To provide amenities or features that would be of special benefit to the property users or to the overall community;
4. To protect or preserve natural amenities and environmental assets such as trees, creeks, ponds, floodplains, slopes, viewscales, or wildlife habitats;
5. To protect or preserve existing historical buildings, structures, features or places;
6. To provide an appropriate balance between the intensity of development and the ability to provide adequate supporting public facilities and services;
7. To forward the goals of the Comprehensive Plan; and
8. To meet or exceed the standards of this Ordinance.

The zoning of a PD District shall be that shown on the development and site plan approved and made a part of the adoptive ordinance and any written special conditions within or attached to the adoptive ordinance or development plan. The ordinance granting a PD District shall include a statement as to the purpose and intent of the PD District granted therein, as well as a general statement citing the reason for the PD request.

5-6. 02. Permitted Uses

A PD District may be approved with any combination of uses allowed by this Zoning Ordinance. The uses permitted in any specific PD shall be enumerated in the ordinance establishing such district, along with any conditions or limitations deemed appropriate for the specified uses.

5-6. 03. Prohibited Uses

- A. Any building erected on land used for any other uses than those shown on the PD development plan, as approved by the City Council.
- B. Any use of property that does not meet the required minimum lot size; front, side and rear yard dimensions and/or lot width; or exceeds the maximum height, building coverage or density per gross acreage as shown in the development's recorded development plan, as approved by the City Council.

- C. Any use deemed by the City Council as being detrimental to the health, safety or general welfare of the citizens of the City.

5-6. 04. Design considerations.

A Planned Center District project shall be designed to achieve the following objectives:

- A. The design shall provide for internal compatibility between residential and non-residential uses such that glare, noise, odors, traffic, and other potential nuisance conditions for residents are minimized.
- B. The design shall ensure that the residential units are of a residential character, and that appropriate privacy between residential units and other uses on the site is provided.
- C. Site planning and building design shall provide for convenient pedestrian access from the public street into the nonresidential portions of the project, through such means as courtyards, plazas, walkways, and street furniture.
- D. Site planning and building design shall be compatible with and enhance the adjacent and surrounding residential neighborhood in terms of building design, color, exterior materials, landscaping, lighting, roof styles, scale, and signage.

5-6. 05. Site layout and project design standards.

- A. The minimum acreage for a PD request shall be two (2) acres.
- B. Each PD District shall establish regulations deemed necessary and appropriate for the development of the property within the district and the protection of neighboring properties. These regulations may include, but are not limited to, the following:
 - 1. Front, side, and rear yard requirements;
 - 2. Minimum lot width, depth, and area requirements;
 - 3. Maximum lot coverage;
 - 4. Maximum building size and/or height;
 - 5. landscaping, open space, and screening requirements;
 - 6. Off-street parking and loading requirements; and
 - 7. Signage requirements.
- C. Loading areas. Commercial loading areas shall be located away from residential units and shall be screened from view from the residential portion of the project to the maximum extent feasible.
- D. Refuse and recycling areas. Areas for the collection and storage of refuse and recyclable materials shall be located on the site in locations that are convenient for both residential and nonresidential uses.
- E. Laundry facilities. Each residential unit shall be provided access to laundry facilities.

- F. Open space. A minimum of 30 percent of the gross platted area shall be open green space. 'Open green space' is defined as and limited to common areas of open space or landscaping and community recreational areas that is irrigated and continuously maintained. Open green space does not include areas specifically designated or used as parking lots, garages, streets, or driveways.
- G. Lighting. Lighting for commercial uses shall be appropriately shielded to limit impacts on the residential units.
- H. Noise. Each residential unit shall be designed and constructed to minimize nonresidential project noise levels, in compliance with the City's Noise Ordinance.

5-6.06. Area Regulations.

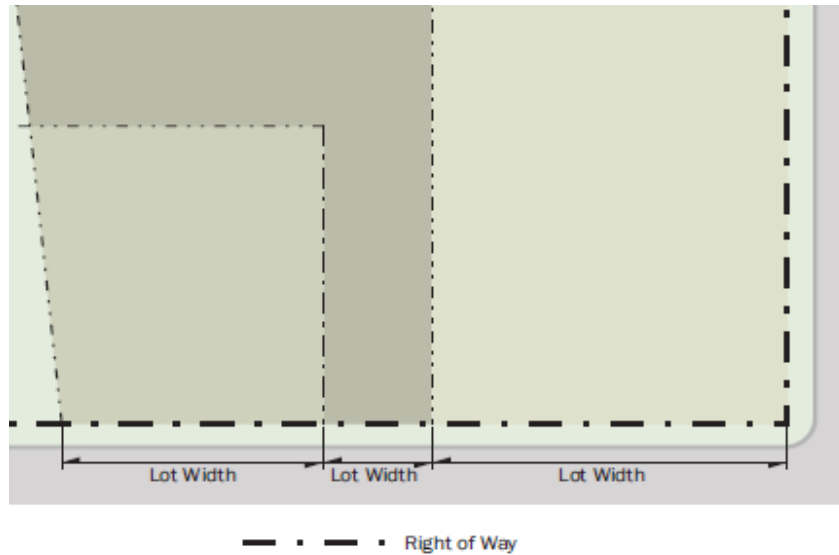
- A. All tracts approved for PD Districts shall be provided with a sewage system meeting the standards of the City Subdivision Ordinance for conveying sewage to the City treatment plant.
- B. Wiring, fixtures, equipment and appurtenances of every electrical wiring system shall be installed and maintained in accordance with applicable codes and regulations for such systems. All distribution and service lines of electrical, telephone, television, and other wire-carrier type utilities shall be underground, except that the system of supply lines for multiple subdivision service by utilities may be overhead. Transformers, amplifiers, or similar devices associated with the underground lines shall be located upon the ground or below the ground level. Where the underground installation of such facilities is not a standard practice of the utilities involved, the subdivider or developer shall make all arrangements for payments associated with the nonstandard installation.
- C. A system for the storage, collection and disposal of refuse will be conducted so as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.
- D. Natural gas piping systems shall be installed underground and maintained in accordance with applicable codes and regulations governing such systems. Piped gas shall have a cap on the outlet when not in use to prevent accidental discharge of gas, and shall be in accordance with applicable City codes. Liquefied petroleum gas systems shall not be installed in PD Districts.
- E. Provision for an adequate, safe and potable supply of water shall be made by the owner or agent either through the development of an on-site source or purchase from the City. Each PD development shall have one single commercial water meter from the City, regardless of distribution among the business tenants, unless separate meters are deemed necessary by the public works department.

- F. All water mains shall be six (6) inches or larger to the point of takeoff for any buildings.
- G. Fire hydrants shall be provided by the owner or agent and shall be located so that no structure or portion of structure will be more than 500 feet from the hydrant measured along streets or driveways.
- H. All walls separating business entities shall have a minimum fire resistance rating in accordance with the adopted Building Code of the City.
- I. Each tenant space shall have installed and maintained, by the owner or agent of the planned center, both smoke and heat detection equipment approved by the fire marshal.
- J. All streets and parking lots must be paved, as a minimum, according to City specification, or according to any additional specifications as may be set forth by the public works department in the interest of public safety and convenience. Pervious pavement systems are encouraged as a drainage/sedimentation control mechanism.
- K. All telephone service lines shall be installed underground.
- L. Each tenant space, whether by original design or by subsequent alteration, division or partitioning, that will be open to the public for sales or service, shall have installed separate toilet facilities for men and women in accordance with the laws of the state.
- M. In reviewing the PD District and preliminary and/or development plan, the City Council will consider proposed standards for land uses, maximum height, floor area ratios, density, minimum off-street parking and loading, setbacks, site coverage, building spacing, access, screening walls or landscaping, building area, open space, pedestrian ways, public or private streets, alleys, and other development and protective requirements necessary to protect the health, safety and general welfare and to create a reasonable transition from property adjacent to a PD District. Such standards shall be specified in the ordinance establishing the zone, and in the preliminary plan and the development plan. Any PD development proposal shall be submitted to city staff for review of proposed standards at least 15 days prior to presentation of the proposal to the Council.

SECTION 5-7 Measurement and Exceptions

5-7.01. Lot Width

The minimum lot width of all lots shall be measured from side property line to side property line along the right-of-way of the primary street providing access to the lot. A site's primary, side and service street frontages shall be designated by the Administrator.



5-7.02. Setbacks

- A. No part of a setback or other open space required for any structure or use for the purpose of complying with the provisions of this development code may be included as a part of a setback or other open space similarly required for another structure or use.
- B. Front, side street, and parking setbacks are measured from the edge of the right-of-way. Interior side setbacks are measured from the side property line. Rear setbacks are measured from the rear property line or the edge of the right-of-way if there is an alley.
- C. An architectural feature, including an attached deck, landing, porch, stairway, balcony, bay window, cornice, eave, awning, or roof overhang may extend beyond the wall of the structure a maximum of 5 feet into a required front, side, or rear setback.
- D. A required setback area shall not be occupied by structures other than fences, walls, and screening permitted by Article 6, Site Development Standards



5-7.03. Encroachments

The following allowed encroachments apply to all required setbacks unless otherwise stated, so long as they do not extend into any easements. Structures below and covered by the ground may extend into any required setback.

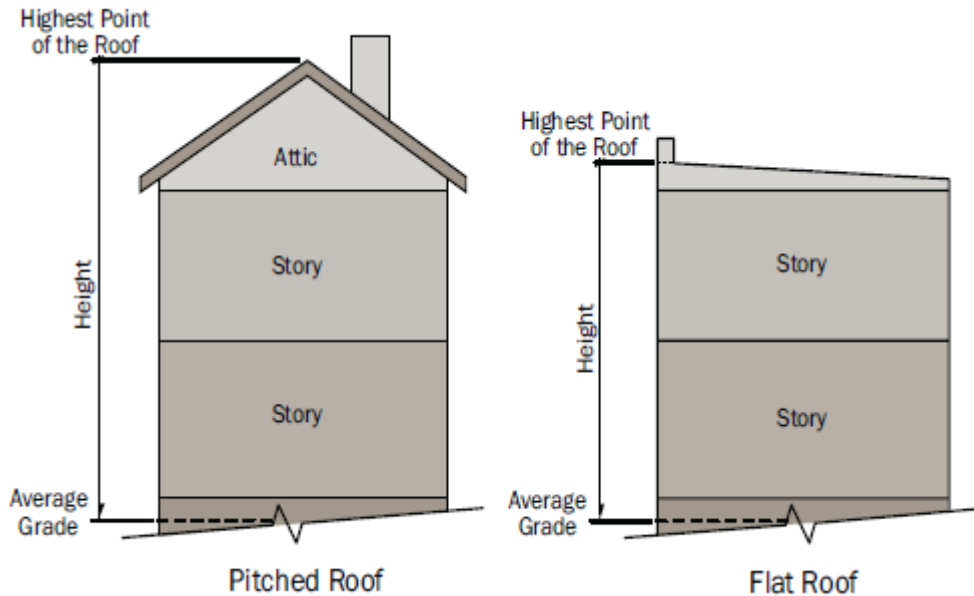
- A. Chimneys, flues or smokestacks may encroach a maximum of two feet.
- B. Building eaves or roof overhangs may extend up to two feet; provided that such extension is at least three feet from the property line, its lower edge is at least 7½ feet above the ground, and it is located at least five feet from any other building or eave.
- C. Bay windows, entrances and similar features that are less than 10 feet wide may extend up to 3½ feet but must remain at least five feet from the property line.
- D. Cornices, belt courses, sills, buttresses, or other similar architectural features may project up to two feet.
- E. Unenclosed fire escapes or stairways may project up to four feet.
- F. Unenclosed patios, decks or terraces may extend up to four feet into a required side setback, or up to eight feet into a required rear setback but may not project within five feet of a common lot line.
- G. Porches, balconies, and stoops may extend up to six feet into a required setback but may not project within three feet of a common lot line. A porch may not encroach into the public right-of-way without a license for the use of public right-of-way.
- H. Awnings, light shelves, galleries and arcades may extend into a required front setback. Awnings, light shelves, galleries and arcades may not encroach into the public right-of-way without a license for the use of public right-of-way.

5-7.04. Height

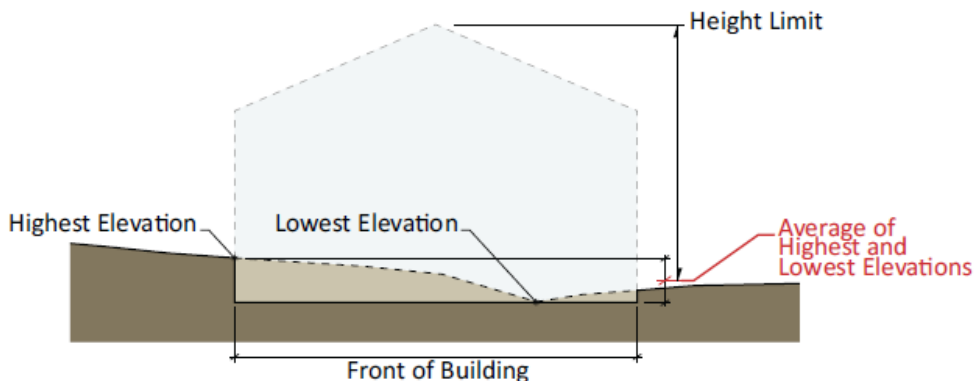
A. Structure Height

Structure height is measured in both number of stories and feet from the average grade to the top of the highest point of the roof.

A basement with 50 percent or more of its perimeter wall area surrounded by natural grade is not considered a story. An attic is not a story where 50 percent or more of the attic floor area has a clear height of less than 7 1/2 feet; measured from the finished floor to the finished ceiling.



Average grade is determined by calculating the average of the highest and lowest elevation along natural or improved grade (whichever is more restrictive) along the front of the building parallel to the setback line.



B. Exceptions

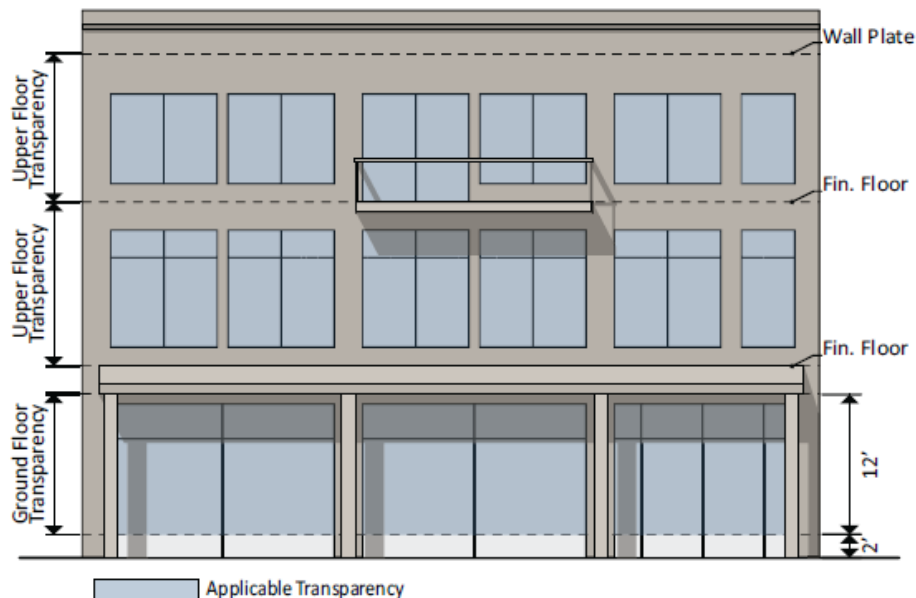
The following accessory structures may exceed the established height limits, provided they do not exceed the maximum building height by more than 12 feet:

1. Amateur communications tower;
2. Cooling tower;
3. Clerestory;
4. Chimney and vent stack;
5. Elevator penthouse or bulkhead;
6. Flagpole;
7. Mechanical equipment room;
8. Ornamental cupola or dome;
9. Parapet wall, limited to a height of four feet.
10. Roof top deck;
11. Skylights;
12. Solar panels;
13. Spire, belfry;
14. Stairway access to roof;
15. Tank designed to hold liquids;
16. Visual screens surrounding roof mounted mechanical equipment; and
17. Wind turbines and other integrated renewable energy systems.

5-7.05. Transparency

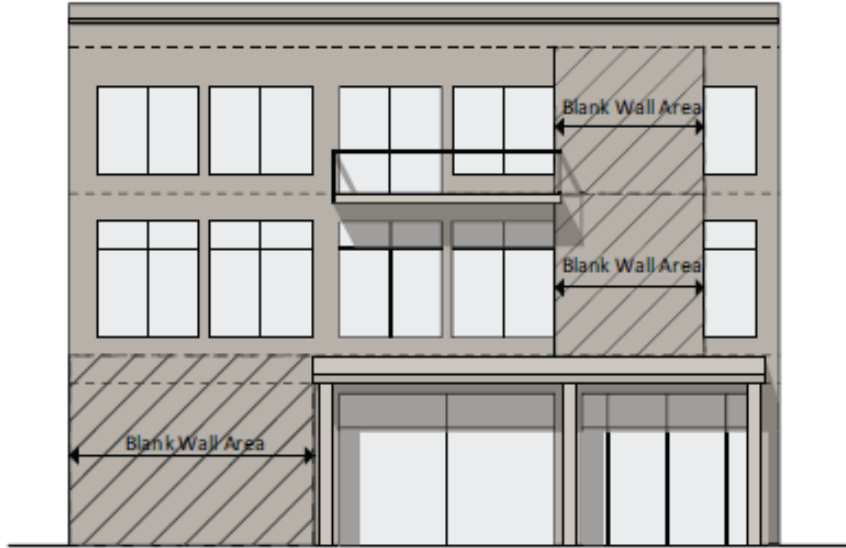
Ground floor transparency (windows and doors) is measured between two and 12 feet above the adjacent sidewalk.

For a mixed use building only, a minimum of 60 percent of the required ground story transparency must allow views into the ground story use for a depth of at least six feet. Windows must be clear, unpainted, or made of similarly treated glass. Neither spandrel glass nor backpainted glass complies with this provision.



5-7.06. Blank wall area

- A. Blank wall area is the portion of the exterior façade of a floor of a building, measured parallel to the street, that does not include a substantial material change; windows or doors, display windows, art installations, columns, pilasters or other articulation greater than 12 inches in depth.
- B. Blank wall area applies individually to both ground and upper story street-facing floors from the finished floor to the ceiling above.



ARTICLE 6. SITE DEVELOPMENT STANDARDS

SECTION 6-1 Parking

6-1. 01. Calculation of Ratios

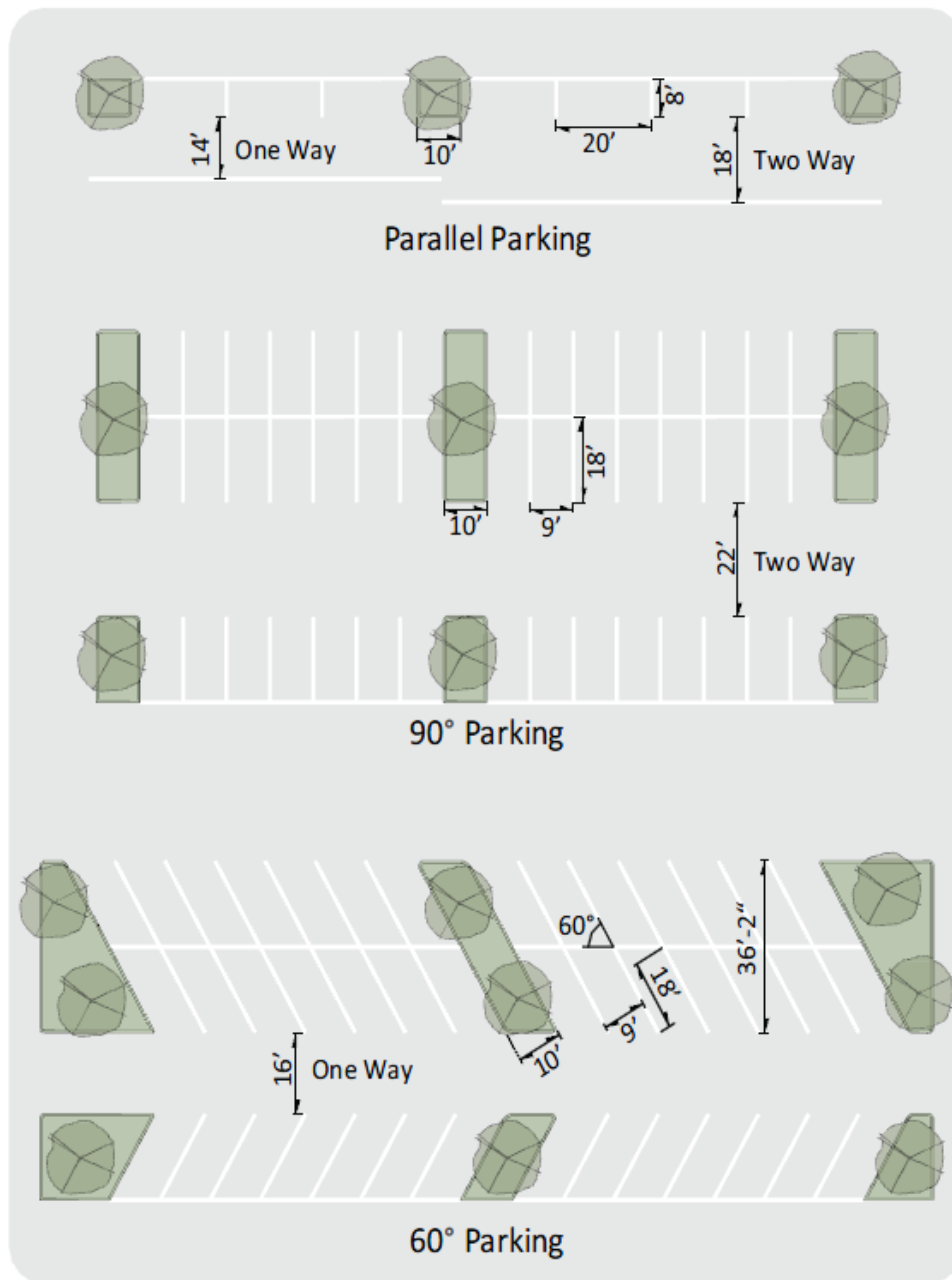
- A. Mixed Uses: Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses.
- B. Fractional Measurements: Where fractional spaces result, the parking spaces required shall be rounded up to the next highest whole number.
- C. Minimum: The following minimum parking ratios apply to all zoning districts. The applicant may provide an alternative parking plan with data submitted in support of higher or lower ratios.
- D. Maximum: No use shall provide more than 150 percent of the required parking shown in the table below unless any parking above the 150 percent threshold is provided on pervious surface or as underground or structured parking.
- E. Unlisted Uses: The parking space requirements for a use not specifically listed in the table shall be the same as for the listed use deemed most similar to the proposed use by the Administrator.
- F. Credit for On-Street spaces: On-street parking spaces located immediately abutting the subject parcel, lying entirely within the extension of the side lot lines into the roadway and not within any required clear sight distance, may be counted toward meeting these parking requirements.
- G. Handicap Parking: Accessible parking must be provided according to the standards in the Architectural Barriers Texas Accessibility Standards (TAS)

PARKING RATIOS		
	Specific Use	Minimum Parking
Residential		
Household living	Single Family	1.0 per unit
	Accessory dwelling (e.g. garage apartment)	1.0 per unit
	Multifamily (e.g. duplex, apartment)	1.0 per unit
Group living	All uses	1.0 per 300 SF of GFA
Social service	All uses	1.0 per 300 SF of GFA
Public		
Civic	School	1.0 per 400 SF of GFA
	Place of worship	1.0 per 5 seats in main worship space
	All other uses	1.0 per 300 SF of GFA
Parks & open space	All uses	As determined by P&Z commission
Utilities	All uses	1.0 per 250 SF of office GFA
Commercial		
Office	All uses	1.0 per 250 SF of GFA
Medical	Office (e.g. dentist, chiropractor)	1.0 per 150 SF of GFA

Indoor recreation	All uses	1.0 per 250 SF of GFA
Outdoor recreation	All uses	1.0 per 5,000 SF outdoor use area
Overnight lodging	All uses	1.0 per guest room
Personal service	All uses	1.0 per 500 SF of GFA
Restaurant/Bar	All uses	1.0 per 200 SF of GFA
Retail sales	All uses	1.0 per 500 SF of GFA
Industrial		
Heavy industrial	All uses	1.0 per 600 SF GFA (office) + 1.0 per 4,000 SF GFA
Light industrial	All uses	1.0 per 600 SF GFA (office) + 1.0 per 4,000 SF GFA
Research & development	All uses	1.0 per 300 SF of GFA
Self-service storage	All uses	1.0 per 250 SF GFA (non-storage) + 1.0 per every 50 storage units
Vehicle service	All uses	3.0 per bay or 1.0 per 250 SF GFA, as applicable whichever is greater
Warehouse & distribution	All uses	1 per 500 SF GFA office space + 1 per 4,000 SF indoor storage area
Wholesale trade	All uses	1.0 per 250 SF GFS (office) + 1.0 per 4,000 SF of indoor storage

6-1. 02. Parking Space and Lot Design.

A. Parking Space Dimensions. Required off-street parking spaces shall meet the following dimensions.



- B. Markings. Each required off-street parking space and off-street parking area shall be identified by surface markings at least four (4) inches in width. Markings shall be visible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles. One-way and two-way accesses into required parking facilities shall be identified by directional arrows.
- C. Surfacing and Maintenance. Drives, parking lots, and loading areas shall be paved with concrete, asphalt, crushed limestone, compacted gravel, or equal substitute in all residential, multiple-family, commercial, office, and light industrial sites. All off-street parking areas, drive aisles,

internal roadways, and loading areas for all uses shall be paved at all times.

6-1.03. Screening of parking areas adjacent to designated thoroughfares. In order to ensure that adequate landscaping is provided to create and maintain a pleasant visual environment along the primary routes through the City of Hubbard, the following minimum standards shall apply to all non-single family residential property which is adjacent to the right-of-way line of any of the following designated thoroughfares and highways within the city limits:

1. State Highway 31
2. State Highway 171

- B. Surface parking spaces adjacent to any street shall be required to be screened from the street or street easement by a minimum two and one-half (2½) feet tall (at time of planting) hedge of evergreen shrubs spaced no greater than three (3) feet on center, or a minimum two and one-half (2½) feet tall grass berm, or a combination of the two (2).
- C. Such landscaping or berms shall not conflict with any sight easements.
- D. Parking spaces shall be so designed and shrubs shall be planted such to preclude vehicle overhang onto the shrubs or their planting area.
- E. For purposes of this section, "adjacent to any street or street easement" shall refer to parking spaces which are less than one hundred (100) feet from the nearest street right-of-way or private street easement, and for which there are no buildings, structures, fences, or other site improvements other than landscaping, signs, or open space between the parking spaces and the street right-of-way or easement.
- F. The property owner installing new landscaping shall guarantee a plant life of at least eighteen (18) months after issuance of a letter of compliance or certificate of occupancy. Ongoing maintenance of required landscaping, including replacement of any landscape elements which are damaged or which die, shall be the responsibility of the current owner of the property.

6-1.04. Alternative Parking Plan. An alternative-parking plan may be approved by the City Council for specific developments that are deemed to require a different amount of parking than shown above. The Zoning Administrator shall establish conditions necessary to insure the adequacy of future on-site parking when approving an alternate parking plan. Any alternative standard shall meet the following criteria below:

- A. The applicant provides a detailed breakdown of his or her parking requirements indicating employee counts, shift distribution and visitor or customer needs.

- B. The applicant provides a site plan showing how additional parking to meet standard requirements would be provided if the use changed or parking needs increase.
- C. In limited cases, off-site parking, shared parking agreements, and reciprocal access and parking agreements may be approved by the City Council.

SECTION 6-2 Site Access

6-2.01. General Standards

- A. All buildings shall be located on a site abutting a public or private street.
- B. Unless otherwise approved by the City’s Engineer, all nonresidential sites abutting an arterial street must provide a shared cross-access easement with a minimum paving width of 22 feet when abutting another mixed use or nonresidential property.
- C. No vehicle or obstacle may block driveways intended for use as a fire lane or for cross-access.

6-2.02. Driveways

- A. A driveway may be no less than eight feet and no more than 30 feet in width.
- B. A maximum of forty (40%) percent of the curb line and parkway shall be used for vehicular access to such property.

6-2.03. Location of Driveways

- A. A platted lot shall be permitted the number of driveways identified below.

Total Site Frontage	Number of Driveways (max)
200 feet of frontage or less	1
201 feet to 400 feet of frontage	2
401 feet to 600 feet of frontage	3
601+ feet of frontage	4

- B. The City’s Engineer may approve or require additional driveways. Such determination shall consider site design, pedestrian and vehicle circulation, adjacent uses, topography, speed of traffic on adjacent roads, and other similar considerations.
- C. Driveways shall be separated by a distance of not less than 150 feet measured centerline to centerline of the driveways. In the event that an infill lot is unable to meet this separation requirement due to the location of existing driveways on adjacent lots, the infill lot shall be permitted one driveway.
- D. Unless otherwise approved or required by the City’s Engineer, the permitted driveway for a corner lot shall connect to the street with the lower roadway classification.
- E. Unless otherwise approved or required by the City’s Engineer, driveways may intersect a street no closer than 50 feet from the intersection of two

street right-of-way lines and no closer than 100 feet from the intersection of an arterial street.

- F. Driveways shall be contained entirely within the property frontage or as part of a joint access easement with an adjacent platted property.

SECTION 6-3 Fence, Screening, and Wall Standards for all Districts

This Section establishes standards for the screening and separation of adjoining residential and nonresidential land uses, equipment and outdoor storage areas, and surface parking areas.

6-3. 01. Screening between different land uses. A commercial or industrial land use proposed on a site adjacent to a zone that allows single dwellings shall provide screening at the parcel boundary as follows. Other nonresidential uses adjacent to a residential use may also be required by the Planning Commission to comply with these requirements.

- A. The screen shall consist of plant materials and a solid, decorative wall of masonry or similar durable material, six to eight feet in height. Openings or pedestrian connections may be required at the discretion of the review authority. The decorative wall shall be architecturally treated on both sides, subject to the approval of the Zoning Administrator.
- B. A landscaping strip with a minimum width of 10 feet shall be installed adjacent to a screening wall.
- C. The Planning Commission may approve a substitute for the requirements of this Section if it first determines that:
 - 1. The relationship of the proposed uses make the required screening unnecessary;
 - 2. The intent of this Section can be successfully met by means of alternative screening methods;
 - 3. Physical constraints on the site make the required screening infeasible; or
 - 4. The physical characteristics of the site or adjoining parcels make the required screening unnecessary.

6-3. 02. Height limits. Each fence or wall shall comply with the height limits shown in the Table below.

Location of Fence or Wall	Maximum Height
Within front or street side setback	5 ft
Within interior or side or rear setback	6 ft*
Outside of a required setback	6 ft*
Corner lots	4 ft, along front and sides of property

* A fence or wall up to eight feet in height may be allowed when the portions above six feet are of an open design (e.g., lattice, wrought iron or grille work)

6-3. 03. Measurement of fence and wall height. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence and the top edge of the fence material.

6-3. 04. All fences must be constructed parallel with lot or property lines. All fences adjacent to public street right-of-ways must be maintained in good repair.

6-3. 05. Specific fence and wall requirements.

- A. Outdoor equipment, storage, and work areas. Nonresidential outdoor uses and equipment adjacent to a residential use shall be fenced and/or screened
- B. Swimming pools, spas, and similar features. Swimming pools/spas and other similar water features shall be fenced in compliance with the City's Building Code, regardless of the other requirements of this Section.
- C. Mechanical equipment, loading docks, and refuse areas. Roof or ground mounted mechanical equipment shall be screened from public view from adjoining public streets and rights-of-way and adjoining areas zoned for residential uses. This equipment includes air conditioning, heating, ventilation ducts, and exhaust vents, loading docks, refuse storage areas, and utility services, electrical transformers, gas meters, etc.
- D. Temporary fencing. Temporary fencing may be necessary to protect historic resources, trees, or other similar sensitive features during site preparation and construction. This fencing shall be approved by the Zoning Administrator.
- E. Prohibited materials. The following fencing materials are prohibited in all zones except where they are required by a State or Federal law or regulation.
 - 1. Razor or concertina wire in conjunction with a fence or wall, or by itself, and chain link fencing within a front or street side setback; and
 - 2. Barbed wire, or electrified fence; except where approved by the Zoning Administrator for animal control.
- F. The colors, materials, and architectural style of screening shall be architecturally compatible with other on-site development.

ARTICLE 7. NON-CONFORMING USES, STRUCTURES AND PARCELS

SECTION 7-1 Non-Conforming Uses Regulated.

7-1. 01. Purpose. The purpose of this section is to make the Ordinance more workable, legal and not to impose unnecessary hardships on individuals who have established certain uses before the enactment of the Zoning Ordinance. Certain privileges are accorded such uses. It is the long-range objective, however, that such uses will ultimately be eliminated by attrition or other means.

7-1. 02. Non-Conforming Uses Established. The lawful use of land or a building existing at the time of passage of this Ordinance or any amendment thereto may be continued, although such use does not conform to all the provisions of this Ordinance, except as hereinafter provided.

7-1. 03. Non-Conforming Use of Land.

- A. General rule. A nonconforming use of land may be continued, including through a transfer of ownership; provided that the use shall not be enlarged or increased, nor be extended to occupy a greater area of land than it lawfully occupied before becoming nonconforming.
- B. Nonconforming use in a conforming structure. A nonconforming land use within a conforming structure may be expanded or replaced with a similar use with approval by the Board of Adjustment as a special exception, as follows:
 - 1. Expansion of use. A nonconforming use within a portion of a structure may be extended throughout the structure; and
 - 2. Substitution of use. A nonconforming use within a structure may be changed to another nonconforming use of similar type; except that if a nonconforming use is changed to a conforming use, no nonconforming use may be established thereafter.

7-1. 04. Non-Conforming Structure.

- A. Nonresidential or multifamily structure. A nonconforming structure may be enlarged, extended, reconstructed, or relocated on the site as a special exception approved by the Board of Adjustment, if the changes comply with all applicable provisions of this Ordinance; provided that the Board of Adjustment first finds that the additional work is compatible with neighboring uses and would not adversely impact neighboring properties;
- B. Single dwelling. A single dwelling, including its garage, that is nonconforming with respect to setback requirements, height limits, or other development standards may undergo interior modifications in compliance with Building Code requirements without limitation by this

Chapter. Exterior modifications that go beyond the prior structure footprint may be allowed as follows:

1. The Zoning Administrator may approve an addition to a nonconforming single-family dwelling where the addition complies with applicable setback requirements and other provisions of this ordinance;
2. An addition that encroaches into a required setback no further than an existing nonconforming portion of the structure may be allowed provided the addition is less than 25 percent of the total floor area of the existing structure; and that it complies with Building Code requirements.

7-1. 05. Discontinuance of a Non-Conforming Use. If a non-conforming use of a building or premises is discontinued for a period of one year or more, the use of such building or premises then must conform to the use regulations of the District in which it is located.

7-1. 06. Damage to Non-Conforming Use. No building or structure which has been damaged by any cause whatsoever to the extent of more than fifty percent (50%) of the fair market value of the building immediately prior to the damage, shall be restored except in conformity with the regulations of this Ordinance, and all rights as a non-conforming use are terminated. If a building or structure is damaged by less than fifty percent (50%) of its fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage.

7-1. 07. Intermittent and Illegal Uses. The occasional, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use and the existence of a non-conforming use on a part of a lot or tract shall not be construed to establish a non-conforming use on the entire lot. Passage of this ordinance in no way legalizes any illegal use existing at the time of its adoption.

7-1. 08. Discontinuance of Non-Conforming Uses.

- A. Where a premise in any R District is used for open storage, such uses must be discontinued and the stored material removed within three (3) years after the effective date of this Ordinance.
- B. The nonconforming use of building, structure, or land that has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:
 1. The intent of the owner to discontinue the use is apparent; or
 2. The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one (1) year; or

3. A nonconforming building, structure, or land, or portion thereof, which is, or hereafter, becomes vacant and remains unoccupied for a period of one (1) year; or
4. A nonconforming use has been replaced by a conforming use.

7-1.09. All non-conforming uses and structures shall be brought into conformance in ten (10) years from date of passage of this Ordinance; council may review annual extensions for five (5) additional years as related to the use, considering such things as investment, use, surrounding area and other factors. Where the enforcement of this section would impose an undue hardship on any property owner, said property owner shall have the right to appeal for relief to the Board of Adjustments.

SECTION 7-2 Land Not Platted.

Land not platted into individual lots inside the City limits or extraterritorial jurisdiction must be platted and meet all requirements of the City of Hubbard Subdivision Ordinance before a building permit can be issued. The plat must have City approval before the plat can be recorded at the courthouse and the new lots sold.

ARTICLE 8. SITE PLAN REQUIREMENT

SECTION 8-1 Site Plan Required

Any applicant for a zoning change shall submit a proposed site plan for a zoning change approval of any zoning change from “A” or “R” to any other category; and from “C” Commercial to “I” Industrial, or on any tract of land which meets one or more of the following conditions: 1) Adjacent to any residential district, 2) Greater than five (5) acres in area, and/or 3) Creation of a “PD” district.

8-1.01. Required site plans must be approved by action of the Planning and Zoning Commission and the City Council before construction. Approved site plans shall be recorded and kept on file by the City.

8-1.02. Major changes in any site plan after approval of the original plan by the City Council shall be processed the same as the original approval of the site plan. The following changes are not considered major changes and may be approved by the Planning and Zoning Commission and the City Council without a formal public hearing:

- a) Changes that do not alter the basic relationship of the proposed development to adjacent property;
- b) Changes that retain the character of the development;
- c) Changes that do not significantly alter the uses permitted, or increase the density, setbacks, height, or coverage of the site; and
- d) Changes that do not increase the problems of traffic circulation, safety, or utility requirements.

SECTION 8-2 Hearing and Approval

8-2.01. Council approval of a site plan that accompanies a zoning change request shall become part of the amending ordinance and shall be referenced on the Zoning District Map. Hearings held by the Council for consideration of approval of such zoning changes and accompanying site plans shall be conducted in accordance with the amendment provisions of the Ordinance and State law.

SECTION 8-3 Form and Content

8-3.01. The Site Plan shall contain the information listed below. Any or all of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation by the City Council and the officers required to enforce and to interpret this Ordinance.

- A. The boundary lines and dimensions of the property, existing subdivision lots available, utilities, easements, roadways, sidewalks, fire lanes, and public rights-of-way.

- B. Topography of the property proposed for development in contours of not less than two feet, together with any proposed grade elevations if different from existing elevations. If the natural contour of the land is to be altered or changed in any location on the property more than four (4) feet, the site plan must provide detailed information on a proposed grading plan. The proposed grading plan shall include information indicating the drainage and line of sight effect the proposed grading plan will have on the surrounding properties.
- C. Floodplains, watercourses, and other significant environmental features including, but not limited to, rock outcroppings and major tree groupings.
- D. The location and size of existing and proposed permanent and temporary (construction) surface and subsurface drainage facilities, including culverts, drains, and detention pond.
- E. The location and use of all existing and proposed buildings or structures. The minimum distance between buildings and between buildings and the property and street/alley lines. For buildings more than one (1) story in height, elevations and/or perspective drawings may be required in order that the relationship of the buildings to adjacent property, open spaces, and to other features of the development plan may be determined. Such drawings need only show the height, number of floors and exposures for access, light, and air.
- F. Total number and location of off-street parking and loading spaces.
- G. All points of vehicular ingress and egress and circulation within the property.
- H. Speed limits on adjacent roads and distances of existing driveways on adjacent properties from all proposed driveways.
- I. Setbacks.
- J. The location, size, and arrangement of all outdoor signs, exterior auditory speakers, and lighting.
- K. The type, location, and quantity of all plant material used for landscaping, and the type, location, and height of fences or screening and the plantings around them. When necessary to protect the public health, safety, or welfare, the City Council may require landscaping and screening requirements to be in place prior to the start of construction pursuant to an approved site plan.
- L. Vicinity map, north point, scale, name of development, name of owner, name of planner, total acreage of project, street address, or common description of the property in the lower right corner of the site plan.

- M. Current land uses and zoning district of the property and current land uses and zoning districts of contiguous properties and buildings on the exterior of the site and within twenty-five (25) feet of all property lines.
- N. All reservations for public uses, including parks, playgrounds, walks, malls, and other open spaces for use by tenants or visitors.
- O. Facilities for waste disposal on other than single-family uses.

SECTION 8-4 Consideration

8-4. 01. In considering, granting, or denying an application for a zoning change and an accompanying site plan as provided for in this Ordinance, the Planning and Zoning Commission and the City Council shall take into consideration the following factors:

- A. Compliance with the Zoning Ordinance, the Subdivision Ordinance, and all other ordinances of the City.
- B. Such other measures as will secure and protect public health, safety, morals, and general welfare.

SECTION 8-5 Additional Requirements for Planned Development District.

8-5. 01. Application

- A. An application for a PD District shall be made to the Planning and Zoning Commission in the same manner that an application for a zoning change is made.
- B. The application shall include a pre-filing review process, as described below, prior to the submission of the site plan.
- C. The zoning for the Planned Development District shall be that shown on the approved site plan and made a part of the adoptive ordinance and include any written special conditions within or attached to the adoptive ordinance.
- D. In addition to the requirements of the Site Plan and as described in this section, the Planning and Zoning Commission and City Council may require additional information related to specific elements of the Planned Development.

8-5. 02. Coordination with subdivision regulations

- A. It is the intent of these guidelines that subdivision review under the subdivision regulations and site plan review be carried out simultaneously with the review of a Planned Development under this section where applicable.
- B. The final development plans required under this section may be submitted in a form which will satisfy the requirements of the subdivision ordinance for the preliminary and final plans required under those regulations.

8-5. 03. Requirements for approval

- A. If the site plan does not incorporate the feedback resulting from the Pre-filing review, the Planning and Zoning Commission and City Council shall require a second pre-filing review process in which the submitted site plan may serve as the new concept plan.
- B. A legal instrument establishing a plan for permanent care and maintenance of any common areas or communally owned facility must be submitted before the site plan will be approved. All such instruments shall be approved by the city attorney as to legal form, and the Planning and Zoning Commission and the City Council as to suitability for the proposed use of the common area.
- C. The title page of each application and set of plans shall be signed by the applicant's architect, planner, landscape architect, engineer and/or land surveyor if those services are required. In addition to an engineer, the applicant's submittal may be required to contain the professional services of at least two of the remaining three professionals involved in the design and construction of the environment.

8-5. 04. Pre-filing Review.

- A. The Purpose of a Pre-filing review is for the developer and local officials to discuss development patterns and develop a concept plan prior to the submittal of a Site Plan. By providing for early discussion between staff and developers regarding planning concerns and city requirements, the Pre-filing Review provides an opportunity to reduce misunderstandings, highlight opportunities, and expedite city approval of the project.
- B. Submission Requirements

The developer should provide to the city secretary at least one week in advance of a scheduled meeting with city staff five (5) copies of two scaled representations described in B(1) and B(2) below. The representations should be in an 11x17 reproducible format and provided on compact disc in digital

format. Names, addresses, and phone numbers of the owner(s) of record and of the developer, if different, as well as the contact person or agent shall be printed on the two representations.

1. *Context Map* superimposed on an aerial photograph, USGS topo sheet, FEMA floodplain map, tax map or other published source showing the relationship of the proposed site to natural features and development patterns on properties within one-quarter mile of the development site. A scale shall be shown on the map.
2. *Existing Resources/Site Analysis Plan*: The drawing shall be produced by a physical planner or landscape architect at a scale of 1:100 or 1:200. It shall show all the natural and cultural features located on the property including but not limited to:
 - a. Existing on-site improvements and easements;
 - b. Existing natural features, including but not limited to, significant vegetation and trees, riparian components and other natural drainage features, and topographic features;
 - c. Identification of known exceptional topographical, cultural, historical, archeological, hydrological, or any other physical conditions of the property to be developed;
 - d. A table identifying proposed land uses, including number of residential lots, non-residential uses and parks and open spaces

C. Site Walk

The Developer and representation designer; designated city planning official; at least one planning body official; and at least one adjacent property owner shall meet on the site with the Context Map and the Existing Resources/Site Analysis Plan and walk the extent of the property. The purpose of the Site Walk is to receive feedback from city officials and abutting property owners on significant cultural and natural features that should be protected.

D. Sketch Plan

After the site walk, the Developer shall submit a Sketch Plan on white tracing paper as an overlay sheet to be placed on top of the Existing Resources/Site Analysis Plan. The Plan shall be prepared by a landscape architect working with a civil engineer. The Sketch Plan will identify an overall site concept for development, showing areas of proposed development (the development footprint), phasing, if applicable, and areas of proposed conservation. The Sketch Plan should be created using a four-step process in the following order:

1. Identify potential conservation/open space areas in relation to natural and cultural constraints on the property, including mature woodlands, rock outcroppings and associated semi-rare

- wildflowers, meadows, views into the property from existing town roads, and hedgerows bordering prior uses on the property.
2. Locate residential units near open space/conservation areas for marketing and quality-of-life advantages.
 3. Align streets, paths and trails to accommodate multi-modal transportation needs and connect various parts of the development to adjacent neighborhoods, community facilities, and thoroughfares.
 4. Sketch additional land use locations.

The designated planning official will review the sketch plan and provide written feedback based on the following criteria:

- a. Incorporation of ideas discussed in the Site Walk,
- b. Preservation of natural resources, including drainage ways, mature woodlands, rock outcroppings and associated semi-rare wildflowers, meadows, views into the property from existing roads, and hedgerows bordering prior uses on the property;
- c. Use of the four-step process outlined above in Part A (4 i-iv)
- d. The design's efficient provision of services and infrastructure, including the opportunity to reduce length of roads, utility runs, impervious cover; and decrease energy costs by streets having an east-west orientation, if possible.
- e. Its ability to forward Comprehensive Plan goals.
- f. Protection of water quality and reduced erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes;
- g. Location of residential units near open space/conservation areas for marketing and quality-of-life advantages
- h. Aligning streets, paths and trails to accommodate multi-modal transportation needs and connect various parts of the development to adjacent neighborhoods, community facilities, and thoroughfares

E. Review expenses

Should the designated planning official deem it necessary to consult the landscape architect or physical planner hired by the Applicant, or the City engineer or a landscape architect or physical planner of the city's choosing to complete the Sketch Plan review, the Applicant will be billed for the consultant fee up to, but not exceeding, \$2,000.

F. Development Rights

The Pre-filing Review Sketch Plan shall not be deemed an application for a permit, and the City is under no obligation to make any formal decision with respect to completion of the Pre-filing Review. The city rules and regulations

applying to property are subject to modification and revision until a Site Plan is approved by City Council.

The results of the Pre-filing Review process shall be considered no longer valid if the developer does not submit a Site Plan within 18 months of the pre-filing review process' completion.

ARTICLE 9. ORDINANCE ENFORCEMENT

SECTION 9-1 Assignment of Municipal Agents

It is declared to be the general policy of the City of Hubbard, unless otherwise expressly provided by this ordinance, that its municipal planning functions and responsibilities are distributed and assigned as follows:

9-1. 01. Zoning Administrator. Administration and enforcement.

- A. An administrative official designated by the City Council shall serve as the Zoning Administrator who shall administer and enforce this ordinance as required. It shall be the duty of the designee to enforce the provisions of this Ordinance and to refuse to issue any permit for any building or for use of any premises which would violate any of the provisions of this Ordinance.
- B. The designee may be provided with the assistance of such other persons as the Building Inspector to enforce the Ordinance.
- C. Appeals from any decision of the Administrator may be taken to the Board of Adjustment as provided in ARTICLE 11.

9-1. 02. Planning and Zoning Commission. Study and make recommendations on policy and amendments to zoning ordinance.

9-1. 03. Board of Adjustment and Appeals. Appeals and review of administrative decisions.

9-1. 04. Building Inspector. Regulation enforcement.

- A. A full-time or part-time City employee or a contracted employee as designated by the City Council shall serve as the Building Inspector and shall administer and enforce this ordinance. It shall be the duty of the designee to enforce the provisions of this Ordinance and to refuse to issue any permit for any building or for use of any premises which would violate any of the provisions of this Ordinance.
- B. The designee may be provided with the assistance of such other persons as the Zoning Administrator to enforce the Ordinance.
- C. Appeals from any decision of the Inspector may be taken to the Board of Adjustment as provided in ARTICLE 11.

SECTION 9-2 Building Permits.

No building may be undertaken without a building permit. Each application for a building permit intended as a primary use shall be accompanied by a Site Plan,

drawn to scale, showing actual dimensions of the lot to be built upon as shown by a site plan, the size, shape, location and elevation of the building to be erected, and such other information as may be necessary to provide for the enforcement of this ordinance. A record of applications and plans shall be kept on file in the City Hall. Only site plans that accompany a zoning change request require public notice and hearing prior to City Council approval.

SECTION 9-3 Certificate of Occupancy.

Subsequent to the effective date of this Ordinance, no change in the use or occupancy of land, nor any change or use of occupancy in an existing building shall be made, nor shall any new building be occupied until a certificate of occupancy has been issued by the Building Inspector. Every certificate of occupancy shall state that the new occupancy complies with the provisions of this Ordinance. A record of all certificates of occupancy shall be kept on file in the City Hall.

ARTICLE 10. PLANNING AND ZONING COMMISSION

SECTION 10-1 Commission Created

10-1.01. The Planning and Zoning Commission, as heretofore duly created by ordinance and now performing its authorized duties is hereby perpetuated.

10-1.02. Members. The City Council shall act as the Commission until such time as the City Council appoints a Commission. Members shall serve during their respective terms and until respective successors are appointed. (If the City attains home rule status, it must appoint a Commission.)

10-1.03. Organization and Rules of Procedure. The members of the Commission shall organize and elect their own officers and shall hold meetings regularly and shall designate the time and place of such meetings. The Commission shall have the power to adopt its own rules of procedure insofar as the same are consistent with the statutes of the State of Texas and the ordinances of the City of Hubbard, and shall keep a written record of all its proceedings. The Zoning Administrator shall have the duty of care, custody and control of all records of the Commission

SECTION 10-2 Powers, Jurisdiction and Scope of Activity of Commission

10-2.01. The Commission shall procure information and make recommendations to the City Council on the creation or modification of zoning districts.

10-2.02. The Commission shall serve as a recommending body to the City Council regarding the approval or disapproval of all preliminary, final, and revised plats of land.

10-2.03. The Commission shall discharge all functions involving city planning and zoning by law, and shall investigate, study, and submit reports and recommendations to the City Council on all such matters as it or the City Council shall deem appropriate and which have any relation to municipal planning or zoning.

ARTICLE 11. BOARD OF ADJUSTMENT

Since state law requires a zoning ordinance to be comprehensive so that the rules are uniform as to each zoning district and not by individual parcels of property, it is impractical if not impossible to provide for all special or unusual circumstances which may exist when the requirements are applied to a particular piece of property or where the owner would be subject to an unwarranted restriction in the use of his property. In anticipation of such situations the State Zoning Law and this Ordinance make provisions through a Board of Adjustment to take care of certain problems arising out of the application of the regulations.

SECTION 11-1 Organization.

There shall be a Board of Adjustment established and governed by Chapter 211 Texas Statutes Local Government Code, and consisting of five members appointed by the Council, each to be appointed for a term of two years, removable for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The City Council may appoint up to four alternate members to the board who shall serve in the absence of one or more regular members when requested to do so by the Mayor. The alternate members shall serve for the same period as the regular members, and any vacancies shall be filled in the same manner and shall be subject to removal as the regular members.

SECTION 11-2 Powers, Jurisdiction and Scope of Activity of Board

11-2.01. Errors. The board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by a City Official in the enforcement of this Ordinance.

11-2.02. Special exceptions. In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of this Ordinance as an instrument for the fact finding, interpretation, application and adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are permitted to the terms of this Ordinance. The following buildings and uses are permitted as special exceptions if the Board finds that, in its opinion as a matter of fact, such exceptions will not substantially and/or adversely affect the uses of adjacent and neighboring property permitted by this Ordinance:

- A. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.
- B. To waive or reduce the parking requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking, or where such regulations would impose an unreasonable hardship upon the use of the lot.

- C. To grant an extension of time for removal of a non-conforming use under Article 7, Non-Conforming Uses, Structures, and Parcels; provided such extension will not be adverse to the general welfare.

11-2.03. Variances. The Board of Adjustment shall have jurisdiction to hear requests for a variance from the terms of this Ordinance. The Board of Adjustment shall be authorized to grant a variance from the terms hereof if, and only if, they find that the strict enforcement of this Ordinance would create a substantial hardship to the applicant, by virtue of unique special conditions not generally found within the City, and that the granting of the Variance would preserve the spirit and intent of the Ordinance, and would serve the general interests of the public and the applicant. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that public health, safety, and welfare may be secured and substantial justice done. The City shall publish and mail public notice in accordance with Texas Local Government Code Chapter 211 and hold a public hearing before the Board of Adjustment rendering a decision on a variance.

- A. Standards for Variance. Board of Adjustment may grant a variance when it has been determined:
 - 1. Extraordinary Conditions. That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Ordinance will deprive the applicant of the reasonable use of their land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.
 - 2. Substantial Detriment. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Ordinance.
 - 3. Other Property. That these conditions do not generally apply to other property in the vicinity.
 - 4. Applicant's Actions. That the conditions are not the result of the applicant's own actions.
 - 5. General Plan. That the granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of this Ordinance.
 - 6. Utilization. That because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
- B. Insufficient Findings. The following types of possible findings do not constitute sufficient grounds for granting a variance:
 - 1. That the property cannot be used for its highest and best use.
 - 2. That there is a financial or economic hardship.
 - 3. That there is a self-created hardship by the property owner or his or her agent.
 - 4. That the development objectives of the property owner are or shall be frustrated.

- C. Attendance at City Council Meeting. The Applicant, the Applicant's Attorney, Engineer or Architect or a duly authorized person must attend the public hearing.
- D. Limitations. The Board of Adjustment may not grant a variance when the effect of which would be any of the following:
 - 1. To allow the establishment of a use not otherwise permitted in the applicable zoning district.
 - 2. To increase the density of a use above that permitted by the applicable district.
 - 3. To expand a nonconforming residential land use.
 - 4. To change the zoning district boundaries shown on the Official Zoning Map.
 - 5. Profitability Not to Be Considered. The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.

SECTION 11-3 Appeal.

11-3. 01. Except as provided by Subsection (C), any of the following persons may appeal to the board of adjustment a decision made by an administrative official:

- A. A person aggrieved by the decision; or
- B. Any officer, department, board, or bureau of the municipality affected by the decision.
- C. A member of the governing body of the municipality who serves on the board of adjustment may not bring an appeal under this section.

11-3. 02. Board Action. In exercising the above powers, the Board may reverse or affirm wholly or partially, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, in the interest of the public and the individual affected, and to that end shall have the powers of the Zoning Administrator or Building Inspector from whom the appeal is taken. A written finding of facts, based on testimony and specifying the reason for granting or denying the variation shall accompany every variation granted or denied by the Board. The concurring vote of 75 percent of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or Building Inspector, or to decide in favor of the applicant upon any matter which it is required to pass under this Ordinance, or to affect any variation of this Ordinance.

11-3. 03. Judicial Review of Board Decision. Appeals of the Board of Adjustment's decision must be made within ten (10) days to the District Court, County Court, or County Court at law and in accordance with the Texas Local Government Code.

SECTION 11-4 Lapse of Special Exception or Variance.

After the board has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after expiration of

one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of this Ordinance shall thereafter govern. If an action on the application is made by the Board of Adjustment or City Council, no further applications for rezoning on all or part of the subject property may be considered for a period of twelve (12) months unless a waiver is granted by the City Council.

SECTION 11-5 Fees.

Before any action shall be taken on any appeal to the Board necessitating the publication of notices or sending of notices, the appellant shall deposit with the City Secretary a fee set by the City Council to cover the cost and expense relative thereto. Fee may be adjusted annually.

ARTICLE 12. VIOLATIONS, NOTIFICATION, ENFORCEMENT, PENALTIES, AND REMEDIES

SECTION 12-1 Violations.

12-1.01. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, begin the excavation thereof, or use any building or land in violation of any regulation in or any provision of this Ordinance, or any amendment thereto lawfully adopted by the Mayor and City Council of Hubbard, or to fail to comply with any lawful requirement or condition imposed by the City Council, or fail to obtain a permit required under this Ordinance.

12-1.02. All zoning and building permits shall be revocable for failure to comply with all applicable requirements and conditions.

SECTION 12-2 Enforcement.

12-2.01. In case any building is erected, constructed or reconstructed, altered, repaired or converted, or any building or land is found to be in violation of this ordinance, the Building Inspector, Zoning Administrator, and/or the City Council is authorized and directed to institute any appropriate action to put an end to such violation.

12-2.02. Right of entry on property. Upon presentation of proper credentials the administrative authority, City Official or agents of the City may enter upon any property, vacant lots, or premises in the City to perform any duty imposed by this Ordinance.

12-2.03. If the City Official has reason to believe that any of the provisions of this Ordinance are being violated, he/she shall provide or send a written Notice of Violation to the person responsible for such violations.

12-2.04. Stop Work. In addition, the City Official may issue a Stop Work Order to immediately halt work on a property that is in violation of this Ordinance. Such order may permit limited work to occur that is necessary to stabilize and secure the site.

12-2.05. If at the conclusion of the time period stated in the Notice of Violation, the violation has not in judgment of the Building Inspector, Zoning Administrator, and/or the City Council been satisfactory corrected, then the Building Inspector, Zoning Administrator, and/or the City Council shall enforce the penalty provisions of this Ordinance and shall take such other action(s) as are permitted under State law to ensure compliance with this Ordinance. Such action(s) may include, but are not limited to seeking a court injunction to bring about the correction of such violation.

12-2. 06. In addition to other enforcement and remedy provisions established by this Section, in case any building is or is proposed to be located, erected, constructed, reconstructed, altered, repaired, converted, maintained, or used, or any land is or is proposed to be used, in violation of this Ordinance as amended, the Mayor and City Council, the City Officials, or any adjacent or neighboring property owner who would be specifically damaged by such violation may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, restrain, correct, or abate such unlawful location, maintenance, or use, to prevent any illegal act, conduct of business or use in or about such premises.

SECTION 12-3 Notification.

12-3. 01. Any person found to be violating any provision of this ordinance shall be served, by the City of Hubbard, with written notice stating the nature of the violation and providing a time limit of thirty (30) days for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease and correct all violations. Failure to obtain the necessary permits for the work and passing inspection may require returning the site to its original state or condition.

12-3. 02. Such notice shall require the abatement of such violation or request to schedule a hearing within thirty (30) days of such notice. The hearing shall be held as soon as practicable after the filing of the request. The decision of the City Council after hearing shall be final and, until such decision, the City shall not commence any of the procedures for abating violation. However, if the decision of the City Council is adverse to the person requesting the hearing, then he shall have thirty (30) days from such decision to perform the work himself; and if such work is not performed within such thirty (30) days, the City may then implement its abatement procedures.

12-3. 03. The City Secretary shall give the notice of violation:

- A. By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
- B. If personal contact cannot be obtained, publication at least once in the local or official newspaper.

12-3. 04. If the City mails a notice to a property owner in accordance with this Ordinance, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.

SECTION 12-4 Penalties.

12-4. 01. Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed

statement or plan submitted and approved hereunder, shall be guilty of misdemeanor. Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or Ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding Two Thousand Dollars (\$2,000.00) for violations of municipal ordinances that govern fire safety, sanitation (not including vegetation and litter violations), public health or as the Legislature may amend from time to time.

12-4.02. The owner or owners of any building or premises, or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who had assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction thereof, shall be fined as hereinbefore provided.

12-4.03. For traffic-related offenses and other violations not included in the classes enumerated above, the maximum permissible fine will be Five Hundred Dollars (\$500.00) or as the Legislature may amend from time to time. Further, that the above mentioned violations shall be subject to a minimum fine of One Hundred Dollars (\$100.00). Provided, however, that no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state.

12-4.04. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. A culpable mental state is not required for the commission of an offense under this Code of Ordinances unless the provision defining the conduct expressly requires a culpable mental state.

12-4.05. Notice of such a penalty shall be sent to said owner at their last known address by certified and regular first class mail. Any person violating any of the provisions of this ordinance shall become liable to the City of Hubbard for any expense, loss, or damage occasioned by the City of Hubbard by reason of such violation.

SECTION 12-5 Assessment Of Expenses; Lien

12-5.01. To obtain a lien against the property, the mayor or City Official designated by the mayor shall file a notice of lien in the appropriate county deed or lien records showing the penalty and all expenses as a lien against the property upon which the structure is located.

12-5.02. The lien obtained by the City is security for the fines, expenses and interest accruing at the rate of ten (10) percent per year on the amount due. The lien attaches upon the filing of the lien statement with the county clerk.

12-5.03. The lien is inferior only to Tax liens.

12-5.04. The City Council may authorize the city attorney to bring a suit for foreclosure in the name of the City to recover the fines and interest due. In any civil, criminal or administrative appeal, hearing or action commenced by the City under this Ordinance, the City shall be entitled to recover from the defendant of such action reasonable attorney's fees, costs of suit, any other costs of enforcement, including, but not limited to, inspection costs.

12-5.05. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the City in doing the work or making the improvements.

12-5.06. The City Council may authorize the City attorney to foreclose a lien on property.

12-5.07. In any civil, criminal or administrative appeal, hearing or action commenced by the City under this Ordinance, the City shall be entitled to recover from the defendant of such action reasonable attorney's fees, costs of suit, any other costs of enforcement, including, but not limited to, inspection costs and cleanup or abatement costs. All collections of money from lot owners in payment of charges for statement of violations of this division shall be received by and receipted for by the City Secretary or a duly authorized assistant.

SECTION 12-6 Attorney Authorization.

Notwithstanding any penal provision herein, the City attorney is authorized to file suit on behalf of the City for such injunctive relief as may be necessary to abate such violations whenever any violations as herein defined is found in any place within the City.

ARTICLE 13. SEVERABILITY, CONFLICT, AND VALIDITY

SECTION 13-1 Severability.

If any court of this State or the United States of America shall hold any section, paragraph, sentence, clause, phrase or word contained in this ordinance unconstitutional, the invalidity of such portion of the ordinance shall not be construed to affect any other part of this ordinance.

SECTION 13-2 Conflict with other Ordinances.

That this ordinance shall be cumulative of all other ordinances of the City of Hubbard, Texas affecting zoning. All ordinances or parts of ordinances in conflict herewith are hereby repealed. This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings or structures, the provisions of this Ordinance shall prevail.

SECTION 13-3 Validity.

The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts. This ordinance shall not affect the validity of any deed restriction that is otherwise valid.

ARTICLE 14. DEFINITIONS

SECTION 14-1 The purpose of including definitions in this Ordinance is to simplify the working of the Ordinance; and to give the meaning of technical terms; and to eliminate ambiguities. Words that are in common usage are not defined herein, but may be found in a Standard English dictionary.

SECTION 14-2 Words used in the present tense include the future; words in the singular include plural; and words in the plural include the singular. The word "building", includes the word "structure. The word "shall" or the word "must" is mandatory and not discretionary.

SECTION 14-3 Words Defined.

ACCESSORY BUILDING: A subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with and (except as otherwise provided in this Ordinance) located on the same lot as the main building or principal use of the land.

ACCESSORY USE: A use which is clearly incidental to or customarily found in connection with (except as otherwise provided in this Ordinance) on the same lot as the main use of the premises. When the word "accessory" is used in the text, it shall have the same meaning as accessory use.

ADDITION: An enclosed space added to an existing dwelling unit which will be habitable living space. The addition must have a roof and walls. Specifically excluded are decks and unenclosed porches.

AGRICULTURE, INTENSIVE: The raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep and other animals; livestock markets and pet farms.

ALCOHOL SALES: Establishments that sell alcohol shall be subject to compliance with the Texas Alcoholic Beverage Code, as amended, and any applicable local option elections.

ALLEY: A public thoroughfare which customarily affords only a secondary means of access to abutting property.

ANIMAL ENCLOSURE: Any fence or structure or device used to restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, pool, or hutch.

ANIMAL HUSBANDRY: The raising, keeping and care of any domestic animals other than customary household pets.

BOARD: The Board of Adjustment established in ARTICLE 9 Section 9-1.

BUILD: To erect, convert, enlarge, reconstruct or structurally alter a building or structure.

BUILDING: Any structure designed or built for the enclosure, support, shelter or protection of persons, animals, chattels or property.

BUILDING CODE: The latest version of the International Building Code adopted by the City as the City Building Code.

BUILDING INSPECTOR: The person designated by the City Council to be responsible for the administration of the Zoning Ordinance in relation to regulations

and Building Codes. Qualified personnel would be eligible to test for a commercial building inspection certification within one year of a hiring date, with successful completion of the certification process within eighteen months of a hiring date.

BUILDING SETBACK: defines the outside limits of where buildings can be located on a site. Exterior walls may be positioned any distance behind the setback line, but no part of the building can extend any closer to the edge of the property. Setbacks are designated where a minimum dimension of open area is required, for health and safety or aesthetic reasons.

BUILD-TO-LINE: specifies the required location of a new structure in relation to the street frontages of a site, so that a proposed building will effectively assist in shaping the public space of streets, maintaining a strong street edge, and enhancing the comfort and convenience of the pedestrian experience.

BUILDING LINE: A line parallel or approximately parallel to the street line at a specified distance therefrom creating the minimum distance from the street line that a building may be required.

CITY: The City of Hubbard, Texas.

COMMERCIAL VEHICLE: A vehicle or combination of used to transport passengers or property that:

- Has a manufacturer's rated carrying weight equal to or greater than one and one-half (1 1/2) tons;
- Is designed to transport 16 or more passengers, including the driver;
- Is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F;
- Is a "road tractor" as that term is defined in chapter 541 of the Texas Transportation Code;
- Is a "truck tractor" as that term is defined in chapter 541 of the Texas Transportation Code;
- Is a "pole trailer" as that term is defined in chapter 541 of the Texas Transportation Code; or
- Is a "semitrailer" as that term is defined in chapter 541 of the Texas Transportation Code.

COMMISSION: The Planning and Zoning Commission of the City of Hubbard, Texas.

COMMON AREA: Private property owned in common by and designed for the private use of, the owners or occupants of a particular project or subdivision. Common area uses include, but are not limited to, recreation areas, parks and plazas, ornamental areas open to the general view within the project or subdivision, and building setbacks not otherwise required by ordinance. The common area does not include public streets, alleys, required building setbacks or utility easements.

COUNCIL: The City Council of the City of Hubbard, Texas.

DECK: A raised horizontal structure without roof or enclosed with walls open to the sky which is accessory to the principal dwelling and built at an elevation above natural grade; also, an area having the characteristics of a patio but more than six inches (6") in height at any point. Also called terrace.

DISTRICT: A part of the City wherein regulations of this Ordinance are uniform.

DWELLING: A building or portion thereof designed or used for residential occupancy, including one-family, two-family, multifamily dwellings, or mobile or

manufactured housing, but not including boarding or lodging houses, hotels, motels or recreation vehicles.

DWELLING UNITS: A room or group of rooms occupies or intended to be occupied as separate living quarters by a single family or other groups of persons living together as a household or by a person living alone.

- **ONE-FAMILY DWELLING:** A building designed and arranged exclusively for the use and occupancy of one family.
- **TWO-FAMILY DWELLING:** A building designed or arranged exclusively for the use and occupancy of two families living independently of each other.
- **MULTIFAMILY DWELLING:** A building designed or arranged exclusively for the use and occupancy of three or more families living independently of each other. The building may include a triplex, apartment house, Cityhouse, condominium, cooperative or high-rise, etc.

FAMILY: A person or persons, occupying a dwelling, living together and maintaining a common household.

FIREWORKS STAND: A temporary structure used for retail business of selling fireworks.

FLOOR AREA: The square feet of floor space within the outside line of walls and including the total of all spaces on all floors. It does not include porches, carports, breezeways, walkways or garages.

FRONTAGE:

- **STREET FRONTAGE:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
- **LOT FRONTAGE:** The distance for which the front boundary line of the lot and the street line are coincident.

GARAGE, PRIVATE: An accessory building or portion of a principal building used for the storage of private motor vehicles, in which no business, occupation, or service for profit is in any way connected. The term "garage" shall include the term "carport."

GREENHOUSE: An agricultural structure constructed primarily of glass or other translucent material and used for the production of crops, nursery stock or similar agricultural product.

GROUP LIVING: Use of a site for occupancy by a group of more than six persons who are not a family, on a weekly or longer basis. This use includes dormitories, residence halls, and boarding houses.

HOME OCCUPATION: Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and which is carried on wholly within the main building by a member of a family residing on the premises, in connection with which there is no advertising or sign other than a nameplate placed flat against a building, and no other display or storage of materials or generation of substantial volumes of vehicular or pedestrian traffic or parking demand or other exterior indication of the home occupation or variation from the residential character of the building; and in connection with which not more than one person outside the family is employed and no equipment used which creates noise, vibration, smoke, heat, dust, glare, odors, electrical interference, any of which is offensive to persons of ordinary sensibility in the neighborhood. When

within the above requirements, a home occupation includes the following: art studio, dress making, professional office of a doctor, physician, dentist, lawyer, engineer, architect, builder, accountant, salesman, real estate agent or insurance agent, or teaching with musical instruction limited to two pupils at a time; however a home occupation shall not be interpreted to include barbershops, beauty parlors, restaurants or the conduct of a business involving retail sales, but is intended to include only those personal services which are subordinate to the use of the premises as a dwelling.

JUNKYARD: For the purpose of this Ordinance, junkyard shall mean any place where the storing, dismantling, wrecking, and disposition of junk is carried on, but does not include uses established entirely within enclosed buildings in conformance with all other provisions of the Zoning Ordinance. The term includes automobile wrecking yards and salvage areas used for the storage, keeping or abandonment of junk and scrap metals

KENNEL: Any lot or premises on which five or more dogs, cats, or other domestic animals, at least four months of age, are housed or accepted for boarding, training, grooming and/or bathing for which remuneration is received. A noncommercial kennel is a place prepared to house, board, breed, handle or otherwise keep or care for five (5) or more adult dogs. A commercial dog kennel is a place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

LANDING: A horizontal, unenclosed platform that is attached to the principal structure adjacent to an entry; that not including steps, does not exceed 6 feet in depth perpendicular to the structure or 8 feet wide; and which leads to an entry door. It may have a roof (covered landing). (Also commonly referred to as steps or a stoop.)

LIVABLE AREA: The square footage of all habitable floor areas under roof, including attics, lofts, basements, enclosed patios and enclosed porches, servant guesthouses, but excluding pergolas, open patios and open porches and garages.

LODGING OR BOARDING HOUSE: A building other than a hotel or motel where lodging and/or meals are provided for persons for compensation.

LOT: A parcel of land adequate for occupancy by a use herein permitted, providing the yards, area and off-street parking herein required and fronting directly on a street.

LOT DEPTH: The distance from the front street line to the rear line measured in the mean direction of the sidelines.

LOT WIDTH: The mean horizontal distance between the side lot lines measured at right angles to the depth.

MAIN BUILDING: The building or buildings on a lot which are occupied by the primary use.

MANUFACTURED HOME: A single-family house constructed in a factory and built to the federal Manufactured Home Construction and Safety Standards.

MOBILE HOME: Manufactured homes produced prior to June 15, 1976 when the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Code went into effect.

MOTEL OR HOTEL: A facility offering temporary lodging accommodations or guest rooms on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, housekeeping service and recreational facilities. A

guest room shall be defined as a room designed for the overnight lodging of hotel guests for an established rate or fee.

NATURAL GRADE: The lowest grade at the location of each proposed building unaffected by construction techniques such as fill, landscaping or berming.

NON-CONFORMING USE: A building or premises lawfully occupied by a use at the time at the passage of this Ordinance or amendment thereto with the use regulations of the district in which it is situated.

NEWS, FLOWERS OR REFRESHMENT STAND: A kiosk structure built with a roof and designed for outdoor sales.

OWNER OCCUPANCY: A property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means.

PARKING SPACE OFF-STREET: An all-weather surface area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surface driveway which affords satisfactory ingress egress or automobiles.

PATIO: A flat, leveled horizontal structure having a base floor area at or below natural grade and open to the sky which is without roof or walls and surfaced with wood, macadam, masonry, stone, brick, block or other such material.

PREMISES: Land together with all buildings and structures thereon.

READILY ACHIEVABLE: In the Americans with Disabilities Act (ADA), defined as "easily accomplishable without much difficulty or expense."

ROADSIDE STAND: A temporary removable structure without foundation or intended to be used solely by the owner or tenant of the property on which it is located for the sale of agricultural produce where fifty (50) percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.

SEXUALLY ORIENTED BUSINESS - As defined by state law, include "a sex parlor, nude studio, Hubbarding studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult video store, adult motel, or other commercial enterprise, the primary business of which is the offering of a regular service or selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer."

SHIPPING CONTAINER: A containment receptacle which is used or designed to be used in intermodal transportation or over-the-road shipping that consists of a truck trailer body that may be detached from the chassis, either with or without a permanent affixed chassis, for loading onto a ship or other vessel, a rail car, or stacked in a container depot and used in intrastate and international commerce for the shipment of goods and merchandise. Such a container when used for industrialized buildings shall comply with the State of Texas Industrialized Housing and Building Act.

SIGHT DISTANCE: The unobstructed view of a driver of a motor vehicle or a pedestrian within a "Sight Triangular Area" at the intersection of two public road rights-of-way.

SIGHT-TRIANGLE: A triangular shaped area within a right triangle formed by the intersection of the right-of-way lines from the point of intersection for a distance of twenty feet (20') to the hypotenuse and extending vertically in which nothing is

erected, placed, planted or allowed to grow over a height of three feet (3') above any portion of the crown of the adjacent roadways in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

STREET: A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURE: Anything constructed or erected, which requires a location on the ground, or attached to something having a location on the ground, including but not limited to advertising signs, billboards and poster panels.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

TREE: A living, woody plant having a well-defined stem, a more or less well-defined crown, and which is capable of attaining a height of at least fifteen feet (15').

YARD: An open area between a lot line and a setback, unobstructed and unoccupied from the ground upward, except for projections permitted by this Zoning Ordinance.

YARD, FRONT. An open area extending across the full width of the lot and lying between the front lot line and the nearest line of the principal structure. The lot line of a lot abutting a public street shall be deemed the front lot line.

YARD, REAR. An open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line as specified in the district in which the lot is situated.

YARD, SIDE. An open, unoccupied space or spaces, except for accessory buildings as herein permitted, on one side or two sides of a main building and on the same lot with the building situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line, not the rear line or a front line, shall be deemed a side yard.

ZONING ADMINISTRATOR: The City employee charged with responsibility of enforcing this ordinance in relation to administrative procedures.