

Summary of proposed changes in the current draft of the zoning ordinance:

- There are a number of cleanup items, such as:
 - Removed provisions that are more appropriate for the adopting ordinance,
 - Updated references to the official zoning map to allow for a digital or online map;
 - Removed items that are in conflict with, or already addressed by, state law; and
 - Moved certain procedural items for the Zoning Board of Adjustment (ZBOA) or Planning & Zoning Commission (P&Z) out of the zoning ordinance and into a separate policies and bylaws document for each,
 - *Separate bylaws documents will be provided separately*
- Allows for staff-initiated rezoning cases
- Clarified the difference between a conditional use and a special exception (sometimes used interchangeably in the previous draft ordinance)
- Removed provisions related to vested rights (grandfathering of projects and permits) and *replaced with a separate vested rights ordinance applicable to more than just the zoning ordinance.*
- Removed notice requirements from the ordinance and replaced with a reference to state law.
 - *Will replace with a separate summary of state law requirements for use by staff that will be updated to be consistent with recent changes in state law.*
- Removed prohibition on reapplication for a different zoning request after a denied request. (Still does not allow the same request within one year of a denial.)
- Updated manufactured home standards and terminology to comply with changes in state law.
- Inserted the city's current process and procedures for the historic district, which were inadvertently left out of the previous draft.
- Updated the parking standards to remove minimum parking requirements for most uses, but keeping drive through queuing standards and loading area requirements. The standards for parking spaces and parking lots will remain, but without any minimum requirement for number of parking spaces.
- Removed list of examples of allowed home occupations, instead relying on list of prohibited.
- Updated and clarified the definition of "short term rental".
- Amend nonconforming language to comply with recent changes in state law.
- Modified definition of "group home" and added a definition for "community home" to be compliant with state law.

Summary of proposed changes in the current draft of the zoning ordinance:

- **Outstanding questions for the Commission:**
 - **Limit number of garage sales per year? (can be problematic to enforce)**
 - **Limit parking of large vehicles within neighborhoods (can be controversial and problematic to enforce)**
 - **Does the City want to regulate Short Term Rentals? Why not allowed in commercial areas, where hotels are already allowed?**
 - **Do you want to prohibit “mobile homes” built prior to 1976, which is allowed per state law?**
 - **Do you want to look at progressive building setbacks that would vary depending on adjacent zoning or use? If so, what setbacks are desired adjacent to which uses?**

- **Additional notes:**
 - Section numbering will need to be updated to match existing code of ordinances.

- **Documents**
 - Draft zoning ordinance
 - Draft vested rights ordinance
 - Summary of statutory notice requirements
 - Proposed P&Z Policies & Bylaws
 - Proposed ZBOA Policies & Bylaws

CHAPTER 14. ZONING
ARTICLE I. GENERAL

Section 1-1. Adoption; Purpose

- a. Purpose. The purpose of this Zoning Ordinance is to establish zoning districts in the City of Johnson City and regulations applicable to each district.
- b. Adoption and Approval. The City Council hereby approves and adopts this Zoning Ordinance and amendments, as authorized by and pursuant to Texas Local Government Code Chapter 211, as amended. The City Council finds that the adoption and approval of this Zoning Ordinance is in the public's interest, as it provides for and promotes the health, safety, and general welfare of the public by promoting and encouraging quality development within the City and orderly, harmonious, and systematic growth in accordance with the City's Comprehensive Plan.
- e.a. Zoning Required. No land or structure can be used or arranged for any purpose or manner other than that permitted as a use in a particular Zoning District. A new building or structure shall not be erected, nor shall an existing building or structure be moved, altered, added to, or enlarged, except as permitted under this Ordinance.
- d.b. Uses Allowed. A use not permitted in the Schedule of Uses for a particular Zoning District, or not permitted as a specific use, as provided in this Ordinance, is prohibited.

Section 1-2. Interpretation

- a. Interpretation. This Ordinance shall be the minimum requirements for the zoning of land tracts in the City. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- b. Conflict with Other Laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law, except as provided in this Ordinance. To the extent that this Ordinance promulgates standards or imposes restrictions or duties that differ from those imposed by other City ordinances, rules, or regulations, the regulations contained within this Ordinance shall supersede such other provisions to the extent of any conflict or inconsistency.
- c. Severability. If any part or provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application that is judged to be invalid.
- d. Prior Approvals and Present Use. Zoning Districts approved under regulations in effect prior to the effective date and subsequent amendments of and revisions to this Ordinance are governed by those previous regulations. This Ordinance does not require any change to the plans, plats, or buildings previously approved prior to the effective date of this Ordinance. By the passage of this Ordinance and/or amendments, a presently nonconforming use shall not be deemed legalized, but remain as a nonconforming use.

Commented [JJ1]: Numbering system does not match code of ordinances.
Code sections would be "Section 14.01.001"

Numbering format varies, but most common seems to be:
(a)
(1)
(A)
(i)

Commented [CZ2]: This section should be included in the drafting by JP-0118 but should not be included in the substance of the legislation.

Commented [CZ3]: These sections should be required for a zoning ordinance but should not be included in the substance of the legislation.

Commented [CZ4]: This section should be included in the drafting by JP-0118 but should not be included in the substance of the legislation.

Commented [RS5]: City Council has not yet adopted an ordinance regarding zoning districts. This ordinance should be adopted before the City Council can adopt this ordinance.

Commented [CZ6]: This section should be included in the drafting by JP-0118 but should not be included in the substance of the legislation.

Commented [CZ7]: This section should be included in the drafting by JP-0118 but should not be included in the substance of the legislation.

~~e. **Conflicting Ordinances.** Whenever any provision of this Ordinance imposes a greater requirement or a higher standard than is required in any State or Federal statute or any other City ordinance or regulation, the provisions of this Ordinance shall govern. Whenever any provision of any State or Federal statute or other City ordinance or regulation imposes a greater requirement or a higher standard than is required by this Ordinance, the provision of such State or Federal statute or other City ordinance or regulation shall govern.~~

Commented [CZ8]: This sentence should be only included if adopting or amending but should not be included in the substance of the regulations

Section 1-3. Official Zoning Map

- a. **Official Map.** ~~The map, attached by reference hereto and fully incorporated herein as Exhibit A and marked and labeled "City of Johnson City Zoning Map", is hereby adopted as the official zoning map of the City. The Zoning Districts and boundaries indicated upon said Map are hereby declared to be the official Zoning Districts and boundaries for the City. All properties shown on the Map as within a particular zoning category are hereby declared to be within the Zoning District and zoned accordingly to comply with the requirements of this Ordinance. All zoning maps adopted prior to the adoption date of this Ordinance are hereby repealed. The official Zoning Map of the City of Johnson City may be amended and corrected from time-to-time by the City Council. The City Secretary shall keep the official Zoning Map among the permanent records of the City, and the Zoning Map shall be available for inspection and review during regular business hours.~~
- b. **Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of Zoning and Overlay, if any, Districts, as shown on the Official Zoning Map, the following shall apply:
- i. Where Zoning District boundaries of the City appear to follow streets, alleys, railroads, or highways, such boundaries shall be construed as the centerlines of those streets, alleys, railroads, or highways.
 - ii. Where Zoning District boundaries appear to follow lines of lots or parcels of record, such lot or parcel lines shall be construed to be such boundary.
 - iii. Where a Zoning District divides a parcel of land, the location of such boundary shall be determined using the Zoning Map scale, as measured to the nearest foot, unless such line can be more accurately determined by geometric or land surveying computations.
 - iv. Where Zoning District boundaries are indicated as approximately following City boundaries, such boundaries shall be construed to be the District boundaries.
 - v. Where Zoning District boundaries are indicated as approximately following a creek, stream, or marsh, the centerline of the creek, stream, or marsh shall be construed to be the District boundary.
 - vi. All areas of the City which are under water are within a Zoning District and controlled by applicable District regulations.
- c. **Zoning Map Changes.** All zoning changes after the effective date of this Ordinance shall be reflected on the Official Zoning Map, which may be a digital map maintained in a Geographic Information System, upon amendment. Annotations shall indicate:
- i. The date of the zoning change;

Commented [JJ9]: This is an important note that should be included in the permanent records of the City

Commented [JCJ10R9]: This part of the section should be included in the permanent records of the City

Commented [CZ11]: This sentence should be included in the permanent records of the City

- ii. The number of the ordinance or resolution, if any, by which the change was made; and
- iii. A reference to the minute, ordinance, or resolution records in which the ordinance or resolution is recorded in full.

Section 1-4. Schedule of Uses

- a. **Schedule of Uses.** The City Council hereby approves and adopts the Schedule of Uses Chart, attached by reference hereto and fully incorporated herein as Exhibit B and marked and labeled "Schedule of Uses", attached to this Ordinance.
- b. **Purpose.** The purpose of this Schedule of Uses Chart is to list the types of land uses permitted and allowed within each of the Zoning Districts outlined in this Ordinance. A building or land shall not be used, and a building shall not be erected, except for the use specified in the Schedule of Uses Chart.
- c. **Legend.** Land and/or a building in a Zoning District may be used for the purpose denoted by the following abbreviations:
 - i. **X:** A permitted use by right; land and/or buildings in this District may be used by right.
 - ii. **CUP:** A use may be authorized through a conditional use permit; land and/or buildings in this District are subject to review and permitting in accordance with this Ordinance.
 - iii. **Blank:** Use not permitted; a blank cell indicates that a use is not permitted within that particular Zoning District.
- d. ~~Similar Land Use. Since every potential and conceivable land use cannot be addressed and anticipated, the Schedule of Uses chart is not exhaustive nor exclusive. Other uses not listed may be permitted through a conditional use permit, provided the proposed use is similar and related to the standards and regulations of the Zoning District in which the use is to be located, and which use is compatible with adjacent land uses.~~

Commented [RS12]: Should include reference to nonconforming uses here.

Commented [J13412]: Add similar to existing uses.

Commented [CZ14]: Section 1.18 should appear in the ordinance. The conditional use should be applicable to district A, B, and C.

Section 1-5. Violation; Enforcement

- a. **Violation Declared.** It shall be unlawful for any person to violate any term or provision of this Ordinance. Violation of any provision of this Ordinance, which provision is intended for the protection of the public health, safety, or general welfare, constitutes a public nuisance. A person violating any provision of this Ordinance is subject to suit for injunctive relief and civil penalties, as well as prosecution for a criminal violation.
- b. **Misrepresentation of Facts.** It shall be a violation of this Ordinance for any person to knowingly or willfully misrepresent or fail to include any information required by this Ordinance in any zoning application or during any public hearing or meeting of the Planning and Zoning Commission (P&Z), City Council, or with the Chief Administrative Officer (CAO), acting in his/her capacity as the Zoning Administrator, or designee. Such a violation shall constitute grounds for denial of the zoning request.
- c. **Authority.** The CAO/Zoning Administrator or designee shall have the authority to administer and enforce the provisions of this Ordinance.

~~d. Right of Entry. The CAO/Zoning Administrator or designee shall have the authority to enter upon a property for the purpose of enforcing the provisions of this Ordinance. Entry for this purpose shall not be considered trespass.~~

~~e.d. Administrative Enforcement.~~

~~i. The City shall not issue a building or repair permit for any structure on a lot not properly zoned.~~

~~ii.i. A permit issued may be revoked for violation of this Ordinance. A new permit may issue upon cure of the violation.~~

~~ii.ii. The CAO/Zoning Administrator or designee may issue a Stop Work Order on a person(s) engaged in conducting work or an activity on a site in violation of this Ordinance. The Order shall be posted adjacent to the work or activity in question. A person shall cease the work or activity until authorized by the City to proceed.~~

~~f. A person may appeal an administrative order to the Board of Adjustment in accordance with the appeal provisions of this Ordinance.~~

~~g.c. Penalties and Remedies.~~

~~i. Criminal Offense.~~

- ~~1. A violation under this Ordinance is a misdemeanor.~~
- ~~2. A fine for a violation may not exceed \$2,000.00.~~
- ~~3. Each day of the violation shall constitute a separate offense.~~

~~ii. Civil Remedies. Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance, and to seek remedies as allowed by law, including, but not limited to, the following:~~

- ~~1. Injunction. The City may file suit to enjoin the violation or to prevent a threatened violation of this Ordinance by a person; and~~
- ~~2. Damages and Penalties.
 - ~~i. The City may seek to recover damages from the violator in an amount adequate for the City to undertake activity necessary to bring compliance with this Ordinance.~~
 - ~~ii. A violator is subject to a civil penalty up to \$1,000.00 and not less than \$100.00 a day, with each day constituting a separate offense and separate violation, when it is shown that the defendant was notified of the violation, and, after receiving notice, failed to comply.~~~~

~~h. Legal Fees and Costs. The City shall be entitled to recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement in a civil and/or criminal action.~~

~~i. Cumulative. The penalties and remedies in this Section shall be cumulative and are not exclusive of any other rights or remedies the City may have or pursue.~~

Commented [CZ 15]: Since this is to allow the CAO to enter upon a property for the purpose of enforcing the provisions of this Ordinance, entry for this purpose shall not be considered trespass.

Commented [RS 16]: Does right of entry include inside a home?

Commented [JJ 17R16]: Will state the question being asked?

Commented [JJ 18]: May want to clarify that not all violations are criminal in nature.

Commented [CZ 15R18]: If a civil penalty is issued, it should be in addition to any other penalties that may be issued for a violation.

Commented [CZ 20]: Was the penalty for a violation of this Ordinance?

Commented [CZ 21]: What is the penalty?

ARTICLE II. ZONING AUTHORITY

Division 1. Planning and Zoning Commission

Section 2-1. Authorized

A Planning and Zoning Commission, "P&Z", is established in accordance with Chapter 211 of the Texas Local Government Code, as amended.

Section 2-2. Powers and Duties

- a. **Advisory Body.** The P&Z shall serve as an advisory body to the City Council for zoning amendments and applications. The P&Z shall have all the rights, powers, privileges, and authority authorized and granted by the City Council, this Ordinance, and Chapters 211 and 212 of the Texas Local Government Code, as amended.
- b. **Authority.** The P&Z is authorized to:
 - i. issue recommendations regarding amendments to the Comprehensive Plan, zoning changes, zoning ordinance amendments, and zoning for newly annexed areas;
 - ii. issue recommendations regarding subdivision plat regulation and approval submitted to it for review;
 - iii. serve as the Historic Review Board, and perform the duties and functions contained in the Historic Preservation Section of this Ordinance; and
 - iv. other related planning matters delegated to the P&Z by the City Council.

Section 2-3. Composition; Governance

- a. **Number.** The P&Z shall consist of seven (7) members. Each shall be appointed by a simple majority vote of the City Council for a term of two years. Each may be removed from office by the City Council at any time ~~for cause~~ by a simple majority vote of the City Council. P&Z members shall serve on a voluntary basis.
- b. **Terms; Absences.** Expiration of terms shall be staggered. Members may be reappointed. Term limits do not apply to the P&Z. A P&Z position is automatically considered vacant if the member is absent for three consecutive, regular meetings, or four regular meetings (cumulative) during the preceding 12-month period. Absences may be excused by the P&Z Chairperson.
- c. **Governance; Officers.** The P&Z shall have the power to make rules, regulations, and bylaws for its own governance, subject to approval by the City Council. The P&Z shall appoint a Chairperson, a Vice-chairperson, and a Secretary from among the Commission for a one-year term. The Chairperson and Vice-chairperson must be residents of the City of Johnson City. Appointments shall be made annually at the first P&Z meeting ~~in~~ after June 1.
- d. **Meetings; Conduct.**
 - i. Meetings shall be held in accordance with the Texas Open Meetings Act,

Commented [R572]:
Commented [C24822]:
Commented [C224R22]:
Commented [C25]:
Commented [C27]:
Commented [C227R26]:
Commented [C28]:
Commented [C29]:
Commented [C230R29]:

a. City Council Amendments. The City Council may, on its own initiative, amend the text of this Ordinance, the zoning district boundaries of the Official Zoning Map, zoning regulations, or the zoning district classification of a property. An amendment is implemented by ordinance only.

b. ~~BOA Amendments. The BOA may grant a variance to this Ordinance or decide a nonconforming use change.~~

e-b. Types. An amendment may be initiated by:

- i. City Council on its own motion;
- ii. Planning and Zoning Commission on recommendation to the City Council; or
- iii. The owner of the property proposed for a zoning classification change through the submittal of a Zoning Amendment Application; or
- iii-iv. The Chief Administrative Officer.

d-c. Types of Applications. An owner or person may apply to amend or request a:

- i. Change in a zoning classification (*i.e.* rezoning), for determination by the City Council;
- ii. Similar land use designation, for determination by the City Council;
- iii. Conditional use permit (~~*i.e.* special exception~~), for determination by the City Council;
- iv. Planned unit development designation, for determination by the City Council;
- v. Variance, for determination by the ZBOA; ~~and~~
- vi. Nonconforming use change, for determination by the ZBOA;
- vii. Appeal of an administrative determination, for determination by the ZBOA; and
- vi-viii. A special exception, for determination by the ZBOA.

e-d. Zoning Administrator. The CAO or designee is designated as the Zoning Administrator for the purposes of handling administrative matters and enforcement of this Ordinance.

f-c. Fee Authorized. The City Council shall adopt and impose an ~~nonrefundable~~ application fee to defray the costs of processing any of the zoning applications under Sec. 3-1 (d). The fee schedule shall be included in the City's Master Fee Schedule. At the time of submittal, a zoning application shall include the required fees.

Section 3-2. Application Process

a. Application Requirements. A Zoning Amendment Application shall be submitted in accordance with the following requirements:

- i. Authority. An application to zone or rezone property shall be submitted to the Zoning Administrator by the owner or person with legal authority over a property.
- ii. Fee. A nonrefundable fee is required and shall accompany an application.
- iii. Information Required. A Zoning Amendment Application shall contain sufficient information, documents, or other material relative to the zoning requested, including, but not limited to, the following:

Commented [CZ49]: Deleted

Commented [JC350]: May need to always start initial review

Commented [JC351]: I would not put these items in the application. A zoning application is a specifically delineated process and the amount of payment per lot (25,000) is not the same thing as a Conditional Use permit which is a skill to a zoning public utility. That is a more rational approach than what is being proposed here.

Commented [CZ52R51]: Consider "water and sewerage" type of allow

Commented [CZ52]: Deleted

Commented [JC354]: This item is not necessary. It could be a separate requirement that will be a full or partial that may be accepted by the zoning administrator or the public utility.

1. A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons;
2. A written statement of the compatibility of proposed uses with the following:

- ~~iv.~~ The City's Comprehensive Plan;
- ~~ii.v.~~ The applicable Zoning District;
- ~~iii.vi.~~ The surrounding properties;
- ~~iv.vii.~~ Current and future neighborhood conditions;
- ~~v.viii.~~ Pedestrian and vehicular traffic patterns, both on-site and off-site; and
- ~~vi.ix.~~ Adequate public facilities;

3. Upon request by the City:

- i. A site plan, if applicable;
- ii. The architectural elevations and floor plans of proposed building(s);
- iii. Parking and site circulation analysis;
- iv. Photographs of the property and surrounding area; and

4. Additional information necessary to evaluate and analyze the Application.

iv. **Completeness.** An Application must be complete prior to processing by the Zoning Administrator. An Application shall be deemed complete upon receipt by the Zoning Administrator of all required and requested information. A determination of completeness does not constitute a determination of compliance with the requirements of this Ordinance.

~~v. **Vested Rights.** Vested rights accrue on receipt of a completed Application.~~

~~vi.v. **Withdrawal of Application.** An applicant may withdraw an Application at any time prior to the public hearing(s) on an Application. An applicant may resubmit a withdrawn Application, which shall be treated as a new Application.~~

~~vii.vi. **Concurrent Rezoning.** An Application may be considered concurrently with the review of a plat application.~~

b. Zoning Amendment Application Public Hearing and Notice (P&Z and City Council).

i. **Public Hearing.** A Zoning Amendment Application shall be set for public hearings before the P&Z and the City Council with notice provided in accordance with Chapter 211 of the Texas Local Government Code.

ii. ~~**P&Z Notice of Hearing.**—In accordance with Chapter 211 of the Texas Local Government Code, as amended, before the 10th day before the public hearing, written notice of each public hearing before the P&Z on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United~~

Commented [JC155]: it is suggested to have a process for including vested rights as well as expiration dates for permit and projects if the Ordinance not already have this effect in the Code of Ordinances.

Commented [CZ56R55]: I don't know, please comment on what you think about additional information for vested rights determination.

Commented [C37R55]: Can vested rights ordinance for staff.

Commented [CZ58]: I don't remember including the same provisions in the Code. The Legislature is currently studying the ordinance and it is unclear if there is a need to add requirements about right to sell.

The ordinance to be added requires by the City Council [Chapter 211.007](#) of the Texas Local Government Code. The ordinance requires that the applicant provide a written statement of compliance with the ordinance and a copy of the ordinance to the City Council. The ordinance also requires that the applicant provide a copy of the ordinance to the City Council. The ordinance also requires that the applicant provide a copy of the ordinance to the City Council.

The ordinance to be added requires by the City Council [Chapter 211.007](#) of the Texas Local Government Code. The ordinance requires that the applicant provide a written statement of compliance with the ordinance and a copy of the ordinance to the City Council. The ordinance also requires that the applicant provide a copy of the ordinance to the City Council. The ordinance also requires that the applicant provide a copy of the ordinance to the City Council.

- States mail.
- iii.ii. ~~City Council Notice of Hearing. Notice of such hearing shall be given by publication in a newspaper of general circulation in the City stating the time and place of such hearing, which time shall not be earlier than 15 days from the date of publication.~~
- iv. ~~School Notice. Notice of an application affecting a residential zoning district shall also be sent to the Johnson City Independent School District.~~
- v.iii. ~~Joint hearing. If warranted, a joint hearing by the P&Z and the City Council on an application may be held in lieu of separate hearings.~~
- vi. ~~Notice for Ordinance Text Amendment. Regarding an amendment relating solely to a change in a zoning regulation or to the general text of this Ordinance, notice of a public hearing of the P&Z shall be given by publication in the City's official newspaper before the 15th day before the date of the hearing without the necessity of notifying an individual property owner in the City by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered. The review and approval process shall be that as outlined in the application process.~~

e. ~~Variance / Nonconforming Use Change Public Hearing and Notice (BOA):~~

- i. ~~Public Hearing. An application for a variance to this Ordinance or a nonconforming use change shall be set for a public hearing before the BOA.~~
- ii. ~~BOA Notice of Hearing. Notice of the hearing must be published in the City's official newspaper no more than 30 nor less than 15 days prior to the date of the hearing. Notice of the hearing shall also be mailed to all property owners, as indicated by the most recently approved municipal tax roll, within 200 feet of the affected property no more than 30 nor less than 15 days prior to the public hearing.~~
- iii. ~~School Notice. Notice of an application affecting a residential zoning district shall also be sent to the Johnson City Independent School District.~~

d.c. ~~Signs. Weather resistant signs shall be erected on the property to advertise the zoning request.~~

- i. ~~The signs shall be provided by the City.~~
- ii. ~~Signs must be placed on the property within ten feet of any property line paralleling any established or proposed street, and must be visible from that street.~~
- iii. ~~The applicant shall make best efforts to ensure that the A-required sign shall remain on the property until final disposition of the zoning request. The Planning and Zoning Commission and City Council may, at its discretion, hold public hearings and take action with or without the signs being present throughout the process.~~

e.d. ~~P&Z Hearing and Review.~~

- i. ~~Hearing. A Zoning Amendment Application shall be submitted to the P&Z for review and a public hearing.~~
- ii. ~~Recommendation. The P&Z may establish conditions and restrictions on a zoning request. After the hearing, the P&Z may recommend approval, approval with~~

Commented [JCF60]: With a recent change to the statute, certain text amendments can trigger notice to affected properties in the relevant district(s) if the change would make nonconforming a currently conforming use. Also triggers potential compensation if the city seeks to stop a nonconforming use. (Senate Bill 929)

Commented [CZ61R60]: In addition, the recent Austin case would require written notice for a regulatory change and that is our current advice to our clients.

Commented [JC62]: New letter notice is not required for a BOA variance req. (DOCUMENT CHECK WITH LEGAL)

Commented [CZ63R62]: Newspaper notice not required for BOA. BOA is a governmental action and should be subject to the rules adopted by the BOA.

Commented [JCF64]: The BOA is a governmental action and should be subject to the rules adopted by the BOA.

Commented [JC65]: Does a newspaper notice on residential actions? Consider the case and require the applicant to comply with the governmental action project's requirements. The city is not a governmental body of itself. (Please see 10/20/2020)

- iii. amendments and conditions, or denial with reasons for the denial.
- iii. Forwarding. The P&Z may recommend the establishment of conditions and restrictions on a zoning request. The recommendations shall be issued and forwarded to the City Council for final action.

fc. City Council Hearing and Action.

- i. Applications Considered. A P&Z recommendation on an application for a change in zoning classification (*i.e.* rezoning), similar land use designation, conditional use permit, or planned unit development designation shall be forwarded to and heard by the City Council.
- ii. Hearing. The City Council shall conduct a public hearing on an application.
- iii. Vote and Action.
 - 1. After the hearing, the City Council ~~shall~~ may approve, approve with conditions, or deny an application.
 - 2. If the P&Z recommended denial, or if an application is protested, an affirmative vote of three-fourths (4 out of 5) of all members of the City Council is required for ~~a requested change to take effect~~ approval.
 - i. A protest must be in writing and signed by the owners of at least 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 200 feet from that area.
 - ii. In computing the 20% land area, streets and alleys shall be included.
- iv. Finality. Approval of an application shall be issued in an ordinance by the City Council. ~~A decision is final.~~

g. BOA Hearing and Action.

- ~~i. Applications Considered. A variance to this Ordinance or a nonconforming use change shall be submitted to the BOA for review and a public hearing.~~
- ~~ii. Hearing. The BOA shall conduct a public hearing on an application.~~
- ~~iii. Vote and Action. After the hearing, the BOA shall approve, approve with conditions, or deny an application. The concurring vote of 75% (4 out of 5) of the full BOA is necessary to:~~
 - ~~1. Reverse an order, requirement, decision, or determination of an administrative official;~~
 - ~~2. Decide in favor of an applicant on a matter on which the BOA is required~~

Commented [CZ66]: Most of this should be in the rules adopted by the ZBOA.

to pass under this Ordinance; or
3. Authorize a variance from the terms of this Ordinance.

iv. Finality. A decision of the BOA is final and binding. Approval of an application shall be issued in an order by the BOA.

v. Appeal. The decision of the BOA may be appealed in accordance with the appeal procedures outlined in this Ordinance.

Section 3-3. Zoning Upon Annexation

a. Annexed Property. Property annexed into the City shall be temporarily classified automatically by default as Single-Family Residential upon annexation.

b. The City Council shall, within six months of any annexation, initiate a permanent zoning classification.

c. A property owner of land to be annexed may apply to rezone the property from the default Single-Family Residential classification. The Zoning Amendment Application can be submitted concurrently with the petition for annexation. Approval of annexation by the City Council must occur prior to approval of rezoning. An annexation may not be made contingent upon the approval of any particular zoning classification.

d. A Zoning Amendment Application shall be considered and reviewed in accordance with the general application process within this Ordinance.

Section 3-4. Successive Applications

a. Limitations on Successive Applications. No application on the same zoning request for a property shall be permitted within one (1) year of an application denial.

b. Reapplication. No application for a different zoning request for the same property shall be considered within 90 calendar days of denial of a previous request.

ARTICLE IV. ZONING DISTRICTS

Division I. General

Section 4-1. Zoning District Classifications

The City shall be divided into classes of residential, office, commercial, industrial, and special Zoning Districts, as specified herein. The location and boundaries of the Zoning Districts are indicated on the City's Official Zoning Map.

Section 4-2. Application of Zoning District Regulations

a. Applicability. The regulations established for each Zoning District shall be minimum regulations and shall apply uniformly to each zoning class, structure, or land within that District.

b. Vacated Areas. When a street, alley, or other public way is vacated by governmental action, and when the land within the boundaries of such a facility are attached to and become a part of the land adjoining the vacated street, alley, or public way, the land formerly within

Commented [JC677]: BOA members are appointed to district board. District are also other appeal procedures in the ordinance which refer to the BOA. This needs to be revised to comply with Ord. 222,021.

Commented [JC688]: If you're going to be holding a meeting, you are effectively establishing a meeting on a regular basis with following the established zoning procedures in state law. Or recommendations to either require hearing case concurrent with the annexation or to follow the state's zoning process along with the city's own about a zoning request.

Commented [CZ69R68]: From the ordinance with the

Commented [RS70]: review the City's Official Zoning Map and ensure that the zoning districts are properly identified.

Commented [JC71R70]: To my knowledge this is not required by state law. It is common for zoning districts to permit alternative applications for the same district. This is a common practice in many jurisdictions. It is not clear if this is a zoning request. It is not clear if this is a zoning request. It is not clear if this is a zoning request.

Commented [CT72R70]: Review the ordinance with the

the boundaries of the facility shall be subject to the same zoning regulations as apply to the adjoining land.

Division 2. Zoning Districts

Section 4-3. Single-Family Residential District (SF)

- a. The purpose of the Single-Family Residential District is to stabilize and protect the owner-occupied housing characteristics of the District and to promote and encourage a suitable environment for living.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of the Single-Family Residential District are as follows:

Maximum dwelling units	One (1) dwelling unit per parcel.
Minimum lot width (street frontage)	50 feet
Minimum lot depth	50 feet
Minimum lot size (area)	7,500 square feet
Minimum front yard	15 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
Minimum side yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum dwelling unit size	1,000 square feet
Maximum lot coverage (all structures)	50 percent (50%)
Maximum structure height (stories)	2 stories
Maximum structure height (feet)	35 feet

- d. Accessory buildings, associated living quarters and storage buildings. With the exception of non-portable permanent residential carports built on a foundation, an accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of five feet from the side property line and five feet from the rear property line. A non-portable permanent residential carport built on a foundation shall be a minimum of five feet from the front property line.
- e. ~~Parking regulations. Off-street parking spaces behind the front setback line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling-unit.~~

Commented [JC273]: This clause is not an exception to the main zoning. It is a separate provision of the property use with its own requirements.

Section 4-4. Mixed Residential District (MR)

- a. The purpose of the Mixed Residential District is to provide for a variety of housing options and ancillary uses with higher densities and smaller lot sizes.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of the Mixed Residential District are as follows:

Maximum dwelling units	None
Minimum lot width (street frontage)	50 feet
Minimum lot depth	50 feet
Minimum lot size (area)	7,500 square feet
Minimum front yard	15 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
Minimum side yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum dwelling unit size	500 square feet for single-bedroom unit; 750 square feet for two+-bedroom unit
Maximum lot coverage (all structures)	Eighty percent (80%)
Maximum structure height (stories)	3 stories
Maximum structure height (feet)	42 feet

- d. Accessory buildings, associated living quarters and storage buildings. With the exception of non-portable permanent residential carports built on a foundation, an accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of five feet from the side property line and five feet from the rear property line.
- e. ~~Parking regulations. Off-street parking spaces behind the front setback line of property shall be provided on the lot to accommodate a minimum of one automobile for each bedroom within the residential structure(s).~~

Section 4-5. Manufactured Home District (MH)

Commented [CZ74]: This needs to be reviewed and revised to align with the regulations of the Texas State Code Chapter 201.005, regulation of mobile home and manufactured housing by a municipality.

31c. 201.005. REGULATION BY MUNICIPALITY. (a) A municipality may prohibit the installation of a mobile home for use as a dwelling in the municipality. The prohibition shall be applicable and may also apply to a mobile home primarily used for rental or other uses, including, but not limited to, a mobile home as required by a municipality, and shall grant a permit for use of the mobile home as a dwelling in the municipality.

(b) In a regulation, the municipality shall permit the installation of a three-pole mobile home for use as a dwelling in any area determined appropriate by the municipality, including a subdivision, after the date of the regulation, and shall not prohibit or restrict an applicant from installing a mobile home for use as a dwelling in a residential subdivision to be developed under the jurisdiction of the municipality, including a subdivision, if the reason for the denial or later denial is that the applicant is not eligible.

(c) Subsections (a) and (b) do not affect the validity of an ordinance that prohibits the installation of a mobile home for use as a dwelling in a subdivision.

(d) Except as approved by the local health officer, a mobile home for use as a dwelling in a subdivision shall not be installed in a subdivision if a transportation-related activity is conducted on the mobile home, and the activity is not a residential use as defined by the local health officer. The local health officer may not prohibit the collection of only acceptable household waste and recycling materials from the mobile home if the waste is collected from the mobile home.

(e) If a mobile home is used as a dwelling in a subdivision, the mobile home shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(f) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(g) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(h) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(i) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(j) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(k) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

(l) A mobile home for use as a dwelling in a subdivision shall not be used for any other purpose, including a business, and shall not be used for any other purpose, including a business, that is not a residential use as defined by the local health officer.

- a. The purpose of the Manufactured Home District is to provide for the most appropriate use of land for manufactured housing development projects, encourage design standards to create pleasing appearances, and to provide sufficient open space for light, air, and recreation.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of Manufactured Home District are as follows:

Maximum dwelling units	One (1) dwelling unit per parcel.
Minimum lot width (street frontage)	40 feet
Minimum lot depth	40 feet
Minimum lot size (area)	4,400 square feet
Minimum front yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
Minimum side yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum dwelling unit size	750 square feet
Maximum lot coverage (all structures)	Sixty percent (60%)
Maximum structure height (stories)	1 story
Maximum structure height (feet)	15 feet

- d. Accessory buildings, associated living quarters and storage buildings. With the exception of non-portable permanent residential carports built on a foundation, an accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of five feet from the side property line and five feet from the rear property line.
- ~~e. Parking regulations. Off-street parking spaces behind the front setback line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.~~

- f.e. Manufactured homes shall meet all standards set by the U.S. Department of Housing and Urban Development.
- g.f. Manufactured homes shall provide proper skirting around the base of the home within 30 calendar days of placement on the property. Plywood and lattice skirting are not permitted.
- h.g. A manufactured home development shall comply with all subdivision standards, as specified in the City's subdivision regulations.
- i.h. Manufactured homes shall be installed per Chapter 1201 *Manufactured Housing* of the Texas Occupations Code and Chapter 80 *Manufactured Housing* of the Texas Administrative Code, as amended.
- j.i. A mobile or manufactured home within the City limits and outside of the Manufactured Home District may be replaced with another manufactured home ~~no older than five (5) years from the date of installation, provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home.~~ Except in the case of a fire or natural disaster, the replacement is limited to a single replacement of a manufactured home on the same property.

Commented [J75]: permit to construct manufactured home that violates the above standards and allow a smaller lot size than required.

Commented [CZ76R75]: Correct this language.

Commented [C77R75]: Leave

Commented [JC178]: This should be updated to reflect change to Occupations Code 11.11.005

Commented [CZ79R78]: Correct

Section 4-6. Cottage Housing District (CHD)

- a. The purpose of the Cottage Housing District is to allow for smaller, single-family detached dwellings.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of the Cottage Housing District are as follows:

Maximum dwelling units	One (1) dwelling unit per parcel.
Minimum lot width (street frontage)	30 feet
Minimum lot depth	30 feet
Minimum lot size (area)	None
Minimum front yard	5 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
Minimum side yard (zero lot line)	0 feet
Minimum side yard (opposite zero lot line)	5 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum side yard, adjacent to street	5 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	5 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum dwelling unit size	500 square feet
Maximum lot coverage (all structures)	70 percent (70%)
Maximum structure height (stories)	2 stories

Maximum structure height (feet) 35 feet

- d. Accessory buildings, associated living quarters and storage buildings. With the exception of non-portable permanent residential carports built on a foundation, an accessory building, associated living quarters, or storage building shall not extend beyond the front line of the main building, and shall be a minimum of zero feet (zero lot line) or five feet (opposite zero lot line / adjacent to street) from the side property line and five feet from the rear property line.
- e. ~~Parking regulations. Off-street parking spaces behind the front setback line of property shall be provided on the lot to accommodate a minimum of two automobiles for each dwelling unit.~~

Section 4-9. Commercial District - CD

- a. The purpose of the Commercial District is to provide for a mix of retail, service, and office uses that support surrounding residential neighborhoods and tourism centers.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of Commercial District are as follows:

Minimum lot width (street frontage)	60 feet
Minimum lot depth	100 feet
Minimum lot size (area)	6,000 square feet
Minimum front yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. Drive-in gasoline service islands may not be located nearer than 25 feet to the front property line.
Minimum side yard	None.
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Maximum lot coverage (all structures)	80 percent (80%)
Maximum structure height (stories)	2 stories
Maximum structure height (feet)	35 feet
Buffer zone, CD to SF, MR, MH, or CHD	A buffer zone of 30 feet plus an approved eight-foot privacy fence shall be

maintained.

Fire lane

A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having entry doors.

- d. Accessory buildings. No commercial accessory building, as permitted herein, shall be more than fifteen (15) feet in height or 750 square feet in size. Accessory buildings shall be compatible with the aesthetics of the primary structure. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building be closer than five feet to any main building, nor closer than five feet to a common PUD, DD, CD, HC, IP, PFD, or RVP District property line, unless the property line is common to a street, in which case the minimum setback shall be 30 feet. If common property line to SF, MR, MH, or CHD Districts, the minimum setback shall be 15 feet if a 30-foot plus eight-foot privacy fence buffer exists. With the exception of non-portable permanent carports built on a foundation, no accessory building shall be allowed in the front yard or allowed to extend beyond the front line of the main building.
- e. Parking regulations. See Article 6 of this Chapter.
- f. Tree and landscape regulations. See Chapter 15 of the Municipal Code of Ordinances.
- g. Lighting regulations. See Chapter 3 of the Municipal Code of Ordinances.
- h. Additional requirements for the Commercial District include, but are not limited to, the following:
 - i. Unless otherwise authorized within the Schedule of Uses, all business activity shall be conducted entirely within a building(s); and
 - ii. Outdoor trash receptacles shall be placed in the side or rear yards, and shall be screened on at least three sides by a fence, plantings, or another suitable visual barrier.

Commented [JC380]: This shall not be kept, but be kept that recent changes in ordinance do not affect the regulation of building materials through zoning

Commented [C761R80]: This part of Chapter 30.1 is a general regulation of zoning

Commented [C82R80]: Leave

Section 4-10. Highway Commercial Corridor District - HC

- a. The purpose of the Highway Commercial Corridor District is to provide for centers of activity, e.g. shopping, services, recreation, employment, public uses, and institutional facilities. The unique characteristics of this District are its high concentration of activity requiring extensive planning and engineering, ingress and egress to the development site, and extensive on-site or off-street parking, loading, and maneuvering areas.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of Highway Commercial Corridor District are as follows:

Minimum lot width (street frontage)	60 feet
Minimum lot depth	100 feet
Minimum lot size (area)	6,000 square feet

Minimum front yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. Drive-in gasoline service islands may not be located nearer than 25 feet to the front property line.
Minimum side yard	None
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Maximum lot coverage (all structures)	80 percent (80%)
Maximum structure height (stories)	3 stories
Maximum structure height (feet)	42 feet
Buffer zone, HC to SF, MR, MH, or CHD	A buffer zone of 30 feet plus an approved eight-foot privacy fence shall be maintained.
Fire lane	A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having entry doors.

- d. Accessory buildings. No commercial accessory building, as permitted herein, shall be more than fifteen (15) feet in height or 750 square feet in size. Accessory buildings shall be compatible with the aesthetics of the primary structure. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building be closer than five feet to any main building, nor closer than five feet to a common PUD, DD, CD, HC, IP, PFD, or RVP District property line, unless the property line is common to a street, in which case the minimum setback shall be 30 feet. If common property line to SF, MR, MH, or CHD Districts, the minimum setback shall be 15 feet if a 30-foot plus eight-foot privacy fence buffer exists. With the exception of non-portable permanent carports built on a foundation, no accessory building shall be allowed in the front yard or allowed to extend beyond the front line of the main building.
- e. Parking regulations. See Article 6 of this Chapter.
- f. Tree and landscape regulations. See Chapter 15 of the Municipal Code of Ordinances.
- g. Lighting regulations. See Chapter 3 of the Municipal Code of Ordinances.
- h. Additional requirements for the Highway Commercial Corridor District include, but are not limited to, the following:
 - i. Unless otherwise authorized within the Schedule of Uses, all business activity shall be conducted entirely within a building(s); and
 - ii. Outdoor trash receptacles shall be placed in the side or rear yards, and shall be

screened on at least three sides by a fence, plantings, or another suitable visual barrier.

Section 4-11. Industrial Park District - IP

- a. The purpose of the Industrial Park District is to provide for a range of light industrial uses, e.g. assembly, research and development, warehousing, and distribution. The Industrial Park District accommodates support services for industrial development, such as office, commercial, and professional services. Requirements herein are designed to ensure compatibility among the various uses in the District, and to protect adjacent nonindustrial development from incompatible uses and conditions.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of Industrial Park District are as follows:

Minimum lot width (street frontage)	100 feet
Minimum lot depth	100 feet
Minimum lot size (area)	10,000 square feet
Minimum front yard	50 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. Drive-in gasoline service islands may not be located nearer than 25 feet to the front property line.
Minimum side yard	25 feet adjacent to IP; 50 feet adjacent to PUD, DD, CD, HC, PFD, or RVP, all except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum side yard, adjacent to street	50 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	25 feet adjacent to IP; 50 feet adjacent to PUD, DD, CD, HC, PFD, or RVP, all except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Maximum lot coverage (all structures)	80 percent (80%)
Maximum structure height (stories)	3 stories
Maximum structure height (feet)	42 feet
Buffer zone, IP to SF, MR, MH, or CHD	A buffer zone of 300 feet, a street plus 200 feet, or 100 feet plus an approved eight-foot privacy fence shall be

Fire lane	maintained. A minimum fire lane of 16 feet shall be maintained on two nonadjacent sides of the building having doors.
Safety	All IP property lines abutting any other district shall have a privacy fence with a minimum barrier height of eight feet or approved equal. Privacy fence may be deleted across the front of the property, provided the fence abuts each side of the building at not more than 20 feet behind the front line of said building.

- d. Accessory buildings. No commercial accessory building, as permitted herein, shall be more than fifteen (15) feet in height or 750 square feet in size. Accessory buildings shall be compatible with the aesthetics of the primary structure. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building be closer than five feet to any main building, nor closer than five feet to a common PUD, DD, CD, HC, IP, PFD, or RVP District property line, unless the property line is common to a street, in which case the minimum setback shall be 30 feet. If common property line to SF, MR, MH, or CHD Districts, the minimum setback shall be 50 feet if a 300-foot buffer exists, 80 feet if a 200-foot plus street buffer exists, or 30 feet if a 100-foot plus eight-foot privacy fence buffer exists. With the exception of non-portable permanent carports built on a foundation, no accessory building shall be allowed in the front yard or allowed to extend beyond the front line of the main building.
- e. Parking regulations. See Article 6 of this Chapter.
- f. Tree and landscape regulations. See Chapter 15 of the Municipal Code of Ordinances.
- g. Lighting regulations. See Chapter 3 of the Municipal Code of Ordinances.
- h. Additional requirements for the Industrial Park District include, but are not limited to, the following:
 - i. Unless otherwise authorized within the Schedule of Uses, all business activity shall be conducted entirely within a building(s).
 - ii. Outdoor trash receptacles shall be placed in the side or rear yards, and shall be screened on at least three sides by a fence, plantings, or another suitable visual barrier;
 - iii. No industrial operation or use shall cause, create, or allow the emission of air contaminants which, at the emission point or within the bounds of the property, are:
 - 1. In violation of the standards specified by the Texas Commission on Environmental Quality (TCEQ), including, but not limited to, those in the Texas Administrative Code Title 30 or standards specified by the Texas Department of Health, including, but not limited to, those contained in the Texas Administrative Code Title 25; or
 - 2. Of such capacity [opacity] as to obscure an observer's view to a degree

equal to or greater than does smoke or contaminants in the standard prescribed in subsection (h)(3)a above, except that when the presence of steam is the only reason for failure to comply or when such contaminants are emitted inside a building which prevents their escape into the outside atmosphere, performance shall be considered in compliance with this Section.

- iv. The emission of particulate matter from all sources shall not exceed the level specified by TCEQ regulations, including, but not limited to, those in the Texas Administrative Code Title 30 or the regulations specified by the Texas Department of Health, including, but not limited to, those in Texas Administrative Code Title 25.
- v. Open storage and open processing operations, including on-site transportation movements which are the source of wind- or air-borne dust or other particulate matter; or which involve dust or other particulate air contaminant generating equipment, including, but not limited to, paint spraying, grain handling, sand or gravel processing, or storage or sand blasting, shall be so conducted such that dust and other particulate matter so generated are not transported across the boundary property line of the tract on which the use is located.
- vi. No use shall be located or operated which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the odor threshold at the property line boundary or any point beyond the tract on which such use or operation is located. The odor threshold shall be determined by observation. In any case, where uncertainty may arise or where the operator or owner of an odor-emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, a majority of the City Council shall determine whether the odor threshold has been crossed.
- vii. No commercial or industrial use involving the manufacture or storage of petrochemical compounds or products which decompose by detonation shall be permitted in the City, except that chlorates, perchlorates, phosphorous, and similar substances and compounds in quantities of one gallon or less for use by industry, school laboratories, druggists, or wholesalers may be permitted when approved by the Zoning Administrator and the volunteer fire department. The storage of all flammable liquids and materials, such as pyroxylin plastics, nitrocellulose film solvents, and petrochemical products for industrial purposes shall be allowed only after a conditional use permit for such use has been granted in conformance with the terms of this Ordinance.
- viii. No commercial or industrial operation or use permitted under the terms of this Ordinance shall emit toxic or noxious matter in concentrations across the boundary property line of the tract on which such operation or use is located.
- ix. No use permitted under the terms of this Ordinance shall, at any time, create earth-borne vibration which, when measured at the boundary property line of the source operation, exceeds the limits of the displacement set forth in the table below:

Table 1. Displacement Limits for Vibration

Minimum front yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. Drive-in gasoline service islands may not be located nearer than 25 feet to the front property line.
Minimum side yard	None.
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Maximum lot coverage (all structures)	80 percent (80%)
Maximum structure height (stories)	2 stories
Maximum structure height (feet)	35 feet
Buffer zone, PFD to SF, MR, MH, or CHD	A buffer zone of 30 feet plus an approved eight-foot privacy fence shall be maintained.
Fire lane	A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having entry doors.

- d. Accessory buildings. No commercial accessory building, as permitted herein, shall be more than fifteen (15) feet in height or 750 square feet in size. Accessory buildings shall be compatible with the aesthetics of the primary structure. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building be closer than five feet to any main building, nor closer than five feet to a common PUD, DD, CD, HC, IP, or RVP District property line, unless the property line is common to a street, in which case the minimum setback shall be 30 feet. If common property line to SF, MR, MH, or CHD Districts, the minimum setback shall be 15 feet if a 30-foot plus eight-foot privacy fence buffer exists. With the exception of non-portable permanent carports built on a foundation, no accessory building shall be allowed in the front yard or allowed to extend beyond the front line of the main building.
- e. Parking regulations. See Article 6 of this Chapter.
- f. Tree and landscape regulations. See Chapter 15 of the Municipal Code of Ordinances.
- g. Lighting regulations. See Chapter 3 of the Municipal Code of Ordinances.
- h. Additional requirements for the Public Facilities District include, but are not limited to, the following:
 - i. Unless otherwise authorized within the Schedule of Uses, all business activity shall

- be conducted entirely within a building(s); and
- ii. Outdoor trash receptacles shall be placed in the side or rear yards, and shall be screened on at least three sides by a fence, plantings, or another suitable visual barrier.;

Section 4-14. Recreational Vehicle Park District – RVP

- a. The purpose of the Recreational Vehicle Park District is to provide for a recreational vehicle park and uses that support the park.
- b. See Schedule of Uses for permitted, nonpermitted, and conditional uses.
- c. General regulations of Recreational Vehicle Park District are as follows:

Minimum lot width (street frontage)	60 feet
Minimum lot depth	100 feet
Minimum lot size (area)	6,000 square feet
Minimum front yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
Minimum side yard	10 feet
Minimum side yard, adjacent to street	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Minimum rear yard	10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.
Maximum lot coverage (all structures)	80 percent (80%)
Maximum structure height (stories)	2 stories
Maximum structure height (feet)	35 feet
Buffer zone, RVP to SF, MR, MH, or CHD	A buffer zone of 30 feet plus an approved eight-foot privacy fence shall be maintained.
Fire lane	A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having entry doors.

- d. Accessory buildings. No commercial accessory building, as permitted herein, shall be more than fifteen (15) feet in height or 750 square feet in size. Accessory buildings shall be compatible with the aesthetics of the primary structure. No accessory building may be closer than five feet to the main building in the rear yard. Accessory buildings, as permitted herein, are allowed in side yards; provided, however, that no accessory building be closer

- (1) Historic structures, sites, or areas within which the buildings, structures, appurtenances, and places exemplify the cultural, political, economic, or social history of the United States, State, region, or City;
- (2) Historic structures, sites, or areas that are identified with the lives of historic personages or with important events in United States, State, regional, or local history; and
- (3) Structures or areas that embody the distinguishing characteristics of an architectural type specimen as to color, proportion, form, and architectural details.

Historic landmark - HL A place which has outstanding historical and cultural significance in the United States, State, region, or City. The designation "historic landmark" recognizes that the historic place or the building(s), structure(s), accessory building(s), fences, or other appurtenances at the place, are of basic and vital importance for the preservation of culture and the development of tourism.

b. Authorities

- i. Historic Review Board. The Planning and Zoning Commission (P&Z) shall serve as the Historic Review Board, the "Board". The Board shall act in an advisory capacity only, and shall have no power to bind the City by contract or otherwise. It shall be the function of the Board to advise the City Council on a proposed designation of a historic landmark or property or on an application for a Certificate of Review, as provided herein.
- ii. City Council. The City Council shall be the exclusive authority to approve the designation of a property as a local historic landmark and the inclusion of a property in a local historic district. In addition, the City Council shall have final authority on an application for a Certificate of Review.

c. Designations

- i. Current Designation. The City Council designates the area notated on the Official Zoning Map as the "Historic Overlay District."
- ii. Identification. The Official Zoning Map shall reflect the Historic Overlay District by the letter "H" and a historic landmark by the designation "HL", in addition to any other zoning district designation established in this Ordinance.
- iii. New Designation. Designation of a property as a local historic landmark or of a property for inclusion within the boundaries of the Historic Overlay District shall be conducted in accordance with the requirements contained in Section 211.0165 of the Texas Local Government Code, as amended.
- iv. Application and Review. An application for a historic designation or landmark shall be reviewed and processed in accordance with the zoning amendment procedures contained within Article III of this Ordinance.
- v. Designation Criteria. In designating an area as a historic district or a place as a historic landmark, the following criteria shall be considered:

1. Character, interest, or value as a part of the development, heritage, or

- cultural characteristics of the City;
- 2. Location as the site of a historical event;
- 3. Embodiment of distinguishing characteristics of an architectural type or specimen;
- 4. Relationship to other distinctive buildings, sites, districts, or structures which are historically significant and preserved, or which are eligible for preservation;
- 5. Unique location of singular physical characteristics represents an established and familiar visual feature of a neighborhood, community, or the City;
- 6. Value as an aspect of community sentiment of public pride; and
- 7. Identification with a person or persons who significantly contributed to the development or culture of the City.

d. Violation; Penalty

- i. Misdemeanor declared. It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, relocate, restore, demolish, raze, or maintain any building, structure, accessory building, fence or other appurtenance in a Historic Overlay District or Historic Landmark in violation of the provisions of this Section. Violation of any provision of this Section is a misdemeanor.
- ii. Enforcement and Penalty. A violation of this Section shall be processed in accordance with the violation and enforcement provisions of this Ordinance. Each day such violation continues shall constitute a separate violation.

e. Certificate of review required; procedures

- i. No person or entity shall install, construct, reconstruct, alter, change, restore, remove, or demolish any exterior architectural feature of any historic landmark or of any building or structure located within a Historic Overlay District unless application is made for a certificate of review and such a certificate is granted by the city council.
- ii. The applicant shall submit to the Board an application in writing for a certificate of review that includes data and information required by the city council, including, but not limited to, the following:
 - 1. Name of the applicant and the property owner;
 - 2. Mailing address of the applicant and permanent address of the property owner;
 - 3. Location of the property to be altered or repaired;
 - 4. A detailed description of the nature of the proposed external alteration or repair to be completed;
 - 5. The intended and desired starting date and completion date of the alterations or repairs to be made; and
 - 6. A drawing or sketch of the proposed external alteration, if applicable.
- iii. Applications that are incomplete or not in compliance with the city Building Code, restrictions, and other City Ordinances shall be returned to the applicant for

- completion and compliance.
- iv. All applications shall be subject to review by the Board and action by the city council. The Board shall review the applications for all certificates of review and determine whether the applications are in conformance with this division. With the exception of Subsection v. hereof, the city council shall approve, approve with conditions, or deny all applications within sixty (60) days of application submittal.
 - v. For a permit to demolish or move a historic landmark or building within a Historic Overlay District or any other Zoning District, the city council shall render a decision within one hundred twenty (120) days after receipt of a completed application.

f. Criteria for action on certificate of review.

In determining the recommendation and action on an application for a certificate of review, the Board and City Council shall consider the following matters:

- i. The effect of the proposed change upon the general historic, cultural, and architectural nature of the District or landmark;
- ii. The appropriateness of exterior architectural features that can be seen from a public street, alley, or walkway;
- iii. The general design, scale, arrangement, texture, and material of the building or structure and the relation of such factors to similar features of buildings or structures in the District. The criteria shall not be the aesthetic appeal of the structure or the proposed remodeling, but rather, its conformity to the general character of the particular historic area involved;
- iv. The character of the Historic Overlay District or Landmark for all signs;
- v. Preservation of the value of the Historic Overlay District or Landmark, as the area of unique interest and character;
- vi. The general and specific Standards for Rehabilitation and Guidelines for Applying the Standards for Rehabilitation, as issued by the Secretary of the Interior, and
- vii. The importance of balancing the current needs of the property owner with the importance of approving plans that will be economically reasonable for the property owner.

Division 3. Specific-Conditional Uses, Planned Unit Developments, and Nonconformities

Section 4-16. Conditional Use Permit - CUP

- a. **Definition.** A conditional use permit "CUP" provides for a use that may be deemed compatible with the land use in a zoning district and with conditions governing the use.
- b. **Purpose.** The purpose of a CUP is to allow a use to be located or expanded within a designated zoning district under specific standards, controls, limitations, performance criteria, restrictions, and other regulations. A CUP also allows a use which, if not specially regulated, could have an undue impact on, or be incompatible with, other uses of land within the zoning district or adjacent to a zoning district.
- c. **Applicability.** A use that requires a CUP is prohibited in the City unless a CUP is permitted under the Schedule of Uses and a permit is issued by the City Council for such a use in accordance with this Ordinance. See Schedule of Uses for permitted CUPs in specific zoning districts.
- d. **Application and Review.** An application for a CUP shall be submitted for review by the P&Z and approval by the City Council in accordance with the zoning amendment procedures contained within Article III of this Ordinance.
- e. **Considerations for Review.** In reviewing a CUP application, the P&Z and City Council shall consider the CUP's:
 - i. Conformance with applicable regulations and standards of the zoning district in which it is to be located;
 - ii. Compatibility with existing or permitted uses on abutting sites in terms of building height, bulk, scale, setbacks, open spaces, landscaping, site development, and access and circulation capacity;
 - iii. Potentially unfavorable effects or impacts on existing or permitted uses on adjacent sites, to the extent such impacts exceed those that reasonably may result from the use of the site by a permitted use, including without limitation:
 - 1. Location, lighting, type of signs, and the relation of signs to adjacent properties;
 - 2. Noise producing elements;
 - 3. Glare of vehicular and stationary lights and effect of such lights on the established character of the neighborhood;
 - 4. Safety from fire hazard and measures for fire control; and
 - 5. Protection of adjacent property from drainage, floods, erosion, or other water damage.
 - iv. Safety and convenience of vehicular and pedestrian circulation on the premises and in the area immediately surrounding the site, including, but not limited to, the effect of traffic reasonably expected to be generated by the proposed use and the ability of the State and City's existing transportation network to handle the traffic; and
 - v. Compliance with the Comprehensive Plan and whether the proposed use is compatible with existing and planned development of surrounding properties, including those that promote economic growth.
- f. **Conditions for CUP.** In granting a CUP, the P&Z and City Council may impose any conditions necessary to assure that the proposed use will, as reasonably practical, conform to the zoning requirements of the zoning district in which it is located. Conditions include,

but are not limited to:

- i. More restrictive sign standards;
- ii. Additional open space, landscaping, or screening requirements;
- iii. Additional yard requirements;
- iv. Special lighting requirements;
- v. Time limitations on hours of operation;
- vi. Additional off-street parking and loading requirements;
- vii. Additional utility, drainage, and public facility requirements;
- viii. Additional right-of-way and public access requirements;
- ix. Additional requirements to ensure compatibility with the Comprehensive Plan; and
- ~~x. Time limits or expiration dates;~~
- ~~xi. Provisions for periodic review and renewal or extension; and~~
- ~~xii.x. Conditions for expiration and/or revocation of the CUP.~~

~~g.f.~~ Action by the City Council. Final determination on a CUP application shall be issued by the City Council in accordance with Article III of this Ordinance.

~~h.g.~~ Resubmission on denial. A CUP application which has been denied shall not be resubmitted in substantially the same form within one (1) year of the date of denial.

~~i.~~ ~~Validity and Extension:~~

- ~~i. Validity. Unless a time limit is specified, a CUP shall be valid for an indefinite period.~~
- ~~ii. Lapse. If the conditional use or related construction has not commenced or been diligently pursued within one (1) year from the CUP approval date, the CUP shall lapse.~~
- ~~iii. Extension. A CUP permit holder may request, prior to the one-year expiration term, an extension of time for the implementation and/or completion of improvements required as a condition.
 - ~~1. An extension request shall be in writing and include payment of required fees, along with a written description of the reasons for the applicant's inability to comply with the specified deadlines.~~
 - ~~2. Upon review and satisfactory findings for compliance with the approved CUP, the zoning administrator may extend a CUP for up to one (1) year.~~
 - ~~3. An extension may be denied for noncompliance or failure by the permit holder to correct the noncompliance within a specified time.~~
 - ~~4. On denial of an extension request, a CUP shall terminate and the applicant may resubmit a new CUP application in accordance with the application requirements of this Ordinance.~~~~

~~j.~~ Expiration. A CUP shall automatically expire without notice, and shall be null and void in the following cases:

- ~~i.~~ Lapse of approval time, as described above;
- ~~ii.~~ There is a change in the use of the property;

- iii. ~~The use is relocated; or~~
 - iv. ~~The use ceases for a period of six (6) consecutive months.~~
- k. ~~Revocation—After notice and hearing, a CUP is revocable by written order of the City Council upon a determination of noncompliance with the requirements and conditions of the CUP. A revoked CUP shall be null and void.~~
- l. ~~Renewal:~~
- i. ~~A CUP with an established time period that is not renewed prior to its expiration shall expire without notice, and shall be null and void.~~
 - ii. ~~A renewal may issue for a new time period provided that the use is allowed in the zoning district in which the CUP is located.~~
 - iii. ~~An application for renewal shall be processed as a new application, and shall be reviewed for compliance with original conditions, and to determine if the use still satisfies the provisions of this Ordinance.~~
 - iv. ~~The City Council shall issue, by ordinance, a final determination on a renewal application.~~
- m. ~~Reinstatement—A new application and subsequent approval are required to reinstate a CUP which has expired, terminated, or been revoked.~~
- n. ~~Amendments—A request to modify, expand, or otherwise change an approved CUP not in substantial conformance with the approved permit shall be processed as a new application.~~

Commented [C290]: need to discuss this. There is a need to accomplish some of the future vision outlined here. It is not consistent with zoning.

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Section 4-17. Planned Unit Development District - PUD

- a. **Definition.** A Planned Unit Development District "PUD" is a zoning designation pertaining to a single or multi-use development developed as a single contiguous project under unified control. A PUD provides flexibility in development standards, and it accommodates multiple uses as one integrated land use which could not have been attained through conventional zoning.
- b. **Purpose.** The purpose of a PUD is to preserve the natural environment, encourage high-quality development and innovative design, and ensure adequate public facilities and services for development within a tract of land. Generally, a PUD:
 - i. Provides flexibility in the planning and construction of development projects by allowing a combination of uses developed in accordance with an approved plan that protects adjacent properties;
 - ii. Provides for the efficient layout of land uses, buildings, circulation systems, and infrastructure;
 - iii. Encourages infill projects and the development of sites difficult for conventional development due to tract shape and/or size, abutting development, poor accessibility, or topography;
 - iv. Provides an environment that contributes to a sense of community and a coherent living style;
 - v. Encourages the preservation and enhancement of natural amenities and cultural resources;

- vi. Protects the natural features of a site and provides for open space; and
 - vii. Is compatible with adjacent land uses.
- c. **Applicability.** A PUD is prohibited in the City, unless it is approved by the City Council in accordance with this Ordinance. A PUD shall not be sought to avoid the standards and requirements of other Zoning Districts, but rather, a PUD shall be sought to accomplish the purposes of this Section.
- d. **Qualifying PUD Standards.**
- i. **Minimum Acreage.** No minimum.
 - ii. **Unified Control.** A PUD shall be under the control of one owner or a group of owners and shall be planned and developed as one integral unit.
 - iii. **Comprehensive Plan.** A PUD shall be consistent with the City's Comprehensive Plan.
- e. **Permitted Use Requirements.**
- i. **Uses.** Any permitted use, special exception, or conditional use allowed within a tract's base Zoning District may be permitted in a PUD, provided that the standards and requirements, as outlined in this Ordinance, are met.
 - ii. **Mixed-Use.** A mixture of residential and non-residential uses are allowed in a PUD in order to create an integrated, mixed-use development.
 - iii. **Variations from a tract's base Zoning District requirements shall be identified, in writing, by the applicant. Variations shall be reviewed and approved by the Planning and Zoning Commission and City Council.**
- f. **Application and Review.** A PUD application shall include a general land use map and a proposed master site development plan. A PUD application shall be submitted for review by the Planning and Zoning Commission and the City Council, in accordance with Article III of this Ordinance.
- g. **Site Design Criteria.** At the discretion of the Planning and Zoning Commission and City Council, a PUD general land use map and master site development plan shall contain one (1) or more of the following site design elements, as applicable:
- i. Mixed-use development with residential and non-residential uses;
 - ii. Residential development with a variety of housing types;
 - iii. Pedestrian / transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site;
 - iv. High quality architectural design beyond the master site development plan requirements of this Section;
 - v. Extensive landscaping beyond the master site development plan requirements of this Section;
 - vi. Preservation, enhancement, or restoration of natural resources, such as trees, slopes, wetland areas, views, et cetera;
 - vii. Preservation, enhancement, or restoration of significant or historic resources;
 - viii. Provision of a significant amount of open space / parkland, public plazas, or related

- features. Open space shall not include areas designated or used as parking lots, garages, streets, or driveways;
- ix. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions, such as topography, shape, et cetera;
 - x. Effective transition between higher and lower density uses and/or nonresidential and residential uses;
 - xi. Shared vehicular and pedestrian access between properties or uses;
 - xii. Mitigation to offset impacts on public facilities, such as street improvements, utility lines, et cetera; or
 - xiii. Significant use of sustainable building and/or site design features, such as water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management design, optimized energy performance, on-site renewable energy, passive solar heating, reuse / recycled / renewable materials, indoor air quality, or other elements identified by the US Green Building Council (LEED) or ANSI National Green Building Standards.
- h. Site Plan Criteria. A PUD general land use map and master site development plan shall contain the following:
- i. Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal;
 - ii. Proposed buildings shall be sited harmoniously to the terrain and to other buildings in the vicinity that have a visual relationship to the proposed buildings;
 - iii. In regards to vehicular and pedestrian circulation and parking, special attention shall be given to the location and number of access points to public streets, the width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and the arrangement of parking areas that are safe and convenient and do not detract from the design of the proposed structures and neighboring properties;
 - iv. Private streets and gates may be approved as a part of the application, however, they are not required;
 - v. The maximum height of structures;
 - vi. Building setbacks;
 - vii. A significant amount of open space / parkland shall be included in the master site development plan. Open space / parkland may include community recreational areas that are continuously maintained. Open space / parkland shall not include areas specifically designated or used as parking lots, garages, streets, or driveways;
 - viii. Outdoor lighting shall be fully-shielded and night sky friendly in order to limit impacts on abutting residential units and reduce light pollution; and
 - ix. Utilities and infrastructure shall meet City Subdivision Regulations, Design Standards, and the City adopted International Codes.
- i. Criteria for PUD Review. The following factors shall be considered for the approval of a PUD, including, but not limited to:
- i. Compliance with the City's Comprehensive Plan;

- ii. Is consistent with the District's purpose;
 - iii. Is similar to other allowed uses relative to its character, scale, and overall compatibility;
 - iv. Is not expected to create objectionable impacts to public health, safety, and welfare if it were established in the applicable Zoning District; and
 - v. Would not be more appropriate within a different Zoning District.
- c. **Compliance.** If a proposed use is determined to be similar to other uses listed within the District the proposed use is to be located, the use shall comply with all the standards or requirements of that District. The determination shall be considered an interpretation of the use regulations, and it is not to be considered as a variance. Once a use has been determined to be similar, it shall be deemed included in the Schedule of Uses, as regulated. The City Secretary shall ensure that the use is listed in the Schedule of Uses with a notation indicating the approval date and that the use was approved through the Similar Land Use process.
- d. **Application and Review.** An application for a similar land use determination shall be submitted for review by the Planning and Zoning Commission, in accordance with Article III of this Ordinance.
- e. **Action by the City Council.** Final determination on a similar land use application shall be issued by the City Council, in accordance with Article III of this Ordinance.

Section 4-19. Nonconforming Use

- a. A nonconforming use is any use of land or structures which do not conform to the use regulations prescribed in this chapter or amendments hereto.
- ~~a-b~~ **Continuation of use.** Any nonconforming use of land may be continued in present use indefinitely and is transferable. If, however, a continuous operation is not carried on in such nonconforming use during a continuous period of one year, the building, the structure, or tract of land where the nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operation shall not affect the foregoing.
- ~~b-c~~ **Change of use.** A nonconforming use may be changed to any conforming use. A nonconforming use shall not be changed to any other type of nonconforming use.
- ~~e-d~~ **Damage and destruction.** A nonconforming use occurring within a building or structure shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause, with the exception of replacement of a manufactured home where allowed. In the case of partial destruction, not exceeding 50 percent (50%) of the building or structure's value, the Development Services Department shall issue a permit for reconstruction. If greater than 50 percent (50%) of the building or structure's value, the building or structure shall be brought into compliance or a zoning variance requested through the Zoning Board of Adjustment.
- ~~d-c~~ **Enlargement.** A nonconforming use shall not be enlarged or extended with respect to the operation of the use in a building or structure, nor extended to occupy a greater area of land, except in compliance with zoning requirements for that district or through an expansion of nonconforming use approval by the Zoning Board of Adjustment.
- ~~e-f~~ **Normal maintenance.** Normal maintenance of a building or structure containing a

Commented [C296]: It's been a while since we have reviewed current case law on non-conforming uses. I would like to verify if any consistent with current case law.

Commented [C297]: I will add a note to the draft and update the ordinance.

Commented [D198]: May want to add language to clarify that the Zoning Board of Adjustment has the authority to approve nonconforming use expansion.

nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations not extending the operation of the nonconforming use.

Fig. Structural changes. No structural alteration shall be made in a building or other structure containing a nonconforming use, except that required by law.

Section 4-20. Nonconforming Structure

a. A nonconforming structure is any building or structure on a lot which does not conform to the lot area, lot dimensions, front yard, side yard, rear yard or coverage, or any building or structure which does not conform to the height, parking, loading, building spacing or any other regulations or any requirements of this chapter”

a-b. Limitation on regulations. No structure, otherwise in accordance with the provisions of these regulations or an amendment hereto, shall be rendered or be deemed a nonconforming structure solely for a failure to comply with provisions relating to signs.

b-c. Continuance of nonconforming structures. Subject to all limitations herein set forth, any nonconforming structure may be occupied and operated and maintained in a state of good repair, but no nonconforming structure shall be enlarged or extended unless the enlargement or extension can be, and is, made in compliance with all of the provisions herein established for structures in the district in which the nonconforming structure is located.

e-d. Accidental damage to building. If a nonconforming structure is destroyed by fire or the elements, it may not be reconstructed or rebuilt except to conform to the provisions contained herein. In the case of partial destruction by fire or other causes, not exceeding 50 percent (50%) of the structures value, the Development Services Department may issue a permit for reconstruction. If greater than 50 percent (50%) of the structures value, the Zoning Board of Adjustment may grant a permit for repair but not for the enlargement of the structure.

d-e. Obsolescence of structure. The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes obsolete or substandard under any applicable Code of the City and the cost of placing such structure in lawful compliance with the applicable regulation exceeds 50 percent (50%) of the replacement cost of such structure on the date that the Building Official, Code Enforcement Officer, and/or Chief Administrative Officer determines that such structure is obsolete or substandard.

e-f. Determination of replacement costs. In determining the replacement cost of any nonconforming structure, there shall not be included therein the cost of land or any factors other than the nonconforming structure itself.

Fig. Alterations. The Zoning Board of Adjustment may grant, as a special exception, an application to extend or enlarge a nonconforming structure, provided such grant does not serve to prevent the return of such structure to a conforming structure in the future.

Section 4-21. Variance Reserved

a. Definition. A variance is a change from the application of a specific requirement of this Ordinance to a land use or structure. A variance may not authorize a use not otherwise allowed within a district nor vary procedural requirements of this Ordinance.

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~~b. Purpose. The purpose of this Section is to allow for a variance to a specific regulation of this Ordinance for a parcel of land or structure due to an extraordinary condition or a circumstance of hardship peculiar to the parcel or structure, and which is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and Zoning District. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this Ordinance may impose on a property owner. Rather, it is intended to provide relief where the zoning requirements render the land or structure difficult or impossible to use because of some unique physical attribute of the property or structure itself or some other factor unique to the property or structure for which the variance is requested. State and/or Federal laws or requirements may not be varied by the City.~~

~~e. Applicability.~~

~~i. Presumption. There shall be a presumption against variances. The granting of a variance is not automatic.~~

~~ii. No Special Issuance. A variance shall not be granted if it would provide the applicant with special privileges not enjoyed by owners of other similarly situated properties or structures.~~

~~iii. Findings Required for Variance Approval. No variance shall be granted by the Zoning Board of Adjustment unless the Board finds that all of the following conditions are met:~~

~~1. There are special circumstances or conditions affecting the land or structure such that the literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and deprive the applicant of the reasonable use of the land or structure;~~

~~2. The subject circumstances or conditions giving rise to the alleged hardship are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties or structures in the vicinity of the property;~~

~~3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;~~

~~4. The variance is not contrary to the public interest, is not detrimental to the public health, safety, or welfare, and is not injurious to other property within the area;~~

~~5. The variance constitutes a minimal departure from this Ordinance; and~~

~~6. The variance is in conformity with the spirit, general purpose, and intent of this Ordinance so that:~~

~~i. The public health, safety, and welfare may be secured; and~~

~~ii. That substantial justice may be done.~~

~~d. Criteria Required for Hardship Showing. Undue hardship results where:~~

~~i. A special individual reason makes the strict application of a provision of this Ordinance impractical;~~

- ii. ~~There are special circumstances or conditions affecting the land or structure involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his/her land or structure; and~~
- iii. ~~The applicant will incur specific hardships should the variance not be granted.~~
- iv. ~~Pecuniary hardship to the applicant, standing alone, shall not be deemed sufficient to constitute undue hardship.~~

e. ~~Hardship Considerations for a Structure. In determining a variance request for a structure, the Zoning Board of Adjustment may consider the following, outlined in Section 211.009 B-1 of the Texas Local Government Code, as grounds to determine whether compliance with this Ordinance, as applied to a structure, would result in unnecessary hardship:~~

- i. ~~the financial cost of compliance is greater than fifty percent (50%) of the appraised value of the structure, as shown on the most recent property appraisal roll for the City;~~
- ii. ~~compliance would result in a loss to the lot on which the structure is located of at least twenty-five percent (25%) of the area on which development may physically occur;~~
- iii. ~~compliance would result in the structure not being in compliance with a requirement of another Municipal ordinance, building code, or other requirement;~~
- iv. ~~compliance would result in the unreasonable encroachment of the structure on an adjacent property or easement; or~~
- v. ~~the City considers the structure to be a nonconforming structure.~~

f. ~~Application and Review. An application for a variance shall be submitted for review by the Zoning Board of Adjustment, in accordance with Article III of this Ordinance. If an application is submitted at the same time as a plat submittal, it shall be considered concurrently with the plat application.~~

g. ~~Burden on Applicant. The applicant bears the burden of proof in establishing the facts that may justify a variance.~~

h. ~~Conditions. The Zoning Board of Adjustment may prescribe conditions, such as those listed in this Ordinance for a Conditional Use Permit.~~

i. ~~Action by the ZBOA. Final determination on a variance application shall be issued by the ZBOA, in accordance with Article III of this Ordinance.~~

j. ~~Findings Required on Approval.~~

i. ~~On approval of a variance, the ZBOA shall issue findings stating that:~~

- 1. ~~Granting the variance will not be detrimental to the public safety, health, or general welfare, will not be injurious to other property or to the owners of other property, and will not prevent the orderly subdivision of other property in the vicinity;~~
- 2. ~~The condition(s) upon which the request for a variance is based is unique to the property for which the variance is sought and is not applicable generally to other property;~~
- 3. ~~Because of the particular physical surroundings, shape, and/or~~

- ~~topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;~~
- ~~4. The variance will not in any manner vary the provisions of this Ordinance, the City's Comprehensive Plan, or any other adopted land plan(s) or ordinance(s) of the City;~~
 - ~~5. The alternate design will generally achieve the same result or intent of the standards and regulations prescribed herein; and~~
 - ~~6. If applicable, the variance will enable the applicant to preserve more native trees, provide more open space, or ensure more wildlife preservation than would be possible complying with the strict mandates of the Ordinance.~~

- ~~ii. Such findings, and the specific facts in support, shall be included in the ZBOA minutes of the meeting at which the variance is granted.~~

ARTICLE V. GENERAL REGULATIONS

Division 1. General

Section 5-1. Purpose

This purpose of this Article is to provide regulations, in addition to those regulations and requirements of each Zoning District, applicable to a building, structure, or tract of land within the City limits, regardless of the Zoning District designation.

Section 5-2. Certificate of Use and Occupancy

- a. Certificate Required. No commercial building, tenant space, or similar structure shall be used, occupied, or changed in use until a Certificate of Use and Occupancy has been issued by the City stating that the commercial building, tenant space, or similar structure complies with the International Building Codes, maximum occupant loads, and the provisions of this Ordinance. A change in use shall mean any change in the occupancy of a commercial building, tenant space, or similar structure.
- b. Violation. A Certificate of Use and Occupancy shall become null and void upon violation of this Ordinance. On remediation, a new Certificate shall be required.

Division 2. Site Requirements

Section 5-3. Accessory Buildings, Associated Living Quarters, and Storage Buildings

- a. Accessory and Storage Buildings. Accessory and storage buildings are permitted in Zoning Districts in accordance with the Schedule of Uses.
 - i. Accessory and storage buildings are permitted only in connection with, incidental to, and on the same lot as a principal structure which is in use and permitted in such District.

Commented [L104]: Section 5-3 removed from the Draft Ordinance
Commented [L105]: Section 5-6 moved to a new Zoning District
Commented [L106]: Section 5-3 moved to Article V, Division 2

- ii. With the exception of non-portable permanent carports built on a foundation, accessory and storage buildings shall not be placed in a front yard.
 - iii. No accessory or storage building shall be placed within the limits of a recorded easement, alley, or required fire lane.
 - iv. Unless otherwise regulated within Article IV of this Ordinance, no accessory or storage building shall exceed two (2) standard stories in height.
 - v. Unless otherwise regulated within Article IV of this Ordinance, an accessory or storage building may be constructed in side and rear yards, provided such structure does not occupy more than 20 percent of the area of the required side or rear yards and is not located closer than five feet (5') to any lot line. Non-portable permanent carports built on a foundation may be located in a front yard, provided they are not located closer than five feet (5') to any lot line.
 - vi. Swimming pools may be located within required side or rear yards, provided that such pools are not located closer than ten feet (10') to a side or rear lot line. Swimming pools are not permitted in front yards. A pedestrian space of at least three feet (3') in width shall be provided between pool walls and the protective fence or barrier wall of a pool.
- b. Associated Living Quarters. One (1) associated living quarters is permitted per tract in a residential Zoning District, but only in connection with, incidental to, and on the same lot as, a principal structure which is in use and permitted in such District. Associated living quarters are subject to the following:
- i. The floor area of an associated living quarters shall not exceed twenty-five percent (25%) of the existing floor area of the main building;
 - ii. The associated living quarters shall include a restroom facility;
 - iii. The associated living quarters shall be compatible with the aesthetics of the primary residence and surrounding neighborhood; and
 - iv. No more than two unrelated individuals shall reside in an associated living quarters.

Section 5-4. Walls; Fences

Unless otherwise regulated within Article IV of this Ordinance, a wall, fence, berm, and similar item restricting passage or vision or enhancing private property may be located within a required yard, except as follows:

- a. A wall or fence located within the front yard shall not exceed a height of forty-eight inches (48"), as measured from the grade at the point of placement. A wall, fence, or similar item, other than landscaping, shall not exceed a maximum height of eight (8) feet within a rear yard. A rear yard fence that is taller than 48 inches may be extended to the front corner of the primary structure. A fence in the rear yard on a corner lot shall meet the side yard setback adjacent to the right-of-way line in the respective zoning district;
- b. In the Industrial and Highway Commercial Corridor Districts, a wall or fence which is clearly used for safety or security purposes must comply with the administrative rules and statutory regulations of the Texas Department of Transportation;
- c. A wall, fence, hedgerow, or other dense landscaping on a corner lot shall not exceed 24

- inches in height. Items over 24 inches shall be located at least 20 feet from the intersection of a street right-of-way line;
- d. A wall or fence that adjoins property lines in a residential district shall not be electrified, barbed, or otherwise secured in a manner inappropriate or dangerous to the neighborhood. Such restrictions are waived for agricultural uses;
 - e. A fence, shrub, or wall may be installed in an easement, subject to the City's or a utility company's ability to remove the structure at the Owner's expense if access is deemed necessary; and
 - f. These provisions shall not be interpreted to prohibit the erection of an open-mesh type fence enclosing any school or playground site or business or industrial activity for security purposes.

Section 5-5. Outside Storage and Display

- a. Outside storage, display, or sale of goods, products, or merchandise is permitted in a zoning district in accordance with the Schedule of Uses of this Ordinance.
- b. Outside storage limitations shall not apply to:
 - i. Merchandise dispensing units in a quantity of three (3) or fewer placed adjacent to a building for any one business establishment when such merchandise dispensing units are being used in connection with the operation of a convenience food store, service station, grocery, supermarket, or combination thereof;
 - ii. Storage, display, and sale of newspapers and related publications in newspaper racks;
 - iii. Outside display of greenhouse merchandise; or
 - iv. Temporary outdoor services, such as mobile blood banks, health screenings, and veterinary care.
- c. Temporary outdoor sale of merchandise is permitted, provided it is conducted:
 - i. For a period not exceeding five (5) consecutive days once a month or not exceeding 30 consecutive days within the calendar year;
 - ii. By a building tenant holding a current certificate of occupancy;
 - iii. For merchandise ordinarily sold on the premises by the building tenant;
 - iv. Does not encroach into the right-of-way from all property lines; and
 - v. With a special event permit issued by the City not more than 90 days prior to each event.
- d. Garage sales are permitted in any residential district for a maximum of four (4) consecutive days within a 30-day period. No garage sale signs shall be placed on a City or State right-of-way, and all signage must be removed within twenty-four (24) hours after the conclusion of the sale.
- e. Except as necessary for ongoing construction activity, the storage or overnight parking of a commercial vehicle rated over one (1) ton is prohibited in any residential zoning district.
- f. In residential zoning districts, ~~no motor homes and recreational vehicles, trailers, or boats shall be parked on City or State right-of-way.~~ Such vehicles may be used for any form of

Commented [JC107]: Use the language above for the new right-of-way rule that is added to CZ107.

Commented [CZ108]: This is clearly a policy decision, but I can tell you from experience, this will be a nightmare to enforce.

Commented [CZ109]: The language above is clearly stated to be optional.

Commented [CZ110]: The language above is clearly stated to be optional. The language above is clearly stated to be optional.

Commented [CZ111]: This is clearly a policy decision, but I can tell you from experience, this will be a nightmare to enforce and may create some local consternation.

Commented [CZ112]: The language above is clearly stated to be optional.

Commented [CZ113]: Let's discuss this from a regulatory standpoint.

habitation on a residential lot for thirty (30) consecutive days with a renewable permit issued by the City. The vehicle may be connected to municipal utilities if:

- i. the vehicle has a backflow prevention device for water; and
- ii. the vehicle owner applies for and receives a permit from the City.

Section 5-6. Home Occupation

a. Home occupations are permitted in any residential zoning district in accordance with the following:

- i. Only by a person(s) residing on the premises;
- ii. Shall not alter the appearance of the residential dwelling unit or the lot on which it is located;
- iii. No outside storage or display;
- iv. Be conducted entirely within the residential dwelling unit;
- v. Not involve equipment which conflicts with the intent of the residential nature of the community;
- vi. Not involve the use or storage of explosives or flammable or hazardous materials;
- vii. Not involve any process that produces smoke, dust, odor, noise, or vibration which is harmful to surrounding properties;
- viii. Not involve the delivery and storage of materials at a frequency beyond that which is reasonable within a residential zoning district;
- ix. Not generate traffic to and from the home in excess of what is normally associated with a single-family dwelling unit;
- x. No exterior signage indicating that the dwelling unit is being utilized for any purpose other than that of a residential dwelling unit; and
- xi. Shall not consist of any activity incompatible with the adjacent land uses.

b. Home occupation uses include, but are not limited to, the following:

- i. Artist, sculptor, or photographer;
- ii. Author or composer;
- iii. Computer programmer;
- iv. Licensed massage therapist;
- v. Licensed child care provider;
- vi. Tailor or seamstress;
- vii. Professional office;
- viii. Tutoring;
- ix. Salesperson;
- x. Telephone answering services;
- xi. Music teacher;
- xii. Caterer;
- xiii. Baker; or
- xiv. Licensed beauty parlors and barbershops.

e.b. The following uses are prohibited as home occupation uses:

- i. Auto repair or paint shop;
- ii. Adult entertainment businesses;
- iii. Medical and dental clinics;
- iv. Nursing homes, convalescent homes, and adult care facilities with occupancy over two (2) persons;
- v. Restaurants;
- vi. Wrecking and towing service;
- vii. Welding and machine shops;
- viii. Lawn equipment repair; or
- ix. A use deemed incompatible with adjacent or surrounding land uses.

Section 5-7. Group Home

- a. A group home shall be located not less than 1,000 linear feet from any other group home or child care facility, as measured from the nearest boundary of the site on which the other group home or child care facility is located.
- b. No structural alterations shall be made to a building to cause the group home to be substantially distinguishable from other surrounding properties.
- c. A group home shall meet all State licensing requirements.
- d. No exterior signage is allowed for a group home, except for signage allowed for a residence within a residential area.

Commented [JC114]: Need to confirm if this is consistent with state law regarding group homes

Commented [CZ115R114]: OK, we will do that

ARTICLE VI. PARKING REGULATIONS

Sec. 6-1. Purpose

It is the purpose of this Article to establish the guidelines for off-street parking and loading spaces consistent with the proposed land use to:

- a. ~~Eliminate occurrence of nonresident on-street parking in adjoining neighborhoods. Ensure that off-street parking and loading spaces meet minimum standards for construction and safety; and~~
- b. ~~Avoid the traffic congestion and public safety hazards caused by a failure to provide such parking spaces. Reduce the cost of development by allowing the market to determine the number of parking spaces for a site, and~~
- c. ~~Expedite the movement of traffic on public thoroughfares in a safe manner, increase the carrying capacity of the streets, and reduce the amount of land required for streets, and the cost to both the property owner and the City.~~

Sec. 6-2. Number of parking spaces required

~~With the exception of properties located within the Downtown and Historic Overlay Districts and other exceptions included within this Article, the following parking spaces shall be required:~~

Use	Number of Parking Spaces Required
Office	1/300 gross square feet

Retail	1/200 gross square feet
Restaurant	1/200 gross square feet
Health Club	1/100 gross square feet
Warehouse	1/500 gross square feet
Assembly	1/300 gross square feet
Medical Office	1/200 gross square feet
Schools	1/3.5 seats in assembly rooms, plus 1/faculty member
Hotels/Motels	1/guest room, plus 1/500 square feet of common area
Industrial	1/500 gross square feet

Sec. 6-3. Computation of number of parking spaces

In computing the number of such parking or loading spaces required, the following rules shall govern:

- a. ~~For the purpose of this Article, the following definition shall apply unless the context clearly indicates or requires a different meaning: Floor area means gross floor area of the specific uses.~~
- b. ~~Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.~~
 - a. ~~When a building or use existing prior to the effective date of the Chapter is enlarged in floor area, area used, seating capacity or otherwise, by less than twenty-five percent, parking spaces shall be provided as required for the expansion, in addition to existing parking.~~
 - b. ~~When a building or use existing prior to the effective date of the Chapter is enlarged in floor area, area used, seating capacity or otherwise, by ten-twenty-five percent or more over the capacity on the effective date of this Chapter, the parking requirements set forth herein shall be complied with as follows: Whenever a building or use constructed or established after the effective date of this Chapter is changed or enlarged in floor area, seating capacity or otherwise to create a deficiency in parking spaces as set forth herein of ten percent or more such spaces shall be provided as required to effect 100 percent compliance with the parking requirements set forth herein.~~
- c. ~~—~~

Commented [JCJ116]: Deleted properties, many cities don't provide a number of spaces and additional parking is required for the newly added space usage. See the previous section for the existing 100% compliance for the existing building which will be required for compliance for the existing city of Johnson City.

Sec. 6-4. Location of parking spaces; cooperative parking plan

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other non-residential building served.

- a. ~~Churches. Up to 100 percent of the parking spaces required for a church or church school auditorium may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used, or operated during the same hours, provided however, that written agreement therefor is properly executed and filed as specified in subsection (2b).~~
- b. ~~Written agreement. In any cases where the required parking spaces are not located on the same lot or contiguous with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney, and shall be filed with the application for a building permit. The agreement shall identify the entire land area to be included within the cooperative parking plan, the owner or owners of all structures then existing on such land area, and all parties having a legal interest in such land area and structure. Sufficient evidence to establish the status of applicants as owners or parties in interest shall be provided. The application shall include plans showing the location of the uses or structures for which off street parking facilities are required and the schedule of times used by those sharing in common.~~
- e. ~~Registration of cooperative parking plan. Upon approval of the plan, a copy of such plan shall be registered with the building permit.~~
- d. ~~Amendment or withdrawal of cooperative parking plan. Pursuant to the same procedure and subject to the same limitations and requirements by which the cooperative parking plan was approved and registered, any such plan may be amended or withdrawn, either partially or completely, if all the conditions and limitations of the plan and all land and structures withdrawn from such plan comply with parking regulations.~~

Commented [JC]17: "written agreement" added to subsection

Sec. 6-5. Development and maintenance of parking areas

Every parcel of land hereafter used as public parking area, including commercial parking lots and automobile, farm equipment or other open-air sales lots, shall be developed and maintained in accordance with the following requirements:

- a. Drainage and surfacing; maintenance. Areas shall be properly graded for drainage, surfaced with concrete, asphaltic concrete, or asphalt and maintained in good condition, and free of weeds, dust, trash, and debris.
- b. Wheel guards. Boundary or perimeter areas shall be provided with wheel guards or bumper guards, so located that no part of parked vehicles will extend beyond the property line of the parking area **or interfere with sidewalks or other designated accessible paths.**
- c. Lighting. Any lighting used to illuminate an off-street parking area shall be arranged so as to direct or shield the light away from the adjoining premises in any residential district and so it does not interfere with traffic.
- d. Entrances and exits. Facilities shall be provided with entrances and exits so located as to minimize traffic congestion.
- e. Prohibition of other uses. Facilities shall not be used for the repair, dismantling or servicing of any vehicle, equipment, materials or supplies.
- f. Dimensions of parking spaces. Each off-street parking space shall be a minimum of nine feet wide and have not less than 180 square feet, exclusive of access or maneuvering area, ramps and other appurtenances.

Commented [JC]18: "or interfere with sidewalks or other designated accessible paths" added to subsection

~~g. Number of parking spaces. The number required shall be determined from the table in Section 6-2. The classification of uses referred to shall be deemed to include and apply to all uses.~~

Sec. 6-6. Off-street loading regulations

Every building or part thereof erected or occupied for retail or wholesale service, manufacturing, storage, warehouse, hotel, mortuary, or any other use similarly involving the receipt or distributing of materials or merchandise shall provide and maintain, on the same premises, loading space in accordance with the following regulations:

- a. Types. Based on the business need there shall be two sizes of off-street truck loading spaces designated "large" and "small."
 - i. Large spaces. Each "large" space shall have an overhead clearance of at least 14 feet, shall be at least 12 feet wide, and shall be at least 50 feet long, exclusive of access or maneuvering area, platform, and other appurtenances.
 - ii. Small spaces. Each "small" space shall have an overhead clearance of at least ten feet, shall be at least eight feet wide and shall be at least 20 feet long, exclusive of access or maneuvering area, platform and other appurtenances.
- b. Location. Off-street truck loading facilities shall be located such that:
 - i. Trucks will not extend into a public street while positioning to or parking at the loading dock;
 - ii. Trucks will not block any fire lane while at the dock.
- c. Development and maintenance of off-street loading. Off-street truck loading facilities shall be constructed, maintained and operated in accordance with the following specifications:
 - i. Drainage and surfacing; maintenance. Areas shall be properly graded for drainage, surfaced with concrete, or asphaltic concrete, or asphalt, and maintained in good condition, free of weeds, dust, trash and debris.
 - ii. Protective screen fencing. Areas shall be provided with protective screen fencing such that occupants of adjacent structures are not unreasonably disturbed during the night by the movement of vehicle lights.
 - iii. Lighting. Lighting facilities shall be so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic.
 - iv. Entrances and exits. Areas shall be provided with entrances and exits so located as to minimize traffic congestion.

~~d. c. Minimum loading spaces required. The minimum number of truck loading spaces for structures containing the uses enumerated for CD, HC, and IP Districts shall be:~~

Gross Floor Area in Structure (sq. ft.)	Minimum Number of Spaces and Type
0 – 15,000	1 small or 1 large
15,001 – 30,000	2 small or 2 large or combination

30,001 – 50,000	2 large
50,001 – 100,000	3 large
For each additional 50,000	1 large

Sec. 6-7. Alternative Parking Plan

- a. ~~Scope. An "Alternative Parking Plan" represents a proposal to meet vehicle parking and transportation access needs by means other than providing parking spaces on site in accordance with the ratios established by this Article.~~
- b. ~~Applicability. Applicants who wish to provide fewer or more off-street parking spaces than allowed above shall be required to secure approval of an Alternative Parking Plan, in accordance with the standards of this Section.~~
- c. ~~Contents. Alternative Parking Plans shall be submitted in a form established by the City Engineer and made available to the public. At a minimum, such plans shall detail the type of alternative proposed and the rationale for such a proposal.~~
- d. ~~Review and Approval Procedure. The City Council shall approve Alternative Parking Plans.~~
- e. ~~Eligible Alternatives. A number of specific parking and access alternatives are described below. The City Council shall, however, be authorized to consider and approve any alternative to providing off-street parking spaces on the site of the subject development if the applicant demonstrates that the proposed plan shall result in a better situation with respect to surrounding neighborhoods, City-wide traffic circulation, and urban design than would strict compliance with otherwise applicable off-street parking standards.~~

- i. ~~Demand Based Parking.~~

~~When the developer of a non-residential or multi-family development can demonstrate that such development will require fewer parking spaces than required by the standards of this Article, the City Council may permit a reduction in the number of required parking spaces for the development. Such a reduction in parking spaces shall be justified by the applicant through the development of a parking study prepared by a professional engineer or transportation planner and submitted to the City. Duplex, townhomes and single family developments are not eligible for the demand-based parking option.~~

- ii. ~~Shared Parking.~~

~~The City Council may authorize a reduction in the number of required off-street parking spaces for multiple-use developments or for uses that are located near one another and that have different peak parking demands or different operating hours. Shared parking shall be subject to the following standards:~~

- 1. ~~Location.~~

~~Shared off-street parking spaces shall be located no farther than five hundred (500) feet from the building site. The City may waive this distance limitation, if adequate assurances are offered regarding the usability of the shared lot and the principle use (such as the operation of a van or shuttle service, etc.).~~

2. Zoning Classification.

Shared parking areas shall be considered accessory uses of principal uses that the parking spaces are intended to serve. Shared parking areas shall require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared parking area;

3. Required Study and Analysis.

The applicant shall submit a shared parking analysis to the City that clearly demonstrates the feasibility of shared parking. The study shall be provided in a form established by the City Engineer and made available to the public. It shall address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that shall be sharing off street parking spaces. The City Engineer shall have the authority to require a revised study and analysis should conditions change that may result in a change in site parking conditions;

4. Shared Parking Agreement.

A shared parking plan shall be enforced through written agreement among the owners of record. An attested copy of the agreement shall be submitted to the County Clerk's office for recordation on forms made available by the City. Proof of recordation of the agreement shall be presented to the Chief Administrative Officer prior to issuance of a Building Permit. If a shared parking agreement is revoked by the parties to the agreement, either off street parking must be provided pursuant to this Article or an Alternative Parking Plan must be approved by the City Council.

5. Revocation.

Failure to comply with the shared parking provisions of this Section shall constitute a violation of this Ordinance and shall specifically be cause for revocation of a Certificate of Occupancy or Building Permit.

iii. Off-Site Parking:

The City Council may permit all or a portion of the required off street parking spaces to be located on a remote and separate lot from the lot on which the principal use is located, subject to the standards of this Section:

1. Location.

No off-site parking space shall be located more than five hundred (500) feet from the building site. The City Council may waive this distance limitation if adequate assurances are offered regarding the usability of the off-site lot and the principle use (such as the operation of a van or shuttle service, etc.);

2. Zoning Classification:

Commented [JC119]: Where off street parking is provided on the lot, may want to consider requiring a plan for collecting fees for off street parking area for the principal use.

~~Off-site parking areas shall be considered accessory uses of principal uses that the parking spaces are intended to serve. Off-site parking areas shall require the same or a more intensive zoning classification than that required for the use served;~~

~~3. Off-Site Parking Agreement.~~

~~In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement among the owners of record shall be required. An attested copy of the agreement between the owners of record shall be submitted to the County Clerk's Office for recordation on forms made available by the City. Proof of recordation of the agreement shall be presented to the Chief Administrative Officer prior to issuance of a Building Permit. If an off-site parking agreement is revoked by the parties to the agreement, either off-street parking must be provided on-site pursuant to this Article or an Alternative Parking Plan must be approved by the City Council.~~

ARTICLE VII. DEFINITIONS

Section 7-1 Construction of Language

- a. Words, Terms, and Phrases. The following words, terms, and phrases, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined herein shall have the meaning customarily assigned to them.
- b. Rules of Construction. The following rules of construction apply:
 - i. The particular shall control the general, and the use of a general term shall not be taken to have the same meaning as another specific term. For example, a "recreational facility, commercial indoor" shall not be interpreted to be the same as a "recreational facility, commercial indoor-pool or billiards hall," if each term is listed as a separate and distinct use.
 - ii. In case of any difference of meaning or implication between the text of this Article and any caption or illustration, the text shall control.
 - iii. A building or structure includes any and all of its parts.
 - iv. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
 - v. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 - vi. The word "person" or "applicant" includes any individual, corporation, partnership, incorporated association, limited liability company, or any other similar entity.
 - vii. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunctions "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:
 - 1. "And" indicates that the connected items, conditions, provisions, or events apply.

Commented [CZ120]: I usually like definitions to be at the front of the regulations.

Commented [JJ121R120]: Left here for now due to the complexity of renumbering etc., but can revisit.

2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
3. "Either . . . or" indicates that the connected items, conditions, provisions, or events apply singly but not in combination.

- viii. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number, and vice versa; and words in the masculine gender shall include the feminine gender, and vice versa.

Section 7-2 General Definitions.

Abutting property. Property abutting upon a street shall be understood as also abutting property on the other side of the street.

Accessory building. A subordinate building, with or without separate utilities, the use of which is incidental to and used only in conjunction with the main building. Examples of accessory buildings include, but are not limited to, carports and garages, associated living quarters, and storage buildings.

Accessory use. A use incidental or secondary to the principal use of a lot, building, or structure and located on the same lot as the principal use.

Adjacent. Layout of a site in which the borders are touching, adjoining, contiguous, or abutting.

Agent. A person authorized by another to act for him; one entrusted with another's business.

Alley. Land dedicated to public use and devoted to secondary access to lots.

Alteration. Any change, addition, or modification in construction, [or] any change in the structural members of a building, such as walls or partitions, columns, beams, or girders.

Applicant; Person. An individual, association, firm, corporation, governmental agency, political subdivision, partnership, incorporated association, limited liability company, or any other similar entity of any kind.

Associated living quarters. A subordinate building, the use of which is incidental to the main building and used for habitation. Associated living quarters shall not be used for commercial.

Bed and breakfast. A detached dwelling or grouping of dwellings in which rooms are rented to transient guest[s] on an overnight basis and breakfast is served.

Bedroom. A room furnished with a bed and intended primarily for sleeping.

Block. An area within the City enclosed by streets or alleys and occupied by or intended for building.

Board; "ZBOA". The Zoning Board of Adjustment of the City.

Buffer zone. That portion of an open space that separates residential and commercial districts.

Building. A structure intended for shelter, occupancy, housing, or enclosure of persons, animals, chattel, or moveable property of any kind.

Building inspector or official. The legally designated inspection authority of the City, or the authorized representative.

Building line. A building limit fixed at a specific distance from the property boundaries of a lot beyond which a structure cannot lawfully extend.

Building, main. An enclosed structure in which is conducted the principal use of the lot on which it is situated.

Building setback line. The line within a property defining the minimum horizontal distance

between a building and the adjacent property or street line.

Certificate of occupancy. A certificate issued by the Building Official for the use of a building, structure, and/or land complying with the provisions of all applicable City codes, ordinances, and regulations.

Church. A structure owned and/or used by a religious organization or congregation that provides regular organized religious worship, religious training, or education of its members. The term also includes a rectory, convent, meeting hall, or offices for administration of the institution. A church may include dwelling units for religious organization personnel located within an accessory structure.

City. The City of Johnson City, Texas.

City Council; Council. The governing body of the City of Johnson City, Texas.

City limits. The incorporated boundary limits of the City of Johnson City, Texas.

City official. The legally authorized representative when acting in an official capacity for the City.

Civic / community center. A building or buildings that contain local government offices and often recreational or cultural facilities for the public.

Club or lodge. An association of persons for the promotion of some common objective, such as literature, science, politics, good fellowship, and the like, meeting periodically and limited to members.

Common access route. A private way which affords the principal means of access to individual home lots or auxiliary buildings.

Community home. [A community-based residential home for persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, as amended.](#)

Common property. A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a "planned unit."

Comprehensive plan. A periodically updated document that unifies all elements and aspects of City planning. This Plan serves as a policy guide to zoning and subdivision decisions reflecting the best judgment of the staff, the Planning and Zoning Commission, and the City Council.

Conditional use permit—also a Special Exception. A use which is not automatically permitted by right, but which may be permitted within a Zoning District, subject to meeting specific conditions. A conditional use permit ~~or special exception~~ is approved and granted by the City Council.

Coverage, lot. The total area of all structures, paved driveways, or other soil disturbances that will not allow normal water infiltration. The coverage is expressed as a percentage of such area in relation to the total gross area of the lot or site. Landscaping shall not be deemed part of the lot coverage.

Density. The quantity of an item per unit area. For example, the number of dwelling units per acre.

District. A classification applied to any certain land area within the City stipulating the regulations of land usage and development.

Driveway. A minor entranceway off the common access route within the City, into an off-street parking area.

Dry goods. The sale of fabric, thread, clothing, and related merchandise (not hardware and groceries).

Dwelling. A structure, or portion thereof, which is designed or used exclusively for residential purposes, including living quarters onsite with business, mobile/manufactured homes, single-family, duplex, residential loft, and multifamily.

Commented [C2122]: See previous comment regarding the use of Special Exception for Conditional Use Permit

Dwelling, accessory. See associated living quarters.

Dwelling, residential loft. Open residential living space located on second or higher floors with very few (if any) interior walls. Lofts tend to have very high ceilings and tall windows. Traditionally, lofts are converted warehouses with exposed brick, pipes, and support beams, but modern lofts may not have those features.

Dwelling, unit. A building, or portion of a building, that is arranged, occupied, or intended to be occupied as living quarters and that includes facilities for food preparation, bathing, use of the toilet, and sleeping.

Easement. An interest in land granted to the City by the public, generally, and/or to a private utility corporation for installing or maintaining utilities across, over, and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

Enclosed. Contained within a building; activity being inside a structure having walls on all sides and a roof overhead.

Engineer. A person duly authorized and properly registered under the provisions of the State Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

Entertainment. Any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity. Entertainment includes, but is not limited to, live vocalists, musicians, disc jockeys, comedians, karaoke, performers (paid or not, including contestants), zoos, concerts, carnivals, expositions, miniature golf courses, rodeos, driving ranges, arcades, fairs, exhibitions, athletic contests, tent shows, ferris wheels, children's rides, roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors, and similar enterprises.

~~*Extraterritorial jurisdiction: ETJ.* The unincorporated area outside of and contiguous to the corporate boundaries of the City.~~

Family. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period. ~~No more than four unrelated individuals shall reside in a single dwelling unit, and no more than two unrelated individuals shall reside in an associated living quarters.~~

Fence. A visual barrier.

Frontage. All property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead-ended, then all the property abutting on one side between and intersecting street and the dead end of the street.

Garage, private. An accessory building, or a portion of a main building, used for the storage of motor vehicles and parking, as may be required, in connection with the permitted use of the main building.

Garage sale. The sale of tangible personal property at retail by a person who is not in the business or does not hold himself or herself out to be in the business of selling tangible personal property at retail.

~~*Group home.* A home where a small number of unrelated mentally ill people in need of care, support, or supervision can live together. An interim or permanent residential facility shared by six or fewer people who do not meet the definition of "family" and including any resident staff who~~

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share a single housekeeping unit. This does not include a "community home" nor facilities that permit sleeping arrangements on a daily basis.

Commented [JJ128]: Cannot include a "community home" as defined by the state, which must be allowed in any residential zoning district.

Height, building. The vertical dimension measured from the average elevation of the finished lot grade at the front of a building to the highest point of the roof ridge, including, but not limited to, a cupola, spire, crows nest, or other appurtenances located on a roof.

Hospice. A home providing care for the terminally ill.

Hospital. An institution licensed by the state as a hospital where humans are given medical treatment.

Hotel. A building or an arrangement of buildings designed and occupied as a temporary abiding place of individuals, usually for a period of less than 30 consecutive days, who are lodged with or without meals and in which there are more than 12 sleeping rooms. The rooms are usually occupied singly for hire, and there may or may not be provisions for cooking in individual rooms or apartments.

Loading and unloading space, off-street. An open, hard-surfaced area of land, other than a street or public right-of-way, the principal use of which is for the standing, loading, and unloading of motor vehicles, tractors, and trailers, to avoid undue interference with public streets and alleys.

Lot. A designated parcel, tract, or area of land established by a plat or otherwise permitted by law to be used, developed, or built upon as a unit.

Lot, area. The net area of a lot, including any portion of an easement which may exist on said lot, exclusive of any portion of streets, alleys, or rights-of-way.

Lot, corner. A lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of the intersection of the side lot lines intersect at an interior angle of at least 135 degrees.

Lot, depth. The average horizontal distance between the front and rear lot lines.

Lot, double frontage. A lot having a frontage on two nonintersecting streets as distinguished from a corner lot.

Lot, interior. A building lot other than a corner lot.

Lot line. A boundary line of a lot.

Lot line, front. The lot line adjacent to street right-of-way. In the case of a corner lot, only one lot line shall be designated as the front lot line.

Lot line, rear. The lot line opposite the front lot line of said lot and not intersecting with the front lot line.

Lot line, side. A lot line which intersects the front lot line of said lot.

Lot of record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk; or a parcel of land, the deed of which was recorded in the office of the County Clerk.

Lot width. The straight-line distance between the side lot lines, measured at the two points where the front building line intersects the side lot lines.

Manufactured home, housing; manufactured housing unit. A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. This term does not include a

recreational vehicle or accessory building.

Manufactured home / mobile home park. A unified development of mobile [or manufactured](#) homes and travel ownership spaces arranged on a tract of land under single entity ownership, meeting all requirements of this Chapter.

Manufacturing, light. Light Manufacturing is defined as manufacturing, processing, service, storage, wholesale, and distribution operations with most operations contained within an enclosed building with limited outside storage. Light Manufacturing is typified by the fabrication of certain materials and products with limited production of noise, vibration, air pollution, fire hazards, or noxious emissions which would disturb or endanger neighboring properties. Light Manufacturing typically sells its goods to a wholesaler or directly to the end consumer.

Light Manufacturing includes, but is not limited to, the following:

Beverage Manufacturer, Apparel Wholesaler, Bakery Wholesaler, Confectionary Manufacturer, Blacksmith, Creamery, Dairy Manufacturer, Floral Wholesaler, Grocery Wholesaler, Millwork Manufacturer, Hatchery, Textile Manufacturer, Warehousing, Appliance Manufacturer and Wholesaler, Electrical Instrument Manufacturer and Wholesaler, Office Machine Manufacturer and Wholesaler, Machine Tool Manufacturer and Wholesaler, Pharmaceutical Manufacturer, and Food Product Manufacturer and Wholesaler, but not Animal Slaughtering, Curing, or Rendering of Fats.

Manufacturing, heavy. Heavy Manufacturing is defined as a type of business with high capital costs, high barriers to entry, and low transportability. The term "heavy" refers to items produced by "heavy industry," such as iron, coal, oil, ships, et cetera. Today, "heavy" also refers to industries that cause harm or disruption to the environment.

Heavy Manufacturing is associated with heavy industrial development, including storage, major freight terminals, waste and salvage, resource extraction, processing, transportation, major utilities, and other related uses, particularly those that require large buildings, frequent heavy truck traffic for supplies or shipments, or that may require substantial mitigation to avoid sound, noise, electrical interference, and odor impacts on neighboring properties.

Heavy Manufacturing typically sells its goods to other industrial customers, rather than to the end consumer. Heavy Manufacturing products tend to be a part of the supply chain of other products sold to the end consumer.

Heavy Manufacturing includes, but is not limited to, the following:

Automobile Component Manufacturing, Glass Manufacturing, Insulation Manufacturing, Poultry Farm, Paint Manufacturing, Wood Processing, Ammonia/Chlorine Manufacturing, Principal Storage of Flammable/Toxic/Explosive or Noxious Materials, Concrete Mixing or Batching Plants, Fertilizer or Pesticide Manufacturing, Petroleum or Asphalt Refining/Manufacturing, Paper Mill, Rubber Manufacturing, and Stockyards.

Mobile home. [A structure constructed before June 15, 1976 that is built on a permanent chassis and designed for use as a dwelling with or without a permanent foundation when the structure is](#)

connected to the required utilities; is transportable in one or more sections, which in traveling mode is at least eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and includes the plumbing, heating, air conditioning, and electrical systems of the home.

Municipal street. The entire width of a right-of-way held by the City in fee or by easement or dedication that has a part open for public use for vehicular travel. The term does not include a designated State or Federal highway or road or a designated County road.

Nonconforming; nonconforming use. Use of land, a structure, or a lot which does not conform to the requirements of this Ordinance because such use had been established and has been in existence prior to and after the effective date of adoption of this Ordinance; a land use, structure, or lot which does not conform with the regulations of this Ordinance as a result of the adoption or amendment of this Ordinance or of any subsequent reclassification of a zoning district.

Nursery, day care, or kindergarten. A child care facility which is a State licensed facility operated in accordance with State Law that provides care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the service it offers.

Nursing home / assisted living. A home for the aged, chronically ill, or incurable persons who have difficulty or are unable to care for themselves and in which three or more persons, not of the immediate family, reside or are provided with food, shelter, or care for compensation. This definition does not include hospitals, clinics, or other similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Occupancy. The use or intended use of the land or building by proprietors or tenants.

Off-street parking. An enclosed or unenclosed area, not on a public street or alley, established for or used for the parking of a motor vehicle.

On-site parking. An area used for the storage of motor vehicles located wholly within a single lot whose use is dedicated to that lot.

Open spaces. Space included in any side, rear, or front yard or any unoccupied space of a lot that is open and unobstructed to the sky, except for the ordinary projection of cornices, caves, or porches.

Outdoor storage. The storage of materials and/or products associated with a business. For industrial storage, such storage requires a structure designed for and/or devoted to the containment of the item or items, such as an oil storage tank or grain elevator.

Oversized vehicle. A motor vehicle, trailer, or boat, which by itself or together with other structure(s) or vehicle(s) attached to it, exceeds 24 feet in length, 8 feet in width, 8 feet in height, or rated larger than a 1-ton pickup truck, exclusive of apparatus such as antennas, luggage racks, and mirrors.

Parking lot. An area not within a building designed and used for the storage of motor vehicles.

Parking space. The area required for the placement of a common sized automobile with sufficient room to enable the vehicle access in and out of the space. See City Design Standards for parking space minimum dimensions.

Permit. An official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.

Person; Applicant. An individual, association, firm, corporation, governmental agency, political

subdivision, or partnership, incorporated association, limited liability company, or any other similar entity of any kind.

Permitted use. Use of a lot which is among the uses allowed as a matter of right, subject to the restrictions of the zoning district in which the lot is located.

Property owner; owner. A person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent or representative thereof, that has sufficient proprietary interest in the land to be zoned. An owner shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer.

Planning and Zoning Commission; P&Z. The Planning and Zoning Commission of the City of Johnson City, Texas.

Plat. A complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the County Clerk for recording.

Plot plan. A plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking areas, drainage facilities and other structures to be constructed.

Recreational vehicle. A motorized vehicle or non-motorized trailer designed and/or maintained for use as a temporary dwelling or sleeping place for travel or recreation purposes exclusively, having no foundation other than wheels or jacks.

Recreational vehicle park. Any parcel or tract of land under the control of any person, organization, or governmental entity wherein two or more designated sites are offered for the use of the public or members of an organization by rent or lease, including park-owned recreational vehicles held out for rent. RV parks are primarily designed to accommodate recreational vehicles and camping.

Rehabilitation center. A facility that provides therapy and training for rehabilitation, such as physical, occupational, and speech therapy.

Right-of-way. The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement.

Screening. The establishment of an opaque fence or barrier for the purpose of obscuring a particular land use, structure, or activity from sight.

Setback line. A line which marks the setback distance from the property line, and establishes the minimum required front, side, and rear yard space of a building plan.

Short-term rental unit. The rental of any residential dwelling unit or associated living quarters for ~~a short period of time, typically less than 30 days or less.~~

Sign. Any device or surface on which figures, letters, illustrations, photographs, designs, logos, or outlines are used for such purposes as identification of individuals, partnerships or organizations, advising of products and/or location which is visible to the public. This includes light, banners, and similar devices to attract attention, but excludes signs affixed to motor vehicles.

State. The State of Texas.

Storage building. A subordinate building, with or without utilities, the use of which is incidental to and used in conjunction with the main building only.

Story. That portion of a structure included between the surface of any floor and the surface of the floor directly above it, or, if there is no floor above it, the space between the floor and the ceiling above it; provided that a room, suite, or story with more than one-half of its height below grade shall not be considered a story for the purposes of height regulations.

Story, half. A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker and his family,

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or by a family occupying the floor immediately below it, shall be deemed a full story.

Story, standard. One having 11 feet six inches between floors.

Street. A public or private right-of-way which affords the principal means of access to abutting property. The term "street" shall include avenue, drive, circle, road, boulevard, highway, or any other similar term.

Street line. A dividing line between a lot, tract, or parcel of land and a contiguous street right-of-way line.

Structure. Anything constructed or built, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

Structure, alterations. Any change in the supporting member of a building, such as a bearing wall, column, beams or girders.

Structure, principal. The principal structure which fulfills the purpose for which the building plot is intended.

Subdivision. The division or redivision of land into two or more lots, tracts, sites, or parcels.

Transitional center / half-way house. Any institution providing short-term transitional services to offenders within a period of time following their release on parole or expiration of sentence.

Use. The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this Chapter.

Variance. A legal deviation of a district zoning regulation whose strict enforcement will result in undue hardship. Pecuniary hardship to the owner, standing alone, shall not be deemed to constitute undue hardship. A variance is reviewed and approved by the [Zoning Board of Adjustment](#).

Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.

Yard, front. A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or property line and the main building or any projections.

Yard, rear. A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof.

Yard, side. A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereon.

~~*Zoning.* The power of local governments to regulate zoning or districting of property for various uses for the regulation of development within the City, in accordance with the Comprehensive Plan and the Official Zoning Map, which outlines zones or districts within the City.~~

Zoning administrator. The Chief Administrative Officer of the City ("COA"), or designee.

Zoning district. A classification applied to a certain land area within the City stipulating the limitations and requirements of land usage and development.

Zoning map. The official zoning map of the City upon which the boundaries of the various zoning districts are drawn.

EXHIBIT A. OFFICIAL ZONING MAP

Large-Scale Map is on file and available for review at City Records.

EXHIBIT B. SCHEDULE OF USES

The City Council hereby approves and adopts the following chart as the City's permitted Schedule of Uses. The chart lists the types of land uses allowed within each of the zoning districts outlined in this Ordinance.

Districts Legend

- PUD: Planned Unit Development District
- DD: Downtown District
- CD: Commercial District
- HC: Highway Commercial Corridor District
- IP: Industrial Park District
- PFD: Public Facilities District
- RVP: Recreational Vehicle Park District

- SF: Single-Family Residential District
- MR: Mixed Residential District
- MH: Manufactured Home District
- CHD: Cottage Housing District

Uses Legend

- CUP: Conditional Use Permit / ~~Special Exception~~
- X: Permitted Use by Right
- Blank: Non-Permitted Use

Commented [2182]: remove column for non-residential uses in table p 62 of ordinance

Schedule of Uses <u>Non-residential</u>	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Zoning Classification	DD	CD	HC	IP	PFD	RVP
Accessory Building	X	X	X	X	X	
Aerial Surveying		CUP	CUP	CUP		
Agriculture/Open Space	X	X	X	X	X	
Air Conditioning Sales, Retail, and Service (Completely Enclosed in CD District)		X	X	X		
Airport (Non-Governmental)			CUP	CUP		
Alcoholic Beverage (Microbrewery / Distillery) Manufacturer (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food	X	X	X	X		
Alcoholic Beverage (Retail) Sales (No On-Premises Consumption)	CUP	X	X	X		
Ambulance Service			X	X	X	
Amusement Park		CUP	CUP	CUP		
Animal Shelter (Governmental)			X	X	CUP	
Animal Shelter (Non-governmental)			X	X	CUP	
Antique Store (Outside storage, display or sale of goods, products or merchandise shall be permitted provided such goods, products or merchandise do not encroach into the right-of-way.)	X	X	X	X		
Apparel/Accessories/	X	X	X	X		

Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Alteration & Repair (Retail)						
Appliance Repair and Sales (Completely Enclosed in CD District)		X	X	X		
Armory			CUP	CUP	CUP	
Art Gallery and/or Museum	X	X	X	X		
Artisan, Artist, and Fine Arts Studio (Outside storage, display or sale of goods, products or merchandise shall be permitted provided such goods, products or merchandise do not encroach into the right-of-way.)	X	X	X	X		
Associated Living Quarters	X	X	X	X	X	
Auditorium (Governmental and Non-Profit)	CUP	CUP	X	X	CUP	
Auditorium (Non-Governmental)	CUP	CUP	X	X	CUP	
Automobile Car Wash		X	X	X		
Automobile Filling Station and/or Service (Service Completely Enclosed in CD District)		X	X	X		
Automobile Glass Sales and Service (Completely Enclosed in CD District)		X	X	X		
Automobile Paint and Auto Body Shop (Completely Enclosed in CD District)		X	X	X		
Automobile Parking Lots or Garages (Commercial)	CUP	X	X	X	CUP	
Automobile Part Sales (Completely Enclosed)		X	X	X		

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Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
(Retail)						
Automobile Rental		X	X	X		
Automobile (Incl. Motorcycles) Sales and Service (New and Used, When Used Incidental to New Sales) (Service Completely Enclosed in CD District)		CUP	X	X		
Automobile Upholstery Sales and Installation		CUP	X	X		
Bait Store		X	X	X		
Bakery (Retail)	X	X	X	X		
Barber and Beauty Equipment Sales (Retail)	CUP	X	X	X		
Barber and Beauty Shop	X	X	X	X		
Bed and Breakfast	CUP	X	X	X		
Bicycle and/or Lawnmower Sales and Service (Completely Enclosed in CD District)		X	X	X		
Blueprinting, Photostatting/Reproduction/ Print Shop	X	X	X	X		
Book and Stationery Store	X	X	X	X		
Bowling Alley (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food	X	X	X	X		
Builders Showroom		X	X	X		
Building Hardware Sales (Completely Enclosed in CD District)		X	X	X		

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Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Building Lumber Sales		CUP	X	X		
Bus Passenger Station at Existing Business Other Than Busing Company		CUP	X	X	CUP	
Cabinet, Carpentry, or Upholstery Sales (Completely Enclosed in CD District)		X	X	X		
Camera and Photographic Store	X	X	X	X		
Candle Shop (Retail) (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Catering Shop (Completely Enclosed in DD and CD Districts)		X	X	X		
Confectionary and Nut (Retail) (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Church	CUP	X	X	X	CUP	
Civic / Community Center	CUP	X	X	X	CUP	
Club or Lodge (Governmental and Non-profit) (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food		X	X	X	CUP	
Club or Lodge (Non-Governmental) (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food		X	X	X	CUP	

Commented [J1158]: For each district, schedule to report the district number at the top of each page.

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Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Coffee Roasting (Retail) (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Communications Tower and Associated Stations	CUP	CUP	CUP	CUP	CUP	
Contractor (Completely Enclosed in CD District)		X	X	X		
Convenience Store (Completely Enclosed in CD District) (No On-Premises Consumption)		X	X	X		
Dairy Equipment Sales and Service (Completely Enclosed in CD District)		X	X	X		
Dairy Products (Retail)	X	X	X	X		
Delicatessen	X	X	X	X		
Department Store	X	X	X	X		
Dispensary (Medical Marijuana and Related Goods) (No On-Premises Consumption)	CUP	CUP	CUP	CUP		
Drug Strip			CUP	CUP		
Drug Sales (Retail)		X	X	X		
Dry Cleaning Shop		X	X	X		
Dry Goods (Retail) (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Dwelling (Living Quarters Onsite w/ Business) (Living Quarters Owned and Occupied by Business Owner or Operator)	X	X	X	X		
Dwelling (Mobile /						

Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Manufactured Home) (Single or Doublewide) (1 unit)						
Dwelling (Multifamily) (3+ units)		CUP	CUP	CUP		
Dwelling (Residential Loft) (1+ units)	X					
Dwelling (Single-family) (1 unit)		X	X	X	X	
Dwelling (Duplex) (2 units)		X	X	X	X	
Electric Power Generator (Primary Station)	CUP	CUP	CUP	CUP	CUP	
Electric Repair Shop (Completely Enclosed in CD District)		X	X	X		
Electrical Substation (Completely Enclosed by an Opaque Fence; Minimum 6 ft. in Height)	CUP	CUP	CUP	CUP	CUP	
Elevator Maintenance and Service (Completely Enclosed in CD District)		X	X	X		
Entertainment (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food	X	X	X	X		
Exterminator (Completely Enclosed in CD District)		X	X	X		
Fabric or Needlework Shop	X	X	X	X		
Fairgrounds, Baseball Park, and Stadium (On-Premises Consumption) with/without Outdoor Area for		CUP	CUP	CUP	CUP	

Commented [12122]: Not sure if this is applicable for (insert the district name) or if it should be added.

Schedule of Uses <u>Non-residential</u>	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Patrons/Entertainment Purposes and with/without Food						
Farm Equipment Sales/Service (Completely Enclosed in CD District)		X	X	X		
Farm/Ranch/Feed Supply (Completely Enclosed in CD District)		X	X	X		
Farmers Market	X	X	X	X		
Financial Institution	X	X	X	X		
Firearms and/or Ammunition Sales and Service	X	X	X	X		
Fire Station		X	X	X	X	
Fish Market (Retail) (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Flea Market	CUP	CUP	CUP	CUP		
Floor Covering Sales (Retail) (Completely Enclosed in DD and CD Districts)		X	X	X		
Floral Shop (Retail)	X	X	X	X		
Food Products (Retail)	X	X	X	X		
Food Truck Park and Bar Facility (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes	X	X	X	X		
Funeral Home		X	X	X		
Furniture Sales, Service, and Repair (Retail) (Completely Enclosed in DD and CD)	X	X	X	X		

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Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Districts)						
Gambling			CUP	CUP		
Gas Utility Station	CUP	CUP	CUP	CUP	CUP	
Gift Shop (Outside storage, display or sale of goods, products or merchandise shall be permitted provided such goods, products or merchandise do not encroach into the right-of-way.)	X	X	X	X		
Glass Sales and Service (Retail) (Completely Enclosed in CD District)		X	X	X		
Golf Driving Range or Course (Consumption of Alcohol Permitted)		CUP	CUP	CUP	CUP	
Greenhouse or Nursery (Retail and Wholesale)	CUP	X	X	X		
Grocery (Retail)	X	X	X	X		
Group Home (1+ Units / Beds)						
Gymnasium		X	X	X	CUP	
Nail Salon	X	X	X	X		
Heavy Machinery Sales, Service, and Storage			X	X		
Hobby Supply Sales	X	X	X	X		
Home Occupation	X	X	X	X		
Hospice (1+ Units / Beds)	CUP	CUP	CUP	CUP	CUP	
Hospital		CUP	CUP	CUP	CUP	
Hotel (Other Than Motel or Motor Inn Where Patrons Access Rooms Via Parking Area) (Swimming Pool Allowed) (On-Premises)	CUP	X	X	X		

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Schedule of Uses <u>Non-residential</u>	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food						
Ice Cream Parlor/Store	X	X	X	X		
Indoor Entertainment/Amusement (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food	X	X	X	X		
Interior Decorator	X	X	X	X		
Jewelry Sales and Service	X	X	X	X		
Laboratory (Dental or Medical) (Completely Enclosed in CD District)		X	X	X	CUP	
Laboratory (Research, Testing, and Analysis) (Completely Enclosed in CD District)		CUP	CUP	CUP	CUP	
Laundry (Plant)			X	X		
Laundry (Retail)		X	X	X		
Leather Goods or Luggage Store	X	X	X	X		
Library (Governmental and Non-Profit)		X	X	X	X	
Library (Non-Governmental)		X	X	X	CUP	
Local Utility Distribution Center or Lines	CUP	CUP	CUP	CUP	CUP	
Locksmith		X	X	X		
Machine and Welding Shop (Completely Enclosed in CD		CUP	X	X		

Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Nursing Home or Assisted Living (1+ Units / Beds)		X	X	X		
Office (General, Medical, Real Estate, and Professional Business) (First Floor Restricted to 50% Office to Rear of Building Only)	X					
Office (General, Medical, Real Estate, and Professional Business)		X	X	X		
Off-Street Parking, When Incidental to Main Use	X	X	X	X	X	
Office Supply Store (Completely Enclosed DD and CD Districts)	X	X	X	X		
Open / Outdoor Storage (See Ch. 14, Art. II, Sec. 2-11)	CUP	CUP	X	X	CUP	
Optometry Office and Optical Goods (Retail)	X	X	X	X		
Oversized Vehicle Car Wash			CUP	CUP		
Oversized Vehicle Filling Station and/or Service (No On-Premises Consumption)			CUP	CUP		
Oversized Vehicle Rental			CUP	CUP		
Oversized Vehicle Sales and Service			CUP	CUP		
Paint and Wallpaper Store		X	X	X		
Park/Recreation Center (No Permanent Alcoholic Beverage Sales Permitted)	X	X	X	X	CUP	
Pawnshop (Completely Enclosed in CD District)		X	X	X		
Pet Shop and Supply	X	X	X	X		

Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Riding Stable or Academy		CUP	CUP	CUP		
School, College		X	X	X	CUP	
School, Elementary and Secondary		X	X	X	CUP	
School, Trade		X	X	X	CUP	
Sexually Oriented Business			CUP	CUP		
Sewerage Pumping Station	CUP	CUP	CUP	CUP	CUP	
Shoe Sales and Repair (Retail)	X	X	X	X		
Short-term Rental Unit (Not Allowed in Commercially-Zoned Districts or Multi-family Dwelling Units)						
Sign Sales, Manufacturer, and Repair (Completely Enclosed in CD District)		X	X	X		
Skating Rink (Completely Enclosed)	X	X	X	X		
Sporting Goods Sales and Service (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Stamp/Coin Sales (Retail)	X	X	X	X		
Stone Cutting and Monument Sales/Service (Completely Enclosed in CD District)		X	X	X		
Storage Building	X	X	X	X	X	
Storage Building (Marine, Automobile, Home, Commercial) (Completely Enclosed in CD District)		CUP	X	X		
Storage Building Sales and Service With Outside Display of Storage Buildings		CUP	X	X		
Swimming Instruction		X	X	X		

Commented [JJ132]: Can you please clarify if you intend to restrict the district to uses at the top of each column.

Commented [JJ133]: Can you please clarify if you intend to restrict the district to uses at the top of each column.

Commented [JJ134]: Is there a reason an STR is not allowed in commercial districts, when SF homes are allowed (and hotels)?

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Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Swimming Pool (Community or Private)		X	X	X	CUP	
Swimming Pool Sales and Service (Completely Enclosed in CD District)		X	X	X		
Tanning Salon	X	X	X	X		
Tavern (Completely Enclosed in DD and CD Districts) (On-Premises Consumption) with/without Food	X	X	X	X		
Tavern With Outdoor Area For Patrons/Entertainment Purposes (On-Premises Consumption) and with/without Food	X	X	X	X		
Taxidermist (Completely Enclosed in CD District)		CUP	X	X		
Temporary Field Construction Office (Allowed During Duration of Project)	X	X	X	X	X	
Theater (Completely Enclosed) (Consumption of Alcohol Permitted) with/without Food	X	X	X	X		
Theater (Completely Enclosed) (Consumption of Alcohol Not Permitted) with/without Food	X	X	X	X		
Theater (Outdoor) (Consumption of Alcohol Permitted) with/without Food	CUP	X	X	X		
Theater (Outdoor) (Consumption of Alcohol Not Permitted) with/without Food	CUP	X	X	X		

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 Inserted Districts of DD, CD, and CUP

Schedule of Uses <u>Non-residential</u>	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Tobacco, E-Cigarette Store and Hookah Lounge	CUP	X	X	X		
Tool Rental, Sales, and Service (Completely Enclosed in CD District)		X	X	X		
Tool Rental With Outside Storage (Outside Storage Completely Fenced with 6 ft. Opaque Fencing in CD District)		CUP	X	X		
Trailer (Towing) Manufacturer, Sales, Rentals, and Service (No Mobile <u>or Manufactured</u> Homes) (Completely Enclosed in CD District)		X	X	X		
Transitional Center (1+ Units / Beds)						
Utilities, Utility Shops, Storage, Yards, and Buildings, Public or Private, Other Than Already Listed	CUP	CUP	CUP	CUP	CUP	
Utility Company Customer Service Center (Completely Enclosed in DD and CD Districts)		X	X	X	CUP	
Veterinarian Office and Hospital		X	X	X		
Watch / Clock Sales and Service (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Water/Sewage Pumping Station, Overhead Storage, or Plant	CUP	CUP	CUP	CUP	CUP	

Schedule of Uses Non-residential	Downtown District	Commercial District	Highway Commercial Corridor District	Industrial Park District	Public Facilities District	Recreational Vehicle Park District
Well Drilling Contractor (Completely Enclosed in CD District)		X	X	X		
Window Covering Assembling, Sales, and Service, Including Awnings (Completely Enclosed in DD and CD Districts)	X	X	X	X		
Winery (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food	X	X	X	X		

Commented [17192]: [Redacted]

Schedule of Uses				
<u>Residential</u>				
	Single-family Residential District	Mixed Residential District	Manufactured Home District	Cottage Housing District
Zoning Classification	SF	MR	MH	CHD
Accessory Building	X	X	X	X
Agriculture/Open Space	X	X	X	X
Artisan, Artist, and Fine Arts Studio				
Associated Living Quarters	X	X	X	X
Church	X	X	X	X
Civic / Community Center	CUP	CUP	CUP	CUP
Club or Lodge (Non-governmental) (On-Premises Consumption) with/without Outdoor Area for Patrons/Entertainment Purposes and with/without Food	CUP	CUP	CUP	CUP
Clubhouse and/or Swimming Pool (Associated with Homeowner's Association and/or Subdivision)	X	X	X	X
Community Garden	CUP	CUP	CUP	CUP
<u>Community Home</u>	X	X	X	X
Dwelling (Mobile / Manufactured Home) (Single or Doublewide) (1 unit)			X	
Dwelling (Multifamily) (3+ units)		X		
Dwelling (Single-family) (1 unit)	X	X	X	X
Dwelling (Duplex) (2 units)		X		
Electric Power Generator (Primary Station)	CUP	CUP	CUP	CUP
Electrical Substation (Completely Enclosed by an Opaque Fence; Minimum Six (6) ft. in Height)	CUP	CUP	CUP	CUP
Farmers Market	CUP	CUP	CUP	CUP
Fire Station	CUP	CUP	CUP	CUP
Gas Utility Station	CUP	CUP	CUP	CUP
Government Building	CUP	CUP	CUP	CUP
Greenhouse or Nursery (Retail and Wholesale)	CUP	CUP	CUP	CUP
Grocery (Retail)				
Group Home (1+ Units / Beds)		CUP		
Home Occupation	X	X	X	X
Hospice (1+ Units / Beds)	CUP	CUP	CUP	CUP

Commented [RS135]: Can the City regulate the placement of mobile homes in residential zones?

Commented [JJ136R135]: No.

Commented [JJ137]: Do you want to allow new placement of a "mobile home" (i.e. built prior to 1976)?

Commented [JJ138]: Need to expand ordinance to include mobile homes built prior to 1976 to be allowed in residential zones.

Commented [JJ139]: Need to specify that mobile homes built prior to 1976 are not to be placed in residential zones.

Commented [RS140]: Mobile homes built prior to 1976 are not to be placed in residential zones.

Commented [JJ141R140]: Mobile homes built prior to 1976 are not to be placed in residential zones.

Schedule of Uses <u>Residential</u>	Single-family Residential District	Mixed Residential District	Manufactured Home District	Cottage Housing District
Library (Governmental, Non-Profit, and Non-Governmental)	CUP	CUP	CUP	CUP
Local Utility Distribution Center or Lines	CUP	CUP	CUP	CUP
Locksmith				
Nursery or Day Care (Maximum of Six (6) Children)	CUP	CUP	CUP	CUP
Nursing Home or Assisted Living (1+ Units / Beds)	CUP	CUP	CUP	CUP
Off-Street Parking, When Incidental to Main Use	X	X	X	X
Park/Recreation Center (No Permanent Alcoholic Beverage Sales Permitted)	CUP	CUP	CUP	CUP
Pipeline and Electrical Transmission Lines	CUP	CUP	CUP	CUP
Post Office				
Rehabilitation Center (1+ Units / Beds)	CUP	CUP	CUP	CUP
Riding Stable or Academy	CUP	CUP	CUP	CUP
School, Elementary and Secondary	CUP	CUP	CUP	CUP
Short-term Rental Unit (Not Allowed in Commercially-Zoned Districts or Multi-family Dwelling Units)	X	X	X	X
Storage Building	X	X	X	X
Swimming Pool (Public or Private Club) (Not Associated with Homeowner's Association and/or Subdivision)	CUP	CUP	CUP	CUP
Transitional Center (1+ Units / Beds)		CUP		
Utility Company Customer Service Center	CUP	CUP	CUP	CUP
Utilities, Utility Shops, Storage Areas and Yards, and Utility Buildings (Public or Private) (Other Than Already Listed)	CUP	CUP	CUP	CUP
Water/Sewage Pumping Station, Overhead Storage, or Plant	CUP	CUP	CUP	CUP

Chapter 16. Vested Rights

Article 16.01. Vested Rights

Section 16.01.01. Introduction

- (a) Texas Local Government Code, Chapter 245 - Issuance of Local Permits, commonly referred to as the State's "Vested Rights Law", provides an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit application. The City has established in this section an administrative procedure for consideration of any claim of a vested right.

Section 16.01.02. Definitions.

- (a) The following terms shall have the meaning hereinafter ascribed to them under this section:

LGC – The Texas Local Government Code

Project – an endeavor over which the City (a regulatory agency, as defined by LGC Chapter 245) exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

Permit – a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provisions of, service from a water or wastewater utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue, or complete a Project for which the permit is sought (i.e. subdivision master plan, preliminary plat or final plat).

Section 16.01.03. Administrative procedure for consideration of claim of vested rights.

- (a) Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, shall submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission shall include, at a minimum, the following:
- (1) The name, mailing address, and telephone number of the property owner (or the property owner's duly authorized agent);
 - (2) Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds description (if not platted), for which the property owner claims a vested right;
 - (3) Project name, type of permit and date the permit was filed;
 - (4) All regulations which the applicant is claiming do not apply to the project; and

- (5) Attach all supporting documents, if any.

Section 16.01.04. Vested Rights Determination.

- (a) The City Manager will review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project and shall identify in writing to the property owner, or designated agent, all claims for which vested rights have been granted (the "Vested Rights Determination").

Section 16.01.05. Appeal of Vested Rights Determination.

- (a) If the property owner believes that the Vested Rights Determination is in error, the property owner shall have the right to appeal such Vested Rights Determination within 30 days of the determination to the City Council, which will have jurisdiction to hear and decide the appeal pursuant to this ordinance and LGC Chapter 245.

Section 16.01.06. Permits, Projects, and Vested Rights.

- (a) An original permit application expires on or after the 45th calendar day after the date the application is filed, unless approved, if:
- (1) the applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
 - (2) the City provides to the applicant, not later than the 10th business day after the date the application is filed, written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and
 - (3) the applicant fails to provide the specified documents or other information within the time provided in the written notice.
- (b) Permits and Projects Expiration.
- (1) Only a project which was in progress (as defined by LGC Section 245.003) or for which a permit application was filed after September 1, 1997, may be eligible to claim vested rights; any project for which the permit application was filed prior to September 1, 1997, or has expired, is not eligible.
 - (2) Vested rights do not begin to accrue until the filing of an original application or plan for development or plat application that gives the City fair notice of the project to which the permit applies and the nature of the permit sought.
 - (3) A project will expire 5 years from the date the first permit application was filed for the project with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse, and the project must comply with all current ordinances and requirements.

(4) The following Permits (as well as other Permits satisfying the requirements of LGC Chapter 245), which include Plat Applications and Plats, may be relied on by a property owner or developer to establish certain vested rights for a Project unless otherwise exempted by LGC Section 245.004 or its successor statute. A Project will expire 5 years from the date the first Permit application was filed for the Project with the City if progress, as defined in LGC Section 245.005 or its successor statute, has not been made towards completion of the Project. An expired Project is considered dormant, vested rights lapse, and the Project must comply with current ordinances and requirements.

(A) Plat Applications. Vested rights under LGC Chapter 245 will be recognized for the Project that is the subject of a completed application for a plat that has been filed with the City, provided all necessary fees have been paid.

(B) Plats. Vested rights under LGC Chapter 245 will be recognized for a Project associated with the property which is the subject of a plat that has been approved by the City Council or Official for the City provided that fair notice is provided with the plat application in accordance with LGC Chapter 245.

(C) Other Permits. For the purposes of determining whether any vested rights exist, any other Permit for which an expiration date is not specifically set forth in this Code of Ordinances or in other applicable law shall expire 2 years after the date the application for the Permit was filed with the City if progress, as defined in LGC Section 245.005, has not been made towards completion of the Project.

(5) Projects that were approved five years or more prior to the adoption date of this Chapter that were not subject to an expiration date and for which no progress has been made towards completion of the project, shall expire on the effective date of this Chapter.