

(g) Parking requirements are contained in the City's parking ordinance.

(Ordinance 16-0303 adopted 2/1/16)

§ 3-11 Garden Housing District (GHD).

(a) The Garden Housing District (GHD) allows for zero-lot-line single-family, detached dwellings.

(b) Permitted uses include single-family dwellings and accessory structures that correspond with single-family use. See schedule of uses in Article VIII of this ordinance for permitted and conditional uses.

(c) General regulations are detailed below:

GHD DISTRICT

Minimum lot size (area)	None
Lot width	40-50 feet
Minimum lot depth	None
Minimum front yard	None
Minimum side yard	5 feet
Minimum rear yard	15 feet from rear lot line to nearest building line
Maximum lot coverage	60 percent (60%)
Maximum structure height	35 feet

(d) ~~Landscaping requirements are contained in the City's landscaping ordinance.~~

(e) ~~Parking requirements are contained in the City's parking ordinance.~~

(Ordinance 16-0303 adopted 2/1/16)

§ 3-12 Public Facilities District (PFD).

Section 4-13 Public Facilities District - PFD

(a) The purpose of the Public Facilities District is to provide for the siting of public parks and recreational facilities, ~~so as to~~ preserve open space and unique cultural and historic features, and to provide for the siting of governmental, non-profit, and cooperative buildings of the City, County, State, ~~or~~ Federal governments or other entities. ~~This district provides also for other public and institutional uses, regardless of public or private ownership, such as EMS and fire stations, health care facilities, schools, and churches. With City Council approval, this zoning classification may be applied to a property within a situated in any other district in within the city limits.~~

(b) ~~As it is a federal operation, the Lyndon B. Johnson National Historic Park, located in the City's corporate limits and in its extraterritorial jurisdiction, is exempt from, and accordingly not subject to, the city's zoning regulations, including rezoning. The pPark area shall be described as a public facility district for City map classification purposes only.~~

(c) ~~See Schedule of Uses for permitted, nonpermitted, and conditional uses.~~

(d) General regulations of the Public Facilities District are as follows:

<u>Minimum lot width (street frontage)</u>	<u>60 feet</u>
<u>Minimum lot depth</u>	<u>100 feet</u>
<u>Minimum lot size (area)</u>	<u>6,000 square feet</u>
<u>Minimum front yard</u>	<u>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</u>

be provided on both streets. Drive-in gasoline service islands may not be located nearer than 25 feet to the front property line.

<u>Minimum side yard</u>	<u>None.</u>
<u>Minimum side yard, adjacent to street</u>	<u>10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.</u>
<u>Minimum rear yard</u>	<u>10 feet, except in areas platted where setback minimums are established prior to the effective date of this Chapter.</u>
<u>Maximum lot coverage (all structures)</u>	<u>80 percent (80%)</u>
<u>Maximum structure height (stories)</u>	<u>2 stories</u>
<u>Maximum structure height (feet)</u>	<u>35'</u>
<u>Buffer zone, PFD to SF, MR, MH, or CHD</u>	<u>A buffer zone of 30 feet plus an approved eight-foot privacy fence shall be maintained.</u>
<u>Fire lane</u>	<u>A minimum fire lane of 16 feet shall be maintained adjacent to one side of the building having entry doors.</u>

(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 residential 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 _____ 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:

(1) Unless otherwise authorized within the Schedule of Uses, all business activity shall be conducted entirely within a building(s).

(2) 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

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:

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

- (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 residential 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 _____ 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 Recreational Vehicle Park District include, but are not limited to, the following:

- (1) Unless otherwise authorized within the Schedule of Uses, all business activity shall be conducted entirely within a building(s).
- (2) 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.

- (i) National Fire Protection Association (NFPA) 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2018 edition.

- (1) Adoption. The 2018 edition of the NFPA 1194 ("NFPA 1194"), as published by the National Fire Protection Association, is adopted, to the same extent as if such Code were copied verbatim in this Section, subject to amendments prescribed in this Section. Copies of the NFPA 1194 shall remain on file in the Office of the City Secretary, within the Department of Development Services, and in the Office of the Fire Marshal.
- (2) Annexes. All annexes provided for in the NFPA 1194 are adopted.
- (3) Amendments. The NFPA 1194 is amended as follows:

- (a) 5.1.2 Roads. Minimum widths of recreational vehicle park and campground roads shall be 20 ft (6.0 m) and may have an additional 8 ft (2.4 m) per parallel parking lane. All park/campground roads shall also serve as fire access roads and shall be marked as per City ordinance.

Section 4-15 Historic Overlay District

Division 4. Historic Preservation

Section 4-19—(a) Definitions

The following words and terms used in this DivisionSection shall have the following meanings, unless the

context clearly indicates otherwise:

Historic overlay district - H An area which has outstanding historical and cultural significance in the United States, State, region, or City, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history, including:

- (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) Section 4-20 — Authorities

- (a1) Historic Review Board. The Planning and Zoning Commission (P&Z) 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 eCity by contract or otherwise. It shall be the function of the Board to advise the eCity eCouncil on a proposed designation of a historic landmark or property or, and on an application for a eCertificate of rReview, as provided herein.
- (2b) 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 eCertificate of rReview.

(c) Section 4-21 Designations

- (a1) Current Designation. The eCity eCouncil designates the area notated on the Official Zoning Map as the "Historic Overlay District."
- (b2) Identification. The A #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 eOrdinance.

(e3) New Designation. Designation of a property as a local historic landmark, or of a property for inclusion within the boundaries of the a-hHistoric eOverlay dDistrict shall be conducted in accordance with the requirements contained in Section 211.01625 of the Texas Local Government Code, as amended, including owner's consent, and the provision of an impact statement to the owner.

(4d) 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. application process for City Council Hearing and Action outlined in this Ordinance.

(e5) Designation Criteria. In designating an area as a historic district or a place as a historic landmark, the following criteria shall be considered:

(4a) Character, interest, or value as a part of the development, heritage, or cultural characteristics of the eCity;

(b2) Location as the site of a historical event;

(c3) Embodiment of distinguishing characteristics of an architectural type or specimen;

(d4) Relationship to other distinctive buildings, sites, districts, or structures which are historically significant and preserved, or which are eligible for preservation;

(e5) Unique location of singular physical characteristics represents an established and familiar visual feature of a neighborhood, community, or the eCity;

(f6) Value as an aspect of community sentiment of public pride; and

(g7) Identification with a person or persons who significantly contributed to the development or culture of the eCity.

(d) Section 4-22 Violation; Penalty

(a1) 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 divisionSection. Violation of any provision of this Section division is a misdemeanor.

(b2) Enforcement and Penalty. A violation of this Section division shall be processed in accordance with the Violation and Enforcement provisions of this Ordinance. Each day such violation continues shall constitute a separate violation.

Division 3. Specific Uses

Section 4-146 Conditional Use Permit, also Special Exception - CUP

(a) Definition. A conditional use permit- "CUP"; provides for a use that may be deemedis compatible with

the land use in a zoning district and with conditions governing the use. A CUP is also described as a special exception at Section 211.009(a)(2) of the Texas Local Government Code, as amended.

(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 eCity unless a CUP is permitted under the Schedule of Uses, and a permit is issued by the City Council BOA for such a use in accordance with this Ordinance. See Schedule of Uses for permitted CUPs in specific zoning districts.

~~(d) Preapplication Meeting. An applicant for a CUP shall meet with the zoning administrator in a preapplication conference to discuss the process, requirements, and potential conditions for a CUP. Action taken and statements made at a preapplication meeting shall not be considered binding commitments or an approval of an application.~~

~~(ed) Application and Review. An application for a CUP shall be submitted for review by the P&Z and approval by the City Council the BOA in accordance with the zoning amendment procedures contained within Article III of this Ordinance application procedures, including notice and public hearing, of this Ordinance.~~

~~(fe) Considerations for Review. In reviewing a CUP application, the P&Z and City Council BOA shall consider the CUP's:~~

~~(1) Conformance with applicable regulations and standards of the zoning district in which it is to be located;~~

~~(2) Compatibility with existing or permitted uses on abutting sites in terms of building height, bulk, scale, setbacks, open spaces, landscaping, and site development, and access and circulation capacity;~~

~~(3) 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:~~

~~(i) Location, lighting, and type of signs, and the relation of signs to adjacent properties;~~

~~(ii) Noise producing elements;~~

(iii) Glare of vehicular and stationary lights and effect of such lights on the established character of the neighborhood;

(iv) Safety from fire hazard; and measures for fire control; and

(v) Protection of adjacent property from drainage, floods, erosion, or other water damage.

(4) Safety and convenience of vehicular and pedestrian circulation on the premises and in the area immediately surrounding the site, including, but not limited to, ~~and~~ the effect of traffic reasonably expected to be generated by the proposed use ~~and other uses reasonably anticipated in the area considering existing zoning and proposed land uses in the area~~ and the ability of the State and ~~e~~City's existing transportation network to handle the traffic; and

(5) Compliance with the Comprehensive Plan and whether the proposed use is compatible with existing and planned development of surrounding properties, including those that ~~and will~~ promote economic growth.

(e) Conditions for CUP. In granting a CUP, the P&Z and City Council ~~BOA~~ 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:

(1) More restrictive sign standards;

(2) Additional open space, landscaping, or screening requirements;

(3) Additional yard requirements;

(4) Special lighting requirements;

(5) Time limitations on hours of operation;

(6) Additional off-street parking and loading requirements;

(7) Additional utility, drainage, and public facility requirements;

(8) Additional right-of-way and public access requirements;

(9) Additional requirements to ensure compatibility with the ~~e~~C Comprehensive ~~p~~Plan;

(10) Time limits or expiration dates;

(11) Provisions for periodic review and renewal or extension; and

(12) Conditions for expiration and/or revocation of the CUP.

(h) Action by the ~~BOA~~ City Council. Final determination on a CUP application shall be issued by the City Council ~~BOA~~ in accordance with Article III of this Ordinance. ~~the BOA hearing and action procedures of this Ordinance.~~

(ih) 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.

(ii) Validity and Extension.

(1) Validity. Unless a time limit is specified, a CUP shall be valid for an indefinite period.

(2) 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.

(3) 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.

(i) 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.

(ii) Upon review and satisfactory findings for compliance with the approved CUP, the zoning administrator may extend a CUP for up to one (1) year.

(iii) An extension may be denied for noncompliance or failure by the permit holder to correct the noncompliance within a specified time.

(iv) 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.

(ik) Expiration. A CUP shall automatically expire without notice, and shall be null and void in the following cases:

(1) Lapse of approval time, as described above;

(2) There is a change in the use of the property;

(3) The use is relocated; or

(4) The use ceases for a period of six (6) consecutive months. ~~from the date of approval.~~

(ll) Revocation. After notice and hearing, a CUP is revocable by written order of the BOA City Council upon a determination of noncompliance with the requirements and conditions of the CUP. A revoked CUP shall be null and void.

(ml) Renewal.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) The City Council BOA shall issue, by ordinance, a final determination on a renewal application.

(nm) Reinstatement. A new application and subsequent approval are required to reinstate a CUP which has expired, terminated, or been revoked.

(en) 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.

See Article VIII, Schedule of Uses for permitted and conditional uses.

Section 4-175 Planned Unit Development District - PUD

(a) Definition. A ~~p~~Planned ~~u~~Unit ~~d~~Development ~~d~~District, "PUD", is a zoning designation ~~pertaining to for a large or complex-~~ single or multi-use development developed as a single contiguous project and under unified control. A PUD ~~provides allows-~~ flexibility in development standards, and it and accommodates multiple uses as one integrated land use which could not have been attained through conventional zoning. ~~A variety and number of residential and commercial uses on one multi-acre tract of land is an example of a PUD.~~

(b) Purpose. The purpose of ~~the 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 ~~land tract of land.~~ Generally, ~~A a~~ PUD ~~development:~~

- (1) 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;
- (2) Provides for ~~the a more-~~ efficient layout of land uses, buildings, circulation systems, and infrastructure;
- (3) Encourages infill projects and the development of sites difficult for conventional development ~~due~~

~~to because of tract shape and/or size, abutting development, poor accessibility, or topography;~~

- (4) Provides an environment that contributes to a sense of community and a coherent living style;
- (5) Encourages the preservation and enhancement of natural amenities and cultural resources;
- (6) Protects the natural features of a site, ~~topography, shape, and size~~ and provides for open space; and
- (7) Is compatible with adjacent land uses.

(c) Applicability. A PUD is prohibited in the eCity, unless it is approved by the City Council BOA for such use in accordance with this eOrdinance. A PUD shall not be sought to avoid the standards and requirements of other zZoning dDistricts, but rather, a PUD shall be sought to accomplish the purposes of this Section.

(d) Qualifying PUD Standards.

- (1) Minimum Acreage. No minimum. A PUD shall contain a minimum of ten 10 acres of land, unless the property is characterized by special circumstances, including unique topographic constraints.
- (2) Unified Control. A PUD ~~development~~ shall be under the control of one owner or a one-group of owners, and shall be planned and developed as one integral unit.
- (3) Comprehensive Plan. A PUD shall be consistent with the City's Comprehensive Plan.

(e) Permitted Use Requirements.

- (1) Uses. Any permitted use, special exception, or conditional use allowed within a tract's base zZoning dDistrict of this Ordinance may be permitted in a PUD, provided that the standards and requirements, as outlined in this Ordinance, ~~for that use are met, also within the PUD.~~
- (2) Mixed-Use. A mixture of Rresidential and non-residential uses are allowed in combination in a PUD in order to create an integrated, mixed-use development. ~~Each portion of the PUD with that particular use shall meet the requirements of the zoning district that corresponds to each element of the proposed development.~~
- (3) Variations from a tract's the-base zZoning District requirements shall be identified, in writing, by the applicant. ~~Adjustments Variations shall be reviewed and approved by the Planning and Zoning Commission and City Council. &Z and BOA.~~

(f) Preapplication Meeting. An applicant for a PUD shall meet with the zoning administrator in a preapplication conference to discuss the process, requirements, and potential conditions for a PUD. ~~Action taken and statements made at a preapplication meeting shall not be considered binding~~

~~commitments or an approval of an application—~~ **PREAPPLICATION CONFERENCE WITH COUNCIL 2.222**

(gf) ~~Application and Review. An application for a PUD application zoning 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 P&Z and the City Council, BOA in accordance with Article III the application procedures, including notice and public hearing, of this Ordinance.~~

(gh) ~~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 at least six of the following site design elements, as applicable:**

(1) ~~Mixed-use development with residential and non-residential uses;~~

(2) ~~Residential development with ~~or~~ a variety of housing types;~~

(23) ~~Pedestrian / transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site;~~

(34) ~~High quality architectural design beyond the master site development plan requirements of this sSection;~~

(45) ~~Extensive landscaping beyond the master site development plan requirements of this s Section;~~

(56) ~~Preservation, enhancement, or restoration of natural resources, such as e.g. trees, slopes, wetland areas, views, et ceterae;~~

(67) ~~Preservation, enhancement, ~~or~~ restoration of significant or historic resources;~~

(78) ~~Provision of a significant amount of minimum of twenty (20) per cent of gross platted area for open space / parkland, ~~or~~ public plazas, or related features. Open space shall not include areas designated or used as parking lots, garages, streets, or driveways;~~

(89) ~~Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions, such as topography, shape, et ceterae;~~

(910) ~~Effective transition between higher and lower density uses; and/or between nonresidential and residential uses;~~

(10) ~~Use of incompatible adjacent land uses developed in a manner that is not possible using a conventional approach;~~

(11) ~~Shared vehicular and pedestrian access between properties or uses;~~

(12) ~~Mitigation to offset impacts on public facilities, such as e.g., street improvements, utility lines, et ceterae; or~~

(13) ~~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 as sustainable by established groups such as the US Green Building Council (LEED) or ANSI National Green Building Standards.

(hi) Site Plan Criteria. A PUD general land use map and master site development plan shall contain the following:

- (1) Insofar as practicable, the landscape shall be preserved in its natural state by minimizing tree and soil removal;
- (2) 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;
- (3) 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;
- (4) Private streets and gates may be approved as a part of the application, however, they -but- are not required;
- (5) The maximum height of structures; -shall be as prescribed for each land use category;
- (6) Building Ssetbacks; -shall be governed by the PUD site plan;
- (7) A minimum of twenty (20) percent of gross platted area significant amount of shall be open green space / parkland shall be included in the master site development plan. Open space / parkland may This shall 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;
- (8) Outdoor lighting shall be fully-shielded and night sky friendly in order to limit impacts on abutting residential units and reduce light pollution; and
- (9) Utilities and infrastructure shall meet the standards of the City's sSubdivision rRegulations, Design Standards, -and the City most recently- adopted International Codes.

(i) Criteria for PUD Review. The following factors shall be considered for the approval of issuance of a PUD, including, but not limited to:

- (1) Compliance with The relation of the proposed use to the City's eComprehensive pPlan;
- (2) The rZoning dDistrict in which the PUD use-is to be located;

- (3) The character of adjacent properties, surrounding neighborhoods, and existing and proposed development;
- (4) Whether the usePUD is to be adequately served by essential public services, such as streets, drainage facilities, fire protection, and public water and sewer facilities;
- (5) Whether the usePUD results in the destruction, loss, or damage of any feature determined to be of significant ecological, scenic, or historical importance; and
- (6) That the usePUD shall be designated, sited, and landscaped so that the usePUD will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.

(jk) Action by the BOA City Council. Final determination on a PUD application shall be issued by the City Council, BOA in accordance with Article III the BOA hearing and action procedures of this eOrdinance.

(lk) Approval. An ordinance approving a PUD zoning shall include the general land use map, master site development site plan, specific uses permitted, and conditions for the PUD, and as well as a statement as to the purpose and intent of the PUD. Only those uses approved shall be permitted and shall operate in accordance with the stipulated approved conditions.

(m) Final Site Plan Submittal and Approval. Following zoning approval, the final site plan for the PUD shall be submitted for review and approval in accordance with the site plan review process outlined in the Subdivision Ordinance.

(nl) Lapse of PUD Approval. In accordance with Texas Local Government Code Section 245.005(b), a PUD permit shall expire at two years following the approval date, and projects shall expire at five years following the approval date unless progress is made toward the completion of the project PUD permit shall expire two (2) years from the date of permit issuance and a PUD project shall shall expire five (5) years from the date the first permit application was filed for the project, unless progress is made toward the completion of the project, including any of the following:

- (1) An application for a final plan is submitted to the eCity;
- (2) A good-faith attempt is made to file with the eCity an application for a permit necessary to begin or continue toward the completion of the project;
- (3) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent (5%) of the most recent appraised market value of the real property on [REDACTED] located
- (4) Fiscal security is posted with the eCity to ensure performance of an obligation required by the eCity; or

Commented [RS27]: Does this apply to planning and engineering costs, as well?

(5) Utility connection fees or impact fees for the project have been paid to the eCity.

Section 4-168 Similar Land Use

(a) Purpose. The purpose of this sSection is to provide for consideration and accommodation of a proposed land use which had not been anticipated at the time of adoption of this eOrdinance, and, consequently, is not addressed in the Schedule of Uses of this eOrdinance.

~~(b) Preapplication Meeting. An applicant for a similar land use zoning shall meet with the zoning administrator in a preapplication conference to discuss the process, requirements, and potential conditions for the zoning.~~

(eb) Determination. Before proceeding forward with an application, the zZoning aAdministrator shall determine whether the proposed use:

(1) Is not listed as a permitted, special exception, or conditional land use in the tract's any other zZoning dDistrict;

(2) Is consistent with the dDistrict's purpose;

(3) Is similar to other allowed uses relative to its character, scale, and overall compatibility;

(4) Is not expected to create objectionable impacts to public health, safety, and welfare if it were established in the applicable zZoning dDistrict; and

(5) Would not be more appropriate within a different zZoning dDistrict.

(ec) Compliance. If a proposed use is determined to be similar to other uses listed within the dDistrict the proposed use is to be located, the use shall comply with all the standards or requirements of that dDistrict. 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.

(ed) Application and Review. An application for a similar land use determination zoning shall be submitted for review by the Planning and Zoning Commission, P&Z in accordance with Article III the application procedures, including notice and public hearing, of this eOrdinance.

(ef) 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 the hearing and action procedures of this Ordinance.~~

(d) Landscaping requirements are contained in the City's landscaping ordinance.

(e) Parking requirements are contained in the City's parking ordinance.

(Ordinance 19-0401, att. A, sec. A, adopted 5/3/19)

~~§ 3-13 through § 3-15. (Reserved)~~

Division _____

2

Historic Preservation

~~§ 3-16 Definitions.~~

Historic overlay district; "H."

~~An area which has outstanding historical and cultural significance in the State, region, or City, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history, including:~~

- ~~(1) Historic structures, sites, or areas within which the buildings, structures, appurtenances, and places exemplify the cultural, political, economic, or social history of the State, region, or City.~~
- ~~(2) Historic structures, sites, or areas that are identified with the lives of historic personages or with important events in State, regional, or local history.~~
- ~~(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 nation, 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.~~

(Ordinance 21-1201 adopted 12/7/21)

~~§ 3-17 Designation of historic districts and historic landmarks.~~

~~(a) Designation of historic districts. The city council designates the area notated on the city's official Zoning Map as the "Historic Overlay District." The Historic Overlay District shall bear the word "Historic" in its zoning designation, and such designation shall be in addition to any other Zoning District designation established in the Zoning Ordinance. All Zoning Maps shall reflect the Historic Overlay District by the letter "H."~~

~~(b) Criteria for designation of Historic Overlay District. In making the designation of an area as a historic district, the city council shall consider one or more of the following criteria:~~

- ~~(1) Character, interest, or value as 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.
- (c) Designation of historic landmarks. After public notice and hearing, the city council may from time to time designate certain places in the city as historic landmarks. Such places shall bear the word "Historic" in their zoning designation, and such designations shall be in addition to any other Zoning District designation established in the Zoning Ordinance. All Zoning Maps shall reflect the historic landmark by the designation "HL."
- (d) Criteria for designation of historic landmark. In making the designation of a place as a historic landmark, the city council shall consider the criteria set forth in Subsection (b) of this section.

(Ordinance 21-1201 adopted 12/7/21)

§ 3-18 Historic review board.

- (a) Creation; composition. The Planning and Zoning Commission of the city shall serve as the Historic Review Board, hereinafter the "Board." In addition to its planning and zoning duties, the Commission shall assume all duties and perform all functions of the Board as contained and described in this division. All references to the "review board," or "historic review board" or the "board" in this division are to the Planning and Zoning Commission.
- (b) Functions. 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 concerning all applications for certificates of review in Historic Overlay Districts or Historic Landmarks.

(Ordinance 21-1201 adopted 12/7/21)

§ 3-19 Certificate of review required; procedures.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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 (e) hereof, the city council shall approve, approve with conditions, or deny all applications within sixty (60) days of application submittal.
- (e) 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.

(Ordinance 21-1201 adopted 12/7/21)

§ 3-20 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:

- (1) The effect of the proposed change upon the general historic, cultural, and architectural nature of the District or landmark;
- (2) The appropriateness of exterior architectural features that can be seen from a public street, alley, or walkway;
- (3) 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;
- (4) The character of the Historic Overlay District or Landmark for all signs;
- (5) Preservation of the value of the Historic Overlay District or Landmark, as the area of unique interest and character;
- (6) The general and specific Standards for Rehabilitation and Guidelines for Applying the Standards for Rehabilitation, as issued by the Secretary of the Interior; and
- (7) 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.

(Ordinance 21-1201 adopted 12/7/21)

§ 3-21 Violations; penalty:

- (a) 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 division. Each day such violation continues shall constitute a separate violation.

Section 4-197 Nonconforming Use

(a) Definition. A nonconforming use is that land use, structure, or 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. Nonconforming use also includes a land use, structure, or lot which does not conform to the requirements of this ordinance as a result of the adoption or amendment of this ordinance or of any subsequent reclassification of a zoning district.

(b) Purpose. The purpose of this section is to regulate and limit nonconforming uses. The intent of this section is not to eliminate a nonconforming use outright, but to eventually improve its status to conformance to preserve the integrity of this ordinance and the desired character of the city.

(c) Reversion. Where a nonconforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter revert to a nonconforming use. If no structural alterations are made to a nonconforming use, a nonconforming use may be changed to another nonconforming use of the same classification.

(d) Expansion. A nonconforming use shall not be expanded or extended beyond its established floor or lot area without approval by the BOA as provided in this section.

(e) Applicability. An application for a change to a nonconforming use may be made:

(1) to reconstruct a nonconforming structure that has been destroyed;

(2) to expand or extend a nonconforming use of a structure beyond its established floor or lot area because of exigent circumstances; or

(3) to resume a nonconforming use previously abandoned upon a showing that abandonment deprives the property owner of substantially all use or economic value of the land.

(f) Application and Review. An application for a nonconforming use change shall be submitted for review by the P&Z in accordance with the application procedures, including notice and public hearing, of this ordinance.

(g) Criteria for Review. Reconstruction, extension, or enlargement of a nonconforming structure on a conforming lot or tract may be permitted provided such:

(1) Does not prevent the reversion of such property to a conforming use;

(2) Does not exceed 25% of the ground area of the existing building;

~~(3) Complies with side yard requirements and existing setback;~~

~~(4) For a nonconforming residential use, the expansion does not increase the number of dwelling units to more than the number existing when the use became nonconforming; and~~

~~(5) Does not allow such building to be used for a use which would be restricted to a more restrictive classification.~~

~~(h) Conditions. A time limit may be imposed specifying the period during which the nonconforming use may continue to operate or exist before being conformed to the standards of the zoning ordinance for the district in which the nonconforming use is located. The P&Z/BOA may prescribe additional conditions for a nonconforming use such as those listed in this ordinance for a CUP.~~

~~(i) Action by the BOA. Final determination on a nonconforming use application shall be issued by the BOA in accordance with the BOA hearing and action procedures of this Ordinance.~~

~~(j) Discontinuation; Abandonment. A nonconforming use shall be deemed abandoned if the use has been discontinued for a period of more than two years, which calculation includes that time period prior to the effective date of this ordinance. Upon abandonment, such nonconforming use shall not be renewed or reestablished. Subsequent use of the land, lot, or structure shall conform to and be in accordance with the regulations of this ordinance for that district in which the nonconforming use was located.~~

~~(k) Special Exceptions. The section does not apply to modifications or conditions granted in a conditional use permit or in a variance as provided in this Ordinance.~~

~~1. 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.~~

~~2. 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.~~

~~3. 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. 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 Board of Adjustment.~~

~~4. Enlargement. A nonconforming use shall not be enlarged or extended with respect to the operation of the use in a building or structure, except in compliance with zoning requirements for that district.~~

5. Normal maintenance. Normal maintenance of a building or structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations not extending the operation of the nonconforming use.
6. 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

1. 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.
2. 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.
3. 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 Board of Adjustment may grant a permit for repair but not for the enlargement of the structure.
4. 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.
5. 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.
6. Alterations. The 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 4-2148 Variance

(a) Definition. A variance is a change from the application of a specific requirement of this Ordinance to a land use or structure. Reducing a minimum setback requirement is an example of a variance.

(b) Purpose. The purpose of this Section is to allow for a variance n-adjustment-of to a specific regulation

of this Ordinance ~~to~~ for a parcel of land or a structure ~~due to because of 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 ~~in~~ other parcels in the same vicinity and ~~z~~ Zoning ~~d~~ 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. ~~in general~~ 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 ~~f~~ Federal laws or requirements may not be varied by the ~~e~~ City.

(c) Applicability.

- (1) Presumption. There shall be a presumption against variances. ~~The G~~ granting of a variance is not automatic.
- (2) 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. ~~with similar timed development.~~
- (3) Findings Required for Variance Approval. No variance shall be granted by the Board of Adjustment ~~BOA~~ unless the Board ~~BOA~~ finds that all of the following conditions are met:
 - (i) There are special circumstances or conditions affecting the land or structure such that the literal enforcement of the provisions of this ~~e~~ Ordinance would result in unnecessary hardship, and deprive the applicant of the reasonable use of the land or structure;
 - (ii) 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;
 - (iii) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
 - (iv) The variance is not contrary to the public interest, ~~and~~ is not detrimental to the public health, safety, or welfare, ~~and is not e~~ injurious to other property within the area;
 - (v) The variance constitutes a minimal departure from this ~~e~~ Ordinance; and
 - (vi) The variance is in conformity with the spirit, general purpose, and intent of this ~~e~~ Ordinance so that:
 - (A) The public health, safety, and welfare may be secured; and
 - (B) That substantial justice may be done.

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

- (1) A special individual reason makes the strict application of a provision of this Ordinance impractical;
- (2) 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
- (3) The applicant will incur specific hardships should the variance not be granted.
- (4) 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 Board of Adjustment P&Z/BOA 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:

- (1) 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;
- (2) 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;
- (3) compliance would result in the structure not being in compliance with a requirement of another Municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment of the structure on an adjacent property or easement; or
- (5) 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 Board of Adjustment, P&Z in accordance with Article III the application procedures, including notice and public hearing, 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 Board of Adjustment P&Z/BOA may prescribe conditions, such as those listed in this Ordinance for a Conditional Use Permit. CUP.

(i) Action by the BOA. Final determination on a variance application shall be issued by the BOA, in accordance with Article III the BOA hearing and action procedures of this Ordinance.

(j) Findings Required on Approval.

(1) On approval of a variance, the BOA shall issue findings stating that:

(i) 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;

(ii) 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;

(iii) 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,

(iv) The variance will not in any manner vary the provisions of this Ordinance, the City's Comprehensive Land Use Plan, or any other adopted land plan(s) or ordinance(s) of the City;

(v) The alternate design will generally achieve the same result or intent of the standards and regulations prescribed herein; and

(vi) 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.

(2) Such findings, and the specific facts in support, shall be included in the BOA minutes of the meeting at which the variance is granted, and in the ordinance of approval.

Division 4. — Historic Preservation

Section 4-19 — Definitions

The following words and terms used in this Division shall have the following meanings, unless the context clearly indicates otherwise:

Historic overlay district — II — An area which has outstanding historical and cultural significance in the State, region, or City, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history, including:

(1) Historic structures, sites, or areas within which the buildings, structures, appurtenances, and places exemplify the cultural, political, economic, or social history of the State, region, or City;

(2) Historic structures, sites, or areas that are identified with the lives of historic personages or with important events in 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—III.—A place which has outstanding historical and cultural significance in the nation, 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.

Section 4-20 — Authorities

(a) Historic Review Board.—The 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, and on an application for a certificate of review as provided herein.

(b) 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.

Section 4-21 — Designations

(a) Current Designation.—The city council designates the area notated on the Official Zoning Map as the "Historic Overlay District."

(b) Identification.—A 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.

(c) New Designation.—Designation of a property as a local historic landmark, or of a property for inclusion within the boundaries of a historic overlay district shall be conducted in accordance with the requirements contained in Section 211.0162 of the Texas Local Government Code, as amended, including owner's consent, and the provision of an impact statement to the owner.

(d) Application and Review.—An application for a historic designation or landmark shall be reviewed and processed in accordance with the application process for City Council Hearing and Action outlined in this Ordinance.

(e) 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 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.~~

Section 4-22 — Violation; Penalty

~~(a) 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 division. Violation of any provision of this division is a misdemeanor.~~

~~(b) Enforcement and Penalty. — A violation of this division shall be processed in accordance with the Violation and Enforcement provisions of this Ordinance. Each day such violation continues shall constitute a separate violation.~~

~~The city may institute any appropriate action or proceeding to prevent such unlawful construction, reconstruction, structural alteration, remodeling, renovation, restoration, relocation, demolition, razing, or maintenance; to restrain, correct, or abate such violation; and to prevent any illegal act, conduct, business, or maintenance in and about such premises. Each day such violation continues shall constitute a separate violation.~~

~~(b) Criminal Offense. Violation of any provision of this division is a misdemeanor. Each day of a violation shall constitute a separate offense. A fine for a violation may not exceed two hundred dollars (\$200.00).~~

~~(c) Civil Action. A person who violates a provision of this article is subject to a civil suit for injunctive relief and to a civil penalty. The city may seek also to recover damages from the violator in an amount adequate for the city to undertake activity necessary to bring compliance with the ordinance.~~

~~(Ordinance 21-1201 adopted 12/7/21)~~ **ARTICLE V. GENERAL REGULATIONS**

Division 1. General

Section 5-1 Purpose

~~This purpose of this aArticle is to provide regulations, in addition to those regulations for and requirements of each zZoning dDistrict, applicable to a building, structure, or tract of land and land use within the City limits, regardless of the zZoning dDistrict designation.~~

Section 5-2 Ordinance Regulations

~~In addition to regulations listed in this Ordinance for each district, regulations contained in the following city ordinances of the City's Code of Ordinances shall also apply to each zoning district:~~

~~(1) Article 3.06 — Signs~~

~~(2) Article 3.09 — Outdoor Lighting~~

~~(3) Article 3.11 — Tree Preservation~~

~~(4) Article 15.01 — Tree Preservation and Landscaping~~

Section 5-32 Certificate of Use and Occupancy

~~(a) Certificate Required. No commercial building, tenant space, or similar structure erected or structurally altered shall be used, occupied, or changed in use until a eCertificate of Use and eOccupancy has been issued by the City stating that the commercial building, tenant space, or similar structure or proposed use of a building complies with the International bBuilding eCodes, maximum occupant loads, and the provisions of this eOrdinance. A change in use shall mean any change in the occupancy of a commercial building, tenant space, or similar structure business.~~

(b) Violation. A ~~e~~Certificate of ~~u~~se and ~~e~~Occupancy shall become null and void upon violation of this ~~e~~Ordinance. On remediation, a new ~~e~~Certificate shall be required.

Division 2. Site Requirements

Section 5-43 ~~Accessory Structures~~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.~~

~~(1) Accessory and storage buildings are permitted. An accessory use is permitted in any 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 ~~d~~District.~~

~~(b) Except as necessary for ongoing construction activity, the storage or overnight parking of a commercial vehicle rated over one ton is prohibited in any residential zoning district.~~

~~(c) In residential districts, no motor homes, recreational vehicles, trailers, or boats shall be parked on the street right of way. Such a vehicle may be used for any form of habitation on a residential lot for 30 days with a renewable permit and may connect to utilities if 1) the vehicle has a backflow prevention device for water, and 2) the vehicle owner applies for and receives a permit from the City.~~

~~(2) (d) — With the exception of non-portable permanent residential carports built on a foundation, accessory and storage buildings shall not be placed. No accessory structure shall be placed in a front yard, except fences and walls.~~

~~(3) (e) — No accessory or storage building shall may be placed within the limits of an recorded easement, alley, or required fire lane.~~

~~(f) No permanent accessory building can be placed within the boundaries of a recorded easement.~~

~~(4) (g) — Unless otherwise regulated within Article IV of this Ordinance, No accessory or storage building structure, other than garages, barns, and agricultural structures, shall exceed 16 feet two (2) standard stories in height. A garage may be as tall as 30 feet in height, provided that the garage meets the primary structure side yard setback requirement on all lot lines, and that the height of the garage does not exceed the height of the primary residential structure. A barn and other agricultural structures cannot exceed the district height requirements.~~

~~(5) Unless otherwise regulated within Article IV of this Ordinance, (h) — An — an accessory or storage building which is not a part of the principal structure (including a structure that is connected to the principal building by an open breezeway) may be constructed in a side and rear yards, provided such structure accessory building does not occupy more than 20 percent of the area of the required side or rear yards, and provided it is not located closer than five feet (5') to any lot line. Non-portable permanent residential 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.~~

~~(6) (i) — Swimming pools may be located within a required side or rear or side yards, provided that such pools are not located closer than ten feet (10') to a side or rear lot line, or ten feet to a side lot line. Swimming pools are not permitted in the front yards. A pedestrian space of at least three (3) feet (3') in width shall be provided between pool walls and the protective fence or barrier wall of the a pool. A swimming pool shall be fenced.~~

Section 5-5 — A

(b) ~~Associated Living Quarter~~Accessory Dwelling.

~~One~~ (1) associated living quarters is permitted per tract in a residential Zoning District, but only in

Commented [L28]: Section 2-5 moved to Article ___
Zoning Districts

Commented [L29]: Section 2-6 moved to Article ___
Zoning Districts

Commented [L30]: Section 2-7 moved to Article ___
Zoning Districts

~~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: accessory dwelling may be maintained within a single family detached dwelling in a Single Family Zoning District with a temporary conditional use permit for a limited time period, and subject to the following:~~

- ~~(1) The principal dwelling shall be occupied by the permit holder;~~
- ~~(2) The floor area of an associated living quarters accessory dwelling shall not exceed twenty-five percent (25%) of the existing floor area of the main building;~~
- ~~(3) The associated living quarters accessory dwelling shall include have a restroom facility bathroom;~~
- ~~(4) The permitted accessory dwelling shall be exclusively occupied by not more than four persons;~~
- ~~(5) Off-street parking shall be as required by the parking ordinance of the city; and~~
- ~~(6) The associated living quarters accessory dwelling shall be compatible with the aesthetics of the primary residence and surrounding neighborhood; and~~
- ~~(4) No more than two unrelated individuals shall reside in an associated living quarters.~~

Section 5-46 Walls; Fences

~~Unless otherwise regulated within Article IV of this Ordinance, Aa wall, fence, berm, and similar items restricting passage or vision or simply enhancing private property may be located within a required yard, as defined by building setbacks, except as follows:~~

- ~~(1) A wall or fence located within the front yard shall not exceed a height of forty-eight (48) 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 higher 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;~~
- ~~(2) 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;~~
- ~~(3) 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;~~
- ~~(4) 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;~~
- ~~(5) 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~~
- ~~(6) 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 5-75 Outside Storage and Display

(a) Outside storage, display, or sale of goods, products, or merchandise, or equipment is permitted in a zoning district in accordance with the Schedule of Uses of this Ordinance nonresidential zoning district, including the Industrial and Highway Commercial Corridor Districts, provided such goods, products or merchandise do not encroach into the right of way and are not more than five (5) feet in height.

(b) Storage and display of rental trailers and trucks are not allowed except in districts where such uses are indicated as permitted in the Schedule of Uses.

(eb) Outside storage limitations shall not apply to:

- (1) Merchandise dispensing units in a quantity of three (3) or fewer (not more than three) 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;
- (2) Storage, display, and sale of newspapers and related publications in newspaper racks;
- (3) Outside display of greenhouse merchandise; or
- (4) Temporary outdoor services, such as mobile blood banks, health screenings, and veterinary care.

(dc) Temporary outdoor sale of merchandise is permitted, provided it is conducted:

- (1) For a period not exceeding five (5) consecutive days once a month;
- (2) By a building tenant holding the a current certificate of occupancy;
- (3) For merchandise ordinarily sold on the premises by the building tenant;
- (4) Does not encroach into the right-of-way from all property lines; and
- (5) Is displayed no more than eight feet in height; and
- (6) With a special event permit issued by the City not more than 90 days prior to each event.

(ed) A display of garage sale items iGarage sales are permitted in any residential district is permitted for a maximum of four (4) consecutive days within a 30-day period. No garage sale signs shall can be placed on a eCity or sState 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, recreational vehicles, trailers, or boats shall be parked on City or State right-of-way. Such vehicles may be used for any form of 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:

- 1) the vehicle has a backflow prevention device for water; and
- 2) the vehicle owner applies for and receives a permit from the City.

Section 5-86 Home Occupation

(a) ~~A~~ Home occupations are permitted in any residential zoning district in accordance with the following and shall be conducted as follows:

- (1) Only by a person(s) residing on the premises;
- (2) Shall not alter the appearance of the residential dwelling unit or the lot on which it is located;
- (3) ~~Not outside storage or display; display outside storage or goods;~~
- (4) Be conducted entirely within the residential dwelling unit;
- (5) Not involve equipment which conflicts with the intent of the residential nature of the community;
- (6) Not involve the use or storage of explosives ~~or~~ flammable or hazardous materials;
- (7) Not involve any process that produces smoke, dust, odor, noise, or vibration which is harmful to surrounding properties;
- (8) Not involve the delivery and storage of materials at a frequency beyond that which is reasonable within a residential zoning district, ~~to the residential use of the property;~~
- (9) Not generate traffic to and from the home in excess of what is normally associated with a single-family dwelling unit;
- ~~(10) Shall not consist of group instruction, assembly or activity;~~
- ~~(14) No exterior signage shall not have an outside display indicating that the dwelling unit is being utilized in part for any purpose other than that of a residential dwelling unit. There shall be no advertising on the sign or the premises; and~~
- (12) Shall not consist of any activity incompatible with the adjacent land uses.

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

- (1) Artist, sculptor, or photographer;
- (2) Author or composer;

- ~~(3) Computer programmer, or Internet service provider;~~
- ~~(4) Licensed massage therapist;~~
- ~~(5) Licensed Child care provider, licensed in accordance with State regulations;~~
- ~~(6) Tailor or seamstress;~~
- ~~(7) Professional office;~~
- ~~(8) Tutoring;~~
- ~~(9) Salesperson;~~
- ~~(10) Telephone answering service;~~
- ~~(11) Music teacher;~~
- ~~(12) Caterer;~~
- ~~(13) Baker; or~~
- ~~(14) Licensed Beauty parlors and barbershops, provided that a hair salon permit in addition to a license to cut hair has been obtained.~~

(c) The following uses are prohibited as home occupation uses:

- ~~(1) Auto repair or auto paint shop;~~
- ~~(2) Adult entertainment businesses;~~
- ~~(3) Medical and dental clinics;~~
- ~~(4) Nursing homes, convalescent homes, and adult care facilities with occupancy over two (2) persons;~~
- ~~(5) Restaurants;~~
- ~~(6) Wrecking and towing service;~~
- ~~(7) Welding and machine shops;~~
- ~~(8) Lawn equipment repair; or~~
- ~~(9) A use deemed incompatible with adjacent or surrounding land uses.~~

Section 5-97 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 residential properties.

~~(c) A group home shall meet all State every state statutory licensing requirements.~~

~~(d) Parking shall be in accordance with the City's development regulations for parking.~~

~~(ed) No exterior signages are is allowed on for a group home site.~~

~~(f) Exterior lighting shall be placed in accordance with the City's lighting ordinance and shall not extend into adjacent residentially zoned properties.~~

Section 5-10 – Manufactured Home

Regulations for manufactured home housing include, but are not limited to, the following:

- ~~(1) A manufactured housing development shall occupy a site of not less than two acres in size;~~
- ~~(2) A manufactured housing unit shall meet all standards set by the U.S. Department of Housing and Urban Development, and shall meet requirement[s] set by the City of Johnson City Building Code;~~
- ~~(3) A manufactured housing unit shall provide proper skirting around the base of the home within 30 days of placement on property. No plywood or lattice is permitted;~~
- ~~(4) All subdivision standards must be met as specified in the city's subdivision regulations;~~
- ~~(5) A manufactured housing unit shall be installed per Chapter 1201 of the Texas Occupations Code, and Title 10, Chapter 80 of the Texas Administrative Code, as amended; and~~
- ~~(6) A manufactured home within the city limits may be replaced with a manufactured home no older than five (5) years.~~

Section 5-11 – Telecommunication Tower

Telecommunication towers include radio, wireless telephone, television, microwave, short wave radio and/or any other tower used exclusively for communication purposes. A telecommunication tower is regulated by the City's Code of Ordinances.²²²²

ARTICLE

IV

ZONING APPLICATIONS AND AMENDMENTS

§ 4-1 Initiation of zoning amendments and changes.

~~The City Council may, from time to time, amend, supplement, or change by ordinance, the text of the zoning ordinance, the zoning district boundaries of the official zoning map or the zoning district classification of property whenever the public necessity, convenience, general welfare or good zoning practice requires. Any such amendment may be initiated by:~~

- ~~(1) City Council on its own motion;~~
- ~~(2) Recommendation by the Planning and Zoning Commission to the City Council;~~
- ~~(3) Petition of the owner, contract purchaser with the owner's written consent or the owner's agent with~~

owner's written consent, of the property which is the subject of the proposed amendment via a zoning amendment application;

- (4) ~~Any person who may petition the City Council for a change or amendment to the provisions of this ordinance via a zoning amendment application. When any amendment relates to a change of a zoning regulation or to the general text of this ordinance, notice of the public hearing of the Planning and Zoning Commission shall be given by publication in a newspaper of general circulation in the city before the 15th day before the date of the hearing, without the necessity of notifying property owners by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered.~~

(Ordinance 16-0303 adopted 2/1/16)

§ 4.2 Requirements for zoning amendment application.

- (a) ~~Each application for zoning or for an amendment or change to the existing provisions of this ordinance shall be made in writing on a form suitable to the zoning administrator and shall be filed with the zoning administrator of the city and shall be accompanied by payment of the appropriate fee to be charged by the city, for administering the zoning application. The zoning application shall contain sufficient information relative to the amendment requested. To ensure the submission of adequate information, the zoning administrator is empowered to maintain and distribute a list of specific requirements for zoning applications. Upon periodic review, the zoning administrator shall have the authority to update such requirements for zoning application details.~~
- (b) ~~Upon receipt of a complete written application for zoning or for a change or an amendment to an existing provision of this ordinance, the zoning administrator will set a date for a public hearing before the Planning and Zoning Commission.~~
- (c) ~~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 Planning and Zoning Commission 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 States mail. When any amendment relates to a change of a zoning regulation or to the general text of this ordinance, notice of the public hearing of the Planning and Zoning Commission shall be given by publication in a newspaper of general circulation in the city before the 15th day before the date of the hearing, without the necessity of notifying property owners by mail. The notice shall state the time and place of the hearing and the nature of the subject to be considered.~~
- (d) ~~The Planning and Zoning Commission shall hold a public hearing on any application for any amendments or change prior to making its recommendation and report to the City Council. The Planning and Zoning Commission may establish such regulations and restrictions regarding the presentation of a zoning case at the public hearing as it may deem necessary.~~
- (e) ~~Following the public hearing, the Planning and Zoning Commission may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application. When an application is denied by the Planning and Zoning Commission, the commission should offer reasons to the applicant for such denial.~~

(f) After a public hearing before the Planning and Zoning Commission, the City Council shall be notified of any action taken by the Planning and Zoning Commission on the application, and if the application is approved, including denials in part, by the Planning and Zoning Commission, it shall automatically be scheduled for a public hearing to be held before the City Council.

(g) A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. 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. The Planning and Zoning Commission and City Council may hold a joint meeting.

(h) After a public hearing is held before the City Council regarding the zoning application, the City Council may approve a change in zoning as appropriate within the context of the public notice provided. If the proposed amendment, supplement or change fails to receive a favorable report and recommendation by the Planning and Zoning Commission or if there is a protest filed with the city against such proposed amendment, supplement or change, duly signed by the owners of 20 percent (20%) or more of either:

(1) the area of the lots or land covered by the proposed change; or

(2) the area of the lots on land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

Such proposed amendment, supplement or change shall not become effective except by a three-fourths (3/4) vote of all the members of the City Council.

(i) If the City Council fails to pass an ordinance approving such proposed amendment, supplement or change, then in that event a new application for such proposed amendment, supplement or change to the zoning ordinance shall not again be considered until after the expiration of six months from the date such proposed amendment, supplement or change was rejected; provided, however, that such application may be reconsidered within the above mentioned six month period, if it is shown to the city that a substantial change in conditions has taken place in the vicinity of the property sought to be rezoned.

(j) Any owner of property that has been changed by this ordinance to a more restricted zone may, within (90) days from the final passage of the ordinance from which this ordinance is derived, apply for and receive a building permit for the construction of any use that was permitted in said zone prior to the adoption of the ordinance from which this ordinance is derived. A permit shall issue if the plans and construction have been approved prior to the zoning change.

(Ordinance 16-0303 adopted 2/1/16)

§ 4.3 Conditional use permits.

Conditional use permits are authorized under the terms of this article to provide for certain uses which cannot be well adjusted to their environment in particular locations, with full protection offered to surrounding properties by the application of the underlying zoning district regulations. Further, conditional permit uses are those uses which, if not specially regulated, can have an undue impact on or be incompatible with other uses of land within or adjacent to a given zoning district. Upon the granting of a conditional use permit by City Council, these uses may be allowed to be located or expanded within given designated zoning districts under the standards, controls, limitations, performance criteria, restrictions and other regulations of this ordinance.

(a) — All applications for conditional use permits shall be reviewed using the following criteria:

(1) — The proposed use shall be:

(A) — In harmony with the adopted comprehensive plan;

(B) — In harmony with the intent and purpose of the zoning district in which the use is proposed to be located; and

(C) — In harmony with the character of adjacent properties and the surrounding neighborhoods and also with existing and proposed development.

(2) — The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.

(3) — The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.

(4) — The proposed use shall be designated, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.

(b) — In granting any conditional use permit, the City Council may impose any conditions necessary to assure that the proposed use will conform to the requirements of this section and will continue to do so. The City Council may take all necessary actions to ensure compliance with the conditions imposed.

(1) — The City Council may impose reasonable standards as deemed necessary to protect the public interest and welfare. Such standards may include, but need not be limited to:

(A) — More restrictive sign standards.

(B) — Additional open space, landscaping or screening requirements.

(C) — Additional yard requirements.

(D) — Special lighting requirements.

(E) — Time limitations on hours of operation.

(F) — Additional off-street parking and loading requirements.

(G) — Additional utility, drainage and public facility requirements.

(H) — Additional right-of-way and public access requirements.

(I) — Additional requirements to ensure compatibility with the comprehensive plan.

(J) — Conditions for renewal, extension, expiration and/or revocation of the conditional use permit.

(2) — The City Council may specify time limits or expiration dates for a conditional use permit, including provisions for periodic review and renewal.

(e) — Application requirements for a conditional use permit are as follows:

(1) — An application for a conditional use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the zoning administrator, and shall be accompanied by the filing fee.

(2) — If the request for a conditional use permit has been denied by the City Council, a request in substantially the same form shall not be resubmitted within one year of the date of denial.

(3) — The application shall include the following information:

(A) — A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.

(B) — A written statement of the proposed use's compatibility with the following:

(i) — The comprehensive plan.

(ii) — The applicable zoning district.

(iii) — The surrounding properties.

(iv) — Current and future neighborhood conditions.

(v) — Pedestrian and vehicular traffic patterns, on-site and off-site.

(vi) — Adequate public facilities.

(vii) — When requested by the zoning administrator, the Planning and Zoning Commission or the City Council, the following information shall be provided by the applicant:

(a) — The architectural elevations and floor plans of proposed building(s).

(b) — Parking and site circulation analysis.

(c) — Photographs of the property and surrounding area.

(d) — Action by the Planning and Zoning Commission and City Council is as follows:

(1) — No conditional use permit shall be approved unless the proposal has been reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission shall conduct at least one public hearing in accordance with this article. Following the public hearing, the Planning and Zoning Commission shall prepare, and by motion adopt, its recommendations, which may include changes in the applicant's original proposal resulting from the hearing, and shall report such recommendations, together with any explanatory material, to the City Council.

(2) — Before approving a conditional use permit, the City Council shall hold at least one public hearing in accordance with this article after which the City Council may make appropriate changes to or impose appropriate conditions upon the proposed conditional use. Nothing herein shall preclude the City Council from holding a joint public hearing with the Planning and Zoning Commission.

(3) — A concurring vote of a majority of the members of City Council shall be required to approve a conditional use permit.

(e) — Extension, renewal, expiration, revocation:

(1) — Extension.

(A) — An extension shall be for the purpose of administratively extending timeframes established by the City Council for the implementation and/or completion of certain improvements which were stipulated as a condition of original conditional use permit approval. A request for extension may be initiated by the

property owner.

(B) — Upon initiation of property owner's request for extension, or upon any other initiative, the zoning administrator shall inspect the conditional use permit, review the record of compliance with those conditions and restrictions previously imposed by the City Council, and make a determination on whether the conditional use permit satisfies other conditions of approval and the provisions of this ordinance.

(C) — Upon a favorable finding, the zoning administrator shall approve an extension of the original conditional use permit for a period of time not to exceed one year or for such timeframe as may have been otherwise specified for future extension by the City Council at the time of approval of the original conditional use permit.

(D) — If it is determined that the use is not in compliance with all conditions and restrictions previously imposed by the City Council, the zoning administrator shall, depending on the nature of the noncompliance, either deny the extension or require the remedy of any violation within a specified time. If the extension is denied or the property owner fails to correct the violation within the time specified, the conditional use permit shall expire. The approval of a new conditional use permit shall be required prior to any subsequent reinstatement of the use.

(2) — Renewal.

(A) — A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid conditional use permit; provided, however, that the City Council shall not approve a renewal application for a use which is no longer allowed as a conditional use permit in the zoning district in which the conditional use permit is located.

(B) — The procedure for the renewal of a conditional use permit shall be the same as specified herein for the approval of the original permit, except that the zoning administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.

(C) — The City Council shall review the applicant's record of compliance with those conditions and restrictions previously imposed and determine if the use still satisfies the provisions of this ordinance.

(D) — Any conditional use permit that is not renewed prior to the established time shall expire without notice and become null and void.

(3) — Expiration.

(A) — Whenever a conditional use permit is approved by the City Council, the conditional use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the City Council may have specified, or, if no such time has been specified, then within two years from the approval date of such permit.

(B) — If the conditional use or construction has not commenced in accordance with the above provisions, then the conditional use permit shall automatically expire without notice and become null and void.

(4) — Revocation.

(A) — Unless a time limit is specified for a conditional use permit, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two years or more, the conditional use permit shall automatically terminate without notice and become null and void.

~~(B) — The approval of a new conditional use permit shall be required prior to any subsequent reinstatement of the use.~~

~~(C) — A conditional use permit shall be revocable upon written order of the City Council at any time because of the failure of the owner or operator of the use covered by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were imposed in issuing the same. A revoked permit shall become null and void.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 4.4 Nonconforming uses.~~

~~The purpose of this section is to regulate and limit the development and continued existence of uses, structures and lots established prior to the effective date of the ordinance from which this ordinance is derived, which do not conform to the requirements of this ordinance. Certain nonconformities may continue, but the provisions of this article are intended to curtail substantial investment in nonconformities and to bring about their eventual improvement to a conforming status or elimination in order to preserve the integrity of this ordinance and the desired character of the city.~~

- ~~(a) Conditions for continuation. Any nonconforming use, structure or lot which lawfully existed as of the effective date of the ordinance from which this ordinance is derived and which remains nonconforming, and any use, structure or lot which has become nonconforming as a result of the adoption of the ordinance from which this ordinance is derived or any subsequent reclassification of zoning districts or other amendment to this ordinance, may be continued or maintained only in accordance with the terms of this article.~~
- ~~(b) Special exceptions. The limitations of this article shall not apply to structures or lots whose nonconforming features are the subject of a special exception that has been granted by the Board of Adjustment or a modification or condition that was approved by the City Council.~~
- ~~(c) Changes, discontinuation and expansion of nonconforming uses.~~
- ~~(1) If no structural alterations are made to a nonconforming use of land or building, a nonconforming use of land or of a building may be changed to another nonconforming use of the same classification. Whenever a nonconforming use of land or buildings has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.~~
- ~~(2) Except as provided herein, a nonconforming use shall not be expanded or extended beyond the floor area or lot area it occupied on the effective date of the ordinance from which this ordinance is derived.~~
- ~~(3) If a nonconforming use is discontinued or abandoned for a continuous period of more than two years, including any period of discontinuation before the effective date of the ordinance from which this ordinance is derived, then that use shall not be renewed or reestablished and any subsequent use of the lot or structure shall conform to the regulations of this ordinance.~~

~~(Ordinance 16-0303 adopted 2/1/16; Ordinance 19-0401, att. A, sec. B, adopted 5/3/19)~~

~~ARTICLE~~

~~PLANNING AND ZONING COMMISSION AND BOARD OF ADJUSTMENT~~

~~§ 5.1 Planning and Zoning Commission composition.~~

~~(a) — A Planning and Zoning Commission shall be established in accordance with Chapter 211 of the Texas Local Government Code. § 5.5 Planning and Zoning Commission powers and duties.~~

~~(a) The Planning and Zoning Commission shall have all the rights, powers, privileges and authority authorized and granted by the City Council and through the statutes of the State of Texas authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code, as may be amended.~~

Commented [L31]:

Commented [L32]: Separate article for BOA.

(b) The Planning and Zoning Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the comprehensive plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and shall make recommendations regarding the approval of plats of subdivisions as may be submitted to it for review and other planning related matters delegated to the Planning and Zoning Commission by the City Council and shall also perform the duties and functions contained in the City's Historic Preservation Ordinance.

(e) When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Planning and Zoning Commission may, in specific cases, after written notice and public hearing, and subject to appropriate conditions and safeguards, authorize or order the following:

(1) Make recommendations to City Council for the reconstruction, extension or enlargement of a building occupied by nonconforming uses, on a lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.

(2) Make recommendations to City Council for the extension of or enlargement of a building occupied by nonconforming uses, under such conditions as the Planning and Zoning Commission may deem necessary in order to protect other property in the neighborhood, provided such extension or enlargements:

(A) Does not prevent the return of such property to a conforming use;

(B) Does not exceed 25 percent (25%) of the ground area of the existing building;

(C) Will not prevent compliance with applicable side yard requirements; and

(D) Does not allow such building to be used for any use which would normally be restricted to a more restrictive classification.

(3) Make recommendations to City Council for the discontinuance of nonconforming uses of land or structure under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance. All action to discontinue a nonconforming use of land or structure shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The board shall, from time to time, on its own motion, or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the city.

(d) Statutes of the State of Texas authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the city's corporate limits and establishing ETJ are hereby adopted. The Planning and Zoning Commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by and through said statutes and any lawfully executed agreements by the city pertaining to regulation of subdivisions in the city limits and ETJ.

(g) The Planning and Zoning Commission shall have the power to make rules, regulations and bylaws for

~~its own governance, which shall conform with those set forth by the City Council. Such rules, regulations and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for the following:~~

- ~~(1) Regular and special meetings (other than executive sessions);~~
- ~~(2) A record of its proceedings, to be open for inspection by the public;~~
- ~~(3) Reporting to the City Council regularly;~~
- ~~(4) Reviewing the comprehensive plan regularly; and~~
- ~~(5) Submitting meeting minutes to the City Council in a timely manner.~~
- (b) The Planning and Zoning Commission shall consist of **seven** members, each appointed by a simple majority vote of the City Council for a term of two years and may be removed from office by the City Council at any time by a simple majority vote of the full City Council. Planning and Zoning Commission members shall adequately fulfill all requirements as listed within the City of Johnson City Boards and Commissions Application. Planning and Zoning Commission members shall serve on a voluntary basis with no compensation.
- (c) Members of the Planning and Zoning Commission may serve simultaneously on any other city board or commission, except for the City Council or the Board of Adjustment.
- (d) Expiration of terms shall be staggered with the first Planning and Zoning Commission so that an overlapping occurs (in the first one-year period, the terms of two members shall expire during that year, and the term of three members shall expire in the second year). Members may be reappointed with no limitation on the number of terms one member may serve.
- (e) A Planning and Zoning Commission member's position is automatically considered vacant if the member is absent for:
 - (1) Three consecutive, regular meetings; or
 - (2) Four regular meetings (cumulative) during the preceding 12-month period.

Exceptions shall be granted if the member first requests and obtains a written leave of absence from the chairperson of the Planning and Zoning Commission, and absences are due to unusual circumstances beyond the member's control (such as sickness of the member or someone in the member's immediate family).

~~(f) The Planning and Zoning Commission shall appoint a chairman from among the membership of the Planning and Zoning Commission. The Planning and Zoning Commission shall elect from among its membership, a vice chairperson. The Planning and Zoning Commission may elect from among its membership a secretary. Each officer shall hold office for one year or until replaced. The Planning and Zoning Commission, at its first meeting on or after April, shall select all the positions.~~

~~(g) The Planning and Zoning Commission shall have the power to make rules, regulations and bylaws for its own governance, which shall conform with those set forth by the City Council. Such rules, regulations and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for the following:~~

- ~~(1) Regular and special meetings (other than executive sessions);~~
- ~~(2) A record of its proceedings, to be open for inspection by the public;~~
- ~~(3) Reporting to the City Council regularly;~~
- ~~(4) Reviewing the comprehensive plan regularly; and~~
- ~~(5) Submitting meeting minutes to the City Council in a timely manner.~~

~~(Ordinance 16-0303 adopted 2/1/16; Ordinance 16-0401, sec. II.B, adopted 4/5/16)~~

~~§ 5-2 Planning and Zoning Commission voting procedures.~~

~~(a) The Planning and Zoning Commission will follow the parliamentary procedure adopted by the City Council, such as Robert's Rules of Order, Newly Revised, and procedures shall not be in conflict with the laws applicable to the Planning and Zoning Commission (Refer to Chapters 171 and 211 of the Texas Local Government Code, and any applicable city ethics policies.)~~

~~(b) The Planning and Zoning Commission shall have the power to make the rules, regulations and bylaws for its own governance, consistent with state law and rules promulgated by the City Council.~~

~~(c) A quorum shall consist of a majority of members of the Planning and Zoning Commission. Motions shall carry with a simple majority vote.~~

~~(d) All Planning and Zoning Commission members, including the chairperson, shall be entitled to one vote each upon any question. Voting procedures shall be in accordance with the parliamentary procedures adopted by the Planning and Zoning Commission, with reference to Robert's Rules of Order. Refer to ordinance [chapter] 171 of the Texas Local Government Code and any applicable city ethics policies or regulations.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-3 Planning and Zoning Commission conflict of interest.~~

~~(a) A Planning and Zoning Commission member shall not vote or participate in any deliberations regarding a matter before the Planning and Zoning Commission if the member has any substantial interest in any tract within 200 feet of the property in question.~~

~~(b) The Planning and Zoning Commission member is considered to have a substantial interest if the Planning and Zoning Commission member is related within the first degree of consanguinity (blood or adoption) or affinity (marriage) to a person who has a substantial interest.~~

~~(e) In any case where the question of a member's interest is raised, the Planning and Zoning Commission chairperson shall rule on whether the member shall be disqualified.~~

~~(d) Under this section, a substantial interest exists in the following situations:~~

~~(1) The Planning and Zoning Commission member has an equitable or legal ownership interest in a tract with a fair market value of \$2,500.00 or more;~~

~~(2) The Planning and Zoning Commission member acts as a developer of the tract; or~~

~~(3) The Planning and Zoning Commission member receives in a calendar year funds exceeds [exceeding] ten percent (10%) of the Planning and Zoning Commission member's gross annual income for the previous year from a business that:~~

~~(A) Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or~~

~~(B) Acts as a developer of the tract; or~~

~~(4) The Planning and Zoning Commission member has an ownership interest in a business entity and:~~

~~(A) The business entity:~~

~~(i) Has an equitable or legal ownership interest in the tract with a fair market value of two thousand five hundred dollars (\$2,500.00); or~~

~~(ii) Acts as a developer of the tract; and~~

~~(B) The Planning and Zoning Commission member:~~

~~(i) Owns ten percent (10%) or more of the voting stock or shares;~~

~~(ii) Owns ten percent (10%) more of the fair market value; or~~

~~(iii) \$5,000.00 or more of the fair market value.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-4 Planning and Zoning Commission meetings.~~

~~(a) The Planning and Zoning Commission shall meet at City Hall or in some other specified location as may be designated by the chairperson, and at such intervals as may be necessary to orderly and properly transact the business of the Planning and Zoning Commission.~~

~~(b) The members of the Planning and Zoning Commission shall regularly attend meetings and public hearings of the Planning and Zoning Commission.~~

~~(c) Planning and Zoning Commission members shall serve without compensation, and shall not hold any other office within the city, or serve as an employee of the city while serving on the Planning and Zoning Commission.~~

~~(d) Meetings of the Planning and Zoning Commission shall be held at least once a month at the call of the chairperson or secretary, and at such other times as the Planning and Zoning Commission may determine. If there have been no applications filed for review by the Planning and Zoning Commission, the city administrator or city secretary shall notify the chairperson and no meeting shall be required for that month.~~

~~(e) Meetings shall be conducted in accordance with the Texas Open Meetings Act. Refer to Chapter 551 of the Texas Government Code.~~

~~(f) Whenever the City Council and the Planning and Zoning Commission are required by the laws of the~~

State of Texas to conduct public hearings in matters pertaining to planning, zoning or subdividing property, and at other times when it is in the best interest of the city to do so, the City Council and the Planning and Zoning Commission are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings.

(Ordinance 16-0303 adopted 2/1/16)

~~§ 5-5 Planning and Zoning Commission powers and duties.~~

- ~~(a) The Planning and Zoning Commission shall have all the rights, powers, privileges and authority authorized and granted by the City Council and through the statutes of the State of Texas authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code, as may be amended.~~
- ~~(b) The Planning and Zoning Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the comprehensive plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and shall make recommendations regarding the approval of plats of subdivisions as may be submitted to it for review and other planning related matters delegated to the Planning and Zoning Commission by the City Council and shall also perform the duties and functions contained in the City's Historic Preservation Ordinance.~~
- ~~(c) When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Planning and Zoning Commission may, in specific cases, after written notice and public hearing, and subject to appropriate conditions and safeguards, authorize or order the following:
 - ~~(1) Make recommendations to City Council for the reconstruction, extension or enlargement of a building occupied by nonconforming uses, on a lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.~~
 - ~~(2) Make recommendations to City Council for the extension of or enlargement of a building occupied by noneonforming uses, under such conditions as the Planning and Zoning Commission may deem necessary in order to protect other property in the neighborhood, provided such extension or enlargements:
 - ~~(A) Does not prevent the return of such property to a conforming use;~~
 - ~~(B) Does not exceed 25 percent (25%) of the ground area of the existing building;~~
 - ~~(C) Will not prevent compliance with applicable side yard requirements; and~~
 - ~~(D) Does not allow such building to be used for any use which would normally be restricted to a more restrictive classification.~~~~
 - ~~(3) Make recommendations to City Council for the discontinuance of noneonforming uses of land or structure under any plan whereby the full value of the structure and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance. All action to discontinue a nonconforming use of land or structure shall be taken with due regard for the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated noneonforming use and the conservation and preservation of property. The board shall, from time to time, on its own motion, or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any noneonforming use within the city.~~~~
- ~~(d) Statutes of the State of Texas authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the city's corporate limits and establishing ETJ are hereby adopted. The Planning and Zoning Commission, acting through its duly authorized officials, shall have all the rights, powers, privileges and authority authorized and granted by and through said statutes and any~~

lawfully-executed agreements by the city pertaining to regulation of subdivisions in the city limits and ETJ.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-6 Board of Adjustment creation.

There is hereby created a Board of Adjustment, sometimes referred to herein as the "BOA," for the purpose of making special exceptions to the terms of this ordinance that are consistent with the general purpose and intent of this ordinance. § 5-9 Board of Adjustment authority.

(a) The BOA shall have the authority granted under the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:

(1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance;

(2) Authorize, in specific cases, a special exception variance from the terms of this ordinance if the special exception variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done; and

(b) The concurring vote of at least 75 percent (75%, or 4 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 board is required to review under this zoning ordinance; or

(3) Authorize a special exception variance from the terms of this ordinance.

(Ordinance 16-0303 adopted 2/1/16)

(a) The City Council shall act as the BOA.

The BOA may grant special exceptions, in appropriate cases, that are subject to certain conditions and safeguards. The BOA may be composed of the members of the City Council of the City of Johnson City as authorized by Section 211.008(g) of the Texas Local Government Code, until such time as separate membership is appointed by the City Council.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-7 Board of Adjustment membership.

(a) The City Council shall act as the BOA.

(b) The City Council shall appoint a chairperson for the BOA, who shall serve a one-year term of office.

(c) The BOA shall elect a vice chairperson from among its membership who shall serve a one-year term of office.

(d) The BOA shall designate a secretary to the BOA who shall keep minutes of all meetings held by the BOA and serve a one-year term of office.

(Ordinance 16-0303 adopted 2/1/16)

~~§ 5-8 Board of Adjustment meetings.~~

- ~~(a) Meetings of the BOA shall be held at the call of the chairperson or secretary and at such other times as the BOA may determine. All meetings of the BOA shall be open to the public, except as allowed by law. All cases to be heard by the BOA shall always be heard by at least four of the members.~~
- ~~(b) When meeting as the Board of Adjustment, the BOA cannot function as the City Council. While BOA hearings may be held on the same day as City Council meetings, BOA hearings must be clearly identified as separate from City Council hearings.~~
- ~~(c) BOA meetings shall be conducted in accordance with Chapter 551 of the Texas Government Code.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-9 Board of Adjustment authority.~~

- ~~(a) The BOA shall have the authority, granted under the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:~~
 - ~~(1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance;~~
 - ~~(2) Authorize, in specific cases, a special exception variance from the terms of this ordinance if the special exception variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done; and~~
- ~~(b) The concurring vote of at least 75 percent (75%, or 4 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 board is required to review under this zoning ordinance; or~~
 - ~~(3) Authorize a special exception variance from the terms of this ordinance.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-10 Board of Adjustment conflict of interest.~~

- ~~(a) A member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any personal interest in the property in question, whether such interest is direct, indirect, financial or otherwise. In any case where the question of a member's interest is raised, the chairman shall rule on whether the member shall be disqualified.~~
- ~~(b) A BOA member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any substantial interest in any tract within 200 feet of the property in question.~~
- ~~(c) The BOA member is considered to have a substantial interest if the BOA member is related within the first degree of consanguinity (blood or adoption) or affinity (marriage) to a person who has a substantial interest.~~
- ~~(d) In any case where the question of a member's interest is raised, the BOA chairperson shall rule on whether the member shall be disqualified.~~
- ~~(e) Under this section, a substantial interest exists in the following situations:~~
 - ~~(1) The BOA member has an equitable or legal ownership interest in a tract with a fair market value of \$2,500.00 or more;~~
 - ~~(2) The BOA member acts as a developer of the tract; or~~
 - ~~(3) The BOA member receives in a calendar year funds exceeds [exceeding] ten percent (10%) of the BOA member's gross annual income for the previous year from a business that:~~
 - ~~(A) Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or~~
 - ~~(B) Acts as a developer of the tract; or~~

- (4) ~~The BOA member has an ownership interest in a business entity and:~~
- (A) ~~The business entity:~~
- (i) ~~Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or~~
 - (ii) ~~Acts as a developer of the tract; and~~
- (B) ~~The BOA member:~~
- (i) ~~Owns ten percent (10%) or more of the voting stock or shares;~~
 - (ii) ~~Owns ten percent (10%) more of the fair market value; or~~
 - (iii) ~~\$5,000.00 or more of the fair market value.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-11 Board of Adjustment authority limitations.~~

- (a) ~~The BOA may not grant a special exception authorizing a use other than those permitted in the district for which the special exception is sought, except as provided below.~~
- (b) ~~In the event that a written request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the BOA shall neither hear nor grant any special exceptions with respect to the subject property until final disposition of the zoning amendment.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-12 Special exceptions, also variances.~~

- (a) ~~There shall be a presumption against special exceptions-variances.~~
- (b) ~~The BOA may authorize a special exception from these regulations when, in its opinion, undue hardship will result from requiring strict compliance.~~
- (c) ~~In granting a special exception, the BOA may prescribe conditions that it deems necessary to preserve the public interest. Violation of any such condition, limitation or safeguard shall constitute a violation of this ordinance.~~
- (d) ~~In making the findings hereinbelow required, the BOA shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such special exception will have upon traffic conditions and upon the public health, safety, convenience and welfare of the community.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-13 Conditions for special exception.~~

- (a) ~~No special exception shall be granted without first having given public notice and having held a public hearing on the written special exception request in accordance with this ordinance.~~
- (b) ~~No special exception shall be granted unless the BOA finds that:~~
 - (1) ~~There are special circumstances or conditions affecting the land involved such that the literal enforcement of the provisions of this ordinance would deprive the applicant of the reasonable use of the land; and~~
 - (2) ~~The special exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and~~
 - (3) ~~The granting of the special exception will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and~~

Commented [L33]: Sections on special exceptions rewritten and placed in Article ____

~~(4) — The granting of the special exception constitutes a minimal departure from this ordinance; and~~

~~(5) — 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 in the vicinity of the property; and~~

~~(6) — Granting the special exception is in harmony with the spirit, general purpose, and intent of this ordinance so that:~~

~~(A) — The public health, safety and welfare may be secured; and~~

~~(B) — That substantial justice may be done.~~

~~(c) — Such findings of the BOA, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the BOA meeting at which such special exception is granted.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-14 Burden on applicant.~~

~~The applicant bears the burden of proof in establishing the facts that may justify a special exception.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-15 Special exceptions for nonconforming uses.~~

~~(a) — Upon written request of the property owner, the BOA may grant special exceptions to the provisions of Section 4-4 (Nonconforming uses), limited to the following, and in accordance with the following standards:~~

~~(1) — Expansion of a nonconforming use within an existing structure provided that, in the case of a nonconforming residential use, such expansion does not increase the number of dwelling units to more than the number existing when the use first became nonconforming; or~~

~~(2) — Expansion of the gross floor area of a nonconforming structure provided that such expansion does not decrease any existing setback; or~~

~~(3) — Change from one nonconforming use to another, reconstruction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.~~

~~(b) — In granting special exceptions to nonconforming uses, the BOA may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare. Examples of possible conditions include, but not limited to, conditions specifying the period during which the nonconforming use may continue to operate or exist before being conformed to the standards of the zoning ordinance.~~

~~(c) — The conditions for receiving a special exception listed in Section 5-13 apply to nonconforming uses.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-16 Special exception hearing procedures.~~

~~(a) — Application and fee. An application for a special exception shall be made in writing using forms prescribed by the city, and shall be accompanied by an application fee, a site plan and such additional information as may be requested in writing in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.~~

~~(b) — Administrative report by the city. The city administrator or designated city representative shall visit the site where the proposed special exception will apply and the surrounding area, and shall report findings to the BOA.~~

~~(c) — Public hearings. The BOA shall hold a public hearing for consideration of the written special exception request no later than 45 days after the date the application for action, or an appeal, is filed.~~

~~(d) — Notice. 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 provided to all property owners within 200 feet of the affected property no more than 30 nor less than 15 days prior to the public hearing. Weather resistant signs shall be erected on the property under application for the purposes of advertising the special exception request.~~

~~(1) — The signs shall be provided by the city.~~

~~(2) — Signs placed on the property involved must be within ten feet of any property line paralleling any established or proposed street, and must be visible from that street.~~

~~(3) — All required signs shall remain on the property until final disposition of the special exception request is determined.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-17 Appeals to the Board of Adjustment.~~

~~(a) — The appellant must file with the BOA and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal.~~

~~(b) — The appeal must be filed within 60 days after the decision has been rendered.~~

~~(c) — Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the BOA all papers constituting the record of action that is appealed.~~

~~(d) — An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the BOA facts supporting the official's opinion that a stay would cause imminent peril to life or property.~~

~~(e) — The appellant party may appear at the appeal hearing in person, by agent or attorney, or in absentia.~~

~~(f) — The BOA shall decide the appeal within four weeks after the written request (notice of appeal) was received, after which time the written request shall be deemed automatically approved if no formal action is taken.~~

~~(g) — The BOA may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order,~~

requirement, decision or determination.

(h) A member or members of the BOA may not bring an appeal on behalf of a property owner, other than himself/herself, to the BOA. An appeal must be requested by the owner of the property being considered.

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~§ 5-18 Judicial review.~~

~~All decisions of the BOA are final and binding. Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer, or any officer, department, or board of the city may present, within ten days of the date the BOA decision is filed in the board's office, a petition to a court of competent jurisdiction for review in accordance with Chapter 211 of the Texas Local Government Code, as amended.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~ARTICLE~~

~~VI~~

~~**PARKING REQUIREMENTS**~~

~~§ 6-1~~

~~All parking requirements shall be done in accordance with the City of Johnson City's parking ordinance and/or regulations contained within the building code.~~

~~(Ordinance 16-0303 adopted 2/1/16)~~

~~ARTICLE~~

~~VII~~

~~**LANDSCAPING REQUIREMENTS**~~

~~§ 7-1~~

~~All landscaping improvements, tree removal, and tree preservation shall be done in accordance with the City of Johnson City's landscaping and tree preservation ordinance.~~

~~(Ordinance 19-0401, att. A, secs. F, G, adopted 5/3/19) **ARTICLE VI. PARKING REGULATIONS**~~

Sec. 6-1. Purpose.

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

- (1) Eliminate occurrence of nonresident on-street parking in adjoining neighborhoods;
- (2) Avoid the traffic congestion and public safety hazards caused by a failure to provide such parking space; and
- (3) 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 Historic Overlay District 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 spaces required, the following rules shall govern:

(1) 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.

(2) Where fractional spaces result, the parking spaces required shall be construed to be the next higher whole number.

(3) 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 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.

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.

(1) 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 (2).

(2) 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.

(3) Registration of cooperative parking plan. Upon approval of the plan, a copy of such plan shall be registered with the building permit.

(4) 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.

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:

(1) 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.

(2) 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.

(3) 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.

(4) Entrances and exits. Facilities shall be provided with entrances and exits so located as to minimize traffic congestion.

(5) Prohibition of other uses. Facilities shall not be used for the repair, dismantling or servicing of any vehicle, equipment, materials or supplies.

(6) 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.

(7) 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:

(1) Types. Based on the business need there shall be two sizes of off-street truck loading spaces designated "large" and "small."

a. 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.

b. 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.

(2) Location. Off-street truck loading facilities shall be located such that:

a. Trucks will not extend into a public street while positioning to or parking at the loading dock;

b. Trucks will not block any fire lane while at the dock.

(3) Development and maintenance of off-street loading. Off-street truck loading facilities shall be constructed, maintained and operated in accordance with the following specifications:

a. 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.

b. 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.

c. Lighting. Lighting facilities shall be so arranged that they neither unreasonably disturb occupants of adjacent residential properties nor interfere with traffic.

d. Entrances and exits. Areas shall be provided with entrances and exits so located as to minimize traffic congestion.

(4) 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:

<u>Gross Floor Area in Structure (sq. ft.)</u>	<u>Minimum Number of Spaces and Type</u>
<u>0 – 15,000</u>	<u>1 small or 1 large</u>
<u>15,001 – 30,000</u>	<u>2 small or 2 large or combination</u>
<u>30,001 – 50,000</u>	<u>2 large</u>
<u>50,001 – 100,000</u>	<u>3 large</u>
<u>For each additional 50,000</u>	<u>1 large</u>

Sec. 6-7. Alternative Parking Plan.

1.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.

2.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.

3.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.

4.Review and Approval Procedure.

The City Council shall approve Alternative Parking Plans.

5. 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.

a. 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.

b. 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.

c.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.

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 67-1 Construction of Language

- (a) Words, Terms and Phrases. The following words, ~~and 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:
- (1) 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.
 - (2) In case of any difference of meaning or implication between the text of this ~~#~~Article and any caption or illustration, the text shall control.
 - (3) A building or structure includes any and all of its parts.
 - (4) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
 - (5) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
 - (6) The word "person" or "applicant" includes any individual, corporation, partnership, incorporated association, limited liability company, or any other similar entity.
 - (7) 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:
 - (i) "And" indicates that the connected items, conditions, provisions, or events apply.
 - (ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events apply singly but not in combination.

(8) 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 67-2 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 ~~or structure.~~ A subordinate building, with or without separate utilities, the use of which is incidental to and used only in conjunction with the main building, ~~structure on the same lots with, and of a size and nature customarily incidental and subordinate to, the principal structure.~~ Examples of accessory buildings include, but are not limited to, carports and garages, associated living quarters, and storage buildings. ~~structures include, but are not limited to, the following: detached garages and/or carports, storage structures and/or barns, freestanding greenhouses, pool houses, tennis courts, gazebos, and workshops.~~

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

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

Barn. — A structure intended for the purpose of storing farming and ranching related equipment or housing livestock; such a structure shall conform with the regulations of the lot, and shall conform to all construction and design standards of the district in which it is constructed. This term also includes agricultural structure(s).

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: "BOA" —The Board of Adjustment of the City. ~~The City Council of the City makes up the BOA.~~

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 ~~for persons, animals, or chattel~~, or moveable property of any kind. ~~When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.~~

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.

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. Such permitted use with conditions is that which is compatible with the land use in a zone. An example of a conditional use or special use would be an allowance of a home business such as a tax service, hair salon, or day care in a residential zone. A conditional use permit or special exception is approved and granted by the City Council, Board of Adjustment.

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, two-family, attached dwellings, multifamily dwellings and manufactured homes.

Dwelling, accessory. See associated living quarters. ~~A detached or attached residential unit, other than a manufactured home, designed for and occupied by one family only. The structure shall only be accessory to a single family dwelling.~~

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 eCity.

Family. ~~One or more persons related by blood, marriage or adoption occupying an individual dwelling unit.~~ 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 quarter.**

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/or parking, as may be required, in connection with the permitted use of the main building.

Garage (shop) An establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles; may include installation of minor automobile accessories such as car alarms, radio and stereo equipment, window tinting, pin striping, cellular telephones, and similar accessories.

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.

Garden housing. –A residential structure which is separated by a shared common wall.

Greenhouse. –A facility for the growing and commercial distribution of plant materials.

Grocery, supermarket An establishment for the display, preparation, and retail sale of foods and associated items.

Group home. –A home where a small number of unrelated mentally-ill people in need of care, support, or supervision can live together. A commercial enterprise commonly carried on within a home by a member of the occupant's family occupying the dwelling. The use of the home for commercial enterprise purposes shall be incidental and subordinate to the use of the home as a dwelling.

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, rows 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. A building or facility

in which the public may obtain sleeping accommodations in exchange for compensation for a period of less than 30 consecutive days. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, bed and breakfast, short-term rental unit, and any accommodation as described under State law.

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 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.

Micro housing—An efficient single family dwelling unit that has a minimum of 300 square feet and a maximum of 750 square feet. For the purposes of this ordinance, micro housing shall be located within planned and approved micro housing districts.

Motor freight terminal—Premises where cargo is stored and where trucks, including tractor and trailer units, load, and unload cargo on a regular basis. This definition shall also include facilities for the temporary storage of loads and cargo prior to shipment.

Multifamily dwelling—A building that contains more than two dwelling units.

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 eOrdinance because such use had been established, and has been in existence prior to and after the effective date of adoption of this eOrdinance; a land use, structure, or lot which does not conform with the regulations of this eOrdinance as a result of the adoption or amendment of this eOrdinance 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, and 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, eaves, or porches.

Outdoor storage. —The storage of large quantities of materials and/or products associated with a an industry or business. For industrial storage, Ssuch 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.

Over-sized 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.

Restaurant—A structure that prepares and serves food to customers, including sit-down, fast food, drive-through and drive-in facilities. At least 51% of the gross income shall be derived from the sale of prepared food.

Retail sales and service—A business established for the sale of goods or services to consumers, usually in small quantities as opposed to wholesale.

School—A facility that provides curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, and high schools.

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. —The minimum distance between by which any building or structure must be separated from a street right-of-way or lot line.

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

Single-family dwelling—A building that contains only one living unit.

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.

Special Exception; also, conditional use permit—A use that is not permitted by ordinance, but which may be permitted within a zoning district subject to meeting specific conditions. Such permitted use with conditions is that which is compatible with the land use in a zone. Examples include a church, school, tax service, or daycare in a residential zone. A special exception is approved and granted by the Board of Adjustment.

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, 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 ~~thoroughfare~~ 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.

~~Telecommunication tower—Radio, wireless-telephone, television, microwave, short-wave radio and/or any other tower used exclusively for communication purposes.~~

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 is it 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 Board of Adjustment. ~~— An adjustment of a specific regulation of this ordinance to a parcel of land or a structure because of an extraordinary condition or a circumstance of hardship peculiar to the parcel, and which is necessary to prevent the property from being deprived of rights and privileges enjoyed in other parcels in the same vicinity and zoning district. A variance is granted and approved by the BOA.~~

~~Warehousing~~ — The storage in an enclosed building of materials and goods. This definition also includes all office, distribution, and sales space but not motor freight terminals or railroad freight terminals.

~~Yard, front~~ — An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the front building line.

~~Yard, rear~~ — An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the rear building.

~~Yard, side~~ — An open space extending from the required front yard to the required rear yard, the width of which is the minimum horizontal distance between the side lot line and the side building line.

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, Land Use Map which outlines zones or districts within the City.

Zoning administrator — The person designated by the City Council to administer this Zoning Ordinance. ~~The Chief Administrative Officer of the City, or designee, is the person designated.~~

Zoning district — A classification applied to a certain land area within the eCity 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.

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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. The list is not exhaustive nor exclusive. Other uses not listed may be permitted provided the proposed use is related to the standards and regulations of the zoning district in which the use is to be located, and which is compatible with adjacent land uses.

Districts Legend

CD: Commercial District

~~CHD: Cottage Housing District~~

DD: Downtown Overlay District

~~GHD: Garden Housing District~~

HC: Highway Commercial Corridor District

~~H: Historic Overlay District~~

IP: Industrial Park District

MH: Manufactured Home District

~~MHD: Micro Housing District~~

MR: Mixed Residential District

PFD: Public Facilities District

~~RVP: Recreational Vehicle Park District~~

SF: Single-Family Residential District

~~SFR: Single Family Residential District - Restricted~~

Uses Legend

CUP: Conditional Use Permit / Special Exception

X: Permitted Use by Right

Blank: Non-Permitted Use / Use not permitted in that district