



ORDINANCE NO. 121-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORCHARD, TEXAS, ADDING ZONING REGULATIONS; PROVIDING FOR THE REGULATION AND ENFORCEMENT OF ZONING REGULATIONS WITHIN THE CITY; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS, ORDINANCES, RESOLUTIONS, AND/OR INFORMATION POLICIES OF THE CITY OF ORCHARD TO THE EXTENT THAT THEY ARE INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY FOR A PENALTY NOT TO EXCEED \$2,000; PROVIDING AN EFFECTIVE APRIL 8; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, the City of Orchard, Texas (the "City") is a Type C General Law municipality organized under the Constitution and the laws of the State of Texas; and

WHEREAS, the City Council wishes to adopt zoning regulations pursuant to its authority under Chapter 211 of the Texas Local Government Code; and

WHEREAS, the City Council has held a public hearing and provided notice for such hearing in accordance with Section 211.006 of the Texas Local Government Code; and

WHEREAS, the City Council has determined that adopting these regulations is in the best interest of the public health, safety and general welfare of the citizens of the City;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORCHARD, TEXAS:

Section 1. Adoption of Zoning Regulations.

The attached City of Orchard Zoning Regulations are hereby adopted, and the regulations and provisions therein stated are hereby established.

Section 2. Penalty.

Any person, corporation or entity who or which intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed \$2,000.00. Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

Section 3. Severability.

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of provision hereto other than the part declared invalid or unconstitutional; and the City Council of the City of Orchard, Texas, declares that it would passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 4. Repeal.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. Effective Date.

This ordinance shall become effective from and after the April 8, 2019 the approval and adoption as provided by law.

THE CITY OF ORCHARD ZONING REGULATIONS, 2019.

CHAPTER I. GENERAL PROVISIONS.

Section 1. Title.

This ordinance shall be known and may be cited as “City of Orchard Zoning Regulations.”

Section 2. Authority and jurisdiction.

City Council (“Council”) adopts this ordinance under the authority granted to the City of Orchard (the “City”) by the Texas Constitution and the laws of the State of Texas, including Chapter 211 of the Texas Local Government Code.

Section 3. Purpose.

This ordinance establishes zoning regulations and districts for the City in accordance with the City’s comprehensive plan, and for the purpose of promoting the health, safety, morals, and general welfare of the City, and protecting and preserving places and areas of historical, cultural and architectural importance and significance. These regulations are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks; and other public requirements. Council establishes the districts with reasonable consideration, among other things, for the character of each district, and its suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

Section 4. Relationship to other City regulations.

If any provision of these regulations imposes a higher standard than that required by any other City regulation not contained in these zoning regulations, the provisions of this ordinance control. If any provision of any City regulation not contained in these zoning regulations imposes a higher standard, that regulation imposing the higher standard controls.

Section. 5. Relationship to private restrictions.

The provisions of this ordinance do not abrogate any deed restriction, covenant, easement, or other private agreement or restriction on the use of land, provided, however, that where the provisions of this ordinance are more restrictive or impose higher standards than a private restriction, the requirements of this ordinance controls.

Section. 6. Zoning districts established.

The Council establishes five (5) district classifications as follows:

| | |
|-----|-------------------------------------|
| A | Agriculture district |
| R-1 | Residential district, single-family |
| MF | Multi-family residential district |
| GC | General commercial district |
| I | Industrial district |

The location and boundaries of these districts are shown on the official zoning map, which is incorporated into this ordinance. The official zoning map, together with all notations, references and other information shown on and all amendments to the map, shall be a part of this ordinance as is fully set forth and described in this section.

Section 7. Official zoning map.

The City Secretary shall keep the official zoning map. The City Secretary shall keep the map current by entering on such map any changes that Council may from time to time make by amendments to this ordinance. The City Secretary shall affix a certificate identifying the map in the City Secretary's office as the official zoning map of the City.

Section 8. Compliance with regulations.

Except as otherwise specifically provided:

- A. No land shall be used for a purpose except as permitted in the district in which it is located.
- B. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.
- C. No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.
- D. No building shall be erected or structurally altered to the extent specifically provided in this ordinance except in conformity with the off-street parking and loading regulations of the district in which such building is located.
- E. Every building erected or structurally altered after the effective date April 8, 2019 of this ordinance shall be located on a lot and, except as otherwise provided, there shall not be more than one main building on one lot.

Section 9. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any districts as shown on the zoning map, the following rules shall apply:

- A. District boundaries approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, shall be construed to be such boundaries.
- B. District boundaries approximately following lot lines shall be construed to be such boundaries.
- C. District boundaries approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines of highways shall be construed as being parallel thereto and at such distance as indicated on the zoning map. If no specific distance is given, the dimension shall be determined by the use of the scale on the zoning map.
- D. For unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- E. In the case of a district boundary line dividing a property into two parts, the district boundary line shall be construed to be the property line nearest the district line as shown.
- F. Whenever any street, alley or other public way is vacated by official action of the Council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then be subject to all regulations of the extended districts.
- G. Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.
- H. The Building Official shall make interpretations as necessary under this section.

Section 10. Violations and penalties.

- A. A person commits an offense if the person violates any provision or requirement of these zoning regulations.
- B. If a building or other structure is altered, constructed, converted, erected, maintained, reconstructed, or repaired, or if a building, land or structure is used in violation of this ordinance, then the City attorney may institute appropriate action to:

- (1) prevent the unlawful alteration, construction, conversion, erection, maintenance, reconstruction, repair or use;
 - (2) abate, correct or restrain the violation;
 - (3) prevent the occupancy of the building, land or structure; or
 - (4) prevent any illegal act, business, conduct, or use on or about the premises.
- C. Any person who shall violate any of the provisions of this ordinance or who shall fail to comply with this ordinance, or with any of the requirements of this ordinance, or who shall erect or alter any building, or who shall commence to erect or alter any building in violation of any detailed statement or plan submitted or approved under this ordinance, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor. The owner of that building or premises or part where anything in violation of this ordinance shall be placed or shall exist, and any architect, building contractor, agent or corporation employed in connection with the building or premises who may have assisted in the commission of any such violation shall each be guilty of a separate offense and upon conviction shall be subject to the penalties provided in this section.
- D. A violation of this ordinance is a misdemeanor, and may be punished by a fine up to \$2000 per day for each violation.

Sections 11-17. Reserved.

CHAPTER II. DEFINITIONS.

Section 18. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The term "lot" includes the word "plot," and the term "used for" includes the meaning "designed for" or "intended for."

Abandonment. The cessation or discontinuance of a use or activity without the intent to resume.

Access Street. A public or private street within or bounding a duplex, multi-family residential, townhouse, or patio home subdivision which serves a duplex, multi-family residential, townhouse, or patio home subdivision and other adjacent property.

Accessory building or use. A building or use which:

- (a) is subordinate to and serves a principal building or principal use;
- (b) is subordinate in area, extent, or purpose to the principal building or principal use served;
- (c) contributes to the comfort, convenience, and necessity of occupants of the principal building or principal use served;
- (d) is located on the same building lot as the principal building or principal use served.

Alley. A public or private thoroughfare that affords only a secondary means of access to abutting property.

Amusement redemption machines. A recreational machine that provides the user with an opportunity to receive something of value other than a right to replay and in which credits, or the equivalent thereof, are accumulated when: a particular configuration of like symbols is displayed in a random fashion by the machine; symbols or numbers are matched to a randomly selected symbol or number determined by the machine; a combination or cards is arrived at and valued in a traditional hierarchy for purposes of poker; or a combination of cards is arrived at and points assigned for purposes of blackjack.

Apartment. A room or suite of rooms in a multiple dwelling, or in a building in which more than one living unit is established above or on the same floor as nonresidential uses, which room or suite is intended, or designed for use as a residence by one family and which includes culinary accommodations.

Area of the lot. The area of the lot shall be the net area of the lot and shall not include portions of public or private streets or alleys.

Boardinghouse. A building, other than a hotel, where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons but not exceeding twenty (20) persons.

Build. To erect, convert, enlarge, reconstruct, or alter a building or structure.

Building. Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind.

Building line. A line parallel or approximately parallel to the street line and beyond which buildings may not be erected.

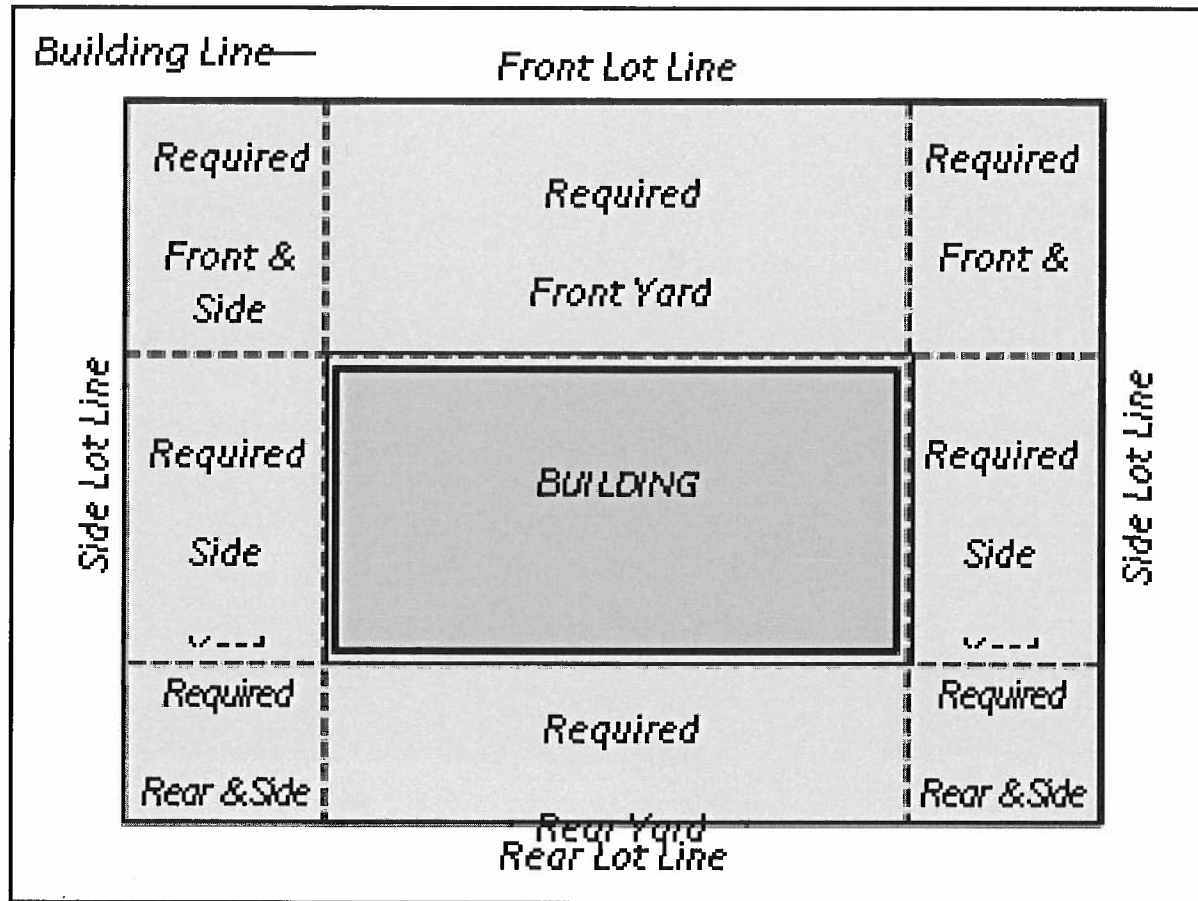


Illustration 45-2:

Building lot. A tract of land that, at the time of filing for a building permit, is intended by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control, and that fronts upon a dedicated street or recorded easement.

Building official. The official of the City appointed by the Council as such, and whose duties include the administration and enforcement of these zoning regulations.

Building setback. The area between a lot line and the respective setback line, which shall remain unobstructed by buildings or structures from the ground to the sky, except as may be specifically permitted by other provisions of these regulations.

Certificate of occupancy. A certificate issued by the City for the use of a building, structure, or land, when it is determined by it that such building, structure or land complies with the provisions of all applicable City codes, ordinances, and regulations.

Commercial use. An occupation, employment, or enterprise carried on for profit by an owner, lessee, or licensee.

Curb line. The back or yard side of the curb. If no curb exists then the center of the drainage ditch between the roadway and the property shall be considered the curb line.

Density. The relationship of dwelling units or rooms to the area of the lot or tract upon which a residential structure is located or erected.

Detached. A building that does not have a wall in common or in contact with another building.

District. A zoning district that is a part of the City wherein the regulations of this ordinance are uniform.

Dust-free surface. A covering for driveways and parking spaces that is dust free and not adversely affected by inclement weather.

Dwelling. Any building or portion thereof that is designed for or used for residential purposes.

Dwelling, multifamily. A building designed for or occupied exclusively by three (3) or more families.

Dwelling, single-family. A building designed for or occupied exclusively by one (1) family.

Dwelling, duplex. A building designed for or occupied exclusively by two (2) families.

Dwelling unit. One or more rooms, which are arranged, designed, used or intended to be used for occupancy by a single family or a group of persons living together as a family or by a single person. Bathrooms and kitchen facilities, permanently installed, are required in each dwelling unit.

Family. A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities: (1) any number of people related by blood, marriage, adoption, guardianship, or duly authorized custodial relationship; (2) two unrelated people; (3) two unrelated people and any children related to either of them; (4) not more than eight people who are: (a) residents of a "Family Home" or "Family Group Home" as defined by State law; or (b) "handicapped" as defined in the Federal Fair Housing Act. This definition does not include persons currently illegally using or addicted to a "controlled substance." Family does not include any society, club, fraternity, sorority, association, lodge combine, federation, or like organization, any group of individuals whose association is temporary or seasonable in nature, or any group of individuals who are in a group living arrangement as a result of criminal offenses.

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

Height of a building or structure. The vertical distance from the average ground level abutting a building or structure to the highest point of the coping of a flat roof, the deck line of a mansard roof, or the average height of the highest gable of a pitched or hipped roof. Height, where not regulated in feet, shall be regulated in stories, which shall equal twelve feet (12') for purposes of measuring structures. The height of structures within the Federal Emergency Management Agency's (FEMA's) 100-year flood plain shall be measured from the 100-year flood elevation, as certified by a licensed professional engineer or professional land surveyor.

Home occupation. A business that is operated in a residential dwelling unit by a person(s) who resides in the dwelling unit, but occupies less than twenty percent (20%) of the floor space of the dwelling unit, and is an accessory use to the main use of the structure as a residential dwelling unit.

Hotel. A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boardinghouse, a lodging house or an apartment.

HUD-code manufactured home. A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development (HUD). The term does not include a recreational vehicle as defined by 24 C.F.R. 3282.8(g).

Loading space. A space within the main building or on the same lot with the main building, providing for the standing, loading or unloading of trucks, and having a minimum dimension of twelve (12) by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

Lot. A parcel of land occupied or intended for occupancy by a use permitted in this ordinance, including one main building together with its accessory buildings, with the open spaces and parking spaces required by this ordinance, and having its principal frontage upon a street or recorded easement.

Lot area. The area of a horizontal plane intercepted by the vertical projections of the front, side and rear lot lines of a building lot.

Lot, corner. A building lot situated at the intersection of two streets, the interior angle of such intersection not to exceed one hundred thirty-five (135) degrees.

Lot depth. The mean horizontal distance between the front lot line and the rear lot line of a building lot measured within the lot boundary.

Lot line, front. The boundary of a building lot that is parallel to the line of an existing or dedicated street. Upon corner lots, either street line may be selected as the front lot line provided front and rear and which side constitutes the physical address yards are established adjacent and opposite, respectively, to the front lot line.

Lot line, rear. The boundary of a building lot that is most distant from and is, or is most nearly, parallel to the front lot line.

Lot line, side. Any boundary of a building lot that is not a front lot line or a rear lot line.

Lot, though. A building lot where both the front and rear lot lines adjoin street lines. On a through lot, both street lines shall be deemed front lot lines.

Manufactured home. A HUD-code manufactured home, built after 1976 and registered by the State of Texas.

Manufactured Home Park. Any tract or plot of land upon which two or more manufactured homes are located, regardless of whether or not a charge is made for accommodation.

Mobile home. A structure built before June 15, 1976, on a chassis and designed to be used as a dwelling.

Nonconforming use. Any use within a district that is not specifically permitted by the use regulations of the district in which it is located.

Nonconforming use, building or yard. A use, building or yard, existing legally upon the adoption of this ordinance which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Official Zoning District Map. The zoning map adopted by this ordinance, as amended, which defines zoning districts and designations in accordance with the zoning district classifications established within these zoning regulations.

Open space. Private property under common ownership designated for recreation area, private parks, play lot area, plaza area, or ornamental area open to general view and within the subdivision. Open space does not include streets, alleys, utility easements, and required building setbacks.

Open storage. The storage of any equipment, machinery, commodities, raw or semi-finished materials and building materials that is visible from any point on the building lot line when viewed from ground level to six feet (6') above ground level.

Parking space, off-street. An area of not less than one hundred eighty (180) square feet measuring approximately nine feet (9') by twenty feet (20'), not on a public street or alley, surfaced with an all-weather surface, enclosed or unenclosed. A public street shall not be classified as off-street parking in computing the parking requirements for any use, nor shall head-in parking adjacent to a public street and dependent upon such street for maneuvering space.

Patio home. A structure that is a series of dwelling units designed for single-family occupancy, which are constructed on lots that shall have a minimum area of five thousand five hundred (5,500) square feet and that have a zero offset on one (1) side of the lot. A patio home shall not include a mobile home, manufactured housing and/or travel trailer.

Recreational vehicle. A motorized vehicle that is built on a single chassis and designed primarily as temporary living quarters for recreational, camping, travel or seasonal use and is designed to travel under its own power without the need for any additional outside source to push, pull or tow the recreational vehicle. The recreational vehicle is designed to have fixed wheels and axles connected to the frame of the recreational vehicle. For the purpose of definitions only, the term recreational vehicle shall include travel trailer.

School, private. An institution of learning whose primary purpose is to provide a general education, owned and operated by an entity other than a governmental agency.

School, public. An institution of learning owned and operated by a governmental agency, including an independent school district.

Setback. The required minimum horizontal distance between the building line and the front, side, corner or rear property line. Required setback dimensions shall be measured from the property line to the outside wall of the structure, not to include normal eave projections of thirty inches (30") or less.

Sexually oriented business. (a) a sex parlor, nude studio, modeling studio, love parlor, adult video arcade, adult movie arcade, adult cabaret, or similar enterprise, which engages in the business of offering a service or selling, renting, or exhibiting devices or any other item designed or intended to provide sexual stimulation or sexual gratification to the customer; (b) any business enterprise whose business includes exhibiting live performances that are intended to provide sexual stimulation or gratification to the consumer, regardless of whether exhibiting such performances is its primary business; or (c) an adult bookstore, adult movie theater, adult theater, adult video store, adult motel, or other enterprise, the primary business of which is offering of a service or the selling, renting, or exhibiting of devices or any other items designed or intended to provide sexual stimulation or sexual gratification to the customer. The term "sexually oriented business" shall not be construed to include (1) a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held; or (2) a

business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

Story. The portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Street. A public or private thoroughfare that affords the principal means of access to abutting property.

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

Structural alteration. Any change in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Structure. Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including but not limited to buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.

Townhouse, row house or condominium. A structure which is one (1) of a series of dwelling units designed for single-family occupancy, which are connected and or immediately adjacent to each other and which may have common elements. However, a townhouse or row house shall not include a mobile home, manufactured housing and/or travel trailer.

Use. The purpose or activity for which the land, or buildings on the land, is designed, arranged or intended or for which it is occupied or maintained.

Yard. An open space on the same building lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the zoning district in which such building is located.

Yard, required front. A yard extending along the front lot line between the side lot lines, the depth of which is measured from the front lot line and the dimension of which is in accordance with the front yard requirement for the district in which it is located.

Yard, required rear. A yard extending along the rear lot line between the side lot lines, the depth of which is measured from the rear lot line and the dimensions of which is in accordance with the rear yard requirements for the district in which it is located.

Yard, required side. A yard extending along the side lot line between the front and rear yards, the width of which is measured from the side lot line and the dimension of which is in accordance with the side yard requirements for the district in which it is located.

Sections 19-27.

Reserved.

CHAPTER III. USE REGULATIONS. Section 28. Land use table.

| | A | R-1 | MF | GC | I |
|--|---|-----|----|----|---|
| <i>Agriculture Uses</i> | | | | | |
| Livestock facilities | P | X | X | X | X |
| Veterinary clinic | X | X | X | C | X |
| <i>Residential Uses</i> | | | | | |
| Accessory building | P | P | P | P | P |
| Apartment | X | X | P | C | X |
| Child care | X | X | C | C | X |
| Church | X | C | C | C | X |
| Condominium | X | X | P | C | X |
| Dwelling, single-family | X | P | P | P | X |
| Dwelling, duplex | X | X | P | C | X |
| Dwelling, multifamily | X | X | P | C | X |
| Home occupation | X | P | P | P | X |
| Patio Home | X | C | P | C | X |
| Schools – public/private | X | C | C | C | X |
| Townhouse | X | C | P | C | X |
| <i>Commercial Uses</i> | | | | | |
| Auto Repair | X | X | X | C | X |
| Auto Part Sales | X | X | X | C | X |
| Auto/Vehicle Sales | X | X | X | C | X |
| Auto Service Station | X | X | X | C | X |
| Auto Wash | X | X | X | C | X |
| Bowling Alley | X | X | X | C | X |
| Cinema | X | X | X | C | X |
| Game room | X | X | X | C | X |
| General Office | X | X | X | C | X |
| General Retail | X | X | X | C | X |
| Hospital | X | X | X | C | X |
| Hotel/Motel | X | X | X | C | X |
| Medical/Dental Clinic | X | X | X | C | X |
| Nursing Home Assisted Living | X | X | C | C | X |
| Public Assembly | X | C | P | C | C |
| Restaurant/cafeteria | X | X | X | C | X |
| <i>Industrial Uses</i> | | | | | |
| Funeral Home | X | X | X | C | X |
| Oil and gas operation | X | X | X | C | X |
| Truck stop | X | X | X | C | X |
| Wholesale, Warehousing, and Distribution | X | X | X | C | X |

Section 29. Unlisted uses.

If an application is received for a use that is not specifically listed by right or subject to a special exception or use permit, then the Building Official shall forward the request to the Council, who shall consider and make a determination as to whether this ordinance should be amended to include that use.

Section 30. Nonconformities.

- A. Within the districts established by this ordinance there exist lots, structures, uses of land and structures, and characteristics of use that were lawful before this ordinance was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not conform to the regulations of the district in which they are located. It is the intent of this section to permit such nonconforming uses and structures to continue, under regulations contained in this section, until they are removed, but not to encourage their survival. Nonconforming uses and structures are declared to be incompatible with the permitted uses in the districts involved.
- B. Nonconforming uses and structures shall not be enlarged upon, expanded or extended, nor be used as a basis for adding other structures or uses prohibited elsewhere in the same district. Except as provided in this section, no nonconforming use of land or buildings nor any nonconforming structure shall be enlarged, changed, altered, or repaired except in conformity with the regulations contained in this section.
- C. The lawful use of land existing on April 8, 2019, although it does not conform to the provisions in this ordinance, may be continued until termination is required in accordance with the provisions of this section. During the period between designation as a nonconforming land use activity and notification of a prescribed termination date, if discontinuance occurs, any future use of the premises must be in conformity with the general provisions of this ordinance.
- D. A legal nonconforming use, when discontinued or abandoned, cannot be resumed. Prima facie evidence of discontinuance or abandonment is as follows:
 - (1) When land associated with a legal nonconforming use ceases to be used in such a manner for a period of one hundred eighty (180) consecutive days.
 - (2) When a structure associated with a nonconforming use ceases to be used in such a manner for a period of one hundred eighty (180) consecutive days.
- E. It shall be the responsibility of the owner, operator or occupant to provide proof that a nonconforming structure or use of land or building existed prior to the effective date April 8, 2019 of any applicable regulation.

- F. A nonconforming use or structure may not be substituted for any other nonconforming use or structure. Only the exact type of nonconforming use which existed on the property on the effective date April 8, 2019 of any applicable regulation, or uses permitted by right, or approved conditional uses may be substituted for nonconforming uses or structures.
- G. A nonconforming use or structure may not be extended or enlarged and a nonconforming use of land may not be enlarged or increased to occupy a greater area of land than was occupied at the time the site achieved nonconforming status.
- H. Nonconforming status is inherent in the property or use. The sale or lease of a legally nonconforming parcel of property or structure shall in no way limit the use of that property or structure for its legally nonconforming use or activity; however, all other provisions of this section and this ordinance shall apply.

Sections 31-39. Reserved.

CHAPTER IV. DISTRICT DESCRIPTIONS AND REGULATIONS.

Section 40. Agriculture District (A).

- A. Agriculture (A) District Description. The agriculture (A) district is primarily intended for undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes. The types of uses, and intensity of uses permitted in this district encourage and protect agricultural uses until development / urbanization is warranted and the appropriate change in district classification is made. This district is also intended to protect areas that may be unsuitable for development due to physical problems, lack of infrastructure, space constraints, or potential health or safety hazards such as flooding, as well as providing for preservation or natural open space areas.
- B. Agriculture (A) District Area Regulations.
 - (1) Size of yards.
 - (a) Front yard. In the agriculture (A) district, there shall be a front yard having a depth of not less than forty feet (40'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (b) Side yard. There shall be a side yard on each side of the lot having a width of not less than forty feet (40').
 - (c) Rear yard. There shall be a rear yard having a depth of not less than forty feet (40').

- (2) Size of lot.
 - (a) Lot area. The minimum lot size shall not be less than one (1) acre in size.
 - (b) Lot width. The width of a lot shall not be less than one hundred fifty feet (150').
 - (c) Lot depth. The average depth of the lot shall not be less than three hundred feet (300').

Section 41. Residential District, Single-Family (R-1).

- A. Residential District (R-1) Description. The R-1 district is primarily intended for single-family detached dwellings, townhouses, and patio homes that provide the basic elements of a balanced and attractive neighborhood. These areas are intended to be separated and protected from the encroachment of land use activities which do not perform a function necessary to sustain the residential environment, internal stability, attractiveness, order, efficiency and security. The maintenance of property values is encouraged through the provision of adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of various land use elements.
- B. Detached Dwelling Regulations.
 - (1) Size of yards.
 - (a) Front yard. In the R-1 district, there shall be a front yard having a depth of not less than twenty-five feet (25'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - (b) Side yard. There shall be a side yard on each side of the lot having a width of not less than ten feet (10'). A side yard adjacent to a side street shall not be less than fifteen feet (15'). On a corner lot, each yard fronting a street shall have a yard adjacent to the street not less than twenty-five feet (25').
 - (c) Rear yard. There shall be a rear yard having a depth of not less than twenty feet (20').
 - (2) Size of lot.
 - (a) Lot area. No building to be used as a single-family dwelling shall be constructed on any lot of less than 7,500 square feet.
 - (b) Lot width. The width of a lot for a single-family dwelling shall not be less than seventy-five (75) feet.
 - (c) Lot depth. The average depth of the lot shall not be less than one hundred (100) feet, except that a corner lot for use of a one-family dwelling having a minimum width of not less than seventy-five (75) feet may have an average depth of less than one hundred (100) feet provided that the minimum depth is no less than eighty-eight (88) feet.

(3) Size of buildings.

No building shall be less than 1,000 square feet in area in this zoning district; Provided, however, an accessory structure may be less than 1,000 square feet when constructed, erected or placed on a lot that already contains a building 1,000 square feet in area or larger.

Section 42. Multi-Family District (MF).

A. Multi-Family District (MF) Description. The MF district is primarily intended for various types of residential development including single-family dwellings, and also multi-family dwellings such as duplexes, apartments, and condominiums and related religious, educational and recreational facilities that provide the basic elements of a balanced and attractive neighborhood. These areas should serve as a buffer between retail/commercial development or heavy automobile traffic, and medium to low density residential development.

B. Apartment Area Regulations.

(1) Size of yards.

(a) Front yard. In the MF district for apartments, there shall be a front yard having a depth of not less than twenty-five feet (25'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.

(b) Side yard. There shall be a side yard on each side of the lot having a width of not less than five feet (5'). A side yard adjacent to a side street shall not be less than fifteen feet (15').

(c) Rear yard. There shall be a rear yard having a depth of not less than fifteen feet (15').

(2) Size of lot.

(a) Lot area. No building to be used as an apartment shall be constructed on any lot of less than nine thousand six hundred (9,600) square feet.

(b) Lot width. The width of a lot for an apartment shall not be less than eighty feet (80').

(c) Lot depth. The average depth of the lot shall not be less than one hundred twenty feet (120').

- (3) Development regulations.
- (a) Maximum height. No building or structure shall exceed three (3) stories or forty feet (40') in height.
 - (b) Maximum density – land. There shall be no more than twenty (20) dwelling units per net platted acre. The net platted acreage shall be the total platted acreage of the plat, less any acreage occupied by:
 - (i). Lakes or ponds (non-recreational);
 - (ii). Irrigation or drainage canals;
 - (iii). Public uses; or
 - (iv). Utility easements.
 - (c) Maximum density – structure. There shall be no more than ten (10) dwelling units per building and no dwelling unit structure shall exceed two hundred feet (200') in length.
 - (d) Building spacing. The minimum spacing between apartment buildings shall be fifteen feet (15').
 - (e) Screening. In the event that this apartment complex abuts or is adjacent to a residential, commercial, or industrial development, a screening device shall be placed along the abutting or adjoining property lines. Such a screening device shall be at least six feet (6') in height.
- (4) Open Space.
- (a) Except as otherwise provided in this section, each multi-family residential development shall provide open space in accordance with the following schedule:

| Dwelling Unit Size | SF of Open Space required per dwelling unit |
|---------------------------|--|
| Efficiency | 200 |
| One bedroom | 240 |
| Two bedroom | 320 |
| Three bedroom | 440 |
| Four bedroom | 500 |

- (b) In lieu of the requirements of subsection (1), a multi-family residential development may provide for open space by complying with each of the following conditions:
 - (i). At least ten percent (10%) of the total land area in the multi-family residential development, exclusive of the land within the building line requirement area, shall be provided as open space;
 - (ii). Enclosed amenities, such as an exercise or game room, shall constitute no more than ten percent (10%) of the open space provided;
 - (iii). Each area provided as open space is at least twenty feet

- (20') wide by sixty feet (60') long; and
- (iv). The development plat provides for the constructions of sidewalks that are a minimum of five feet (5') in width within the right-of-way of each street that is adjacent to the development.

C. Duplex Area Regulations.

- (1) Size of yards.
- (a) Front yard. In the MF district for duplexes, there shall be a front yard having a depth of not less than twenty-five feet (25'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
- (b) Side yard. There shall be a side yard on each side of the lot having a width of not less than five feet (5'). A side yard adjacent to a side street shall not be less than fifteen feet (15').
- (c) Rear yard. There shall be a rear yard having a depth of not less than ten feet (10').
- (2) Size of lot.
- (a) Lot area. No building to be used as a duplex shall be constructed on any lot of less than nine thousand six hundred (9,600) square feet.
- (b) Lot width. The width of a lot for a duplex shall not be less than eighty feet (80').
- (c) Lot depth. The average depth of the lot shall not be less than one hundred twenty feet (120').
- (3) Development regulations.
- (a) Maximum density – land. In a duplex development, there shall be no more than ten (10) dwelling units per gross platted acre including all roadways.
- (b) Building spacing and common driveways. Where a duplex structure is situated to face a common access area rather than upon a public or private street, the minimum dimension between structures facing said common access area shall be forty feet (40'). Common driveways shall have a paved width of at least eighteen feet (18').

D. Townhouse Area Regulations.

- (1) Size of yards.
- (a) Front yard. In the R-1 District for townhouses, there shall be a front yard having a depth of not less than twenty-five feet (25'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both

- streets.
- (b) Side yard. A side yard adjacent to an access street or plat boundary shall not be less than ten feet (10'). A side yard adjacent to a side street shall not be less than fifteen feet (15').
 - (c) Rear yard. There shall be a rear yard having a depth of not less than twenty feet (20').
- (2) **Size of lot.**
- (a) Lot area. No building to be used as a townhouse dwelling shall be constructed on any lot of less than three thousand five hundred (3,500) square feet.
 - (b) Lot width. The width of a lot for a townhouse dwelling shall not be less than thirty-five feet (35').
 - (c) Lot depth. The average depth of the lot shall not be less than one hundred feet (100').
- (4) **Common Area and Open Space.**
- (a) Where townhouse lots and dwellings are designed to face upon an open or common access court rather than upon a public street, such open or common court shall be at least forty feet (40') wide and not more than two hundred feet (200') long, measured from the public street upon which the court must open. Such court may not include vehicular drives or parking area in front of dwelling units.
 - (b) Lot size may be reduced under the provisions that open space be dedicated according to the following schedule: For everyone one hundred (100) square feet of open space per lot, provided the minimum lot area may be reduced by two hundred (200) square feet, no lot shall, however, have a lot area less than three thousand five hundred (3,500) square feet and a width of less than thirty-five (35') feet.

| Open Space per dwelling | Minimum lot area (sf) |
|--------------------------------|------------------------------|
| 0 | 3,500 |
| 100 | 3,500 |
| 200 | 3,500 |
| 250 | 3,500 |

E. Patio Home Area Regulations.

- (1) **Size of yards.**
- (a) Front yard. In the R-1 district for patio homes, there shall be a front yard having a depth of not less than twenty-five feet (25'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both

streets.

- (b) Side yard. Dwelling units shall be constructed with a zero lot line clearance on one (1) side of the lot.
 - (i). Ten feet (10') must be maintained between sides of any two (2) dwelling units placed on adjacent lots.
 - (ii). Deed restrictions for zero lot line clearance must provide a ten-foot (10') easement to owner whose dwelling unit is on the property line for maintenance purposes.
 - (iii). Doors shall not be installed in sides with zero lot line clearance.
 - (iv). Deed restrictions must provide that: "No autos, trucks, boats, campers, other trailers, or vehicles of any kind shall ever be left parked on the grass or yard except as provided for in paved off-street parking spaces and then only as temporary parking incident to the contemporaneous use of such vehicle or object, nor shall same be left parked on any lot unless parked inside a garage."
- (c) Rear yard. There shall be a rear yard having a depth of not less than ten feet (10').
 - (i). Size of lot.
 - (a) Lot area. No building to be used as a patio home dwelling shall be constructed on any lot of less than five thousand five hundred (5,500) square feet.
 - (b) Lot width. The width of a lot for a patio home dwelling shall not be less than fifty-five feet (55').
 - (c) Lot depth. The average depth of the lot shall not be less than one hundred feet (100').

F. Condominium Area Regulations.

[Same as Townhomes]

Section 43. General Commercial District (GC).

- A. General Commercial District (GC) Description. The general commercial (GC) district is designed to accommodate offices and retail activities located in the City. The front yard setback, site access and site design requirements associated with this district are intended to reduce the impact of the heavy vehicular traffic so often present in this district. Screening and buffering standards are incorporated to reduce the negative impact of this district's land uses on abutting residential neighborhoods.
- B. General Commercial (GC) Area Regulations.
 - (1) Size of yards.

- (a) Front yard. In the General Commercial district, there shall be a required front yard having a depth of not less than twenty-five feet (25').
 - (i). Where all property frontages on both sides of a street between two intersecting streets are located in the HC district, the required front yard is reduced to ten feet (10').
 - (b) Side yards. A five foot (5') side yard is required. A side yard of not less than ten feet (10') in width shall be provided on the side of the lot adjoining a residential district. A side yard adjacent to a side street shall not be less than fifteen feet (15').
 - (c) Rear yards. A five foot (5') rear yard is required, except that a rear yard of not less than ten feet (10') in width shall be provided upon that portion of a lot abutting or across a rear street from a residential district, except that such yard requirement shall not apply where the property in the residential district also backs up to the rear street.
- (2) Size of lot.
- (a) Lot area. No building to be used for commercial purposes shall be constructed on any lot of less than twelve thousand (12,000) square feet.
 - (b) Lot width. The width of a lot shall not be less than one hundred feet (100').
 - (c) Lot depth. The average depth of the lot shall not be less than one hundred twenty feet (120').
- (3) Development regulations.
- (a) Maximum height. No building or structure shall exceed three (3) stories or forty feet (40') in height.
 - (b) Lot coverage. The maximum lot coverage for a commercial lot, including the main building, parking area, and accessory buildings shall not exceed seventy percent (70%).
 - (c) Size of buildings. No building shall be less than 1,000 square feet in area in this zoning district; Provided, however, an accessory structure may be less than 1,000 square feet when constructed, erected or placed on a lot that already contains a building 1,000 square feet in area or larger.

Section 44. Industrial District (I).

- C. Industrial District (I) Description. The industrial (I) district is designed to accommodate general industrial activities located in the City. The front yard setback, site access and site design requirements associated with this district are intended to reduce the impact of the heavy vehicular traffic so often present in this district. Screening and buffering standards are incorporated to reduce the negative impact of this district's land uses on abutting uses.
- D. Industrial (I) Area Regulations.
 - (1) Size of yards. [same as general commercial]
 - (2) Size of lot. [same as general commercial]
 - (3) Development regulations. [same as general commercial]

CHAPTER V. REGULATIONS APPLICABLE TO MULTIPLE DISTRICTS.

Section 45. Conditional use permits.

- A. *Purpose.* A Conditional Land Use will only be authorized if a conditional use permit is obtained. A conditional use permit is intended to provide a location for limited uses which may be appropriate in certain Districts with additional conditions of development. It is designed to protect adjacent residential neighborhoods from encroachment of incompatible commercial, office, and other non-residential activities, and to promote the development of vacant, bypassed lots in harmony with adjacent land uses and the surrounding environment. It is not designed to allow uses other than permitted uses in established District.
- B. *Effect.* A conditional use permit, when approved by council, must be adopted by ordinance, and will allow only the specific use applied for. Changes to the type or intensity of use approved by the ordinance shall require a new application and completion of the procedures outlined in this section.
- C. *Application and procedure.* An application for a use allowed by conditional use permit is required.
 - 1. An application form shall be submitted to the building official, meeting, at a minimum, the following standards, and showing all existing or planned improvements as required in this section.
 - 2. When the building official has certified that the application is complete, he shall forward the application to the zoning commission for recommendation to city council for its review and action.
- D. *Application contents .* Administrative information shall be provided on the form established by the city. The city may charge a fee for the processing of the application, as may be established by city council. A site plan and relevant supporting documents are required showing the following:
 - 1. Location of property.
 - 2. Area and building regulations and standards. All code references are to this Appendix A, Code of Ordinances, unless specifically noted.
 - a. Minimum lot standards required. In accordance with all R-1 or R-2 district regulations in section 27(c).
 - b. Height of structures. In accordance with all R-1 district regulations in section 27(b).
 - c. Maximum area (footprint) restrictions for buildings and non-permeable surfaces in section 27(c)(3).
 - d. Screening and landscaping. Property abutting a residential district shall be screened and landscaped to protect residential uses from light and noise by

installation of a wood or masonry fence and landscaping sufficient to provide a predominantly opaque buffer. All fencing, screening, and landscaping shall be in accordance with the R-1 district regulations in section 27(c)(4). If not prescribed by section 27(c)(4), all CUP property shall conform with section 30.

- e. Parking. All uses shall provide adequate space on site to provide for parking, loading, and maneuvering of vehicles in accordance with city regulations for the use being requested. Parking shall be designed and located:
 - i. To not disturb abutting residential land uses. If parking is located adjacent to residential land uses, additional landscaping, masonry fencing, or a combination thereof shall be installed for screening; and
 - f. The use will provide adequate ingress and egress to minimize traffic congestion in the public streets, as shown by a reasonable estimated trip generation factor submitted with the application.
 - g. Lighting on the site shall be located and shielded so as not to cast light over property lines. Lighting in the rear yard or on the rear of the building for properties located adjacent to residential uses shall be by motion detector or other timed mechanism.
 - h. Building elevations shall be submitted. Design of the structure shall mimic a residential appearance commensurate with other such structures within the city.
 - i. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- E. *Consideration of application.* The building official shall review the application, and forward the complete application, with his comments, if any, to the zoning commission. The zoning commission shall hold a public hearing and make a recommendation on the application. Upon receipt of the recommendation from the zoning commission, council shall place the item on the next meeting agenda for consideration, subject to notice provisions. The zoning commission and council may hold a joint public hearing, with the zoning commission issuing its recommendation prior to council action.
- 1. Council shall consider the following:
 - a. Whether the proposed use is in conformance with the comprehensive plan;
 - b. Whether the structure is designed to have the appearance of a single family home similar to adjacent developments within the City;
 - c. The nature and condition of all adjacent uses and structures and possible impacts of the proposed conditional use on them, as well as the general public health, safety and welfare and to ensure that:
 - i. The use is not detrimental to the existing character of the development in the immediate neighborhood, and will not endanger the public health, safety or general welfare.

- ii. The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted by right in the R-1 district.
- iii. The zoning commission may recommend, and city council may impose reasonable conditions and limitations in granting an approval as are determined to be necessary to fulfill the spirit and purpose of the zoning code and to protect adjacent properties.
- d. The city council may approve, approve with conditions, or disapprove an application for a conditional use permit. Compliance with any conditions shall be required prior to the issuance of a certificate of occupancy.

Section 46. Accessory buildings.

An accessory building not exceeding a height of twenty feet (20') and not exceeding one thousand (1,000) square feet in area may occupy the same lot as an existing building and shall not be closer than twenty feet (20') to the main building and must adhere to the requirements of side and rear yard requirements per the designated zoning district. Accessory buildings may not be placed within buffer areas. An accessory building may not be placed nearer the front building line than the principal building or structure.

Section 47. Child care.

(1) Licensing.

All child care facilities, including home occupations, are required to obtain the appropriate licensing through the Texas Department of Family and Protective Services.

(2) Allowed Number of Children.

The number of allowed children within a commercial child care operation is dependent upon the Texas Department of Family and Protective Services requirements for child care facilities and the facilities available at the subject site.

(3) Home Occupation.

- (a) Child care may be conducted within a single-family residence if the number of children cared for is six (6) or less, they are under the age of 14, and not of common parentage, for care apart from their natural parents, legal guardians or custodians.
- (b) Services will not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school.

Section 48. Home occupations.

Home occupations permitted in any district shall be subject to the following standards:

- A. The residential dwelling unit shall not be modified in appearance.
- B. No more than one (1) person who does not reside in the residence may be

employed by the business.

- C. The use is limited to office or service businesses, and may not involve vehicle service or repair or a bed and breakfast.
- D. The business shall be operated in accordance with all applicable laws and permitting requirements.
- E. The business shall be owned and operated by a person who resides in the dwelling unit.
- F. The business activity shall not occupy more than twenty percent (20%) of the gross floor area of the principal residential building.
- G. All business operations and storage shall be contained within the residential building.
- H. No display of merchandise shall be visible from the exterior.
- I. Signage for the home occupation shall be limited to a single, one (1) square foot sign, non-illuminated, non-electrical, and affixed to the front façade of the home.
- J. The home occupation shall not create or cause any perceptible noise, odor, smoke, electrical interference, or vibrations that constitute a public nuisance.

Section 50. Buffers and Screening Regulations.

- A. Buffer area requirement.
 - (1) When it is determined that a zoning district abuts a less intense zoning district along a mutual side or rear property line or when only separated by an alley, the yard requirements shall be greater than the minimum requirements set forth in Chapter IV, above. The purpose of the buffer is to help mitigate noise, lighting, and other possible adverse impacts.
 - (2) No development shall be authorized within the buffer area except for landscaping and required screening.
 - (3) The buffer area shall be required on the property with the higher intensity zoning district and shall be observed at the time of construction.
 - (4) The depth of the side and rear buffer yard lines shall be in accordance with the following:
 - (a) Fifty feet (50') in the Industrial district when siding or backing onto GC, MF, or R-1.

- (b) Twenty-five feet (25') in the Commercial district when siding or backing onto MF or R-1.
- (c) Fifteen feet (15') in the Multi-family district when backing onto R-1.
- (d) Twenty-five feet (25') for all nonresidential districts backing or siding to a lot containing a single-family residence located in the Agriculture district.

B. Screening.

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

(1) Screening Between Different Land Uses.

- (a) A commercial or industrial land use adjacent to a residential district shall provide screening along the shared parcel boundary line.
- (b) Screening shall be composed of a combination of dense, opaque plant material and a wall of solid masonry material, or other similar sturdy, opaque material that will not rot, or be subject to holes or other damage that would compromise the protection of the residential use, provided, however, that metal fencing shall not be permitted.
- (c) All fences and screening must be maintained by the property owner and kept in good repair, and replaced or replanted as necessary.
- (d) Fencing shall be eight feet (8') in height.
- (e) A landscaping strip with a minimum width of ten feet (10') shall be planted with plant materials on the industrial side, and shall be designed to provide opaque coverage to minimize the heat reflection and absorption, as well as to provide a visual softening of the masonry construction.
- (f) Colors, materials, and architectural style of the screening wall shall be architecturally compatible with other on-site development, but shall, at a minimum, be of masonry or privacy-type wood.
- (g) Openings or pedestrian connections may be required in the solid wall at the discretion of the Building Official, provided such openings are reflected on existing plats.
- (h) Fences between single family uses may not exceed eight feet (8') in height, and may be constructed with commonly accepted fencing material, including masonry, wood, pickets, split beam, or chain link.
- (i) The use of electrical fencing is prohibited except for agricultural uses. Concertina or razor wire is also prohibited.
- (j) All fences shall be constructed on the property lines.

- (2) Fencing and Screening for Specific Uses.
 - (a) Outdoor equipment, storage and work areas.
 - (i). Nonresidential outdoor uses and equipment adjacent to a residential use shall be completely and opaquely fenced, with a securely closing gate. This section does not apply to agricultural equipment or uses.
 - (b) Swimming pools, spas, and other water features shall be fenced in accordance with the Building Code.
 - (c) Mechanical equipment, loading docks, refuse areas.
 - (i). Roof or ground mounted mechanical equipment, loading dock areas, and refuse areas shall be obscured from view from an adjacent public right-of-way and residential areas by opaque screening.
- (3) Prohibited Materials.
 - (a) Unless required by federal or state law, the following materials are prohibited:
 - (i). Razor or concertina wire.
 - (ii). Chain link fencing within a front or side street setback.
 - (iii). Barbed wire, except upon approval of the Building Official and where required for animal control.
 - (iv). Electrified fencing.

Section 51. Access and Off-Street Parking Regulations.

The purpose of the regulations in this section is to promote the public health, safety and general welfare of the City's residents and motorists. These regulations are designed to promote safe access to City streets, reduce road accidents, to protect public investment in streets, to establish a safe and reasonable balance between street access and traffic mobility, and to assure safe and convenient access to and circulation of emergency and service vehicles within developments. Further, they establish minimum design standards for access and parking lots and minimum requirements for off-street parking.

A. Minimum required parking spaces.

Off-street parking spaces shall be provided on dust-free, hard surfaces, in accordance with the City's specifications provided by the City engineer, in such numbers as necessary to accommodate regular traffic, including disabled parking spaces. In addition, all parking areas shall be designed and constructed for adequate drainage to the street or natural drainage ways.

| Minimum required parking | |
|---------------------------------|--------------------------|
| <i>Agriculture Uses</i> | |
| Livestock facilities | 1 space per employee |
| Veterinary clinic | 1 space per 250sf of GLA |

| | |
|------------------------------|--|
| Residential Uses | |
| Child care | Commercial: 1 space per 6 pupils + 1 space per 2 staff members Home occupation: no additional spaces if employees include only owner and 1 staff member; otherwise, 1 space per 2 staff members |
| Church | 1 space per 4 seats |
| Condominium | 2 spaces per dwelling unit |
| Dwelling, single-family | 2 spaces per dwelling |
| Dwelling, duplex | 2 space per dwelling unit |
| Dwelling, multifamily | Efficiency – 1.5 spaces per unit One bedroom – 1.5 spaces per unit Two bedroom – 2 spaces per unit Three or more bedrooms – 2.5 spaces per unit + 10% additional of total spaces for guest parking |
| Patio Home | 2 spaces per dwelling |
| Schools – public/private | Elementary – 1 space per 20 students Middle school – 1 space per 15 students High school – 1 space per 3 students |
| Townhouse | 2 spaces per dwelling |
| Commercial Uses | |
| Auto Repair | 3 spaces per 1,000sf of office area + 4 space per each bay or 1 space per 600sf of other GLA |
| Auto Part Sales | 3 spaces per 1,000sf of office area + 4 space per each bay or 1 space per 600sf of other GLA |
| Auto/Vehicle Sales | For showroom/office: 4 spaces per 1,000sf For outside lot: 1 space per 800sf Minimum spaces required: 8 spaces |
| Auto Service Station | 2 spaces per BAY? + 2 stacking spaces per pump |
| Auto Wash | 10 spaces |
| Bowling Alley | 5 space per lane |
| Cinema | 1 space per 4 seats |
| Game room | X |
| General Office | 5 spaces per 1,000sf of GLA |
| General Retail | 5 spaces per 1,000sf of GLA |
| Hospital | 1 space per bed |
| Hotel/Motel | 1 space per room |
| Medical/Dental Clinic | 6 spaces per 1,000sf of GLA |
| Nursing Home/Assisted Living | 1 space per 3 beds |
| Public Assembly | Without fixed seating: 1 space per 45sf With fixed seating: 1 space per 4 seats Without fixed seating for elementary children: 1 space per 650sf |
| Restaurant/cafeteria | Dining bar area: 1 space per 25sf Dining room: 6 spaces per 1,000sf of GLA |

| | |
|--|---|
| Funeral Home | 1 space per 3 seats |
| Light manufacturing | 1 space per 500sf of GLA |
| Oil and gas operation | X |
| Truck stop | 1 space per 250sf of GLA + 2 stacking spaces per pump |
| Wholesale, Warehousing, Distribution | and 1 space per 1,500sf of GLA |

- (1) Disabled parking spaces shall be provided as required by state and federal law, and shall be in addition to the required parking outlined above.
- (2) GLA is the “gross leasable floor area”.
- (3) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
- (4) For uses not mentioned above or for which the category of use is uncertain the Building Official shall determine the most appropriate equivalent from the preceding table.
- (5) Whenever a building or use constructed or established after the effective date April 8, 2019 of this ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date April 8, 2019 of this ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth in this division.
- (6) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

B. Location of driveways and parking areas.

- (1) Nonresidential parking areas shall be designed to not allow backing of vehicles into a public street.
- (2) Driveways shall be located and designed with respect to both the public street and the on-site circulation to provide maximum safety and to minimize interference with street traffic.
- (3) Access to TxDOT facilities shall comply with all TxDOT standards.

- (4) All parking spaces required in this division shall be located on the same lot with the building or use served, except as follows:
 - (a) 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 (2) or more buildings or establishments, the required spaces may be located not to exceed three hundred feet (300') from an institutional building served and not to exceed five hundred feet (500') from any other nonresidential building served.
 - (b) Off-site, shared parking may be allowed for not more than fifty percent (50%) of the parking spaces required for:
 - (i) Theaters, bowling alleys, dancehalls, nightclubs or cafes, and not more than eighty percent (80%) of the parking spaces required for a church or school auditorium may be credited for use by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in subsection 2a.
 - (c) For any applicant seeking approval for shared parking, a written agreement ensuring their retention for such purposes shall be prepared and executed by all parties seeking approval and allowing the use of their property, approved by the City attorney, and the agreement shall be filed with the application for a building permit.

C. Parking space dimensions.

- (1) Dimensions of Parking Spaces. Minimum dimensions for off-street parking shall be as follows:

| Parking space dimension standards | | | | |
|-----------------------------------|-------------|--------------|-------------------|---------|
| Parking Angle | Stall Width | Stall Length | Maneuvering Space | |
| | | | One-way | Two-way |
| 0 ° | 9ft | 24ft | 12ft | 20ft |
| 45 ° | 9ft | 16ft | 18ft | 20ft |
| 60 ° | 9ft | 17ft | 20ft | 22ft |
| 90 ° | 9ft | 20ft | - | 23ft |

- (2) All striping for parking stalls shall be a minimum of four inches (4") wide of white safety traffic paint designated for such use. All other markings required to designate crosswalks, directional arrows, fire lanes, handicap spaces, or service areas shall be in compliance with the Texas Manual on Uniform Traffic Control Devices.
- (3) When off-street parking facilities are located adjacent to a public alley, the width of the alley may be included in the calculation of the maneuvering

space requirement.

- (4) Where off-street parking facilities are provided in excess of the minimum amounts specified in this section, or when off-street parking facilities are provided but not required by this ordinance, the off-street parking facilities shall comply with the minimum requirements for parking and maneuvering space specified in this section.

D. Loading areas.

- (1) Every building or part of a building erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary or any other use similarly involving the receipt or distribution by vehicles of materials or merchandise shall provide and maintain on the same premises loading space in accordance with the following requirements:
 - (a) In district C, one (1) loading space for each ten thousand (10,000) square feet or fraction of floor area in the building.
 - (b) In district I, one (1) loading space for the first five thousand (5,000) to fifteen thousand (15,000) square feet, or fraction, of floor area in excess of fifteen thousand (15,000) square feet.
 - (c) Each required loading space shall have a minimum size of ten feet (10') by twenty-five feet (25').

Sections 53-54.

Reserved.

CHAPTER VI. PERFORMANCE STANDARDS.

Section 55. Certificates of Occupancy.

A. Certificates of Occupancy Required.

- (1) Certificates of occupancy shall be required for any of the following:
 - (a) Occupancy and use of a building erected or structurally altered after APRIL 8, 2019.
 - (b) Change in use of an existing building to a use of a different classification.
 - (c) Occupancy and use of vacant land, except agricultural use.
 - (d) Change in the use of land to a use of a different classification.
 - (e) Any change in the use of a conforming use.
- (2) No such occupancy, use or change of use shall take place until a certificate of occupancy shall have been issued by the code enforcement officer.

B. Procedure for New or Altered Buildings.

Written application for a certificate of occupancy for a new building or for an existing building proposed to be altered shall be made at the same time as the application for the building permit for such building. The certificate shall be issued within three (3) days after a written request has been made to the code enforcement officer or his agent after the erection or alteration of such building or part has been completed in conformity with the provisions of this ordinance.

C. Procedure for Vacant Land or a Change in Use.

Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use shall be made to the code enforcement officer. If the proposed use is in conformity with the provisions of this ordinance, the certificate of occupancy shall be issued within three days (3) after the application has been made.

D. Contents.

Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the code enforcement officer or his agent, and copies shall be furnished on request to any person having proprietary or tenancy interests in the building or land affected.

E. Temporary Certificate.

Pending the issuance of a regular certificate, the code enforcement officer may issue a temporary certificate of occupancy for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a

building pending its completion. Such temporary certificates shall not be construed in any way as altering the respective rights, duties or obligations of the owners or the City relating to the use or occupancy of the premises or any other matter covered by this ordinance.

F. Certificates for Nonconforming Uses.

A certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of this ordinance. Application for such certificate of occupancy for a nonconforming use shall be filed with the code enforcement officer by the owner or lessee of the building or land occupied by such nonconforming use within one year of the effective date April 8, 2019 of this ordinance. It shall be the duty of the code enforcement officer to issue a certificate of occupancy for a lawful nonconforming use, but failure to apply for such certificate of occupancy for a nonconforming use or refusal of the code enforcement officer to issue a certificate of occupancy for such nonconforming use shall be evidence that the nonconforming use was either illegal or did not lawfully exist at the effective date April 8, 2019 of this ordinance.

Sections 56-69. Reserved.

CHAPTER VII. ZONING ADMINISTRATION.

Section 70. Responsibilities.

The City's decision-making bodies and officials described in this ordinance, without limitation upon the authority each possesses by law, have the responsibility for implementing and administering this ordinance in the manner described in this ordinance or allowed by law.

Section 71. Council.

The Council shall have the powers and duties to amend the zoning regulations of the City, in accordance with State Law, including but not limited to the power to initiate, on behalf of the City, any amendment in the zoning classification of any land within the City; and the power to hear and decide on recommendations of the commission, after receipt of a final report, for applications related to rezoning requests and text amendments.

Section 72 Commission.

- A. The Council shall serve as the zoning commission ("Commission"). *Texas Local Government Code § 211.007(e).*
- B. The commission (or "Commission") shall be responsible for the following:
 - (1) Hearing testimony on behalf of applicants and consider the facts, findings, and recommendation of the Building Official;
 - (2) Considering the interests of the public related to the public health, safety, morals and general welfare;
 - (3) Identifying the appropriateness of requested map and text amendments

- considering conformance with the adopted zoning regulations, official zoning district map, and land use policies; and
- (4) Making recommendations to the Council, in the form of a final report, related to approval or denial of an application.

Section 73. Building Official (zoning official).

- A. The Council shall appoint a Building Official, who shall act as the zoning official and whose duties and responsibilities shall include, but are not limited to:
 - (1) Accepting and process all submitted applications for specific use permits, text amendments to the zoning regulations, and amendments to the official zoning district map;
 - (2) Preparing comments for review by the commission, Council, and the Board;
 - (3) Represent the City at all public hearings;
 - (4) Maintaining all records, minutes, and the official zoning district map, related to the enforcement and procedures of this ordinance; and
 - (5) Serving as the enforcement officer to ensure compliance with this ordinance; and Perform other duties as necessary and appropriate to uphold the provisions of this ordinance.
- B. In the absence of the Building Official, the Mayor shall act as the Building Official.

Section 74. Zoning Board of Adjustment.

- A. The Mayor with approval of City Council shall appoint five (5) citizens to the Board of Adjustment. Each member of the Board shall serve a two (2) year term from September 1st of each even numbered year to August 31st of the next even numbered year. The Council may remove a Board member for cause on a written charge after hearing. A vacancy on the Board shall be filled for the unexpired term.
- B. The Mayor with approval of Council may, from time to time, appoint alternate Board members to serve in the absence of one or more Board members when requested by the Board or its chairman.
- C. The Board shall adopt rules of operation and shall keep a record of its resolutions, transactions, findings and determinations, which shall become items of public record. Attendance and participation by three-fourths (3/4) of the members of the Board is required for the transaction of business.
- D. The Board may subpoena witnesses, administer oaths, and punish witnesses for contempt, and may require the production of documents, in accordance with its rules of procedure.

- E. The Board shall have the authority provided by state law to hear appeals, decide special exceptions, authorize variances and hear and decide other matters authorized by an ordinance of the City adopted under Subchapter A, Chapter 211 of the Local Government Code.

Section 75. Rezoning.

The Council may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations established in this ordinance.

A. Application for zoning text or map amendment.

An application for an amendment to the text of this ordinance or the official zoning district map may be initiated by the Council or by a landowner filing a complete application with the Building Official. A complete application for amendment of the text of this ordinance or the official zoning district map shall be submitted to the Building Official in a form established by the City. No application shall be processed until the established fee has been paid and the application has been deemed complete by the Building Official. No application or fee shall be required when the amendment is proposed by the Council.

If a landowner application for a zoning change is not submitted by the owner of the property under consideration, a notarized letter from the landowner authorizing said applicant to act as the agent on behalf of the landowner is required. A landowner application shall include, but is not limited to, the following information:

- a. Name, address, and telephone number of applicant(s), owner(s), and agent(s);
- b. A statement of the reasons why the amendment is being requested;
- c. Legal description of the property that is the subject of the proposed amendment;
- d. Filing fee, as established by the Council; and
- e. Other information or documentation necessary to process the application, as required by the Building Official, Commission, and/or Council.

B. Submission to Commission.

Before taking action on any proposed amendment, supplement or change to a district boundary or regulation, the Council shall submit the proposed revision to the commission for its recommendation and report. The commission shall hold a public hearing on all proposed changes in zoning regulations or district boundaries. The City Secretary shall send written notice of public hearings to all owners of real property lying within two hundred (200) feet of the property on which a change in district boundaries is proposed and to such other persons entitled to notice by Chapter 211, Local Government Code. After the public hearings, the commission shall adopt a final report regarding the change in zoning

regulations or district boundaries. The final report shall be submitted. Each such recommendation made by the commission shall be reported to the Council, in writing, and the applicant notified of the action of the commission.

C. Council Public Hearing.

Following receipt of the commission's report, a public hearing shall be held by the Council before adopting any proposed amendment, supplement or change to the zoning regulations or district boundaries. Notice of such hearing shall be given by publication one time in a paper of general circulation in the City, stating the time and place of such hearing, which time shall not be earlier than sixteen (16) days from the first date of publication.

D. Protest-Super-Majority Vote by Council Required.

A favorable vote of three-fourths (3/4) of all members of the Council is required for a zoning change to be effective if a protest is signed by the owners of twenty percent (20%) or more of either:

- (1) the area of the lots or land included in such proposed change; or
- (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending two hundred feet (200') in all directions.

E. Fees for Requesting a Change in Zoning.

An application requesting an amendment, supplement, change or modification of this ordinance, including the zoning map, which requires the sending of notices or the publication of notices in the newspaper, shall deposit with the City Secretary an amount of money estimated by the code enforcement officer to be sufficient to mail and publish all notices required by law. A fee, as established by Council, and on file in the City Secretary's office shall be charged such applicant.

Section 76. Vested Rights and Review Procedure.

- A. This ordinance is not intended to abrogate or annul any permit issued by the City before the effective date of April 8, 2019 this ordinance. Nothing in this ordinance nor in any amendments to this ordinance which change district boundaries shall require any change in the plans, construction or designated use of a building that is completed in its entirety within two (2) years from April 8, 2019, provided such building was authorized by a permit issued by the City prior to April 8, 2019.
- B. Vested rights in land use upon annexation shall be governed by Texas Local Government Code, Section 43.002, as amended.
- C. Permit, Plan or Planned Development Validity & Lapse. Any building permit or plan approved by the Council or the Building Official shall be deemed expired two (2) years from the date on which the permit or plan was originally approved by the Council or Building Official if no progress has been made toward

completion of the project. "Progress" shall mean:

- (1) Plans for construction and an application for a building permit for at least one (1) of the buildings on the approved Building Permit Plan are submitted within two (2) years following approval of the Building Permit Plan;
- (2) A good-faith attempt is made to file with the City an application for a permit necessary to begin or continue towards 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 which the project is located;
- (4) Fiscal security is posted with the City to ensure performance of an obligation required by the City; or
- (5) Utility connection fees or impact fees for the project have been paid to the City. If at least one of the items listed above is not accomplished within the two-year period, then the permit or plan shall expire and shall become null and void.

D. Extension & Reinstatement Procedure: Prior to the lapse of approval for a permit or plan, the applicant may petition the City (in writing) to extend the permit or plan. The petition shall be recommended for approval or denial by the Commission, and shall be granted approval or denial by the Council. If no petition is submitted, then the permit or plan shall be deemed to have expired and shall become null and void.

E. Vested Rights Request.

Any property owner who believes that he has obtained a vested right under Chapter 245 shall submit to the City Secretary a letter explaining the factual and legal bases upon which the property owner relies regarding the particular vested right and, consequently, is exempt or not subject to a particular City order, regulation, ordinance, rule, expiration date, or other properly adopted requirement (hereinafter referred to collectively as "regulations"). Such written submission shall include, at a minimum, the following:

- (1) the name, mailing address, phone number and fax number of the property owner (or the property owner's duly authorized agent);
- (2) identification of the property for which the property owner claims a vested right;
- (3) identification of the "project," as that term is defined in Section 245.001(3), Local Government Code;
- (4) identification of the original application for the first permit in the series of permits required for the project, as described in Sections 245.00(1) and

- 245.002(a) and (b), Local Government Code;
- (5) the date that the first permit in the series of permits required for the project was filed with the City;
 - (6) a chronology of the history of the project, with special emphasis on facts establishing that the project was in progress on or commenced after September 1, 1997, (Section 245.003);
 - (7) identification of all City regulations in effect at the time the original application for the permit was filed that:
 - (a) the owner contends are vested; and
 - (b) the owner contends controls the approval, disapproval, or conditional approval of an application for a permit, pursuant to Section 245.002(a) and (b).
 - (8) identification of all City regulations that the property owner contends do not apply to the project due to the vested rights provided the property owner by Chapter 245.

If a property owner contends that certain City regulations do not apply to the project, the property owner is expected to identify, with particularity, all requirements that the property owner contends do not apply. Global references to a particular ordinance, or set of criteria, may be deemed insufficient and the City may consider the request for a vested rights determination to be incomplete and, hence, not subject to a staff determination at that time.

F. Vested Rights Determination.

The City Secretary shall promptly forward the owner's vested rights request, along with any supporting information or documentation provided along with the request, to the Building Official and City Attorney for their respective reviews. The Building Official, after consultation with the City Attorney, shall issue a final administrative determination of whether a vested right exists in relation to the project, and shall identify, with particularity, all claims for vested rights exists in relation to the project, and shall identify, with particularity, all claims for vested rights that have been granted and all claims for vested rights that have been denied. Prior to rendering his final determination, the Building Official may request a pre-determination conference with the owner to discuss the owner's vested rights claim and to ensure that the nature of the claim is fully and completely understood by the Building Official prior to a final determination being rendered.

G. Appeals to the Board.

If the property owner or Council believes that the Building Official's vested rights determination is in error, the property owner or Council shall have the right to appeal such determination to the Board, which will have jurisdiction to hear and decide the appeal pursuant to this ordinance and Chapter 211, Local Government Code. The property owner may also request the Board to grant a variance from

the regulations at issue under the same standards governing variances for other matters, as set forth in this ordinance and/or Chapter 211, Local Government Code.

H. Binding Determination.

The Building Official's final determination shall be immediately filed in the City's files related to the project and the determination shall be binding upon the City and the property owner for the duration of the project, unless timely appealed to the Board. Any decision by the Board regarding a vested right claim shall be filed in the City's files related to the project and the determination shall be considered binding upon the City and the property owner for the duration of the project, unless timely appealed to an appropriate court of jurisdiction. Notwithstanding the binding nature of the Building Official's final determination and any ruling by the Board, the Council and the property owner may, at any time, enter into a development agreement that, to the extent authorized by law, modifies the final determination and the applicable development regulations to be applied to the project.

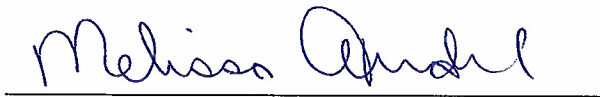
PASSED and APPROVED this 8th day of April, 2019.



Rod Pavlock

Mayor, city of Orchard, Texas

ATTEST:



Melissa Andel

City Secretary, City of Orchard, Texas

