

ORDINANCE NO. 05-1205-M

AN ORDINANCE DESIGNATING CERTAIN AREAS OF THE CITY OF AURORA AS APPROPRIATE FOR THE USE OF MANUFACTURED HOUSING FOR DWELLING PURPOSES; PROHIBITING NEW INSTALLATION OF MOBILE HOMES WITHIN THE CITY; IDENTIFYING AND PROHIBITING EXPANSION OF NONCONFORMING USES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Aurora is a Type A general-law municipality located in located in Wise County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City has previously adopted an ordinance creating a Planning and Zoning Commission to aid in the exercise of powers set forth in Chapters 211 and 212 of the Texas Local Government Code; and

WHEREAS, the City is in the process of developing a comprehensive plan to guide the City's development and to promote the health, safety, and welfare of its citizens; and

WHEREAS, the Planning and Zoning Commission is currently developing a proposed zoning ordinance for the City, including initial boundaries for zoning districts and the regulations that will apply within those boundaries; and

WHEREAS, the Planning and Zoning Commission and the City Council have identified certain areas within the City that are appropriate locations for manufactured housing to be used for dwelling purposes, in conformance with the proposed comprehensive plan and zoning regulations; and

WHEREAS, the Texas Manufactured Housing Standards Act, Chapter 1201 of the Texas Occupations Code, allows a municipality to regulate the location of manufactured housing, and to prohibit the installation of mobile homes; and

WHEREAS, in order to promote the public health and safety of the citizens of Aurora, the City Council deems it necessary to identify nonconforming uses and structures; restrict the enlargement, expansion, or extension of a nonconforming use or structure; and provide for the amortization of such uses and structures; and

WHEREAS, public hearings have been held by the Planning and Zoning Commission and the City Council with respect to the regulations contained in this ordinance, and all requirements of state law with regard to notice, publication, or other procedural requirements have been complied with.

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

**SECTION 1.
STATE LAW DEFINITIONS ADOPTED**

For purposes of this ordinance, the definitions established by Section 1201.003 of the Texas Occupations Code, as it is amended from time to time, shall apply and are incorporated herein. At the time of adoption of this ordinance, the following definitions are established by state law:

"HUD-code manufactured home"

- (A) means a structure:
 - (i) constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;
 - (ii) built on a permanent chassis;
 - (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;
 - (iv) transportable in one or more sections; and
 - (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet;
- (B) includes the plumbing, heating, air conditioning, and electrical systems of the home; and
- (C) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

"Manufactured home" or "manufactured housing" means a HUD-code manufactured home or a mobile home.

"Mobile home":

- (A) means a structure:
 - (i) constructed before June 15, 1976;
 - (ii) built on a permanent chassis;
 - (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;
 - (iv) transportable in one or more sections; and

- (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and
- (B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

SECTION 2. MANUFACTURED HOUSING DISTRICT ESTABLISHED

For the purposes of this ordinance, certain areas of the City of Aurora are hereby designated as the Manufactured Housing District, as set forth on the Manufactured Housing District Map, attached hereto as Exhibit A and incorporated herein.

SECTION 3. LOCATION OF MANUFACTURED HOUSING

Except as provided in Section 4, regarding nonconforming uses:

- (a) All manufactured housing in the City of Aurora shall be located within the Manufactured Housing District, and the location or use of manufactured housing outside of the Manufactured Housing District is prohibited;
- (b) Manufactured housing shall be used only as a dwelling, and for no other purposes; and
- (c) The use of a mobile home for any purpose is hereafter prohibited.

SECTION 4. NONCONFORMING USES

- (a) **INTENT** Following the passage of this ordinance, there may exist manufactured housing in areas of the City not designated as Manufactured Housing District or used for non-dwelling purposes, lawful before this ordinance was passed, but which would be prohibited under the terms of this ordinance. It is the intent of this ordinance to permit these nonconformities to continue (whether by the same or different owners or tenants) until they are removed, but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in those areas of the City. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere within the same district. A nonconforming use of a structure or land shall not be extended or enlarged after passage of this ordinance by the addition of uses of a nature which would be prohibited generally.
- (b) **NONCONFORMING MOBILE HOMES OR HUD-CODE MANUFACTURED HOMES USED AS DWELLING**
 - (1) The use of a mobile home or HUD-Code manufactured home previously legally permitted and occupied as a residential dwelling, which no longer conforms to the requirements of this ordinance shall be nonconforming, and may be continued only in accordance with this section. A

mobile home occupied for residential use may be replaced with a HUD-Code manufactured home, in compliance with all applicable development requirements. A HUD-Code manufactured home may not be replaced, but the City Council shall have the authority to permit the expansion of an HUD-Code manufactured home, not to exceed twenty five percent (25%) of the existing floor area.

- (2) No nonconforming manufactured housing use or structure shall be enlarged, increased, extended, or moved to another portion of the lot or parcel on which it is located.
- (3) Discontinuance or Abandonment
 - (a) A nonconforming use, when discontinued or abandoned, shall not be resumed and any further use shall be in conformity with the provisions of this ordinance. Discontinuance or abandonment shall be defined as follows:
 - (1) When land used for a nonconforming use shall cease to be used in a bona fide manner for the nonconforming use for six (6) consecutive months or for a total of eighteen (18) months during any three (3) year period.
 - (2) When a structure designed or arranged for a nonconforming use shall cease to be used in a bona fide manner as a nonconforming use for a period of six (6) consecutive calendar months or for a total of eighteen (18) months during any three (3) year period.
 - (3) When a structure designed or arranged for a conforming use shall cease to be used in a bona fide manner as a nonconforming use for a period of three (3) consecutive calendar months.
 - (4) When land or a structure used only on a seasonal basis is not used in a bona fide manner as a nonconforming use during such season.
 - (b) Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if the nonconforming use was dilapidated, substandard, or was not maintained in a suitable condition for occupancy during the above time periods.
- (4) Destruction of Nonconforming Use
 - (a) If a nonconforming structure or a structure occupied by a nonconforming use is destroyed by fire, the elements or otherwise, it may not be reconstructed or rebuilt except to

- conform with the provisions of this ordinance unless the destruction amounts to less than fifty percent (50%) of its fair market value at the time of destruction.
- (b) Where an individual structure or structures are destroyed by more than fifty percent (50%), upon submission by the owner of sufficient evidence to prove that the destruction amounts to less than fifty percent (50%) of the total value of the entire nonconforming use and that the destroyed structure or structures constituted an integral part of the nonconforming use, without which the nonconforming use cannot be profitably operated, the City may permit the reconstruction of such destroyed structure or structures under conditions which reasonably allow the owner to recoup his original investment.
 - (c) If the owner of a nonconforming use fails to begin reconstruction of the destroyed structure (when permitted to do so by the terms of this ordinance) within six (6) months of the date of destruction or approval by the City, the nonconforming structure or use shall be deemed to be discontinued or abandoned as provided above.

SECTION 5. PERMIT FEES

A permit shall be required for any manufactured home within the City of Aurora Texas. (If you own land and manufactured home) \$50.00 (if you do not own land and manufactured home) \$125.00. All other fees are outlined in the adopted schedule of fees for the City of Aurora Texas.

The City of Aurora Texas prohibits anyone from occupying a manufactured home until all inspections have passed and a certificate of occupancy has been issued.

SECTION 6. CUMULATIVE CLAUSE

This ordinance shall be cumulative of all provisions of ordinances of the City of Aurora, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 7. SEVERABILITY CLAUSE

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

SECTION 8. PENALTY FOR VIOLATIONS

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 9. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED ON THIS 5 DAY OF DECEMBER, 2005.

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

City Attorney