



# Zoning Ordinance

Protecting the Quality of Life for all who choose to live or visit, Aurora, Texas.

Adopted by the Aurora City Council: July 3, 2007

# ZONING ORDINANCE

Protecting the Quality of Life for all who choose to live or visit, Aurora, Texas.

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**CITY OF AURORA, TEXAS  
ORDINANCE NO. O-06-0403Z**

**AN ORDINANCE OF THE CITY OF AURORA, TEXAS, ADOPTING A COMPREHENSIVE ZONING PLAN AND ZONING MAP AND DIVIDING THE CITY INTO SEVERAL DISTRICTS; ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS AND CREATING ZONING DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; WITHIN SUCH DISTRICTS REGULATING THE USE OF LAND, BUILDINGS AND STRUCTURES; REGULATING THE HEIGHT, SIZE, AND LOCATIONS OF BUILDINGS; ESTABLISHING DENSITY, OPEN SPACE, SCREENING, AND MINIMUM OFF-STREET PARKING REQUIREMENTS; REGULATING THE ERECTION, REPAIR, AND ALTERATION OF ALL BUILDINGS AND STRUCTURES; PROVIDING FOR SPECIFIC USE PERMITS FOR CERTAIN USES; RECOGNIZING NONCONFORMING USES AND STRUCTURES AND PROVIDING RULES FOR THE REGULATION THEREOF; PROVIDING FOR CERTIFICATES OF OCCUPANCY AND COMPLIANCE; DEFINING CERTAIN TERMS; PROVIDING A METHOD OF AMENDMENT; PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE AND FOR INJUNCTIVE RELIEF TO PERSONS AFFECTED BY THE VIOLATION OF SAID ORDINANCE; PROVIDING A SAVING CLAUSE.**

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

**THAT THE FOLLOWING COMPREHENSIVE ZONING ORDINANCE AND MAP ARE HEREBY PASSED AND APPROVED:**

**SECTION 1. TITLE**

This Ordinance, together with all subsequent amendments thereto, shall be referred to as the "Zoning Ordinance of the City of Aurora, Texas." Ord. No. O-06-0403Z.

**SECTION 2. PURPOSE AND INTENT**

This Ordinance is prepared under the authority of V.T.C.A., Local Government Code, Chapter 211, to promote health, safety, morals, and for the protection and preservation of places and areas of historical and cultural importance and significance, and the general welfare of the community. These zoning regulations are made in accordance with the spirit of the city comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the general welfare of the community; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. These regulations are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

### SECTION 3. ZONING ADMINISTRATION

#### 3.1. GENERAL

- 3.1.1. The provisions of this Ordinance shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles, and public utilities unless specifically mentioned in this ordinance.
- 3.1.2. Where, in any specific case, different sections of this Ordinance specify different requirements, the more restrictive shall govern.
- 3.1.3. Where there is a conflict is between a general requirement and a specific requirement, the specific requirement shall be applicable.
- 3.1.4. In fulfilling these purposes, this Ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration and enforcement of this Ordinance, benefits and detriments will be enjoyed and suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breeches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort.
- 3.1.5. If any portion of this Ordinance is held invalid for any reason, the remaining provisions herein shall not be affected.

#### 3.2 DUTIES AND POWERS

- 3.2.1 **General.** The City Administrator is hereby designated by the City Council as the administrative official to supervise the administration and enforcement of these regulations.
- 3.2.2 **Deputies.** The City Administrator may appoint a Code Official to help him or her with the general administration and enforcement duties required for the implementation of this Zoning Ordinance.
- 3.2.3 **Reviews and approvals.** If the City Administrator or his or her designated Code Official finds that any of the provisions of this Ordinance are being violated, the City Administrator or his or her designated Code Official shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The City Administrator or his or her designated Code Official shall order the discontinuance of any illegal use of land, buildings or structures, the

removal of any illegal buildings or structures or of any illegal additions, alterations or structural changes, the discontinuance of any illegal work being performed; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of these provisions.

- 3.2.4 **Assisting Commission.** The City Administrator shall assist the Planning and Zoning Commission in the development and implementation of the comprehensive plan.
- 3.2.5 **Site Plan Reviews.** The City Administrator shall receive all applications for site plan review for completeness and prepare submittals for review by the Code Official and appropriate bodies.
- 3.2.6. **Conditional-use permits and variances.** The City Administrator shall receive all applications for conditional uses and variances, or other plans as shall be permitted or approved, review for completeness and prepare submittals for review of the Code Official and appropriate bodies.
- 3.2.7. **Amendments.** All requests for amendments or changes to the comprehensive plan or this Ordinance or map shall be submitted to the Code Official for processing.
- 3.2.8. **INTERPRETATION AND APPEALS.** It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the City Administrator or his or her designated representative, and that such questions shall be presented to the Zoning Board of Adjustment only on appeal from the decision of the City Administrator or other administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law.
- 3.2.9. **LIABILITY.**

3.2.9.1. The City Administrator, Code Official, or designee, charged with the enforcement of this Ordinance, acting in good faith and without malice in the discharge of the duties described in this Ordinance, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the City Administrator, Code Official or employee of the jurisdiction because such act or omission performed by the City Administrator, Code Official or employee in the enforcement of any provision of this Ordinance, or other pertinent laws or ordinances implemented through the enforcement of this Ordinance, or enforced by the enforcement agency shall be defended by

the jurisdiction until final termination of such proceedings, and any judgment resulting from shall be assumed by the jurisdiction. This provision shall not be deemed to waive any governmental immunity or other defenses which may be applicable to such City officials or employees.

3.2.9.2. This Ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any such liability by reason of the reviews or permits issued under this Ordinance.

### **3.3. PLANNING AND ZONING COMMISSION**

**As established by Ordinance O-050801PNZ.**

### **3.4. COMPLIANCE WITH ZONING REGULATIONS**

#### **3.4.1. Compliance with Zoning Regulations Required**

All land, buildings, structures, or appurtenances thereon located within the City of Aurora which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided.

#### **3.4.2. Building Permits Prohibited Without Plat**

No permit for the construction or placement of a building or buildings upon any tract or plot shall be issued unless the plot or tract is part of a plat of record, properly approved by the Planning and Zoning Commission and City Council and filed in the Plat Records of county or counties in which the plot or tract is located.

#### **3.4.3. Exclusions**

Nothing herein contained shall require any change in the plans, construction, or designated use of a building under construction at the time of the passage of this Ordinance and which entire building shall be completed within one (1) year from the date of passage of this Ordinance.

**3.4.4. One Main Building on a Lot or Tract**

Only one main building for one family, or two-family use, with permitted accessory buildings may be located upon a lot or tract.

**3.4.5. EXCEPTION - ADUs – Accessory Dwelling Units (Granny Flats/Tiny Homes)****3.4.5.1. Standards and criteria**

1. Accessory dwelling units (ADUs) may only be used only in designated Residentially Zoned areas as indicated by the Usage Table (Appendix 1)
2. Accessory dwelling units (ADUs) are prohibited as a commercial operation, such as: hotel, motel, bed-and-breakfast, short/long term rental-property use.
3. Accessory dwelling units (ADUs) may be allowed in use qualifiers where listed as a permitted use if they comply with the requirements listed in this section, except on property regulated.
4. An ADU shall comply with all zoning code provisions for the primary residence, including height, setbacks, accessory buildings and open space, except as provided in this section.
5. A Recreational Vehicle, Camper Trailer, or Manufactured Home shall not be used as a ADU. An ADU cannot be on wheels.
6. Applicants may request minor modifications to the development and design standards for ADUs. A minor modification is a request by the applicant to meet or exceed a particular ADU standard through the use of a technique or alternative standard not otherwise listed under the applicable requirement. Minor modifications are not variances and are not required to meet all of the criteria typically associated with a variance application. The Director of Zoning, or his/her appointee, may grant a minor modification if the following criteria are met:
  - a. The site is physically constrained due to, but not limited to, unusual shape, topography, easements, existing development on site, or critical areas; or

- b. The granting of the modification will not result in a development that is less compatible with adjacent neighborhood land uses and character; and
- c. The granting of the modification will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and district in which the property is situated; and
- d. The granting of the modification is consistent with the purpose and intent of this section; and
- e. All reasonable mitigation measures for the modification have been implemented or assured.

3.4.5.2. *Ownership and Occupancy.*

- a. The ADU, or the land on which the ADU is located, shall not be subdivided or otherwise segregated in ownership from the primary dwelling unit or the land on which the primary dwelling unit is located.
- b. The total number of persons who may occupy the accessory dwelling unit shall not exceed two (2), regardless of relationship.
- c. The owner shall record a covenant with the Wise County Tax Office, approved by the director, which shall run with the land as long as the ADU is maintained on the property. The property owner shall submit proof that the covenant has been recorded with the Wise County Tax office prior to issuance of the building permit. The covenant shall specify the requirements for owner occupancy, purchaser registration, and biannual verification as follows:
  - i. The owner of the subject property shall reside on the premises,

whether in the primary or accessory dwelling; provided, that:

- (A) In the event of illness, death or other unforeseeable event which prevents the owner's continued occupancy of the premises, the director may, upon a finding that discontinuance of the ADU would cause a hardship on the owner and/or tenants, grant a temporary suspension of this owner-occupancy requirement for a period of one year. The director may grant an extension of such suspension for one additional year, upon a finding of continued hardship.
  - (B) In the case of bringing an unpermitted ADU into compliance with this section, if the property on which the ADU is located complies with all of the requirements of this section except owner-occupancy, the property may continue without occupancy by the owner for the remainder of the lease(s) on the property, not to exceed one year. Thereafter, the property shall be occupied by the owner, or transferred to a different owner who will reside on the premises.
- ii. Purchasers of homes with an ADU shall register with the planning and community development department within 30 days of purchase.

- iii. An affidavit, prepared by the planning and community development department and signed by the property owner, must be submitted to the department on or before January 1st of every odd numbered year attesting to owner occupancy.

3.4.5.3. *Site Requirements.*

- a. Only one ADU shall be allowed per lot. The lot may not contain more than one primary dwelling unit. The ADU is exempt from density limitations due to its small size and low occupancy.

3.4.5.4. *ADU Size.*

- a. Attached and Detached ADUs.
  - i. An ADU shall not exceed 66 percent of the floor area of the primary dwelling (excluding any related garage area attached to the primary dwelling) or 800 square feet, whichever is less, and shall contain a minimum square footage as required by the building code.
  - ii. No more than two bedrooms may be located within an ADU.

3.4.5.5. *Minimum Yards for D-ADUs.*

- a. Front and side-flanking yards shall comply with the zoning code provisions for the primary residence except that when the vehicular entrance to an attached garage or carport faces a street, the entrance shall be set back a minimum of 25 feet from the front property line, and 10 feet from a side flanking property line.
- b. A five-foot side and rear yard setback shall be provided, measured from the property line to the foundation of the structure, except as follows:

- i. When abutting an alley, there is no required side or rear yard setback from the alley.
- ii. A D-ADU may be located in a rear yard and in the rear 22 feet of an interior side yard, provided:
  - (A) If such an accessory building is to be located less than five feet from any common property line, a joint agreement with the adjoining property owner(s) must be executed and recorded with the Wise County Tax office and thereafter filed with the city; or
  - (B) If site characteristics warrant such that, in the opinion of the director, impacts to abutting property would be negligible due to, but not limited to, one or more of the following:
    - (1) The existing use and development pattern on abutting property.
    - (2) Minimal disruption of solar access to outdoor recreation or garden space on abutting property compared to what may otherwise occur with the application of standard development regulations.
    - (3) Site characteristics such as building a D-ADU downslope from abutting property.
    - (4) Conversion of a detached accessory building existing as of the date of adoption of the ordinance codified in this section to a D-ADU.

### 3.5. ZONING BOARD OF ADJUSTMENT

3.5.1. **General.** This section addresses the duties and responsibilities of a Board of Adjustment, hereafter referred to as “the Board” and other officials and agencies, with respect to the administration of this Ordinance.

#### 3.5.2. **Organization of Board of Adjustment.**

3.5.2.1. There is hereby created a Board of Adjustment which shall consist of five (5) members who are residents of the City, each to be appointed by the City Council for a staggered term of two (2) years and removable for cause by the City Council. The City Council shall designate one (1) member as chairperson. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause, in the same manner as the original appointment was made. Provided, however, that the City Council may appoint up to four (4) alternate members of the Board who shall serve in the absence of one (1) or more of the regular members when requested to do so by the chairperson of the Board, the City Administrator or the mayor. All cases to be heard by the Board will always be heard by a minimum of four (4) members. Alternate members shall serve a term of two (2) years and any vacancy shall be filled in the same manner. Alternate members are subject to removal the same as the regular members.

3.5.2.2. The Board shall adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this Ordinance or state law. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine, and in accordance with the Texas Open Meetings Law. The chairperson, or in his or her absence, the vice-chairperson or acting chairperson, may administer oath and compel the attendance of witnesses.

3.5.2.3. The Board shall keep minutes of its proceedings, showing the vote of each member upon each

question, or if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the City Administrator and shall be a public record.

**3.5.3. Appeals to the Board.**

3.5.3.1 Appeals to the Board can be taken by any person aggrieved by any zoning decision of the City Administrator or his or her designated Zoning Administrator or by any officer or department of the City. Such appeal shall be filed within fifteen (15) days after the decision has been rendered by the City Administrator or administrative officer by filing with the City Administrator and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The administrative officer or department from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the records upon which the action appealed from was taken.

3.5.3.2. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Administrator or designated administrative officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him or her, that by reasons of facts stated in the certification, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

3.5.3.3. No appeal to the Board for the same or related special exception or variance on the same piece of property shall be allowed prior to the expiration of one hundred eighty (180) days from a previous ruling of the Board on any appeal to such body unless other property in the immediate vicinity has, within the said one-

hundred-eighty-day period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous Board action was based. Such change of circumstances shall permit the re-hearing of an appeal by the Board, prior to the expiration of one-hundred-eighty-day period, but such conditions shall in no way have any force in law to compel the Board, after a hearing, to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

- 3.5.3.4. At a public hearing relative to any appeal, any interested party may appear in person or by his or her agent or attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board on any appeal or variance request. Any special exception or variance granted or authorized by the Board under the provisions of this Ordinance shall authorize the issuance of a building permit or Certificate of Occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action of the Board unless said Board shall have in its action approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit and/or Certificate of Occupancy shall not have been applied for within said ninety-day period or such extended period as the Board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights there under terminated. Such termination and waiver shall be without prejudice to a subsequent appeal and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

**3.5.4. Actions of the Board.**

- 3.5.4.1 In exercising its powers, the Board may, in conformity with the provisions of the statutes of the State of Texas, reverse or affirm wholly or partly, or may modify the order, requirement,

decision or determination as ought to be made and shall have all the powers of the City Administrator or other administrative official from whom the appeal is taken. The Board shall have the power to impose reasonable conditions to be complied with by the applicant.

3.5.4.2. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the City Administrator or other administrative official, or to decide in favor of the application for a specific use permit on any authorized special exception use, or to effect any variance.

3.5.5. **Notice of hearing before Board required.** The Board shall hold a public hearing on all appeals, requests for special exception uses, and variance requests made to it and written notice of such public hearings shall be sent to the applicant and all other persons who are owners of real property lying within two hundred (200) feet of the property on which the appeal is made. Such notice shall be given no less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for City taxes as the ownership appears on the last City tax roll. Such notice may be served by depositing the same properly addressed and postage paid in the United States post office. Notice shall also be given by publishing the same in the official publication of the City at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing.

Additionally, the City Administrator shall require the owner and developer erect a sign on the property on which a specific use permit, variance and/or zoning change has been requested. The applicant, property owner and/or developer, as applicable, shall upon submittal of application erect a sign, at his/her own expense, on all properties affected by the zoning change application. Each property, lot or tract shall have a posted sign at least twenty-four (24) by thirty-six (36) inches in size which shall state "**Zoning (Conditional Use, Specific Use, Special Use or Variance) change Requested for information call City Hall**" and the telephone number of **(817)636-2783**, shall be listed. Failure to post signage will be cause for the determination of an "incomplete application" and the zoning change application and all applicable fees must be resubmitted.

3.5.6. **Jurisdiction of Board.** When, in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently

injured, the Board may, in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, take the following action:

- 3.5.6.1. Hear and decide appeals where it is alleged there is error on any zoning order, requirement, decision or determination made by the City Administrator, the other Zoning Administrator, or other City official in the enforcement of this Ordinance;
- 3.5.6.2. Hear appeals on zoning boundary disputes;
- 3.5.6.3. Initiate on its motion or cause presented by interested property owner's action to abate, remove, limit or terminate, a nonconforming use;
- 3.5.6.4. Require the discontinuance of a nonconforming use or building under a reasonable plan whereby the owner's investment in the nonconforming use or building can be recouped through amortization over a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this Ordinance;
- 3.5.6.5. Permit the expansion or extension of a nonconforming use in accordance with the provisions of this Ordinance;
- 3.5.6.6. Within the limits prescribed in this Ordinance, the Board may review nonconforming uses which have been abandoned or discontinued to determine whether such uses should be allowed to resume operation. Such action by the Board shall consider any unnecessary hardship on the property owner if the use is discontinued and shall have due regard for the public welfare, the character of the area surrounding such use, and the conservation, preservation and protection of surrounding properties and their values.
- 3.5.6.7. Permit the repair or reconstruction and occupancy of a nonconforming building or a building containing a nonconforming use where the building has been destroyed in excess of fifty (50) percent but less than the total value, provided such reconstruction does not, in the judgment of the Board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming building beyond

what is permitted. Such action by the Board of Adjustment shall have due regard for the property rights of the person or persons affected, when considered in light of the public welfare, the character of the area surrounding such structure, and the conservation, preservation and protection of surrounding properties and their values.

- 3.5.7.7. Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated or substandard;
- 3.5.7.8. Permit variances to the development regulations in this Ordinance such as the front yard, side yard, rear yard, lot width, lot depth, lot coverage, minimum setback, off-street parking, off-street loading, lot area, maximum height, or other building regulations, where the literal enforcement of the provisions of this Ordinance would result in an unnecessary hardship, or where such variance is necessary to permit the reasonable development of a specific parcel of land which differs from other parcels of land in the same district by being of such area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district; and
- 3.5.7.9. To hear and decide any special exceptions authorized by this Ordinance.
- 3.5.7.10. To grant a special exception to permit the erection and use of a building or the uses of premises for railroads of such uses are in general conformance with the Comprehensive Plan and present no conflict or nuisance to adjacent properties.
- 3.5.7.11. To grant a special exception to a public utility, or public service for a public utility or public service building or structure of a ground area and of a height at variance with those provided for in the district in which such public utility or public building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.
- 3.5.7.12. To grant a permit for the extension of a use, height or are regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this Ordinance.

- 3.5.7.13 Allow construction of an accessory building in the Residential, or Commercial Districts with an exterior building material other than wood, stone, brick or vinyl siding.
- 3.5.7.14. Allow the continuance for a specified amount of time of a nonconforming building or use of a building or land for more than two (2) years after the date the building or use becomes nonconforming, upon a showing that the owner has not recouped the owner's investment in the nonconforming building or use over the three-year period.
- 3.5.8. **Application for variance.** A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:
- a) that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b) that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
  - c) that the special conditions and circumstances do not result from the actions of the applicant;
  - d) that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district; and
  - e) that no non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- 3.5.9. **Voting and notice of decision.** There shall be a vote of majority of the Board present in order to decide any matter under consideration. Each decision shall be entered in the minutes by the City Administrator. Notice of decision shall be mailed to each appellant.
- 3.5.10. **Appeals of Board action.** Any person or persons, jointly or severally aggrieved by any decision of the Board, any taxpayer or any officer, department, or Board of the municipality may present to a court of record (district court) a petition, duly verified, setting forth that such

decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within ten (10) days after the date the decision of the Board is filed in the office of the City Administrator and not thereafter.

#### 3.5.11. **Changes.**

The Board shall have no authority to change any provisions of this Ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time.

The Board may not change the district designation of any land either to a more or less restrictive zone.

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the City Administrator, that such questions shall be presented to the Board only on appeal from the decision of the City Administrator and that recourse from the decisions of the Zoning Board of Adjustment shall be to the courts as provided by the laws of the State of Texas.

### **SECTION 3.6 BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

#### 3.6.1. **General Requirements**

No permanent structure may be constructed or otherwise located within the City limits prior to issuance of a Building Permit by the Building Inspector. No permanent structure constructed or otherwise located within the City limits may be occupied prior to issuance of a Certificate of Occupancy by the Building Inspector. No change in the existing conforming use of a permanent structure, or of land to a use of a different classification under this Ordinance, and no change in the legally conforming use of a permanent structure or of land may take place prior to issuance of a Certificate of Occupancy by the Building Inspector.

#### 3.6.2. **Procedure for New or Altered Buildings**

Plans for any permanent structure to be constructed or otherwise located within the City limits must be approved by the Building Inspector who, upon approval, shall issue a Building Permit. A complete application for a Building Permit shall contain details of foundation and structure sufficient to determine compliance with applicable provisions of the Building Code. Upon submission of a complete application, the Building Inspector shall issue a Building Permit. After issuance of a Building Permit and prior to issuance of a Certificate of Occupancy, the Building Inspector shall conduct a foundation, plumbing, electrical and framing inspection. After such inspection, the Building Inspector shall issue a Certificate of

Occupancy if the plans and the results of the inspection comply with the provisions of all applicable ordinances and regulations.

### **3.6.3. 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 non-conforming use, as herein provided, shall be made to a Building Inspector. If the proposed use is in conformity with the provisions of this Ordinance, the Certificate of Occupancy therefore shall be issued with ten (10) days after the application for same has been made.

### **3.6.4. Contents of Certificate of Occupancy**

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of the building and fire laws and ordinances.

A record of all Certificates of Occupancy shall be kept on file in the Office of the Building Inspector or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

### **3.6.5. Temporary Certificate**

Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building Inspector for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its completion.

Issuance of a temporary certificate shall not be construed to alter the respective rights, duties, or obligations of the owner or of the City relating to the use occupancy of the premises or any other matter covered by this Ordinance.

### **3.6.6. Certificates for Non-Conforming Uses**

A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this Ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the Building Inspector by the owner or lessee of the building or land occupied by such non-conforming use within one (1) year of the effective date of this Ordinance. It shall be the duty of the Building Inspector to issue a Certificate of Occupancy for a lawful non-conforming use, but failure to apply for such Certificate of Occupancy for a non-conforming use shall be evidence that said nonconforming use was either illegal or did not lawfully exist at the effective date of this Ordinance.

### 3.6.7. Permits and Approvals

3.6.7.1. **General.** All departments, officials and employees who are charged with the duty or authority to issue permits or approvals shall issue no permit or approval for uses or purposes where the same would be in conflict with this Ordinance. Any permit or approval, if issued in conflict with this Ordinance, shall be considered null and void.

#### 3.6.7.2. Expiration or cancellation.

3.6.7.2.1. Each license, permit or approval issued shall expire after 180 days if no work is undertaken or such use or activity is not established, unless a different time of issuance of the license or permit is allowed in this Ordinance, or unless an extension is granted by the issuing agency prior to expiration.

3.6.7.2.2. Failure to comply fully with the terms of any permit, license or approval shall be permitted to be grounds for cancellation or revocation. Action to cancel any license or permit is allowed in this Ordinance, or unless an extension is granted by the issuing agent prior to expiration.

### 3.6.8 Validity of license, permits and approvals.

For the issuance of any license, permit or approval for which the commission or Board is responsible, the Code Official shall require that the development or use in question proceed only in accordance with the terms of such license, permit or approval, including requirements or conditions established as a condition of issuance. Except as specifically provided for in this Ordinance and conditions of approval, the securing of one required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.

### 3.6.9 Building Permits and Certificates of Occupancy Issued in Error.

Building permits and certificates of occupancy issued in error are voidable. Whenever a building permit or Certificate of Occupancy has been granted in error by an administrative official of the City of Aurora, the permit or certificate may be voided by the City Council. Prior to such action by the City Council, the affected party shall be given an opportunity in a hearing before the City Council to show why such permit or certificate should not be voided. Notice of such hearing shall be served upon the affected party at least ten (10) days prior to such hearing by personal service or by mailing such notice by certified mail, prepaid, return receipt requested, to his or her address as it appeared in the application filed for the building permit or Certificate of Occupancy. The City

Council shall give due consideration to the arguments of the affected party in determining whether to void the building permit or Certificate of Occupancy and shall render its decision after hearing and considering all such arguments. The decision of the City Council shall be final.

### 3.7. **Violations**

#### 3.7.1. **Unlawful acts**

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy, or maintain any building or land or cause or permit the same to be done in violation of this Ordinance. When any building or parcel of land regulated by this Ordinance is begin used contrary to this Ordinance, the Code Official shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Code Official after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with the requirements of this Ordinance.

## **SECTION 4. DEFINITIONS**

### 4.1. **General**

For the purpose of this zoning Ordinance, certain terms and words are defined and shall have the meanings ascribed in this Ordinance unless it is apparent from the context that different meanings are intended. Words used in the present tense include the future tense, words in the singular number include the plural number, and words in the plural number include the singular number. The word "building" includes the word "structure," except as otherwise specified. The term "use" means "used or intended to be used for or arranged or designed for use." The word "shall" is mandatory not directory; the word "may" is permissive. The word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual. The word "including" means "including, but not limited to."

### 4.2. **Definitions**

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

*Accessory building* means a subordinate building which is incidental to that of the main building on the same lot. Accessory buildings in residential districts shall be limited to: attached or detached garages, carport, storage building, bath house, greenhouse, bomb or fall-out shelter, stable, and barn.

*Accessory use* means a subordinate use which is incidental to the main or primary use.

*Adjacent* means "next to" or "closest to" but shall not necessarily mean "touching".  
*Alley* means a way which affords only a secondary means of access to abutting property.

*Alley* means a public space or thoroughfare which affords only secondary means of access to property abutting thereon.

*Amusement park* means any building, lot, tract, or parcel of land used in whole or part for the operation and maintenance of a circus, carnival, miniature golf course, golf driving range, batting cages, skating rinks, go-kart racing tracks and/or minstrel shows.

*Animal hospital or clinic* means a facility operated by a veterinarian for the purpose of examining and treating animals including outdoor facilities for caring for the animals and allowing the keeping of animals overnight.

*Animal shelter* means a facility that keeps impounded stray, homeless, abandoned, or unwanted animals.

*Antenna, Radio or Television* means the arrangement of wires or metal rods used in sending and/or receiving of electromagnetic waves.

*Apartment* means a room or suite of rooms in an apartment building intended, designed, or occupied as a home or residence by a single-family, individual, or group of individuals living together as a single housekeeping unit.

*Apartment (multifamily) building* means any building which is intended, designed, or occupied as the home or residence of three (3) or more families living independently of each other and maintaining separate cooking facilities.

*Arcade* means a public place of business where fifty (50) percent or more of the gross sales are derived from amusement machines. The term amusement machine shall mean every machine of any kind of character whatsoever, when such a machine is capable of use or operations for amusement, other than for the purpose of vending merchandise, music, or a service such as telephone service, laundry service, etc. Included in the description of amusement machines are video games, pinball machines, miniature sports machines, and all other machines which designed for challenge, entertainment, or pleasure.

*Area of the lot or building site* means the net area of the lot or site and shall not include portions of streets and alleys.

*Asphalt, concrete batching plant* means a facility, permanent or temporary, which mixes asphalt or cement with various aggregates and water in large quantities for transport elsewhere.

*Auto repair shop* means a building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

*Auto sales lot* means an open area or lot used for the display or sale of automobiles, where no repair work is done except minor reconditioning of the cars to be displayed and sold on the premises, and no dismantling of cars for sale or keeping of used car parts or junk on the premises.

*Bakery, retail* means an establishment which produces bakery goods and various confectionery items, such as rolls, bread, etc. for direct sale to the consumer.

*Basement* means a story below the first story of a building.

*Block* means that property abutting on one (1) side of a street and lying between the nearest intersecting, or intercepting streets or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier to or gap in the continuity of development along such street.

*Board of Adjustment* means the Zoning Board of Adjustment of the City of Aurora.

*Boarding (rooming) house* means a dwelling wherein lodging or meals for three (3) or more persons, not members of the principal family therein, is provided for compensation, but not including a building in which ten (10) or more guest rooms are provided.

*Buffer area* means an area of land together with specified planting and/or structures thereon, which may be required between land uses of different intensities to eliminate or minimize conflicts between such uses.

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

*Building area* means the portion of the lot remaining after the required yards have been provided.

*Building detached* means a building surrounded by yard or open space on the same lot.

*Building, front of* means the side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.

*Building line* means a line parallel or approximately parallel to the street line at a specified distance there from constituting the minimum distance from the street line that a building may be erected.

*Building, main or primary* means the building in which is conducted the principal use of the lot on which it is situated.

*Building materials and lumber yard* means a business which stocks building materials, such as fencing, wire, bricks, cement, and lumber, for use in building construction and landscaping.

*Business* means includes retail, commercial, personal services, excavation, manufacturing and industrial operations and uses.

*Business office* means a room or group of rooms where the general administration and affairs of a business are carried on, but where no retail transactions are conducted.

*Cabinet shop* means a building and/or premises used for the design and construction of cabinets, shelves and similar structures for subsequent sales, installation and use in homes, businesses and offices.

*Canopy* means any structure of a permanent fixed nature attached to or independent of the main structure, built and designed for the purpose of shielding from the elements, persons or chattels or a roof-like structure of a permanent nature which is supported by or projects from the wall of a structure.

*Car wash* means a building, or portion thereof, where automobiles or other motor vehicles are automatically or manually washed regularly as a business.

*Cellar* means a building story with more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

*Cemetery* means land used or intended to be used for the burial of the dead humans, including mausoleums and mortuaries.

*Certificate of Occupancy* means an official certificate issued by the City of Aurora which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes the legal use of the premises for which it is issued.

*Child care center or facility* means a facility that provides care or supervision for children who are not related by blood, marriage, or adoption to the owner or operator of the facility for less than twenty-four (24) hours a day for more than twelve (12) children under the age of fourteen (14), whether or not the facility is operated for profit or charges for the services it offers.

*Child day care home* means a facility, sometimes referred to as a "registered family home," that regularly provides care in the caretaker's own residence for not more than six (6) children under the age of fourteen (14) years of age, excluding the caretaker's own children. When more than six (6) children are kept in the home, it shall be considered as either a "group day care home" or "child care center."

*Church or rectory* means a place of worship and religious training of recognized religions including the on-site housing of ministers, rabbis, priests, and nuns.

*Clinic* means a group of offices for one (1) or more physicians, surgeons, opticians or dentists to treat patients who do not remain overnight.

*Community center* means a building used primarily for the social or recreational activities serving the City, neighborhood, or apartment complex.

*Condominium*. See "townhouse."

*Contractor yard* means a building and/or premises for the storage of materials, tools, products and vehicles used in the conduct of a construction business related to heating and air conditioning service, building construction, electrical service, landscaping service, plumbing service, utility service, etc.

*Convalescent center* means any building or structure used for or customarily occupied by persons recovering from illness or suffering from infirmities of age.

*Country club (private)* means an area of land containing either a golf course or tennis courts, or both, and a clubhouse and which is available to members only. Country clubs may contain adjunct facilities such as private club, dining room, swimming pool, and other similar recreational or service facilities.

*Courtyard* means an open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building; or the open space provided for access to a dwelling group.

*Display* means the exhibition of vehicles, trailers, boats, goods, wares, or merchandise for sale, rental or lease.

*Distribution center, large* means a building or group of buildings with cumulative storage space of over five thousand (5,000) square feet in area which is used for the storage of merchandise, goods, and wares which are intended to be distributed to other retail or wholesale establishments.

*Distribution center, small* means a building or group of buildings with cumulative storage space not to exceed five thousand (5,000) square feet in area which is used for the storage of merchandise, goods, and wares which are intended to be distributed to other retail or wholesale establishments.

*District* means a section of the City for which the regulations governing the area height or use of the land and buildings are uniform.

*Duplex* means a building designed for occupancy by two families living independently of each other within separate units which have a common wall and are under one roof.

*Dwelling* or *dwelling unit* means a building or portion of a building which is arranged, occupied or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

*Dwelling, single-family* means a detached building which is designed for or occupied as a home or residence by not more than one (1) family.

*Dwelling, multi-family* means a building containing two (2) or more dwelling units which is designed for or occupied as a home or residence for two (2) or more families living independently of each other and maintaining separate cooking facilities.

*Electrical sales and service* means an establishment selling electrical supplies and parts and/or providing the servicing and installation of electrical equipment and fixtures.

*Family* means one (1) or more persons living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption, but not including a group occupying a hotel, motel, boarding house, club, dormitory, fraternity or sorority house.

*Farmer's market* means two (2) or more stands or stalls that are owned, leased, or rented for the display or vending of fruit, vegetables, and other garden or farm crop.

*Feed store* means a commercial establishment which sells animal feed; feeding troughs; animal cages, pens, and gates; fencing materials; pesticides; seeds; and other gardening farming, and ranching supplies. The sale of baby chicks, rabbits, guinea pigs, and other similar small or domesticated animals may be permitted only with a specific use permit and in accordance with all ordinances.

*Fence* means a masonry wall, or a barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space or separating parcels of land. The term "fence" does not include retaining walls.

*Fine arts* means music, painting, sculpture, and including drawing, etchings, ceramics, inlays, needlework, knitting, weaving, and craftwork involving leather, wood, metal and glass.

*Flea market* means a collection of two (2) or more stalls, booths, tables or other similar arrangements, used by individual vendors, for the display and sale of various items of new or used personal property.

*Floodplain* means the area outside of the floodway which may be inundated with flood water with an average frequency of occurrence in the order of once in one hundred (100) years, normally referred to as the intermediate regional flood by the U.S. Corps of Engineers.

*Floodway* means the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge flood waters.

*Floor area* means the area of a building, including the walls thereof, but excluding all porches, open breezeways and garages.

*Freight terminal, motor* means a property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by motor truck, including the necessary warehouse space for storage of transitory freight.

*Freight terminal, railroad* means a property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by rail, including the necessary warehouse space for storage of transitory freight.

*Game hall* means a facility open to the public and used primarily for the playing of games of chance, skill, sport or amusement. Such games include but are not limited to the following: dominoes, cards, bingo, billiards, darts, and amusement machines.

*Garage, auto repair* means a building or portion of a building used for the general repair and/or painting of motor vehicles.

*Garage, parking* means a building or portion of a building used for the parking and storage of motor vehicles, other than a private garage or a auto repair garage, in which any sale of gasoline, oil, and accessories is only incidental to the storage of the vehicles.

*Garage, private* means an accessory building or portion of a main building on the same lot and intended to be used for the parking and storage of private passenger motor vehicles, boats, or other vehicles.

*Garage sale* means occasional sales at retail by residential owners or occupants conducted in the garage, patio, driveway or yard of the residential premises occupied by the person holding the sale, for the purpose of disposing surplus personal property accumulated incidentally in the regular course of residential occupancy.

*Government office* means any building or facility either owned or leased for use by local, state or federal governments and in which the affairs of the governmental body are carried on.

*Grade* means when used as a reference point in measuring height of building the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.

*Gross floor area* means the total area of all floors as measured to the outside walls, excluding open porches, breezeways, balconies, and terraces. In computing the gross floor area of residential uses, garages and carports shall be excluded.

*Group day care home* means a facility that regularly provides care in the caretaker's own residence for seven (7) to twelve (12) children under the age of fourteen (14) years of age, excluding the caretaker's own children.

*Group home* means a residential facility licensed by the Texas Department of Human Resources to house up to six (6) handicapped and/or mentally retarded persons and two (2) supervisors.

*Halfway house* means a residential facility providing shelter, supervision and residential rehabilitative services for persons who have been inmates of any county, state or federal correctional institution and released and require a group setting to facilitate the transition to a functional member of society.

*Heating/air conditioning (AC) sales and service* means an establishment selling heating and air conditioning units, supplies and parts and/or providing the servicing and installation of heating and air conditioning equipment.

*Heavy equipment sales* mean a business offering for sale, and including the servicing and repair of, equipment as construction graders, earth movers, backhoes, cement mixer trucks, dirt moving trucks, etc.

*Height (of building)* means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the highest ridge board, for gable, hip and gambrel roof.

*Highway 114* means State Highway 114.

*Highway 718* means Highway 718 or otherwise known as Farm to Market Road 718.

*Hobby* means the engagement of a person in an activity such as music, painting, sculpturing, drawing, etching, ceramics, needlework, knitting, weaving, craftwork involving leather, wood, metal and glass, etc. in his or her spare-time activity within his or her premises. No person shall be engaged in a hobby as a business. Such activity shall be carried on within an enclosed or screened area and shall not involve any activity that requires open storage. No activity which is obnoxious or

offensive by reason of vibration, electrical interference, glare, noise, odor, dust, smoke or fumes shall be permitted.

*Home occupation* means any occupation which is clearly incidental and secondary to the residential use of the premises and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises and which does not change the character thereof. However, such use will not be obnoxious or offensive due to vibration, smoke, dust, odor, heat, glare, noise or which increases traffic.

*Hospital* means an institution or place where sick or injured patients are kept overnight and given medical or surgical care.

*Hotel or motel* means a building or arrangement of buildings designed for and occupied as a temporary abiding place by transient guest who are lodged with or without meals for compensation.

*House trailer* means a vehicle without automotive power designed for human habitation and for carrying persons and property upon its own structure and for being drawn by a motor vehicle.

*Impounded vehicle storage facility* means a garage, parking lot or other type of facility used exclusively for the temporary parking and storage of impounded operable or inoperable motor vehicles for a period of time not to exceed ninety (90) days. All unenclosed facilities must be paved with an all-weather surface. An impounded vehicle storage facility must be a licensed vehicle storage facility pursuant to V.A.T.C.S. § 6687-9a. An impounded vehicle storage facility does not include a junkyard or an automotive wrecking and salvage yard pursuant to V.T.C.A., Transportation Code § 396.001. Vehicles may not be salvaged, dismantled or repaired at the facility.

*Industrial park* means a parcel of land which has been planned and/or coordinated for a variety of industrial and related activities and business uses. this development may be on a one (1) parcel or may be subdivided. The project is either owned, controlled or managed by a single entity and has its own master plan and/or covenants, conditions, and restrictions.

*Industrialized housing* means a residential structure that is designed for the use and occupancy of one (1) or more families, that is constructed in one (1) or more modules or constructed using one (1) or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems. The term does not include any residential structure that is in excess of two (2) stories or thirty-five (35) feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to (a) housing constructed of

sectional or penalized systems not utilizing modular components; or (b) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location.

*Industrialized building* means a commercial or industrial structure that is constructed on one (1) or more modules or constructed using one (1) or more modular components built at a location other than the permanent site, and that is designed to be used as a commercial building when the modules or modular components are transported to the permanent commercial or industrial site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems. The term does not include any commercial structure that is in excess of two (2) stories or thirty-five (35) feet in height as measured from the finished grade elevation at the building entrance.

*Junk* means copper, brass, iron, steel, rope, rags, batteries, paper, rubber, tires, pipe, plastic, debris, trash, rubbish, waste, metal, and ferrous or non-ferrous materials which are old, scrapped, discarded, second-hand, or otherwise used.

*Junkyard* means any lot or tract of land upon which junk is kept, stored, bought, sold, or otherwise placed.

*Kindergarten or nursery school* means any facility, whether known or incorporated under such descriptive title or name as "child play school," "child development center," "early childhood center," "pre-school" and the like, where six (6) or more children are left for care, training, or education during the day or portion of the day and a fee is charged for this service.

*Kennel* means any place or premise where four (4) or more dogs, cats, or other domestic animals at least four (4) months of age are raised, trained, boarded, or kept with or without charge, except for veterinary clinics, animal hospitals, and animal shelters.

*Landscaping* means living plant material, including but not limited to grass, turf, trees, shrubs, natural land forms, water forms, planters; and other landscape features, including walks and plaza areas consisting of enhanced paving, which are a function of the building and not the streetscape.

*Landscape Screen* means plant material of the evergreen variety, a minimum of six (6) feet in height at the time of installation and planted on four (4) foot centers. All such landscape screens shall be permanently maintained. Adequate facilities shall be provided for permanent watering at the time of installation.

*Laundry* means a building or place where clothes and linens are washed and thoroughly dried and pressed by the use of washing, drying, and ironing machines for fee basis and shall include the term "cleaners," and "dry cleaners."

*Leather goods, retail* means a commercial establishment which sells leather materials and supplies or leather goods.

*Living area* means and includes that portion of the dwelling unit which is used or designed for occupancy but does not include carports, garages, and open porches, breezeways, balconies, and terraces.

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

*Lot* means a parcel of land occupied or intended to be occupied by a main building and its accessory buildings, or by a group of buildings and their accessory buildings and having frontage on a dedicated street.

*Lot, corner* means a lot located at the intersection of two (2) or more streets.

*Lot coverage* means the percentage of the total area of a lot occupied by the first story or ground floor of all buildings located on the lot.

*Lot depth* means the depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

*Lot, double frontage* means a lot on which the frontage is at right angles or approximately right angles (interior angle less than one hundred thirty-five (135) degrees) to the general pattern in the area.

*Lot, interior* means a lot other than a corner lot.

*Lot of record* means a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk, or a parcel of land, the deed for which was recorded in the office of the county clerk prior to passage of this Ordinance.

*Lot width* means the width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sac, where the eighty (80) percent requirement shall not apply.

*Main building* means a building in which is conducted the principal use of the lot on which it is situated.

*Manufactured home* means a structure that was constructed on or after June 15, 1976 and is transportable in one (1) or more sections, which, in the traveling mode,

is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.

*Manufactured home park* means a site meeting the requirements of this Ordinance which is designed, arranged or used for the purpose of locating two (2) or more manufactured homes used as permanent sleeping/living quarters. A manufactured home park may include a section which is specifically designed, constructed, equipped and restricted for use by recreational vehicles.

*Manufactured home lot* means that part of a parcel of land in a manufactured home park which has been reserved for the placement of one (1) manufactured home unit.

*Manufacturing processes* means uses restricted from other zoning districts but permitted in the I-L or I-H district. Under this definition are manufacturing and industrial uses which do not emit dust, smoke, odor, gas, fumes, or present a possible hazard beyond the property lines of the lot or trans upon which the use or uses are locate and which do not generate noise or vibration at the boundary of the lot or trans which is generally perceptible in frequency or pressure above the ambient level of noise or vibration in the adjacent area.

*Masonry or masonry units* means that form of solid construction composed of stone, brick, concrete, gypsum, hollow clay tile or other similar building units or materials or combination of these materials which must be laid up unit by unit and set in mortar.

*Massage establishment* means any building, room, place, or establishment, other than a regularly licensed hospital, where manipulated massage or manipulated exercises are practiced upon the human body by anyone not a duly licensed physician, osteopath, chiropractor or a registered nurse or a doctor whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bathhouses. This term shall not include duly licensed beauty parlors or barber shops or a place wherein registered physical therapists treat only patients recommended by a licensed physician and operate only under such physician's direction.

*Mini-warehouse* means a building or group of buildings in a controlled access compound that contains individual, compartmentalized, and controlled access stalls or lockers of varying sizes not to exceed five thousand (5,000) square feet for the storage of merchandise, goods, and wares.

*Motel.* See "hotel."

*Motor vehicle* means every kind of motor driven or propelled vehicle whether required or not required to be registered or licensed under the laws of the State of

Texas, including trailers, house trailers, and semi-trailers, and shall also include motorcycles, dirt bikes, or other off-road/all-terrain vehicles.

*Neighborhood convenience center* means centers which carry convenience goods, such as groceries, drugs, hardware and some variety items, and also may include some service stores. The neighborhood convenience center may contain one (1) or two (2) small apparel or shoe stores, but it is clearly dominated by convenience goods, which are items of daily consumption and very frequent purchase, sometimes called "spot necessity" items. This neighborhood serving store group is within convenient walking distance of families served (within convenient driving range in low-density areas), with due consideration for pedestrian access and amenity of surrounding areas.

*Nightclub or dance hall* means an establishment operated as a place of entertainment, characterized by any of the following as a principal use of the establishment:

- (1) Live, recorded or televised entertainment, including but not limited to performances by magicians, musicians or comedians;
- (2) Dancing;
- (3) Any combination of (1) and (2) above.

*Nonconforming use* means the use of a building or land that does not conform to these zoning regulations and which lawfully existed at the time these zoning regulations became effective.

*Nursing home.* See "convalescent home."

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

*Off-street parking incidental to main use* means off-street parking spaces provided in accordance with the requirements specified by this Ordinance and located on the lot or tract occupied by the main use or within two hundred (200) feet of such lot or tract and located within the same zoning district as the main use.

*Off-street parking space* means an area for the temporary storage of an automobile which shall be permanently reserved for such purpose and which shall not be within or on any public street, alley or other right-of-way.

*Open storage* means the storage of any equipment, machinery, commodities, raw, semi-finished materials, and building materials not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level, for more than twenty-four (24) hours.

*Orchard* means an area of one (1) acre or more which is used for the growing of fruit or nut trees.

*Park or playground (public)* means an open recreation facility or park owned and operated by a public agency such as the City or the school district and available to the general public for neighborhood use.

*Parking lot* means an unenclosed, all-weather surface area used exclusively for the temporary parking and/or storage of motor vehicles.

*Parking space* means an area measuring at least nine (9) feet wide by eighteen (18) feet in length, surfaced with an all-weather surface, enclosed or unenclosed, together with an all-weather surfaced driveway connecting the parking space with a street or alley permitting satisfactory ingress and egress. For computing off-street parking space requirements, parking spaces on public streets, alleys or rights-of-way shall not be used.

*Personal services* mean businesses which provide services customized for an individual generally involving the care of the person or his or her apparel including but not limited to barber and beauty shops, shoe and boot repair, dry-cleaning shops, laundries, reducing salons, and health clubs.

*Planning and Zoning Commission* means the duly appointed Planning and Zoning Commission of the City of Aurora.

*Plat* means a plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Aurora and subject to approval by the Planning and Zoning Commission.

*Plant nursery* means an establishment which grows and sells plants, flowers, shrubs, grass and other items typically used as and associated with outdoor landscaping or houseplants.

*Plumbing sales and service* means an establishment selling plumbing supplies and parts and/or providing the repair and installation of plumbing and fixtures.

*Print shop* means an establishment utilizing letter press, duplicating equipment, rotary presses or linotype equipment to produce in printed form orders for its clients or customers.

*Private club* means facilities where food, beverages (including alcoholic beverages), entertainment, or meeting space are provided to members only.

*Produce stand* means a store, stand or stall used for the display or vending of fruit, vegetables, and another garden or farm crop.

*Professional office* means a room or group of rooms occupied by a physician, optometrist, psychologist, chiropractor, dentist, attorney, engineer, surveyor,

architect, accountant, planner, management consultant, or any other similar vocation. Veterinary clinics are specifically excluded from this definition.

*Radio, Television and Microwave Tower* means structures supporting antennas for transmitting or receiving any portion of the radio spectrum but excluding noncommercial antenna installations for radio or television home use.

*Recreational vehicle park* means a site meeting the requirements of Section 6.8. of this Ordinance, which is designed, arranged or used for the purpose of locating two (2) or more recreational vehicles for temporary living quarters for recreational, travel or vacation purposes. A recreational vehicle park may include a section of a manufactured home park which is specifically designed, constructed, equipped and restricted for use by recreational vehicles.

*Recycling collection facility* means a facility designed to collect, sort, and package, by either manual or mechanical processes, recyclable items for transport to a processing plant.

*Rental store* means an establishment which offers an array of items such as appliances, furniture, stereo equipment, televisions, etc. at a stated price for a fixed interval of time under a lease or rental agreement.

*Residence* means the same as dwelling; when used with district, an area subject to residential regulations.

*Restaurant* means any eating or drinking establishment where the preparation and serving of food is the primary business of such establishment including cafes, bistros, cafeterias, and other fast food and drive-in food establishments.

*Salvage* means and necessarily includes:

- (1) Any discarded, abandoned, junked, wrecked, dismantled, worn out, or ruined motor vehicles (including automobiles, trucks, tractor, trailers, and buses) motor vehicle parts, boats, travel trailers, trailers, cranes, machinery or equipment, machinery or equipment parts, and or recreational vehicles; and/or
- (2) Any junk.

*Salvage yard* means and necessarily includes a salvage yard, automotive wrecking yard, and automotive graveyard shall mean any lot or tract of land upon which three (3) or more discarded, abandoned, junked, wrecked, dismantled, worn out, or ruined motor vehicles (including autos, trucks, tractor-trailers, and buses), motor vehicle parts, boats, travel trailers, trailers, and/or recreational vehicles are either:

- (1) Kept, stored, bought, sold, recycled, or otherwise placed; or
- (2) Disassembled, dismantled, stripped, scrapped, recycled, or cut up.

*School* means a place having a curriculum for the purpose of giving instruction, training or education in a service, art, trade, or for general knowledge.

*Screening (device)* means any of the following:

- (1) Any solid fence or wall constructed of metal, brick, masonry or concrete; the vertical surface of which shall be without gaps, except openings for access.
- (2) Any dense, screening shrubs providing a visual barrier, for which such material shall be maintained in a healthy growing condition

*Screening shrubs, large* means shrubs with an installed minimum height of three (3) feet as identified below, or any other shrubs which, when mature, shall reach a minimum height of six (6) feet, provide a dense visual barrier, be drought resistant, and possess compact root systems posing minimum danger to integrity of public utilities. The large screening shrubs included on the following list are recommended to be planted to screen incompatible land uses, parking facilities, and dumpsters by forming a visual barrier.

TABLE INSET – Screening shrubs (large):

Common Name	Botanical Name
Photina	Photina Serrulata
Fraser's Photina	Photina Fraseri
Burford Holly	Ilex Cornuta Burfordi
Chinese Holly	Ilex Cornuta Rotunda
Waxmyrtle	Myrica Cerifera
Yaupon Holly	Ilex Vomitoria
Nellie R. Stevens Holly	Ilex Cornuta

*Screening shrubs, small* means shrubs with an installed minimum height of two (2) feet as hereinafter identified, or any other shrubs which, when mature, shall reach a minimum height of two (2) feet and provides a dense visual barrier. The small screening shrubs included on the following list are recommended to be planted to screen parking lots, playgrounds, ball fields, swimming pools, and tennis courts by forming a visual barrier.

TABLE INSET – Screening shrubs (small):

Common Name	Botanical Name
Compact Nandina	Nandina Compacta
Dwarf Abelia	Abelia Edeard Goucher
	Abelia Prostata
Dwarf Burford Holly	Ilex Cornuta Burfordii Nana

Dwarf Yaupon Holly	Ilex Vomitora Nana
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*Seat* as used in determining parking requirements for this Ordinance, a seat shall mean such sitting space as needed or which is designed to be used for one (1) person to sit down and occupy.

*Secondhand store* means an establishment specializing in the sale of previously used materials, goods, and merchandise of less than twenty (20) years of age and of that material, goods and merchandise over twenty (20) years of age which do not derive a value as a result of their age.

*Servant or caretaker's quarters* means a secondary dwelling unit located on a lot with a main residential structure and used as living quarters for persons employed on the premises and not for rent or use as a separate domicile by persons other than those employed on the premises or their immediate family.

*Service station* means a business establishment where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail, and the servicing of vehicles occurs, but not including the major overhaul of automobiles, body work, or repair of heavy trucks and equipment. A service station is sometimes referred to as a "gas station," "filling station," or "fuel service station."

*Setback* means the required minimum distance between any structure and any street right-of-way line. Setbacks shall be measured perpendicular to lot lines. The terms "setback" and "required yard" shall mean the same and can be interchanged.

*Sexually oriented business* means an establishment as defined in section 11.2. of this Ordinance.

*Shopping center or mall* means a planned and coordinated grouping of retail business and service uses on a single site or a combination of sites where special attention is given to on-site vehicular circulation, parking, and building design and orientation.

*Sign* means an outdoor device or structure which directs attention to a business, commodity, service, announcement, direction or entertainment conducted, sold, or offered to the public.

*Sign, ground* means a sign supported by uprights or braces in or upon the ground, or mounted on a vehicle, trailer, or mobile structure.

*Sign, pole* means a freestanding sign supported by a freestanding pole and having no guys or braces to the ground or to any structure other than the pole.

*Sign, roof* means a sign erected, constructed, or maintained above the roof of any building.

*Sign, wall* means a sign affixed to any building wall or structure.

*Site Plan* means a detailed line drawing, to scale, showing scale used, north arrow, date and title of project, clearly describing the project and showing the following information:

- (1) Property lines, location and width of all streets, alleys and easements.
- (2) Proper dimensions of all fundamental features such as lots, buildings, parking spaces and landscaped areas.
- (3) The location of setback lines, driveway openings and sidewalks.
- (4) All proposed buildings, free-standing sign locations, parking areas and open spaces.
- (5) All required landscaping, together with a description of type of material to be used.
- (6) A cross section of any required or proposed screening
- (7) Total square footage of the development lot; total square footage of proposed structures; total footage of landscaped areas; total percentage of coverage; density of floor area ration where applicable; height of structures;; number of parking spaces; square footage and design features of all signs; and solid waste collection facilities.

*Special exception use* means a use that may be allowed if it meets certain specified requirements or conditions and meets the approval of the Board of Adjustments. Specific uses are sometimes referred to as "conditional" uses or "special exceptions."

*Stable, private* means an accessory building used by the residents of the premises for sheltering and quartering of horses owned by the occupant and for which no fee is charged for stabling the horses.

*Stable, public* means a lot or tract of land used for the sheltering and quartering of horses for which a fee or charge is made for the stabling of the horses.

*Story* means that portion of a building, other than a basement, included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it.

*Story, half* means the topmost story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story, except that any partial story used for residence purposes shall be deemed a full story.

*Street* means a public or private thoroughfare or road which affords the principal means of access to abutting property.

*Street line* means the dividing line between a lot, tract or parcel of land and a contiguous street; the right-of-way.

*Street, Local or Residential* means a street designed to serve properties abutting and in the immediate vicinity of the street, having a minimum right-of-way width of fifty (50) feet in single family residential districts and seventy-five feet in all other districts.

*Street, Major* means a street designed to serve the entire community or substantial portions of the community, as well as traffic of non-local origin and destination, having a minimum right-of-way width of one hundred (100) feet.

*Street, Secondary or collector* means a street designed to serve an area roughly one quarter (1/4) mile distant from each side of the street, having a minimum right-of-way width of seventy five (75') feet.

*Structural alteration* means any change, addition or modification in construction in the supporting members of a building, such as exterior walls, bearing walls, beams, columns, foundations, girders, floor joists, roof joists, rafters or trusses.

*Structure* means anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

*Swimming pool, private* means a recreational facility used for swimming which is used the owners, employees, or residents of the property and their guests.

*Swimming pool, public* means a recreational facility used for swimming which is open to the public for which a membership is required or a fee or charge is made for the use of the facility.

*Tack store* means a commercial establishment which sells horse equipment such as saddles, bridles, blankets, riding accoutrements, etc.

*Television satellite dish* means an earth-based station shaped like a dish which is used for the reception of satellite signals for television programs.

*Tennis court, private* means a concrete or clay court which is used for the playing of tennis by the owners, employees, or residents of the property and their guests.

*Tennis court, public* means a concrete or clay court which is used for the playing of tennis by the general public and for which membership is required or a fee or charge is made for the use of the facility.

*Thoroughfare* means the same as street.

*Tool and equipment rental* means an establishment which offers an array of tools and equipment and machinery such as cranes, backhoes, trucks, tractors, etc. at a stated price for a fixed interval of time under a lease or rental agreement.

*Townhouse* means a single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party or common walls or are located immediately adjacent thereto with no visible separation between walls or roofs. This definition shall also include the term "condominium."

*Trailer camp or park* means an area designed, arranged or used for the parking or storing of one (1) or more recreational vehicles, travel trailers, motor homes, motor coaches, pick-up campers, and camping trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

*Turfs* means the following list of turfs and any other turfs which can be demonstrated to the Building Official to be drought resistant.

TABLE INSET - Turfs:

Common Name	Botanical Name
Bermuda Grass	Cynodon Dactylon
Bermuda Grass hybrids	
St. Augustine	Stenotaphrom Secundatum
Buffalo Grass	Buchloe Dectyloides
Fescue and combinations	Festuca Arundinacea

*Underground shelter* means a concrete structure designed for the protection of humans from tornadoes or from nuclear blast, heat, or fall-out, the main portion of which is underground.

*Use* means the purpose for which land or a building or structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.

*Use, accessory* means a subordinate use on the same lot with the principal use and incidental and accessory thereto.

*Variance* means an adjustment in the application of the specific regulations of the zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

*Vehicle racing facility* means a track or course laid out or designed for competitive racing of self-propelled vehicles whether or not required to be registered or licensed under the laws of the State of Texas. Vehicles may not be salvaged, dismantled or repaired except for adjustments as may be required to effectively compete.

*Veterinary clinic* means an establishment for the care and medical veterinary practice on or for domestic household animals, conducted completely within an enclosed structure. This term shall also include "animal clinic."

*Veterinary hospital* means an establishment for the care and medical veterinary practice on or for large animals and household domestic animals and which animals may be boarded during treatment in outside pens, runs or stables. This term shall also include "animal hospital."

*Warehouse* means a building or group of buildings used for the storage of merchandise, goods, and wares.

*Washeteria* means a building or place where clothes and linens are washed and thoroughly dried on a self-service basis by the use of washing, drying, and ironing machines and shall include the term "self-cleaning laundry."

*Wholesale* means the sale of goods, merchandise, services and/or commodities for resale by the purchaser and does not offer retail sales to the general public.

*Yard* means an open space, other than a court, on the same lot with a building and which is not obstructed from ground level to the sky except for roof overhangs, fences, trees, and shrubs.

*Yard, front* means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the front line of the lot and the nearest portion of the main building, including an enclosed or covered porch, provided that the front yard depth shall be measured from the future street line for a street on which a lot fronts, when such line is shown on the official map or is otherwise established.

*Yard, rear* means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear line of the lot and the main building.

*Yard, side* means a yard between the side line of the lot and the main building extending from the front yard to the rear yard and having a width equal to the shortest distance between said side line and the main building.

*Zoning District Map* means the official certified map upon which the boundaries of the various zoning districts are drawn.

*Zoning Ordinance* means this Ordinance containing land use regulations for the City of Aurora.

## **SECTION 5. USE DISTRICTS**

### **5.1. ZONING DISTRICTS ESTABLISHED**

For the purposes of this Ordinance, the City of Aurora is hereby divided into the following seventeen (17) zoning districts:

- 1) **“R-1” Single-Family Residential District – minimum residential building site of 1 acre, (43,560 square feet).**
- 2) **“R-2” Single-Family Residential District – minimum residential building site of ½ acre, (21,780 square feet).**
- 3) **“R-3” Single-Family Residential District – minimum residential building site of ¼ acre (10,890 square feet).**
- 4) **“R-4” Single Family Residential District - minimum residential building site of “zero lot,” 6,000 square feet.**
- 5) **“RMH” Residential Manufactured Home Park District**
- 6) **“RMF” Residential Multi-Family District**
- 7) **“C-1” Restricted Commercial District**
- 8) **“C-2” Commercial District**
- 9) **“C-3” Commercial District**
- 10) **“C-4” Commercial District**
- 11) **“I - L” Industrial/ Manufacturing District - Light**
- 12) **“I-H” Industrial/Manufacturing District- Heavy**
- 13) **“OS” Open Space District**
- 14) **“P-SP” Public/Semi Public District**

15) “PD” Planned Development District

16) “FP” Floodplain District.

## SECTION 5.2 - ZONING DISTRICT BOUNDARIES

### 5.2.1. Rules for Determining District Boundaries

The district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- 5.2.1.1. Boundaries indicated as approximately following streets, highways, or alleys shall be construed to follow the centerline of such street, highway, or alley.
- 5.2.1.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.
- 5.2.1.3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
- 5.2.1.4. Boundaries indicated as following railroad or utility lines shall be construed to be the centerline of the right-of-way; if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.
- 5.2.1.5. Boundaries indicated as parallel to or extensions of features indicated in 5.2.1.1. through 5.2.1.4. shall be determined by using rules of construction. Distances not specifically indicated on the original Zoning Map shall be determined from the graphic scale on the map.
- 5.2.1.6. Whenever a street, alley or other public way is vacated by official action of the City Council, or whenever a street or alley area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way, and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
- 5.2.1.7. Where physical features of the ground are at variance with information shown on the official zoning district map, or if there arises a question as to how a parcel of property is zoned

and such question cannot be resolved by the application of subsections 5.2.1.1. through 5.2.1.6, or the zoning of property is invalidated by a final judgment of a court of competent jurisdiction, the property shall be considered as classified R-1-Residential District, temporarily. In an area determined to be temporarily classified as R-1-Residential District, no person shall construct, add or alter any building or structure or cause the sale to be done, nor shall any use be located therein or on the land which is not permitted in an R-1-Residential District, unless and until such territory has been zoned to permit such use by the City Council. It shall be the duty of the City Council to determine a permanent zoning for such area as soon as practicable.

### **SECTION 5.3. ZONING DISTRICT MAP**

#### **5.3.1. Zoning District Boundaries Delineated on Zoning District Map.**

The boundaries of the zoning districts set out herein are delineated upon the Zoning District Map of the City of Aurora, Texas, said map being hereby adopted as part of this Ordinance as fully as if the same were set forth herein in detail.

#### **5.3.2. Regulations for Maintaining Zoning District Map**

- 5.3.2.1. Two (2) original, official, and identical copies of the Zoning District Map are hereby adopted bearing the signature of the Mayor and the City Administrator and shall be filed and maintained as follows:
- 5.3.2.2 One copy shall be filed with the City Administrator, to be retained as the original record and shall not be changed in any manner.
- 5.3.2.3 One copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation in issuing building permits and for enforcing the Zoning Ordinance. A written record (logbook) shall be kept by the Building Official of all changes made to the Zoning District Map.
- 5.3.2.4 Reproductions of the official Zoning District Map may be made for information purposes.

### **SECTION 5.4. ZONING OF ANNEXED TERRITORY**

**5.4.1. Permanent Zoning Concurrent with Annexation**

An area or areas being annexed to the City of Aurora shall ordinarily be given permanent zoning concurrently with the annexation.

**5.4.2. Temporary Classification**

In instances in which the zoning of an annexed territory concurrently with the annexation is impractical, the annexed territory shall be temporarily classified as R-1 Residential District, until permanent zoning is established by the City Council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations. The City Council shall determine a permanent zoning for such area as soon as practicable after annexation.

**5.4.3. Regulations in Areas Temporarily Classified****In an area temporarily classified as R-1 Residential:**

5.4.3.1. No person shall erect, construct, or proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the City of Aurora without first applying for and obtaining a building permit or Certificate of Occupancy from the Building Official or the City Council, as may be required.

5.4.3.2. No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building permitted in an R-1 Residential District in the manner prescribed by law.

**SECTION 6 RESIDENTIAL DISTRICTS****6.1. GENERAL PURPOSE AND DESCRIPTION**

The R-1, R-2, R-3, R-4 and RMH residential districts are established as single family residential districts. The RMF district is established as a multi-family residential district.

**6.2. R-1- SINGLE FAMILY RESIDENTIAL DISTRICT - LOW DENSITY**

6.2.1. **General Purpose and Description** - R-1 Single Family Residential District is designed to accommodate single family residential development on large lots.

- 6.2.2. **Permitted Uses** - A building or premise in an R-1 District shall be used only for the following purposes:
- 6.2.2.1. Uses in an R-1 District as listed in Appendix 1 of this Ordinance.
- 6.2.3. **Permitted Specific Uses** - The following specific uses shall be permitted in an R-1 District, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:
- 6.2.3.1. Specific Uses in an R-1 District as listed in Appendix 1 of this Ordinance.
- 6.2.4. **Height and Area Regulations** - See Appendix 2, Area, Setback, Height, and Coverage Regulations in an R-1 District.
- 6.2.5. **Parking Regulations** - A minimum of two (2) covered spaces behind the front yard line for single family dwelling units. Other off-street parking spaces regulations are set forth in Section 10.1.

### 6.3. R-2 – SINGLE FAMILY RESIDENTIAL DISTRICT - LOW DENSITY

- 6.3.1. **General Purpose and Description** - R-2 Single Family Residential District is designed to accommodate mid-size lot developments of low density single family residential development. The district can be appropriately located in proximity to multifamily residential areas and certain neighborhood local retail and office uses, with appropriate screening or buffering. Densities in this district will not exceed four (4) units per gross acre.
- 6.3.2. **Permitted Uses.** A building or premises in an R-2\_District shall be used only for the following purposes:
- 6.3.2.1. Uses in an R-2 District as listed in Appendix 1 of this Ordinance.
- 6.3.3. **Permitted Specific Uses.** The following specific uses shall be permitted in an R-2 District, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:
- 6.3.3.1. Specific Uses in an R-2 District as listed Appendix 1 of this Ordinance.

6.3.4 **Height and Area Regulations** - See Appendix 2, Area, Setback, Height, and Coverage Regulations in an R-2 District.

6.3.5 **Parking Regulations** - A minimum of two (2) covered, enclosed parking spaces shall be provided per unit behind the building line. Other off-street parking space regulations are set forth in Section 10.1.

#### 6.4 **R-3 - SINGLE FAMILY RESIDENTIAL DISTRICT - MEDIUM DENSITY**

6.4.1 **General Purpose and Description** - The R-3 Single Family Residential District is intended to provide for medium density single family residential development. This district functions as a buffer or transition between major streets, non-residential areas and lower density residential areas.

6.4.2. **Permitted Uses.** A building or premises in an R-3 District shall be used only for the following purposes:

6.4.2.1. Uses in an R-3 District as listed in Appendix 1 of this Ordinance.

6.4.3. **Permitted Specific Uses.** The following specific uses shall be permitted in an R-3 District, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:

6.4.3.1. Specific Uses in an R-3 District as listed in Appendix 1 of this Ordinance.

6.4.4. **Height and Area Regulations** - See Appendix 2, Area, Setback, Height, and Coverage Regulations in an R-3 District.

6.4.5. **Parking Regulations.** A minimum of one (1) covered, enclosed parking space shall be provided per unit behind the front yard line. Other off-street parking space regulations are set forth in Section 10.1.

#### 6.5. **R-4 - SINGLE FAMILY RESIDENTIAL DISTRICT – HIGH DENSITY**

6.5.1. **General Purpose and Description** -R-4 Single Family Residential District is intended to provide for medium density single family residential development.

6.5.2. **Permitted Uses.** A building or premises in an R-4 District shall be used only for the following purposes:

- 6.5.2.1. Uses in an R-4 District as listed in Appendix 1 of this Ordinance.
- 6.5.3. **Permitted Specific Uses.** The following specific uses shall be permitted in an R-4 district, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:
  - 6.5.3.1. Specific Uses in an R-4 District as listed in Appendix 1 of this Ordinance.
- 6.5.4. **Height and Area Regulations** - See Appendix 2, Area, Setback, Height, and Coverage Regulations in an R-4 District.
- 6.5.5. **Parking Regulations.** A minimum of one (1) covered, enclosed parking space shall be provided per unit behind the front yard line. Other off-street parking space regulations are set forth in Section 10.1.

#### **6.6. R-MH - MANUFACTURED HOME PARK DISTRICT**

- 6.6.1. **General Purpose and Description** - The Manufactured Home Park District is intended to provide for quality mobile home subdivision development containing many of the characteristics and the atmosphere of a standard single family subdivision. For manufactured Home Parks, the minimum lot area shall be not less than five-thousand (5,000) square feet per manufactured home lot when a public sewer system serves the park. Where a public sewer system is not available, and septic tanks are used for on-site sewage disposal, the minimum lot area shall be one (1) acre per manufactured home. The minimum size of any manufactured home park shall be five (5) acres.
- 6.6.2. **Permitted Uses.** A building or premises in an R-MH District shall be used only for the following purposes:
  - 6.6.2.1. Uses in an R-MH District as listed in Appendix 1 of this Ordinance.
- 6.6.3. **Permitted Specific Uses.** The following specific uses shall be permitted in the R-MH District, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:
  - 6.6.3.1 Specific Uses in an R-MH District as listed in Appendix 1 of this Ordinance.

6.6.4. **Height and Area Regulations.** See Appendix 2, Area, Setback, Height, and Coverage Regulations in an R-MH District.

6.6.5. **Parking Requirements** - Two (2) spaces shall be provided per unit located on the lot plus additional spaces for accessory uses as required in Section 10.1.

6.6.6. **Additional Restrictions Applicable to R-MH District**

6.6.6.1. Manufactured housing design and construction will comply with construction and safety standards published by the Department of Housing and Urban Development pursuant to the requirements of the National Mobile Home and Safety Standards Act of 1974 and all manufactured homes will be subject to inspection by the Building Official.

6.6.6.2. All manufactured homes shall be set on solid slab structure and/or 18" to 20" runners. Additional rooms and enclosed porches shall be constructed on a solid slab.

6.6.6.3. Tie-downs will be required and will be secured prior to occupancy.

6.6.6.4. Underpinning and skirting of like material and color or better is required and will be installed prior to occupancy.

6.6.6.5. Accessory buildings will be either manufactured or constructed in accordance with City codes. Accessory buildings must be set a minimum of ten (10) feet away from a residential structure.

6.6.6.6. All manufactured homes and modular homes shall comply with all regulations of the State of Texas and such regulations are hereby incorporated into this section.

**6.7. R-MF - MULTIFAMILY RESIDENTIAL DISTRICT**

6.7.1. **General Purpose and Description.** The Multifamily Residential District is intended to provide for medium to higher density residential development. This district functions as a buffer or transition between major streets, non-residential areas, or higher density residential areas and lower density residential areas. Density in this district does not ordinarily exceed fifteen

(15) units per gross acre but can reach a maximum of twenty-five (25) units per gross acre if special fire protection requirements are observed.

6.7.2. **Permitted Uses.** A building or premises in an R-MF District shall be used only for the following purposes:

6.7.2.1. Three (3) or more single family attached dwelling units, provided that no more than seven (7) dwelling units are attached in one continuous row or group.

6.7.2.2. Other uses in an R-MF District as listed in Appendix 1 of this Ordinance.

6.7.3. **Permitted Specific Uses.** The following specific uses shall be permitted in an R-MF District when authorized by a Specific Use Permit granted in accordance with Section 15 of this Ordinance:

6.7.3.1. Specific Uses in an R-MF District as listed in Appendix 1 of this Ordinance.

6.7.4. **Height and Area Regulations.** See Appendix 2, Area, Setback, Height, and Coverage Regulations for an R-MF District. When buildings exceed one (1) story in height, such buildings shall be constructed in accordance with existing building and fire codes.

6.7.5. **Parking Regulations.** Two and one-half (2.5) off-street parking spaces shall be provided per dwelling unit. Required parking may not be provided within the required front yard. Other off-street parking spaces regulations are set forth in Section 10.

6.7.6. **Refuse Facilities.** Every dwelling unit in a multifamily complex shall be located within two hundred fifty (250) feet of a refuse facility, measured along the designated pedestrian and vehicular travel way. There shall be available at all times at least six (6) cubic yards of refuse container per thirty (30) multifamily dwelling units. For complexes with less than thirty (30) units, no less than four (4) cubic yards of refuse container shall be provided. Each refuse facility shall be screened for view on three (3) sides from persons standing at ground level on the site or immediately adjoining property, by an opaque fence or wall of wood or masonry not less than six (6) feet nor more than eight (8) feet in height or by an enclosure within a building. Refuse containers shall be provided and maintained in a manner to satisfy City public health and sanitary

regulations. Each refuse facility shall be located so as to provide safe and convenient pickup by refuse collection agencies.

- 6.7.7. **Screening Fence.** Border fencing of wood or masonry of not less than six (6) feet in height shall be installed by the builder at the time of construction of any multifamily complex, along the property line on any perimeter not abutting a public street or right-of-way. This fence shall be maintained throughout the existence of the multifamily complex by the owner of the complex.
- 6.7.8. **Special Fire Protection Requirements.** Whenever densities of greater than fifteen (15) units per acre are present, each building in the development shall at the time of the construction, and thereafter be operated in accordance with currently applicable building and fire safety codes.

#### 6.8. TEMPORARY RESIDENTIAL - RECREATIONAL VEHICLES - USES

- 6.8.1. **Recreational Vehicle** is defined by Section 4.2. Definitions, of this Ordinance.
- 6.8.2. **Location** - RV parks shall be located in an area indicated on the zoning map, as legal non-conforming use. Additional parks must seek a zoning change hearing through the Planning and Zoning Commission.
- 6.8.3. **Size and density**
- 6.8.3.1. Each RV park must have a minimum size of two (2) acres, with a maximum of five (5) acres.
- 6.8.3.2. The maximum site density for RV parks shall be twenty (20) sites per acre.
- 6.8.3.3. Only one (1) recreational vehicle is permitted per recreational vehicle site.
- 6.8.3.4. Size of individual sites; pad requirements; landscaping (a) Each recreational vehicle site within the RV park shall have a minimum area of one thousand nine hundred fifty (1,950) square feet and shall be at least thirty (30) feet wide and sixty-five (65) feet in depth. The sites shall be designed as pull-through for ease of entering and leaving the site. A roadway is therefore required to the front and rear. In addition, the space shall be clearly marked identifying the space number.

**6.8.4. Temporary occupancy of RVs in residential zones, during permitted construction period.**

6.8.4.1. In the best interests of public health and safety, and in an effort to maintain the integrity of individual septic systems, using an RV as a permanent residence or satellite bedroom for a primary residence, is expressly prohibited by this ordinance.

6.8.4.2. It is the intent of the town to allow for temporary occupancy of RVs in residential zones based on the following:

- a. All rules of the underlying zoning district must be met.
- b. On-street parking of RVs is prohibited.
- c. Residential owner-builders may live temporarily in an RV, on his/her lot, no longer than 180-days, the duration of the permit. Exceptions may be granted by the Planning and Zoning Commission (P&Z). Those requesting an exception must submit a written request for consideration according to existing rules for such. The P&Z shall review the request during public meetings and make a determination that an exception is prudent because it helps promote owner-builder goals contained in city policies and will not harm the public health, safety, or welfare. The P&Z may impose conditions to mitigate any anticipated nuisance.
- d. When occupying an RV under the provisions of this chapter, power cords and water hoses are allowed for utility hook-ups. Occupants are expressly prohibited from tying in to the septic system anytime during the visit unless connecting via an approved hook-up at the host's residence.
- e. Whether occupied or not, the area surrounding an RV parked in a residential zone must be kept tidy and free from trash and debris.
- f. Residents are permitted to host RV guests on their privately owned residential lots for no greater than 30 days with no

encumbrances. No extensions will be granted beyond this time period.

## **SECTION 7. COMMERCIAL DISTRICTS**

### **7.1. General. Commercial districts**

### **7.2. C-1 COMMERCIAL DISTRICT – OFFICE, LIGHT RETAIL AND NEIGHBORHOOD SERVICES**

7.2.1 General Purpose and Description. The C-1 Commercial District is intended for office facilities, neighborhood shopping facilities, and retail and commercial facilities of a service character. The C-1 District is established to accommodate the daily and frequent needs of the community. The following regulations shall be applicable to all uses in the district:

7.2.1.1. The business shall be conducted wholly within an enclosed building;

7.2.1.2. Required yards shall not be used for display, sale, or storage of merchandise or for the storage of vehicles, equipment, containers, or waste material;

7.2.1.3. All merchandise shall be sold at retail on the premises; and

7.2.1.4. Such use shall not be objectionable because of odor, excessive light, smoke, dust, noise, vibration, or similar nuisance.

7.2.2. **Permitted Uses.** A building or premises in a C-1 District shall be used only for the following purposes:

7.2.2.1. Uses in a C-1 District as listed in Appendix 1 of this Ordinance.

7.2.3. **Permitted Specific Uses** - The following specific uses shall be permitted in the C-1 District, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:

7.2.3.1. Specific Uses in a C-1 District as listed in Appendix 1 of this Ordinance.

7.2.4. **Height and Area Regulations.** See Appendix 2, Area, Setback, Height, and Coverage Regulations in a C-1 District.

7.2.5. **Parking Regulations.** Off-street parking and loading shall be provided as set forth in Section 10.1.

### 7.3. **C-2, C-3, and C-4- GENERAL COMMERCIAL DISTRICTS.**

7.3.1. **General Purpose and Description.** The C-2, C-3 and C-4 General Commercial Districts are intended to provide a zoning category similar to the C-1 District, except that additional uses are permitted which are not generally carried on completely within a building or structure and an expanded range of service and repair uses is permitted.

7.3.2. **Permitted Uses.** A building or premises in a C-2, C-3 or C-4 District shall be used only for the following purposes:

7.3.2.1. Uses in a C-2, C-3 or C-4 District as listed in Appendix 1 of this Ordinance.

7.3.3. **Permitted Specific Uses** - The following specific uses shall be permitted in C-2, C-3 or C-4 District, when authorized by a specific use permit granted in accordance with Section 15 of this Ordinance:

7.3.3.1. Specific uses in a C-2, C-3 or C-4 District as listed in Appendix 1 of this Ordinance.

7.3.4. **Height and Area Regulation.** See Appendix 2, Area, Setback, Height, and Coverage Regulations in the C-2, C-3 or C-4 District.

7.3.5. **Parking Requirements.** Off-street parking and loading shall be provided in accordance with Section 10.1.

## SECTION 8. INDUSTRIAL/ MANUFACTURING DISTRICTS

8.1. **General.** Allowable Manufacturing and Industrial Districts are outlined as follows:

### 8.2. **I - L INDUSTRIAL/ MANUFACTURING DISTRICT-LIGHT**

8.2.1. **General Purpose and Description.** The I-L Industrial Manufacturing District-Light is established to accommodate those uses which are a non-nuisance type located in relative proximity to residential areas, and to preserve and protect land designated on the Comprehensive Plan for industrial

development and use from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purposes. Development in the I-L District is limited primarily to certain storage, wholesale, and industrial uses, such as the fabrication of materials, and specialized manufacturing and research institutions, all of a non-nuisance type. No use or types of uses specifically limited to the I District may be permitted in an I-L District.

**8.2.2. Uses permitted in the I-L District are subject to the following conditions:**

8.2.2.1. All business, servicing, or processing, except for off-street loading, display or merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed areas.

8.2.2.2. All storage within one hundred (100) feet of a residential district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of screening.

8.2.2.3. Permitted uses in the I-L District shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence.

8.2.2.4. Permitted uses in the I-L District shall produce no noise exceeding in intensity, at the boundary of the property, the average intensity of noise of street traffic.

8.2.2.5. Permitted uses in the I-L District shall not create fire hazards on surrounding property.

**8.2.3. Permitted Uses.** A building or premises in an I-L District shall be used only for the following purposes:

8.2.3.1. Uses in an I-L District as listed in Appendix 1 of this Ordinance.

**8.2.4. Permitted Specific Uses.** The following specific uses shall be permitted in the I-L District when authorized by a specific use

permit granted in accordance with Section 15 of this Ordinance:

- 8.2.4.1. Machine shops and fabrication of metal not more than ten (10) gauge in thickness.
  - 8.2.4.2. Accessory uses, including but not limited to temporary buildings for construction purpose for a period not to exceed the duration of such construction.
  - 8.2.4.3. Factory outlet retail or wholesale store for the sales and servicing of goods or materials on the same premises as the manufacturing company to which they are related, including sales and service in a separate building or buildings.
  - 8.2.4.4. Railroad freight terminals, railroad switching and classification yards, repair shops, and roundhouses.
  - 8.2.4.5. Other specific uses as listed in Appendix 1 of this Ordinance.
- 8.2.5. **Height and Area Regulations.** See Appendix 2, Area, Setback, Height, and Coverage Regulations in an I-L District.
- 8.2.6. **Parking Regulations.** Off-street parking requirements shall be provided in accordance with the specific uses set forth in Section 10.1.

### **8.3. I-H INDUSTRIAL/ MANUFACTURING DISTRICT – HEAVY**

- 8.3.1. **General Purpose and Description.** The I-H Industrial /Manufacturing District-Heavy is established to accommodate most industrial uses and protect such areas from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purposes.

Uses permitted in the I-H District are subject to the following conditions:

- 8.3.1.1. All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed buildings unless otherwise indicated.

- 8.3.1.2. All storage within one hundred (100) feet of a residential district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively, screened with screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of such screening.
- 8.3.1.3. All uses permitted in the I-H district must meet the following performance standards and any appropriate City ordinances:
- 8.3.1.3.1. Smoke: No operation shall be conducted unless it conforms to the standards established by any applicable state and federal health rules and regulations pertaining to emission of particulate matter;
- 8.3.1.3.2. Particulate Matter: No operation shall be conducted unless it conforms to the standards established by applicable state and federal health rules and regulations pertaining to emission of particulate matter;
- 8.3.1.3.3. Dust. Odor. Gas. Fumes. Glare, or Vibration: No emission of these matters shall result in a concentration at or beyond the property line which is detrimental to the public health, safety or general welfare or which causes injury or damage to property; said emissions shall in all cases conform to the standards established by applicable state and federal health rules and regulations pertaining to said emissions;
- 8.3.1.3.4. Radiation Hazards and Electrical Disturbances: No operation shall be conducted unless it conforms to

the standards established by applicable state and federal health rules and regulations pertaining to radiation control;

8.3.1.3.5. Noise. No operation shall be conducted in a manner so that any noise produced is objectionable due to intermittence, beat frequency, or shrillness. Sound levels of noise at the property line shall not exceed 75 db(A) permitted for a maximum of fifteen (15) minutes in any one (1) hour; said operation shall in all cases conform to the standards established by applicable state and federal health rules and regulations and to other City ordinances pertaining to noise; and

8.3.1.3.6. Water Pollution: No water pollution shall be emitted by manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the appropriate State and national health and environmental protection agencies prior to issuance of a Certificate of Occupancy.

The applicant shall have the burden of establishing that said safeguards are acceptable to said agency or agencies.

8.3.2. **Permitted Uses.** The following uses shall be permitted in an I-H District:

8.3.2.1. Uses in an I-H District as listed in Appendix 1 of this Ordinance.

8.3.3. **Permitted Specific Uses.** The following specific uses shall be permitted in the I-H District when authorized by a specific use

permit granted in accordance with Section 15 of this Ordinance:

- 8.3.3.1. Specific Uses in an I-H District as listed in Appendix 1 of this Ordinance.
- 8.3.3.2. Other manufacturing and industrial uses which do not meet the general definition for manufacturing processes may be permitted by the City Council by a specific use permit after public hearing and review of the particular operational characteristics of each such use, and other pertinent data affecting the community's general welfare. Approval of uses under this section shall be made in accordance with Section 15 of this Ordinance.
- 8.3.4. Height and Area Regulations. See Appendix 2, Area, Setback, Height, and Coverage Regulations in an I-H District.
- 8.3.5. Parking Regulations. Required off-street parking shall be provided in accordance with the specific uses set forth in Section 10.

## **SECTION 9 – ADDITIONAL SPECIAL ZONING**

### **9.1 OS – OPEN SPACE DISTRICT**

- 9.1.1. **General Purpose and Description.** The Open Space District is intended to preserve natural spaces for city park uses, preserving habitat, protecting the quality and quantity of water resources, providing an alternative means to manage storm water runoff, promoting good air quality and creating opportunities for recreation and education.

### **9.2. P/SP PUBLIC/ SEMI-PUBLIC DISTRICT**

- 9.2.1. **General Purpose and Description.** The Public / Semi-Public District is intended to outline areas for public use.

- 9.2.2. **Permitted Uses**

Common public / semi-public uses include, but are not limited to cemeteries, mortuaries, and museums.

### **9.3. PDD PLANNED DEVELOPMENT DISTRICT**

- 9.3.1. **General Purpose and Description** – A PDD (Planned Development District) provides for combining and mixing of uses allowed in various districts with appropriate regulations, permitted use of land, buildings and designs that are consistent and will not be harmful to the citizens and community. Procedures established herein will ensure against misuse.

The outer boundary of each PDD Zoning District will be shown on a map. Each PDD must be wholly contained within the incorporated City limits and cannot extend either into the future City's extraterritorial jurisdiction or into another city's extraterritorial jurisdiction. The City, however, may conditionally approve a Preliminary Development Plan contingent on the areas outside of the City's limits being annexed into the City prior to approval of the Final Development Plan.

Said map will include a descriptive legend, the specific boundaries of the area, proposed uses authorized for any other zoning district, and percentage of the total area of such PDD, which will comprise each such separate use, and all notations, references, and other information shown thereon, will be adopted by ordinance.

- 9.3.2. **Permitted Uses.** A PDD will be comprised of a combination of residential, multifamily, and commercial uses, with the exception of C-3 heavy Commercial, I-L, Light Industrial, I-H, Heavy Industrial and I-O, Industrial Office Overlay. Each designated PDD district will have unique standards and requirements that are described in the adopting ordinance for that district. A PDD can also include utilities, but only those directly related to the proposed development.

9.3.3. **Development Standards**

9.3.3.1. Development standards for each separate PDD District shall be set forth in the ordinance granting the PDD District and may include but shall not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council may deem appropriate.

9.3.3.2. In the PDD District, the particular district(s) to which uses specified in the PDD are most similar shall be stated in the granting ordinance. All PDD applications shall list all requested variances from the standard requirements set forth throughout this Ordinance (applications without this list will be considered incomplete).

- 9.3.3.3. The ordinance granting a PDD District shall include a statement as to the purpose and intent of the PDD District granted therein. A specific list is required of variances in each district or districts and a general statement citing the reason for the PDD District request.
- 9.3.3.4. The Planned Development District shall conform to all other sections of the Ordinance unless specifically exempted in the granting ordinance.
- 9.3.4. **Conceptual and Development Plan** - In establishing a Planned Development District, the City Council shall approve and file as part of the amending ordinance appropriate plans and standard for each Planned Development District. During the review and public hearing process, the City Council shall require a conceptual plan and a development plan (or detailed site plan).
- 9.3.4.1. **Conceptual Plan.** This plan shall be submitted by the applicant. The plan shall show the applicant's intent for the use of the land within the proposed Planned Development District in a graphic manner and shall be supported by written documentation of proposals and standards for development.
- a. Residential Conceptual Plan.** A conceptual plan for residential land use shall show general use, thoroughfares, and preliminary lot arrangements. For residential development which does not propose platted lots, the conceptual plan shall set forth the size, type, and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and other pertinent development data.
- b. Other Use Conceptual Plan.** A conceptual plan for uses other than residential uses shall set forth the land use proposals in a manner to adequately illustrate the type and nature of the proposed development. Data which shall be submitted by the applicant, or is required by the City Council, includes but is not limited to the types of use(s), topography, and boundary of the PD area, physical features of the site, existing streets, alleys, and easements, location of future public facilities, building heights and locations, parking ratios, and other information to adequately describe the proposed

development and to provide data for approval which is to be used in drafting the final development plan.

- c. *Changes of Detail.*** Changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, building height, or coverage of the site and which do not decrease the off-street parking ratio, reduce the yards provided at the boundary of the site, or significantly alter the landscape plans as indicated on the approved conceptual plan may be authorized by the Building Official or his designated representative. If an agreement cannot be reached regarding whether or not a detail site plan conforms to the original concept plan, the City Council shall determine the conformity.
- d. *Flexible Planning.*** When the Commission and Council considers a PDD, the unique nature of each proposal for a PDD may require, under proper circumstances, the departure from the strict enforcement of certain present codes and ordinances.

**9.3.4.2. Preliminary Development Plan.** The request for rezoning to a PDD must be accompanied by a proposed Preliminary Development Plan. The Preliminary Development Plan enables the Commission and Council to understand the proposed PDD in sufficient detail to make an informed decision prior to rezoning the property. Its purpose is to provide sufficient detail that the council can comply with the standards established by this ordinance. The Commission may recommend, and the Council may approve the Final Development Plan, if it substantially conforms to the Preliminary Development Plan. A Preliminary Development Plan for the entire property within the PDD shall be considered by the Commission and Council prior to any recommendation, or consideration, by the City Council to re-zone the property as a PDD. Approval of the Preliminary Development Plan is an integral part of the PDD approval process. The property will not be re-zoned as a PDD unless the Council concurrently approves the Preliminary Development Plan. An acceptable Preliminary Development Plan will contain the following information in enough detail that the Commission and Council are able to determine that

the PDD complies with the standards established by this ordinance prior to rezoning the property:

- The name, address, and telephone number of the Landowner and the Developer;
- The name of the proposed project;
- The location of the proposed project;
- The names and addresses of adjoining property owners within 250 feet of the proposed site;
- A location map;
- All existing streets, driveways, buildings, watercourses, flood plains, and significant environmental features;
- The proposed location, type/use and size of the following:
  - Buildings and structures, except for single family residential lots which need only show the location of such lots;
  - Streets, drives, alleys, and curbs;
  - Off-street parking areas;
  - Sidewalks, landscaping, common/green space, other amenities; and
  - Design standards for "Dark Skies" compliances shall be submitted.
- Existing and proposed utilities;
- Estimated percentage of impervious cover for the entire PDD, not to exceed 25%;
- Proposed location of water quality facilities;
- Average density of residential structures should comply with its respected zoning district as established by Appendix 2;
- A PDD must include parkland and useable open space at a minimum rate of .02 acres per residential unit projected for the fully developed PDD;
- Proposed building front yard setback lines, proposed side yard setback lines, proposed street side yard setback lines, and proposed rear yard setback lines, in compliance with standards of Appendix 2;
- Minimum lot sizes and any landscape buffers; and
- Any other proposed departures or deviations from the City's zoning and site development standards.

**9.3.4.3. Development Plan or Detailed Site Plan.** This plan shall set forth the final plans for development of the PDD and shall conform to the data presented and approved in the conceptual plan. Approval of the development plan shall be the basis for issuance of a building permit. The development plan may be submitted for the total area of the PDD or for any section by the City Council. A public hearing on approval of the development plan shall be required at the Council level. The development plan shall include:

- A. Site Inventory Analysis (to scale):
  - Existing Vegetation
  - Natural Water Courses/Hydrology Topography Mapping
  - Planned changes to the natural flow of water
  
- B. Scale drawing shall include:
  - Any proposed public/private streets and alleys, including street widening and street changes (if applicable)
  - Building sites or lots
  - Areas reserved as "Green Space," (parks, parkways, playgrounds, nature and equestrian trails, drainage and utility easements)
  - Areas reserved for schools
  - General location and description of existing utility services, including pipe sizing of water and sewer mains
  - Identified location of all curb cuts
  - Abutting sites
  - Accurate land area survey
  - Topographical contours illustrated no greater than five (5') feet apart
  - Zoning classification
  
- C. Site Plan illustrating: (All setback requirements can be found in Appendix 2)
  - Proposed building complexes
  - Distances between buildings and buildings
  - Distances between buildings and property, street and alley lines
  - Arrangement and provisions for off-street parking
  
- D. Landscape Plan showing:
  - Screening walls
  - Ornamental planting
  - Wooded areas
  - Trees (size and type) to be planted
  
- E. Architectural plan showing:
  - Design and structure elevations (facades)
  - Uniform signage design
  
- F. Studies which must be included in the application:
  - Drainage (Existing and Future)
  - Environmental Impact
  - Traffic

- 9.3.4.3.1. Separate public hearings shall be held by City Council for the approval of the conceptual plan and the development plan or any section of the development plan, unless such requirements is waived by the City Council upon a determination that a single public hearing is adequate. A single public hearing is adequate when:
- (a) The applicant submits adequate data with the request for the Planned Development District to fulfill the requirements for both plans; or
  - (b) Information on the concept plan is sufficient to determine the appropriate use of the land and the detail site plan will not deviate substantially from it; and,
  - (c) The requirement is waived at the time the amending ordinance is approved. If the requirement is waived, the conditions shall be specifically stated in the amending ordinance.
- 9.3.4.3.2. The ordinance establishing the Planned Development District shall not be approved until the conceptual plan is approved.
- 9.3.4.3.3. The development plan may be approved in sections. When the plan is approved in sections, the separate approvals by the City Council for the initial and subsequent sections will be required.
- 9.3.4.3.4. An initial development plan shall be submitted for approval within six (6) months from the approval of the conceptual plan or some portion of the conceptual plan. If the development plan is not submitted within six (6) months, the conceptual plan is subject to re-approval by the City Council. If the entire project is not completed within two (2) years, the City Council may review the original conceptual plan to ensure its continued validity.
- 9.3.4.3.5. Regardless of whether the public hearing is waived for the development plan, approval by the City Council is still required.

**9.3.4.4. Procedures for adoption and establishment.** The procedure for establishing a PDD shall follow the system as set forth below:

- 9.3.4.4.1. Separate public hearings shall be held by City Council for the approval of the conceptual plan and the development plan or any section of the development plan, unless such requirements is waived by the City

Council upon a determination that a single public hearing is adequate. A single public hearing is adequate when:

- The applicant submits adequate data with the request for the Planned Development District to fulfill the requirements for both plans; and,
- Information on the concept plan is sufficient to determine the appropriate use of the land and the detail site plan will not deviate from it.

9.3.4.4.2. The ordinance establishing the Planned Development District shall not be approved until all plans are submitted, as required.

9.3.4.4.3. An initial development plan shall be submitted for approval within six (6) months from the approval of the conceptual plan or some portion of the conceptual plan. If the development plan is not submitted within six (6) months, the conceptual plan is subject to re-approval by the City Council.

9.3.4.4.4. If the PDD is a phased development, meaning the entire project is ten (10) acres or greater, each phase must be completed within two (2) years. If the PDD is non-phased, meaning the entire project is less than 10 acres, the entire project must be completed within two (2) years.

9.3.4.4.5. Each phase of a PDD Phased Development must be completed before a new phase of development can commence. A completed phase shall include, but is not limited to: land reclamation, infrastructure development, utility installation, lot development and any item deemed necessary and reasonable by the Commission with ratification by the Council.

9.3.4.4.6. A PDD development permit shall automatically become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Before such work recommences, a new permit shall be first obtained and the fee to recommence work, if any, shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. Permits are not transferable and any

change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

9.3.4.4.7. Following the Public Hearing, the approval of any proposed PDD or combination of uses proposed therein shall be subject to the discretion of the Aurora City Council, and no such approval will be inferred or implied.

**9.3.4.5** **Written Reports Are Required.** When a PDD is being considered, a written report(s) is/are required of the applicant discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic. Written comments from the applicable public school district and from private utilities must be submitted to the City Council.

**9.3.4.6** **Planned Developments To Be Recorded.** All Planned Development Districts approved in accordance with the provisions of this Ordinance in its original form, or by subsequent amendment thereto, shall be referenced on the Zoning District Map, and a list of such Planned Development Districts, together with the category of uses permitted therein, shall be maintained in an appendix of this Ordinance.

**9.3.4.7.** **Amendments.** Consideration of amendments to a Planned Development District will take into consideration the effect of the proposed development on the remainder of the property, adjacent properties and the neighboring communities. Amendments to the final site plan or any planned development conditions that are substantive shall require public hearings in the manner required for any other zoning change.

**9.3.4.8.** **Expiration.** If completion of a non-phased PDD, or completion of the individual phase of a phased PDD is not completed within two (2) years, after the date of approval, such approval shall expire. The development permit shall only be renewed after application is made therefore, notice is given and public hearings are held by the Commission and City Council to evaluate the appropriateness of the previously authorized Planned Development approval. Any such application for renewal or extension shall be considered in the same manner, and under the same rules, regulations and ordinances then in effect, as a new application for zoning.

#### **9.4. FP FLOOD PLAIN DISTRICT**

9.4.1. **General Purpose and Description.** The Flood Plain District is designed to provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard, and to promote the general welfare and provide

protection from flooding portions of certain districts. Such areas are designated with a Flood Plain Prefix, FP.

9.4.2. **Permitted Uses.** The permitted uses in an FP District shall be limited to the following:

9.4.2.1. Agricultural activities including the ordinary cultivation or grazing of land and legal types of animal husbandry but excluding construction of barns or other outbuildings.

9.4.2.2. Off-street parking incidental to any adjacent main use permitted in the district.

9.4.2.3. Electrical substation.

9.4.2.4. All types of local utilities including those requiring specific use permits.

9.4.2.5. Parks, playgrounds, public golf courses (no structures), and other recreational areas.

9.4.2.6. Private open space to be used in connection with a Planned Residential Development.

9.4.2.7. Structures, installations, and facilities installed, operated, and maintained by public agencies for flood control purposes.

9.4.2.8. Bridle trail, bicycle, or nature trail.

9.4.3. City Council Approval Required. No structure shall be erected in that portion of any FP District until and unless such structure has been approved by the City Council after engineering studies have been made and it is ascertained that such building or structure is not subject to damage by flooding and would not constitute an encroachment, hazard, or obstacle to the movement of flood waters and that such construction would not endanger the value and safety of other property or public health and welfare.

## **SECTION 10. GENERAL PROVISIONS.**

### **10.1. Off Street Parking and Loading**

#### **10.1.1. General Requirements**

##### **10.1.1.1. Applicability**

Nothing in this Ordinance shall require additional parking spaces to be furnished for an existing building that is repaired, altered, maintained, or modernized, where no structural alterations are made and the size of the building is not increased.

#### **10.1.2. Enlargement or Change in Use**

- 10.1.2.1. For existing buildings that are enlarged, additional parking spaces shall be required for the enlarged portion only.
- 10.1.2.2. Additional spaces shall be required for a change in use, expansion of an existing use or a new building on the premises.
- 10.1.2.3. When the occupancy of any building is changed to another use, parking shall be provided to meet the requirements of this Ordinance for the new use.
- 10.1.2.4. Nothing in this Ordinance shall require the furnishing of additional parking spaces for existing buildings which are not enlarged or changed to a new use.

#### **10.1.3. Plan Required**

Where off-street parking is required, except for one-, two-, three-, or four-family dwellings, a plan approved by the Code Official showing the location and arrangement of spaces, shall be furnished to the City Administrator, accompanied by sufficient proof of ownership, lease or other arrangement as will show that the spaces contemplated will be permanent. Any future changes in parking arrangements must be approved by the City Administrator.

#### **10.1.4. Off-Street Parking Requirements**

- 10.1.4.1. **Calculation of Parking** - Where permanent seating is not provided in any public assembly area, the occupant load shall be computed in accordance with the appropriate section of the Building Code in effect at time of occupancy, except as otherwise specifically provided in this Ordinance.

All parking requirements applying to a stated unit of measurement shall be understood to include a parking space for each unit or fraction thereof.

- 10.1.5. **Required Off-Street Parking** - Except for single family and duplex units, the number of parking spaces provided in accordance with

the table set out below shall not exceed 125% of the minimum parking requirement without approval of the City Administrator.

USE	Requirement
<u>RESIDENTIAL</u>	
Residential unit: one-family up to four family	1-4 spaces per dwelling unit (see individual districts for details)
Multifamily residential (Unified Residential Development)	1 space per bedroom plus 1 space per 250 square feet of common areas, offices and recreation (less laundry rooms and storage). Two spaces may be tandem if assigned to the same unit and restricted from use for storage.
<u>PUBLIC AND CIVIC</u>	
College or University	1 space per 2 teachers/administrative staff plus 1 space per 4 additional employees plus 1 space per 3 students residing on campus plus 1 space per 5 students not residing on campus
Day care, kindergarten	1 space per facility plus 1 space per 10 children (as licensed by the state) in back of front building line
Fraternity, sorority	1 space per 2 residents
Hospital	1 space per bed for patients/visitors/ doctors plus 1 space per 4 nurses/other employees
Nursing home / Assisted Living Facility	1 space per 4 beds for visitors/doctors plus 1 space per 4 nurses/other employees
Place of worship	1 space per 4 seats in sanctuary or worship area in residential districts 1 space per 5 seats in sanctuary or worship area in non-residential and mixed-use districts
School, elementary and junior high (public or private)	1 space per 16 students

School, high school (public or private)	1 space per 1.75 students plus 1 space per 5 stadium seats (may be double counted)
<u>COMMERCIAL</u>	
Bed and breakfast home	2 spaces per owner/operator 1 space per bedroom for guests
Bed and breakfast inn	2 spaces per owner/operator plus 1 space per bedroom for guests plus 1 space per 2 employees plus 1 space to service additional traffic
Boarding or lodging house	1 space for proprietor plus 1 space per bedroom for guests plus 1 space per 2 employees plus 1 space to service additional traffic
Bowling alley	4 spaces per lane/alley plus 1 space per 4 seats of restaurant or café plus 1 space per 4 employees
Commercial business, retail sales and service (except large retail)	4 spaces per 1,000 square feet (25% reduction for conversion from a more restricted use)
Construction sales office	2 spaces per unit behind front property line
Hotel	1 space per bedroom unit plus 1 space per 4 patron seats in rooms open to public, plus 5 spaces per 1,000 square feet of display/ballroom area
Model home	2 spaces per unit behind front property line
Office, professional bldg.	2.5 spaces per 1,000 square feet of gross floor area
Outdoor amusement (for more than 3 days)	1 space per 5 participants/spectators based on maximum capacity
Private club, cocktail lounge	1 space per guest room or suite plus 1 space per 4 seats plus 5 acres per 1,000 square feet of ballroom available to nonresidents

	plus 1 space per 4 employees
Restaurant, cafeteria	1 space per 100 square feet (25% reduction for conversion from a more restricted use) plus 1 space per 4 employees
Retail store, large	Minimum of one space per 200 square feet of floor space
Theater, auditorium, place of public assembly	1 space per 4 seats in main auditorium plus 5 spaces per 1,000 square feet of ballroom/similar area plus 1 space per 4 employees
Walkup business	4 spaces per 1,000 square feet

INDUSTRIAL

Industrial building	2 spaces per 1,000 square feet gross floor area or 1 space per 3 employees, whichever is greater
Warehouse building	1 space per 4 employees 4 spaces minimum

**10.1.6. Parking Lot Design Standards**

10.1.6.1. **Space Size** - The following minimum standards shall apply to the width and length of parking spaces.

TYPE	WIDTH	LENGTH
Standard parking space	10 feet	18 feet *
Parallel parking space	8 feet	22 feet *

\*Parking spaces adjacent to landscape areas may project into the landscape area and be reduced to 16 feet in length when separated from the landscape area by curbing or approved wheel stops.

**10.1.6.2. Angle Parking Size**

The standards for the minimum width of parking spaces plus the aisle are shown in the following table. These standards apply to a single row of head-in parking or two rows of head-in parking sharing an aisle. See the illustrations on the following page.

Angle	Width: 1 Row Sharing Aisle	Width: 2 Rows Sharing Aisle
90 degree angle parking	42.0 feet	60.0 feet
60 degree angle parking	34.6 feet	54.7 feet
45 degree angle parking	31.1 feet	50.0 feet
30 degree angle parking	28.8 feet	45.6 feet

- 10.1.6.3. Parking lot lighting. Light poles shall be no more than 35 feet in height and painted black, dark gray, or dark green or have bronze oxidant protective coating. The main entrance shall be lit to be distinguishable from surrounding ambient lighting.
- 10.1.6.4. Vehicular access. No large retail store shall be located on a public right-of-way or private street less than four lanes (two in each direction) on at least one side of the property.
- 10.1.6.5. Traffic impact study. Where traffic generated by the project is anticipated to exceed 2,000 trips per day, as determined by the Regional Engineer of the Texas Department of Transportation or his or her designee, a traffic assessment shall be required defining on-site and off-site improvements necessary to accommodate the impacts of the project.
- 10.1.6.6. An eight-foot masonry wall of brick, stone, split block or concrete cast to simulate such materials shall be constructed along the common boundary line of the adjacent residential property, or as close as practicable in the event of intervening alleys, easements and drainage channels. If the large retail store property and residential property are separated by intervening property under separate ownership that is less than 20 feet wide, a wall shall be constructed along the property line of the large retail store facing the residential property. In addition to the landscape requirements, a 20-foot wide irrigated and landscaped buffer yard shall be provided with three-inch caliper canopy trees with a mature height of 25 feet by industry standards planted every 20 feet in an overlapping pattern such that the canopy creates a solid visual screening at maturity and live groundcover.

**10.1.7. Driveways**

- 10.1.7.1. When driveways are less than 20 feet in width, marked separate entrances and exits shall be provided so that traffic shall flow in one direction only
- 10.1.7.2. Entrances and exits to an alley may be provided if prior approval is obtained in writing from the City.

10.1.7.3. The location of ingress and egress driveways shall be subject to approval of the City Traffic Engineer under curb cut or laid down curb permit procedures.

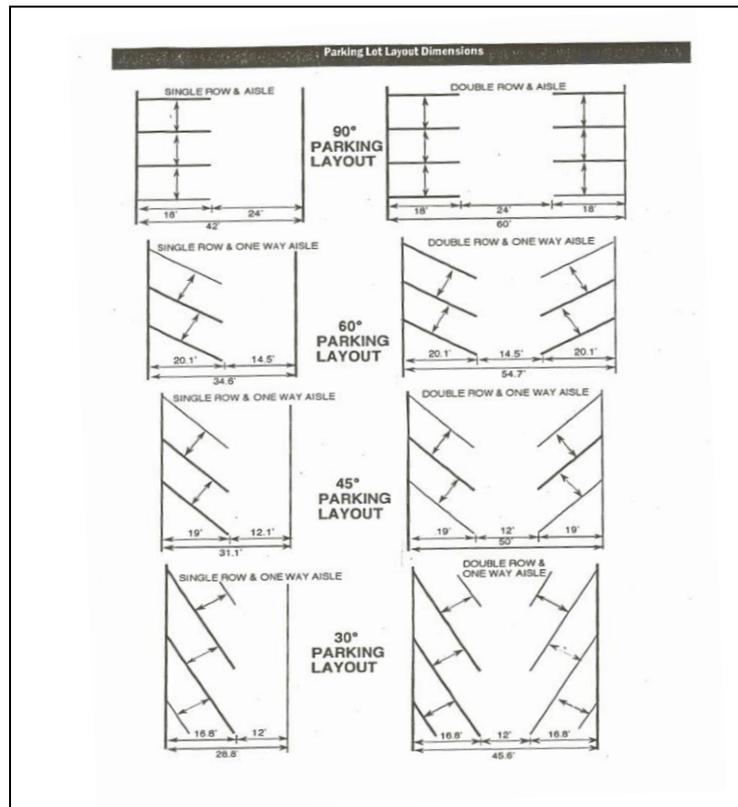
10.1.7.4. Driveways designated as fire lanes shall meet the standards of the Fire Code.

**10.1.8. Maneuvering Space**

10.1.8.1. Maneuvering space shall be located completely off the right-of-way of a public street, place or court, except for on-street parking approved by the Building Official.

10.1.8.2. Parking areas that would require the use of public right-of-way for maneuvering shall not be acceptable as required off-street parking spaces other than for one- and two- family dwellings, except for on-street parking approved by the Building Official.

10.1.8.3. Parking parallel to the curb on a public street shall not be substituted for off-street parking requirements.



**10.1.9. Parking Surface**

Drives and parking spaces, except for single family dwellings, must be hard surfaced and dust free, except in instances where the adjacent street is unpaved, in which case the drives and parking spaces shall be hard-surfaced within one year after all adjacent streets are paved.

**10.1.10. Off-Site Auxiliary Parking**

If sufficient parking is not available on the premises, a private parking lot may be provided within 500 feet, either on property zoned for that purpose or on approval as a special exception by the Board of Adjustment subject to the following conditions:

- a. The parking must be subject to the front yard setback requirements of the district in which it is located.
- b. The parking area must be hard surfaced and dust free (except as provided in above).
- c. A minimum 6-foot screen fence and buffer yard must be provided on all sides adjacent to a residential district.
- d. Area lights must be directed away from adjacent properties.
- e. The lot, if adjacent to a residential district, must be chained and locked at night

**10.1.11. Accessible Parking**

10.1.11.1. Number of Spaces Required. When parking lots or garage facilities are provided, either in accordance with parking requirements or voluntarily, accessible parking spaces shall be provided according to the table below, except for the following uses:

- a. For general and long-term hospitals, nursing and care homes, and philanthropic medical care uses, any of which specializes in the treatment of persons with mobility impairments, 20 percent of the parking spaces shall be accessible.
- b. For offices, professional and commercial uses, eleemosynary institutions, ten percent of the parking spaces provided shall be accessible.

- c. For multifamily dwellings and apartment hotels containing accessible or adaptable dwelling units as specified by the Building Code, two percent of the parking spaces shall be accessible. Where parking for such uses is provided within or beneath the building, accessible parking spaces shall also be provided within or beneath the building.

TOTAL PARKING SPACES IN LOT OR GARAGE	MINIMUM REQUIRED ACCESSIBLE SPACES
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8*
401-500	9*
501-1,000	2% of total spaces*
Over, 1000	20 spaces plus 1 space for every 100 spaces, or fraction thereof, over 1,000*

\*One van accessible parking space shall be provided for every 8 accessible parking spaces or fraction thereof.

spaces, van accessible parking spaces, and passenger loading zones shall be located and installed as specified in the Building Code. Variances, as to these items, must be addressed through the process described in the Building Code.

- 10.1.13. Re-striping Parking Areas. When parking areas are re-striped, the provisions of this Paragraph shall apply. When re-striping is done voluntarily to existing parking for the purpose of installing accessible spaces, City staff may allow a reduction in the number of parking spaces required by this Section in accordance with the table below when necessary to provide the accessible spaces. Plans for the re striping must be submitted to the City Administrator for review and approval before work begins.

- 10.1.14.

TOTAL REQUIRED PARKING SPACES	ALLOWED REDUCTION NOT TO EXCEED
1-50	1 SPACE
51 +	2% OF TOTAL SPACES

OFFICIAL

**10.1.14. Off-Street Loading Facilities**

## 10.1.14.1. Applicability

All buildings (except single-family dwellings) hereafter erected, reconstructed or enlarged so as to require additional parking spaces, shall have adequate permanent off-street facilities providing for the loading and unloading of merchandise and goods within or adjacent to the building, in such a manner as not to obstruct the freedom of traffic movement on the public rights-of-way.

**10.1.15. Loading Facility Design Standards**

10.1.15.1. The minimum distance from the loading dock to the right-of-way line shall be 60 feet. Such space shall be submitted on a plan and approved by the City Administrator.

10.1.15.2. The minimum distance above may be reduced by the approval of the Director of Traffic Engineering and the Development Department under unusual circumstances.

10.1.15.3. Loading space shall be in addition to all required vehicular parking.

10.1.15.4. All loading facilities shall be screened in accordance with landscape regulations.

**10.1.16. Off-Street Parking in Residential Zoned Districts**

## 10.1.16.1. Definitions.

For the purposes of this ordinance the following word and phrases shall have the associated designated meaning unless a different meaning is expressly provided:

Building line - means a line parallel or approximately parallel to the street line and beyond which, buildings or fences may not be erected.

Driveway - means the primary improved or unimproved parking surface which provides egress and ingress from a garage, carport or off-street parking area to an adjacent street or alley.

Emergency Vehicle – (1) A fire department or police vehicle;  
(2) a public or private ambulance operated by a person who

has been issued a license by the Texas Department of Health and Human Services; (3) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of the municipality; (4) a private vehicle of a volunteer firefighter or certified emergency medical services employee or volunteer responding to a fire alarm or medical emergency; (5) an industrial emergency response vehicle, including an industrial ambulance when responding to an emergency.

Front yard - means the area from the front face of a residential structure to the front property line or street right-of-way line or, when a structure does not exist, the area from the front building line to the front property line or street right-of-way.

Improved parking surface - means an area used for the parking or storage of vehicles that is overlaid or otherwise paved with concrete, asphalt, paving stones or other hard surfaced durable material approved by the building official.

Rear yard - means the area from the rear face of a residential structure to the rear property line.

Residential lot – means any lot in a residential zoning district

Side yard - means the area from the side of a residential structure to the side property line.

Unimproved driveway – means a private continuous surface providing ingress and egress for vehicles from an off-street parking area, garage or carport to an adjacent street, alley or other improved public right-of-way that is contrasted with gravel, crushed stone, or other equivalent material approved by the City Engineer.

Unimproved parking area – means any portion of a residential lot that is used for off-street parking of vehicles that is constructed with gravel, crushed stone, or other equivalent material approved by the City Engineer.

Unimproved surface – means any part of a residential lot that is not either an improved surface, unimproved driveway, or unimproved parking area.

Vehicle - means every device in, upon or by which any person or property is or may be transported or drawn or moved upon a street, highway, waterway or airway and shall include any automobile, bus, truck, tractor, motor house, farm machinery,

motorcycles, scooters, mopeds, all-terrain vehicles, boats, aircraft, recreational vehicles, golf carts, go-carts, trailers, fifth wheel trailers, campers, camper shells, wheeled towing frames, semi-tractor trailers, truck beds mounted on chassis and mobile homes. This definition does not include non-motorized bicycles, small engine lawn mowers and devices of similar scale.

10.1.16.2. Regulations.

- A. Parking on unimproved surfaces restricted. A person commits an offense if, upon a residential single-family, duplex or townhouse lot or tract:
- (1) The person causes, permits or allows the parking or storage of any vehicle in the front yard upon any surface other than an improved parking surface.
  - (2) All vehicles must be parked on an approved, permitted and inspected paved surface, which includes (but is not limited to) asphalt, concrete, brick and natural pavestones, with compacted sub-grade and base sufficient to support the vehicle's gross weight, which shall be of no less than 6' compaction. The parking surface must encompass the entire footprint of the vehicle.
  - (3) Heavy Load Vehicles are not allowed to be parked on any residential property. Heavy Load Vehicles are described as any self-propelled vehicle having a Manufacturer's Gross Vehicle Rating (GVWR) of greater than 11,000 pounds, or any towed vehicle with any Manufacturer's Maximum Load Trailer Weight (MLTW) greater than 11,000 pounds and more than two axles. This definition does not include recreational vehicles or Agricultural Vehicles.
  - (4) The person offense causes, permits or allows the parking or storage of any vehicle upon the side yard or rear yard of a corner lot upon any surface other than an improved parking surface, unless otherwise concealed from view from all public street rights-of-way by:

- a. A solid, opaque, screening fence or wall at least six feet in height, which requires permit and inspection by the building department;
  - b. Vegetation consisting of a solid hedgerow of evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum height of six feet;
  - c. Any combination of the above that effectively conceals the vehicle from view and accomplishes the required screening height, which requires permit and inspection by the building department; or
  - d. Any other form of compatible and appropriate screening approved by the building official.
- B. No driveway or improved parking surface shall cover more than 67 percent of a residential front yard.
- C. It is an affirmative defense to prosecution for parking or storing vehicles in an unimproved driveway if an existing residence has no improved parking surface on the day of passage of this ordinance. However, at such time that such existing residence is completely rebuilt, or improvements to the same real property constitute 50 percent or more of the property's total assessed value, compliance with this section shall be required.
- D. It is an affirmative defense to prosecution for parking or storing vehicles on an unimproved surface or in an unconcealed or unscreened manner if such vehicles are parked in the rear yard and the rear yard is not a corner lot or directly adjacent to a public street right-of-way.
- E. All surface work, including but not limited to construction of improved surface, driveway, entryway or pad must be permitted and inspected by the building department.

- 10.1.16.3. Maintenance. All improved parking surfaces shall be maintained in good and safe condition and be free of holes, cracks or other failures that may affect the use, safety, appearance or drainage of the surface or of an adjoining property.
- 10.1.16.4. Enforcement and penalty for violation of this section. Any person, firm, or corporation violating any of the provisions of this section or any amendment thereto shall be deemed guilty of a misdemeanor, and upon conviction in municipal court shall be subject to a fine not to exceed the sum of \$500 for each offense, and each and every day such violation continues to exist shall constitute a separate offence.
- A. Illegally parked vehicles declared a public nuisance; duty of property owners; unlawful to interfere with impounding.
- (1) Illegally parked vehicles are detrimental to the safety and welfare of the general public, tending to reduce the value of property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city and state by producing urban blight which is adverse to the maintenance and continuing development of the city and such vehicles are declared to be a public nuisance and subject to abatement as set out hereunder.
- (2) The owner or occupant of any real property within the corporate limits of the City shall keep such property free of an shall not permit or suffer the presence of illegally parked vehicles on such property.
- (3) It shall be unlawful for any person, firm, company, or corporation to knowingly or intentionally interfere with or attempt to prevent the physical impounding of any illegally parked vehicle by the code officer or licensed peace officer of the State of Texas.

## 10.2 Fence Requirements and Heights

10.2.1. Industrial/Manufacturing zones all require fences as provided in this section. The fence shall be constructed of masonry, reinforced concrete, or other similar suitable permanent materials, which do not contain openings. All walls or fence openings shall be equipped with self-latching gates equal in height and screening characteristics to the wall or fence.

10.2.1.1. Alternative equivalent screening may be approved through the plan approval process.

10.2.1.2. All required screening walls shall be equally finished on both sides of the wall.

10.2.2. When permitted, open storage of materials, commodities, or equipment shall comply with the following requirements

(1) Located behind the front building line.

(2) Observe all yard setback requirements.

(3) Screened with a minimum six-foot (6') fence or wall

10.2.3. In all districts, screening shall be required only for those areas used for open storage. A six (6') foot fence or wall shall be provided and maintained at the property line adjacent to the area to be screened

10.2.4. Refuse storage areas not adjacent to an alley or rear service area which are visible from a public right-of-way for all nonresidential uses shall be visually screened by a six foot (6') masonry wall, or an eight foot (8') masonry wall for storage containers over 6 yards in volume, on all sides except the side used for garbage pickup service, which side shall provide a gate

### 10.2.5. Fences

10.2.5.1 No fence shall exceed eight feet (8') in height

10.2.5.2 Fences in residential districts shall be constructed of customary urban fencing materials and shall be aesthetically consistent with buildings and fences in the area

10.2.5.3 All fences require permits.

## 10.3 Accessory Buildings

**10.3.1. Height**

No accessory building shall exceed twenty-five (25) feet in height, nor shall it be greater in height than the main structure.

**10.3.2. Area Regulations for Accessory Buildings or Structures in Residential Districts**

10.3.2.1. Front Yard: Attached accessory buildings, including garages and carports, shall have a front yard not less than the main building, or as specified in the particular district. Detached accessory buildings shall be located in the area defined as the side yard or rear yard.

10.3.2.2. Side Yard: There shall be a side yard not less than eight (8) feet from any side lot line, alley line, or easement line, except that adjacent to a side street, the side yard shall never be less than twenty (20) feet.

10.3.2.3. Rear Yard: There shall be a rear yard not less than ten (10) feet from any lot line, alley line, or easement line. Carports, garages, or other accessory buildings located within the rear portion of a lot, as heretofore described, shall not be located closer than fifteen (15) feet to the main building nor nearer than eight (8) feet to any side lot line.

**10.4. Allowable Projections into Yards.****Reserved for Future Expansion****10.5. Landscaping Requirements**

10.5.1. Purpose. Landscaping is accepted as adding value to property and is in the general welfare of the City. Therefore, landscaping is hereafter required of new development, except single-family uses, adjacent to public streets. Single-family uses are generally not required to provide extensive landscaping at the time of development because they rarely fail to comply with the requirements set forth herein.

**10.5.2. Scope and Enforcement**

10.5.2.1. Standards and Criteria: The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new, altered,

or repaired-construction occurring within the City, except as provided below. Additionally, any use requiring a Special Use Permit, or a PD zoning designation must comply with these landscape standards. The provisions of this section shall be administered and enforced by the City Administrator or his/her designee (the "City Administrator"). The landscape standards in this section apply only to non-residential districts.

10.5.2.2. Enforcement Procedures: If at any time after the issuance of a Certificate of Occupancy, the approved landscaping is found to be in nonconformance to the standards and criteria of this section, the City Administrator shall issue notice to the owner, citing the violation and describing what action is required to comply with this section. The owner, tenant or agent shall have thirty (30) days from date of said notice to restore the landscaping as required. If the landscaping is not restored within the allotted time, such person shall be in violation of this ordinance.

### **10.5.3. Permits**

10.5.3.1. Landscape Plan: No permits shall be issued for building, paving, grading or construction until a detailed landscape plan is submitted and approved by the City Administrator. A conceptual or generalized landscape plan shall be shown as part of the site plan as required. Prior to the issuance of a Certificate of Occupancy for any building or structure, all screening and landscaping shall be in place in accordance with the landscape plan.

10.5.3.2. Temporary Certificate of Occupancy: In any case in which a Certificate of Occupancy is sought at a season of the year in which the City Administrator determines that it would be impractical to plant trees, shrubs or grass, or to lay turf, a temporary Certificate of Occupancy may be issued. Such temporary permit shall be conditioned upon the installation of all landscaping required by the landscaping plan within six (6) months of the date of the approval of the landscape plan.

### **10.5.5. Landscape Plan**

- 10.5.4.1. Submitting a Landscape Plan: Prior to the issuance of a building, paving, grading or construction permit, a landscape plan shall be submitted to the City Administrator. The City Administrator or City Council shall review such plans and shall approve same if the plans are in accordance with the criteria of these regulations. If the plans are not in accord, they shall be disapproved and shall be accompanied by a written statement setting forth the changes necessary for compliance.
- 10.5.4.2. Contents and Preparation of Landscape Plan: Landscaping plans shall be prepared by a person knowledgeable in plant material usage and landscape design (e.g. landscape architect, landscape contractor or landscape designer) and shall contain at minimum the following information:
- (a) Minimum scale of one inch (1") equals fifty feet (50').
  - (b) Location, size and species of all trees to be preserved (do not use "tree stamps" unless they indicate true size and location of trees).
  - (c) Location of all plant and landscaping material to be used, including plants, paving, benches, screens, fountains, statues, earthen ponds (to include depth of water), topography of site, or other landscape features.
  - (d) Species of all plant material to be used.
  - (e) Size of all plant material to be used
  - (f) Spacing of plant material where appropriate.
  - (g) Layout and description of irrigation, sprinkler, or water systems including placement of water sources.
  - (h) Description of maintenance provision
  - (i) Person(s) responsible for the preparation of the landscape plan.
  - (j) Mark indicating North,
  - (k) Date of the landscape plan.

**10.5.4. Maintenance.**

10.5.4.1. Requirements: The owner, tenant and agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing (of grass of six (6) inches or higher), edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds, and other such material or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant material of similar variety and size, within ninety (90) days. Trees with a trunk diameter in excess of six (6) inches measured twenty-four (24) inches above ground may be replaced with ones of similar variety having a trunk diameter of no less than three (3) inches measured twenty-four (24) inches above the ground. However, if said landscape areas are above the minimum required landscape provisions, death of a plant or plant material which may still result in the requirements of the minimum standards being met does not necessitate replacement, except as required to maintain the integrity of the landscaping design. A time extension may be granted by the City Administrator if substantial evidence is presented to indicate abnormal circumstances beyond the control of the owner or his agent.

10.5.5.2. Failure to Maintain: Failure to maintain any landscape area in compliance with this section shall result in the disapproval and revocation of any issued Certificate of Occupancy associated with the occupancy of said area.

**10.5.6. General Standards**

The following criteria and standards shall apply to landscape materials and installation:

- 10.5.6.1. All required landscaped open areas shall be completely covered with living plant material. Artificial landscaping materials such as wood chips and gravel may be used under trees, shrubs, and other plants.
- 10.5.6.2. Plant materials shall conform to the standards of the American Standard for Nursery Stock. Grass seed, sod and other material shall be clean and reasonably free of weeds and noxious pests and insects.

- 10.5.6.3. Trees shall have an average spread of crown of greater than fifteen (15) feet at maturity. Trees having a lesser average mature crown of fifteen (15) feet may be substituted by grouping the same «to as to create the equivalent of fifteen (15) feet crown of spread. Trees shall be of a minimum of three (3) inches in caliper (measured six (6) inches above the ground) and seven (7) feet in height at time of planting.
- 10.5.6.4. Shrubs not of the dwarf variety shall be a minimum of two (2) feet in height when measured immediately after planting Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen which will be three (3) feet high within one (1) year after time of planting.
- 10.5.6.5. Vines not intended as ground cover shall be a minimum of two (2) feet in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet landscape screening requirements as set forth.
- 10.5.6.6. Grass areas shall be sodded, plugged, sprigged, hydro-mulched or seeded except that solid sod shall be used in areas subject to erosion.
- 10.5.6.7. Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonably completed coverage within one (1) year of planting
- 10.5.6.8. All required landscaped open space shall be provided with adequate and inconspicuous irrigation systems.
- 10.5.6.9. Any trees preserved on a site meeting the herein specifications may be credited toward meeting the tree requirement of any landscaping provision of this section according to the following table:

Circumference of Existing Tree	Credit against tree requirement
6"-12"	1 tree
13"-36"	2 trees
37" or more	3 trees

10.5.6.10. Due to their limited height and size, mesquite trees will receive only fifty (50) percent of the above credit for tree preservation. All other existing trees may receive credit if they are approved by the City Administrator. Should any required tree designated for preservation in the landscape plan die, the owner shall replace the tree with a three (3) inch minimum caliper tree in accordance with the credits listed above. Tree circumference shall be measured four and one-half (4.5) feet-above natural grade.

**10.5.7. MINIMUM LANDSCAPING REQUIREMENTS FOR COMMERCIAL DISTRICTS**

10.5.7.1. Commercial Zoned properties with less than two hundred fifty (250) feet of frontage adjacent to a dedicated public right-of-way, at least fifteen (15%) percent of the street yard shall be devoted to living landscape which shall include grass, ground cover, plants, shrubs or trees. The street yard shall be defined as the area between the building front and the front property line.

For gasoline service stations, a requirement of a minimum ten (10%) percent landscape area for the entire site, including a six hundred (600) square foot landscape area at appropriate intersection corners, if applicable.

10.5.7.2. Interior Parkways: A minimum fifteen (15) foot landscape buffer "interior parkway" adjacent to right-of-way of any street is required. If the lot is a corner lot, two frontages shall be required to observe the fifteen (15) foot buffer. If more than two frontages exist, then the other right-of-way frontages shall be required to have no more than seven and one half (7.5) feet of landscaped area. Developers shall be required to plant

one large tree, as prescribed in Section 10.5.6.9., per forty (40) linear feet or portion thereof of street frontage. The landscaped portion of interior parkways may be included in the required landscape area percentage. The interior parkway is defined as that area on private property between the street right-of-way line and the curb of the parking area or building area.

- 10.5.7.3. Parking Lots Generally: Landscape areas within parking lots should generally be at least one parking space in size, with no landscape area less than fifty (50) square feet in area. There shall be a minimum of one (1) tree planted in the parking area for every four hundred (400) square feet or fraction thereof of landscaped area in the parking lot. Within parking lots, landscape areas should be located to define parking areas and assist in clarifying appropriate circulation patterns. Landscape islands shall be located at the terminus of all parking rows and should contain at least one tree. All landscape areas shall be protected by a monolithic curb or wheel stops and remain free of trash, liner, and car bumper overhangs, landscape areas shall be no less than five (5) feet wide and shall equal a total of at least sixteen (16) square feet per parking space. There shall be a landscaped area with a least one (1) tree within sixty (60) feet of every parking space.
- 10.5.7.4. Existing and New Trees: All existing trees which are to be preserved shall be provided with a permeable surface under the existing drip line of the tree. All new trees shall be provided with a permeable surface under the drip line a minimum of four (4) feet by four (4) feet.
- 10.5.7.5. Frontage of Parking Lots: At least seventy-five (75) percent of the frontage of parking lots, adjacent to a public right-of-way, within the street yard, shall be screened from public streets with evergreen shrubs obtaining a minimum height of three (3) feet or a masonry wall of equal height. Use of a wall for parking lot screening should be accompanied with appearance of the wall. Landscape planting in the form of low shrubs and ground cover are required.
- 10.5.7.6. Small and Large Trees: A minimum of fifty (50) percent of the total trees required for the property shall be large trees as specified in section 10.5.6.9. Small trees shall be used under existing or proposed overhead utility lines.

Trees are required 8 caliper inches per one-fourth (1/4) of an acre.

- 10.5.7.7. Off-street Parking Area Abutting Adjacent Property Line: Whenever an off-street parking area or vehicular use area abuts an adjacent property line, a perimeter landscape area of at least five (5) feet shall be maintained between the edge of the parking area and the adjacent property line. Whenever the adjacent property is zoned for residential use, a landscaped area of at least ten (10) feet shall be provided and planted with one large tree for each forty (40) linear feet or portion thereof of adjacent exposure.

#### **10.5.7.8. Tree Preservation (Refer to Tree Preservation Ordinance)**

- 10.5.7.8.1. **Markings and Equipment During Construction:** During any construction or land development, the developer shall clearly mark all trees to be maintained and may be required to erect and maintain protective barriers around all such trees or groups of trees. The developer shall not allow the movement of equipment or the storage of equipment, materials, debris or fill to be placed within the drip line of any trees.
- 10.5.7.8.2. **Cleaning Equipment and Waste Disposal During Construction:** During the construction stage of development, the developer shall not allow cleaning of equipment or material under the canopy of any tree or group of trees to remain, neither shall the developer allow the disposal of any waste material such as, but not limited to, paint, oil, solvents, asphalt, concrete, mortar, etc., under the canopy of any tree or groups of trees to remain.

#### **10.5.7.9. Sight Distance, and Visibility**

- 10.5.7.9.1. Compliance: Compliance with these landscaping requirements shall not be such as to restrict visibility or create blind corners at intersections.

Whenever an access way abuts the intersection of two (2) or more public rights-of-way, a triangular visibility area, as described below, shall be created.

Landscaping within the triangular visibility area shall be designed to provide unobstructed cross-visibility at a level between three (3) and six (6) feet. Trees may be permitted in this-area provided they are trimmed in such a manner that no limbs or foliage extend into the cross-visibility area. The triangular areas are:

The areas of property on both sides of the intersection of an access way and public right-of-way shall have a triangular visibility area with two (2) sides of each triangle being a minimum of ten (10) feet in length from the point of intersection and the third side being a line connecting the ends of the other two (2) sides.

10.5.7.9.2. Landscaping Location: Landscaping, except required grass and low ground cover, shall not be located closer than three (3) feet from the edge of any access way pavement.

10.5.7.9.3. Other Visibility Obstructions and Conflict In the event other visibility obstructions are apparent in the proposed landscape plan, as determined by the City Administrator, the requirements set forth herein may be reduced to the extent to remove the conflict.

## **10.6. Loading Spaces**

10.6.1. All retail, commercial, and industrial structures shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or on the lot adjacent to a private service drive. At least one-half of such loading spaces shall have a minimum dimension of ten (10) feet by forty (40) feet, and the remaining spaces shall have a minimum dimension of ten (10) feet by twenty (20) feet. Where such loading space is located adjacent to a residential district, the space shall be enclosed on three (3) sides.

## **10.7. Grading and Excavation Regulations**

10.7.1. General. This section is intended to provide the community with fair and equitable grading practices and is not meant to supersede the requirements of any other ordinance or code.

### **10.7.2. Grading Responsibilities.**

10.7.2.1. Protection of utilities. The developer shall be responsible for the prevention of damage to any public utilities or service.

- 10.7.2.2. Protection of adjacent property. The person doing or causing grading or excavation is responsible for the prevention of damage to adjacent property. No person shall grade or excavate on land to endanger any adjoining public street, sidewalk, alley or other public or private property, without supporting and protecting such property from any damage that might result from the grading or excavation.
- 10.7.2.3. Inspection notice. The developer shall notify the City Administrator at least 24 hours prior to start of work.
- 10.7.2.4. Temporary erosion control. The developer shall put into affect and maintain all precautionary measures necessary to protect adjacent watercourses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site. Precautionary measures must include provisions of properly designed sediment control facilities so that downstream properties are not affected by upstream erosion, or upstream properties are not flooded by blockage of downstream drainage.
- 10.7.2.5. Traffic control and protection of streets. The developer shall provide flag men, signs, barricades and other safety devices to ensure adequate safety when working in or near public streets.
- 10.7.2.6. Hazard from existing grading. Whenever any existing excavation, embankment or fill has become a hazard to life or limb or endangers structures, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation, embankment, or fill is located or the person or agent in control of said property, upon receipt of notice in writing from the City, shall within the period specified therein repair, reconstruct or remove such excavation, embankment or fill to eliminate the hazard.

10.8. Approval and Availability of Essential Services

All projects that require the additional use or new facilities of essential services, such as sewers, storm drains, fire hydrants, public streets, street lighting and similar services, shall obtain such approval as required by the agency providing such service prior to project approval.

Non-availability of essential services may be grounds for denying permits for additional development until such services are available. The City is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be designed and installed in full conformance with the jurisdiction's standards for such service, and shall be subject to review, permit and inspection as required by other policies or ordinances of the jurisdiction.

## **SECTION 11. SPECIAL REGULATIONS**

### **11.1 Home Occupations**

11.1.1. General. Home occupations shall be permitted in all districts, provided the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises.

#### **11.1.2. Conditions.**

- 11.1.2.1. The home occupation shall not exceed 15 percent of the floor area of the primary structure.
- 11.1.2.2. Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
- 11.1.2.3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
- 11.1.2.4. There shall be no exterior display or storage of goods on the premises.
- 11.1.2.5. Home occupations involving beauty shops or barber shops shall require a conditional-use permit in all districts.
- 11.1.2.6. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
- 11.1.2.7. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the parking requirements in Section 10.1.

## 11.2 Adult Uses - Sexually Oriented Business

11.2.1.A specific use permit shall be obtained for all adult-use businesses.

## 11.2.2. Provisions.

11.2.2.1. No adult-use business shall be located within 1,500 feet of a park, school, day care center, library or religious or cultural activity.

11.2.2.2. No adult-use business shall be located within 1000 feet of any other adult-use business or any residential zone boundary.

11.2.2.3. Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.

11.2.2.4. Said business shall be located in C-4 districts and shall not be permitted as a home occupation.

**SECTION 12 SIGN REGULATIONS**

## 12.1. Purpose.

This section provides standards for the erection and maintenance of signs. All signs not exempted as provided in this section shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote the safety of persons and property by providing that signs shall not create a hazard, to promote the efficient transfer of information in sign messages, and to protect the public welfare and enhance the appearance of the City and the economic value of properties.

## 12.2. Definitions.

The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animation* means copy or other images that flash or move or otherwise change.

*Billboard* means a freestanding sign containing at least one hundred twenty-eight (128) square feet of face area and owned by a person who engages in the business of selling the advertising space on that sign.

*Building* means a structure that has a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or property.

*Building frontage* means the width of the front-facing facade of the primary building located on a premise, or the building on which a sign is proposed to be located. If it is unclear which side is the front-facing facade, the side on which the primary customer entrance door is located shall be deemed the front-facing facade. In no circumstances may a building have more than one (1) "building frontage."

*City* means the City of Aurora.

*City Administrator* means the City Administrator of the City of Aurora.

*Commercial message* means a message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities or possible substitutes for those things which are the subject of the message and that: (a) refers to the offer for sale or existence for sale of products, property, accommodations, services, attractions, or activities; or (b) attracts attention to a business or to products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

*Copy* means letters, characters, illustrations, logos, graphics, symbols, writing or any combination thereof, designed to communicate information of any kind.

*Effective area* means the area enclosed by drawing a rectangle of horizontal and vertical lines that fully contain all extremities of the sign drawn to scale, including architectural design elements such as decorative bordering, but exclusive of the sign supports. When a sign has two (2) or more faces, the area of all faces shall be included in determining the effective area, except that when two (2) faces are placed back to back and are at no point more than two (2) feet from one another, the effective area shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area.

*Facade* means any separate face of a building, including parapet walls and omitted wall lines. When separate faces are oriented in the same direction, or in directions within forty-five (45) degrees of one another, they are considered part of a single facade.

*Luminescent gaseous tubing* means exposed tubes used in or as signs and that contain luminescent inert gases including, but not limited to, neon, argon and krypton.

*Non-commercial message* means any message that is not a commercial message.

*Person* includes without limitation an individual, corporation, sole proprietorship, government or governmental subdivision or agency, trust, or partnership.

*Premises* means a lot or tract, or a combination of contiguous lots or tracts if the lot or tract, or combination, is under single ownership and is reflected as a single premise in the plat records of the City.

*Responsible party* means the owner, operator, occupant, employee or other person working at, employed by, responsible for, or in charge of the premises at issue, and includes the name of the advertiser or other person whose name appears on the sign.

*Sign* means any device, object, structure, flag, light, figure, picture, letter, word, message, symbol, marker or poster affixed directly or indirectly to or on any building or outdoor structure, or erected or maintained on land, and designed to inform, display, identify, advertise, direct, or attract attention to an object, building, person, institution, organization, business, product, service, event, or location.

*Code Official* means the City Administrator or his designee.

*Sign, attached* means any sign attached to, applied on or supported by any part of a building (such as a wall, window, canopy, awning, arcade or marquee).

*Sign, banner* means a temporary sign composed of lightweight material secured or mounted so as to allow movement caused by wind.

*Sign, construction* means a temporary sign erected on the premises on which construction is taking place during the period of such construction, indicating the names of the owners, architects, engineers, landscape architects, contractors, or similar persons engaged in the design, construction, or improvement of the premises on which the sign is located.

*Sign, detached* means any sign connected to the ground that is not an attached sign, including signs on movable objects, but excluding signs on vehicles that are moving or are parked only temporarily, incidental to their principal use for transportation.

*Sign, monument* means a detached sign having a low profile and made of stone, concrete, metal, routed wood planks or beams, brick or similar materials, including individual lettering, that repeat or harmonize with the architecture of the establishment that it serves.

*Sign, movement control* means a sign that directs vehicular or pedestrian movement within or into the premises on which the movement control sign is located.

*Sign, off-premises* means any sign that is not a premises sign.

*Sign, pole* means a sign supported by and placed upon not more than two (2) poles.

*Sign, political* means any type of sign that refers to the issues or candidates involved in a political election; or that espouses a political cause or expresses a person's or group's viewpoint or opinion on an issue.

*Sign, portable* means a sign that is easily moved from one (1) location to another, including a sign that is mounted on skids, trailers, wheels, legs or stakes, and that is not fixed permanently to the ground, and that is not an attached sign, political sign, or a real-estate sign.

*Sign, premises* means any sign for which the content relates to the premises on which the sign is located and that refers exclusively to the name, location, products, persons, accommodations, services or activities of or on those premises, or the sale, lease or construction of those premises.

*Sign, protective* means any sign that is commonly associated with safeguarding the permitted uses of the occupancy, including, but not limited to, "dangerous dog," "no trespassing," and "no solicitors."

*Sign, real estate* means a temporary sign pertaining to the sale or rental of property on which the sign is located.

*Sign support* means any pole, post, strut, cable or other structural fixture or framework necessary to hold and secure a sign, providing that such fixture or framework is not imprinted with any copy using characters in excess of one (1) inch in height or is internally or decoratively illuminated.

*Sign, temporary* means a non-permanent sign that is displayed for no more than thirty (30) consecutive days within any six-month period.

*Sign, vehicular* means any sign on a vehicle.

*Special event* means commercially related events of a unique or one (1) time nature as well as events that are sponsored in whole or part by the City, the latter of which must be designated by City Council action.

*Visibility triangle* means a triangle sight area, at all intersections, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines and a diagonal line intersecting such curb lines at points thirty (30) feet back from the intersection.

**12.3. GENERAL SIGN TYPES**

**Refer to figures 12(1) through 12(4)**

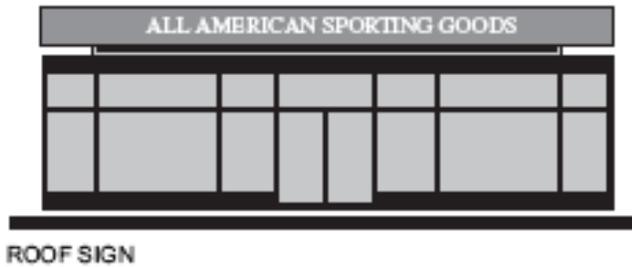
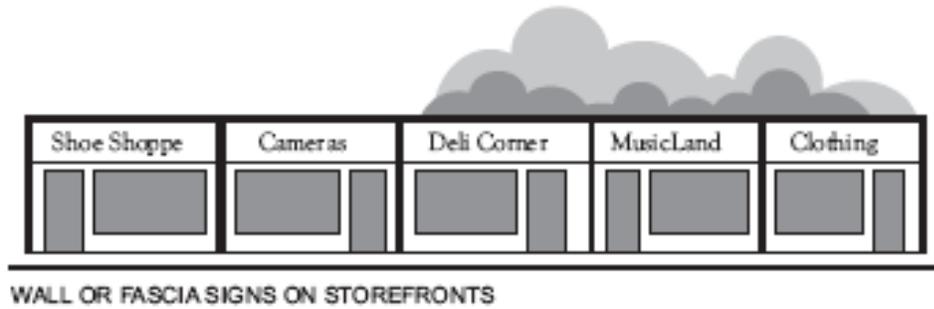
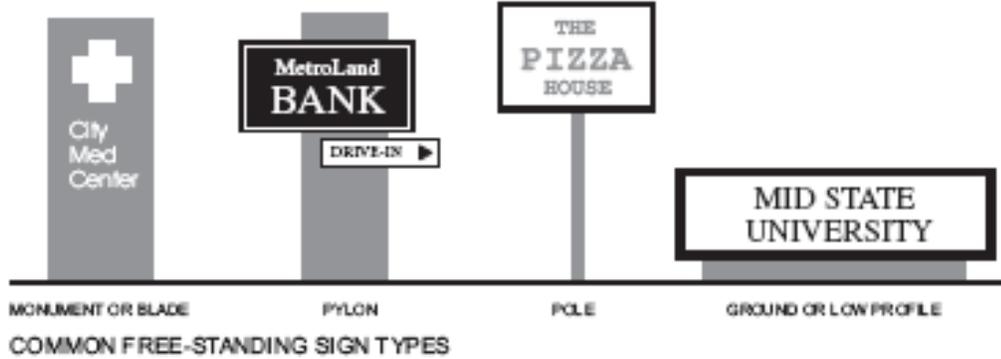
**12.4. GENERAL PROVISIONS**

- 12.4.1. Conformance to codes. Any sign hereafter erected shall conform to the provisions of this Ordinance and the provisions of the *International Building Code* and of any other ordinance or regulation which applies within the City.
- 12.4.2. Signs in rights-of-way. No sign other than an official traffic sign or similar sign shall be erected within 2 feet (610mm) of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of the City\_or by specific authorization of the Code Official.
- 12.4.3. Projections over public ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 8 feet (2438 mm) from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.
- 12.4.4. Traffic visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.
- 12.4.5. Computation of frontage. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

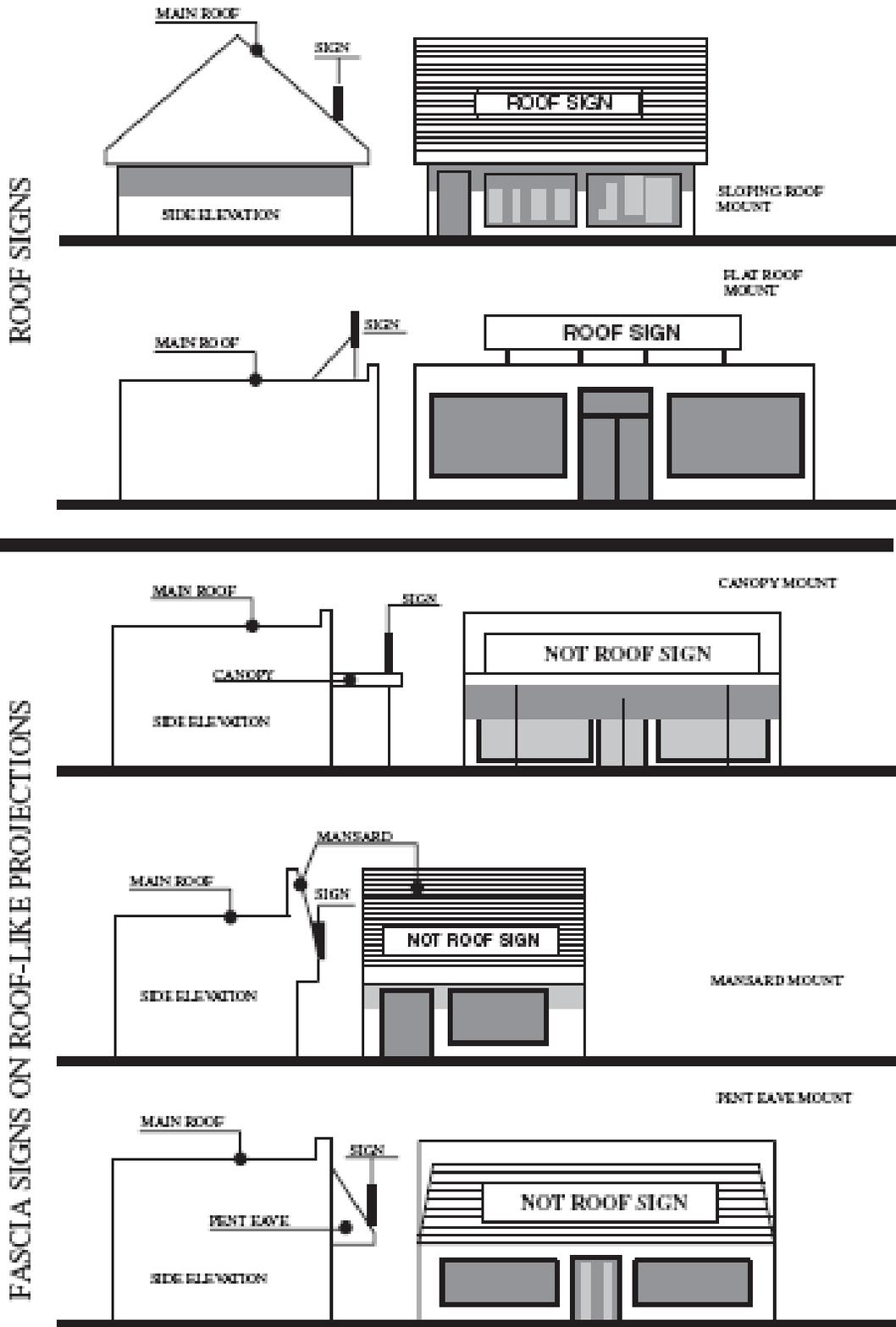
- 12.4.6. Animation and changeable messages. Animated signs, except as prohibited in Section 12.6, are permitted in commercial and industrial zones only. Changeable signs, manually activated, are permitted for nonresidential uses in all zones. Changeable signs, electrically activated, are permitted in all nonresidential zones.

SIGN REGULATIONS – Figure 12(1)

SIGN REGULATIONS



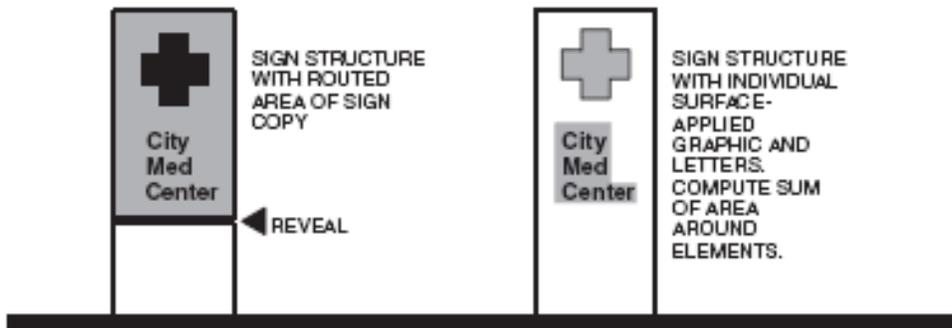
Sign Regulations – Figure 12(2)



Sign Regulations – Figure 12(3)

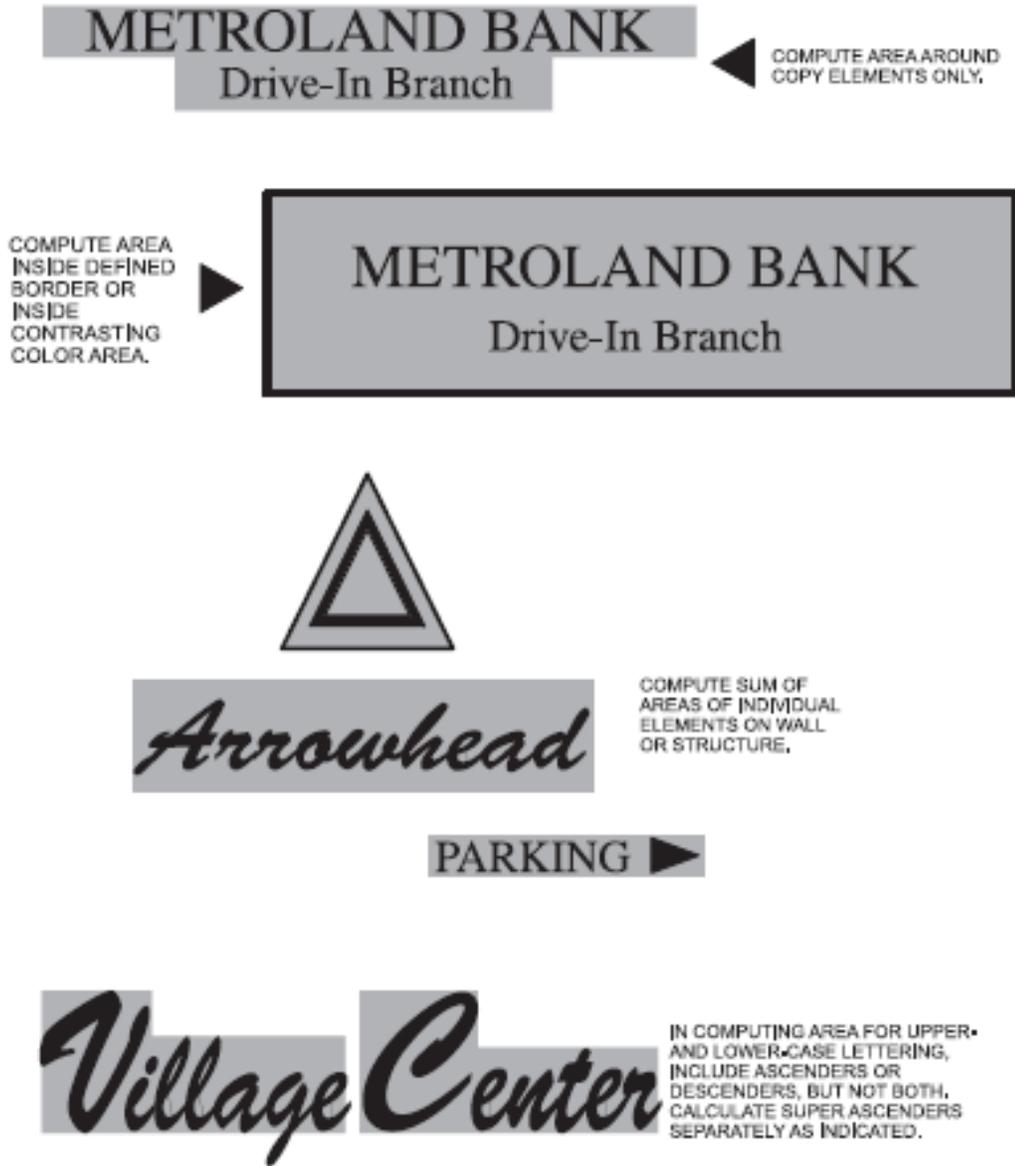


SIGN STRUCTURES



Notes: Sum of shaded areas only represents sign area. Sign constructed with panels or cabinets.

Sign Regulations – Figure 12(4)



Notes: Sum of shaded areas only represents sign area for code compliance purposes. Examples of signs consisting of individual letters, elements or logos placed on building walls or structures.

- 12.4.7. **Maintenance, repair and removal.** Every sign permitted by this Ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the Code Official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Ordinance, the owner thereof or the person or firm using same shall, upon written notice by the Code Official forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this Ordinance, or shall remove it. If within 10 days the order is not complied with, the Code Official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
- 12.4.8. **Obsolete sign copy.** Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within 30 days after written notification from the Code Official; and upon failure to comply with such notice, the Code Official is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located.
- 12.4.9. **Nonconforming signs.** Any sign legally existing at the time of the passage of this Ordinance that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming use or structure and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:
- 12.4.9.1. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.
- 12.4.9.2. Any legal nonconforming sign shall be removed or rebuilt without increasing the existing height or area if it is damaged or removed if allowed to deteriorate to the extent that the cost of repair or

restoration exceeds 50 percent of the replacement cost of the sign as determined by the Code Official.

- 12.4.9.3. Signs that comply with either 12.4.9.1 or 12.4.9.2 above need not be permitted.

**12.4.10. Enforcement and Authority**

12.4.10.1. *Responsible authority.* The City Administrator shall be responsible for administering and enforcing the provisions of this section.

12.4.10.2. *Duties.* The owner of a sign, the owner of the premises on which a sign is located, and/or the occupant of a premises on which a sign is located, when such sign is regulated by this section, shall be responsible for complying with all provisions of this section and may be cited for any violations of this section.

**12.5. EXEMPT SIGNS**

12.5.1. Exempt signs. The following signs shall be exempt from the provisions of Section 12 of this Ordinance; provided, however, that no sign shall be exempt from Section 12.4.

12.5.1.1. Official notices authorized by a court, public body or public safety official.

12.5.1.2. Directional, warning or information signs authorized by federal, state or municipal governments.

12.5.1.3. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

12.5.1.4. The flag of a government or noncommercial institution, such as a school.

- 12.5.1.5. Religious symbols and seasonal decorations within the appropriate public holiday season.
- 12.5.1.6. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.
- 12.5.1.7. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet (0.56 m<sup>2</sup>) in area.

## **12.6. PROHIBITED SIGNS**

### **12.6.1. Prohibited signs. The following devices and locations are hereby prohibited:**

- 12.6.1.1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
- 12.6.1.2. Except as provided for elsewhere in this Ordinance, signs encroaching upon or overhanging public right-of-way.
- 12.6.1.3. No sign shall be attached to any utility pole, light standard, street tree or any other public facility, unless it is a marker erected by a public utility company.
- 12.6.1.4. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
- 12.6.1.5. Portable signs except when allowed as temporary signs.
- 12.6.1.6. Any sign attached to, or placed on, a vehicle or trailer parked on public or

private property, except for signs meeting the following conditions:

- a. The primary purpose of such a vehicle or trailer is not the display of signs.
- b. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
- c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.
- d. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
- e. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, "temporarily" means no more than 20 days in any calendar year.

## 12.7. FEES, PERMITS.

12.7.1. **Permit required.** No person shall cause a sign to be erected, constructed, relocated, altered, repaired or maintained until a permit for such has been issued and the fee paid, except as otherwise provided in this section.

12.7.2. **Applications for permit.** All applications for permits under this section shall include a drawing to scale of:

- (a) The proposed sign, including without limitation the height, length, width, and effective area of the sign, and the dimensions of the sign supports;
- (b) All existing signs maintained on the premises and visible from the right-of-way immediately adjacent to the premises;
- (c) The position of the proposed sign in relation to rights-of-way, easements, buildings, structures, and existing signs;
- (d) The plot plan or building facade indicating the proposed location of the sign; and
- (e) If the owner of the premises is not the responsible party for the premises, the application shall include the written consent of the owner.

12.7.3. **Fees; late charges.** Every applicant, before being granted a permit under this section, shall pay the applicable fee as set by the City Council. The City shall not grant a refund for a sign permit after such fee has been tendered. When a sign is erected, constructed, relocated, altered, repaired, or maintained, or work is in any manner started on a sign, before obtaining a sign permit, there shall be a late fee equal to twice the amount of the sign permit fee. The late fee does not excuse full compliance with the provisions of this section.

12.7.4. The sign Administrator shall review all **Action on permit.** permit applications and make a decision on whether to grant or deny the permit within fourteen (14) days of submittal of a fully completed application. If additional information is required of an applicant in order to complete an application, the applicant shall be notified of such requirement within fourteen (14) days. Thereafter, the sign Administrator shall make a decision on whether to grant or deny the permit within fourteen (14) days of receipt of such additional information or a written certification from the applicant that the application is complete.

12.7.5. **Denial of permit.** The sign Administrator may deny issuance of a permit whenever the sign Administrator determines that the applicant has provided incorrect

or false information, or that the activity or sign for which the permit is requested would be in violation of any of the provisions of this section or any other ordinances of the City or laws of this state or the federal government.

- 12.7.6. **Revocation of permit.** The City Administrator may revoke any permit issued under the provisions of this section whenever the sign Administrator determines that the permit is issued in error or on the basis of incorrect or false information, or whenever such permit is issued in violation of any of the provisions of this section\_or any other ordinances of this City or laws of this state or the federal government. Such revocation shall be effective when communicated in writing to the permit-holder. Upon such revocation, any erection, construction, relocation, alteration, repair, or maintenance of a sign related to the revoked permit shall cease.
- 12.7.8. **Appeal of denial or revocation of permit.** A person may appeal the denial or revocation of a sign permit to the City Council. Such appeal must be in writing and must be presented to the City Administrator no later than ten (10) calendar days after the City sends written notice to the address on the permit application denying or revoking the permit. The City Council shall hear the appeal at a City Council meeting as soon as practicable thereafter to determine whether the decision of the sign Administrator was in accordance with all ordinances and regulations. An adverse decision of the City Council may be appealed by the applicant to district court by filing a lawsuit within twenty (20) days of the City Council's decision.
- 12.7.9. **Permit valid for ninety days.** If the work authorized by a permit issued under this section has not been commenced within ninety (90) days after the date of issuance, the permit shall become null and void.
- 12.7.10. **Electrical permit.** Prior to issuance of a sign permit for a sign in which electrical wiring and connections are to be used, an electrical permit must be obtained. The electrical inspector shall examine the plans and specifications submitted with the application to ensure compliance with the electrical code of the City. No sign shall be erected in violation of the electrical code.

**12.8. SPECIFIC SIGN REQUIREMENTS****12.8.1. Attached signs.**

- 12.8.1.1. *Generally.* Attached signs are permitted in all C-1, C-2, C-3 and C-4 districts, and I-L and I-H districts as designated by this Ordinance, and in a planned development (PD) zoning district if approved by the City Council, as provided in this section.
- 12.8.1.2. *Specifications.*
- (a) Commercial off-premises attached signs are prohibited.
  - (b) All attached signs affixed to the wall of a building must have metal backing.
  - (c) All attached signs shall be mounted parallel to the building surface. No sign shall project more than eighteen (18) inches from the surface to which it is attached. Signs shall not be mounted on roofs and shall not project above the roof line above the wall on which the sign is attached.
  - (d) Copy on awnings and canopies is prohibited.
- 12.8.1.3. *Effective area.* The total effective area of attached signs shall not exceed the following:
- (a) On an attached sign for which the top of the sign is placed no higher than thirty-six (36) feet, the effective area is limited to one (1) square foot of sign area for each linear foot of building frontage, but in no circumstances may the effective area be greater than one hundred (100) square feet.
  - (b) An attached sign for which the top of the sign is placed higher than thirty-six (36) feet shall be permitted an increase in maximum effective area: The sign may be one hundred (100) square feet in

effective area plus four (4) square feet in effective area for each additional one (1) foot of height above thirty-six (36) feet, measured from the base of the sign to the building grade.

- (c) Only one (1) attached sign may be located on each facade for each tenant; however, the sum of the effective area of all attached signs shall not exceed twice the allowable effective area as specified in this Ordinance.

12.8.1.4. Maximum height of copy on attached signs shall be determined by the following schedule:

TABLE INSET:

Sign Height (in feet)	Maximum Copy Height (in inches)
0--36	16
37--48	36
49 and up	72

\*\*Letter heights in excess of seventy-two (72) inches must be approved by the City Council.

12.8.1.5. The effective area of an attached sign shall not exceed twenty-five (25) percent of the area of the wall (or canopy, marquee, etc.) on which the sign is attached.

12.8.1.6. The width of an attached sign shall not exceed seventy-five (75) percent of the width of the wall (or canopy, marquee, etc.) on which the sign is attached.

**12.8.2. Window signs. In addition to the attached signs allowed above, a person may have window signs as follows:**

12.8.2.1. Signs in windows facing public rights-of-way are limited to ten (10) percent of the window area per facade.

12.8.2.2. The outlining of a window on two (2) or more of any sides with lighting, luminescent gaseous tubing, or by any similar means shall constitute one hundred (100) percent of the total window area as a sign.

**12.8.4. Detached signs.**

12.8.4.1. **Residential zoning districts.** Detached signs are permitted in the multi-family (MF), and manufactured home (MH) zoning districts, in this Ordinance, and in a planned development (PD) zoning district if approved by the City Council, in accordance with the following restrictions:

- (a) Except as provided in subsection (b), each premises may have not more than one (1) detached sign.
- (b) Premises that have more than seven hundred fifty (750) feet of frontage along a public way, other than an alley, may have one (1) additional detached sign for each additional five hundred (500) feet of frontage.
- (c) Pole signs are prohibited; only monument signs are allowed.

12.8.4.2. **Nonresidential districts.** Detached signs are permitted in the C-1, C-2, C-3 and C-4 districts, and in I-L and I-H districts and in a planned development (PD) zoning district if approved by the City Council, in accordance with the following restrictions:

- (a) Except as provided in subsection (b), each premises may have not more than one (1) detached sign.
- (b) Premises that have more than four hundred fifty (450) feet of property frontage along a public way, other than an alley, may have one
  - (i) additional detached sign for each additional three hundred (300) feet of frontage.
- (c) Premises that have at least three hundred (300) feet of frontage along more than one (1) public way, other than an alley, may have a permanent detached sign along each public way.

12.8.4.3. **Generally.**

- a. Off-premises detached signs are prohibited.
- b. Billboard signs are prohibited.
- c. All permanent detached signs must be no closer than one hundred fifty (150) feet apart, with no two (2) detached signs of any type being closer than fifty (50) feet apart.
- d. Detached signs within the visibility triangle at any intersection are prohibited. A minimum setback of ten (10) feet is required of all detached signs. A minimum setback of fifteen (15) feet from the public right-of-way is required for detached signs exceeding ten (10) square feet in effective area or ten (10) feet in height. A minimum setback of twenty (20) feet is required for all detached signs exceeding twenty (20) square feet in effective area or fifteen (15) feet in height.

**12.8.5. Specific sign type regulations.**

- 12.8.5.1. *Pole sign specifications.* Detached pole signs shall be allowed as set forth in this subsection:
- a. Single-tenant and multi-tenant pole signs shall be allowed in C-1, C-2, C-3 and C-4 districts, and in I-L and I-H districts and PD commercial districts as set forth in this subsection.
  - b. Effective area and height:
    - i. Single-tenant pole signs must be no more than thirty-six (36) square feet in effective area and twenty (20) feet in height measured from ground elevation to the top of the sign.
    - ii. Multi-tenant pole signs must be no more than seventy-two (72) square feet in

effective area and twenty (20) feet in height measured from ground elevation to the top of the signs. No single-tenant shall occupy more than thirty-six (36) square feet of effective area on a multi-tenant sign.

**12.8.6. Design standards:**

- 12.8.6.1. Sign supports: Eight-inch × eight-inch structural steel tubing.
- 12.8.6.2. Sign cabinet:
- a. Painted grip sheet metal on angle iron frame with angle retaining rim to secure sign face.
- 12.8.6.3. Sign face:
- a. Flat, clear acrylic sheet.
  - b. All copy and background sprayed on second surface with acrylic colors.
- 12.8.6.4. Sign finish: Degrease, prime, and finish coat all exposed metal surfaces as required.
- 12.8.6.5. *Monument sign specifications.* Detached monument signs shall be allowed as set forth in this subsection:
- a. Must be built on a monument base with no separation between the base of the sign and natural grade;
  - b. Must contain only the name, logo, address and product or service of the establishment;
  - c. May be single- or double-faced;

- d. Shall not exceed six (6) feet in overall height above the natural or average grade; and
- e. The actual sign face shall not exceed forty-eight (48) square feet in effective area per side.

**12.8.7. Real estate signs and construction signs on undeveloped property.**

12.8.7.1. *Generally.* In addition to other attached and detached signs allowed by this section, real estate and construction signs are permitted in all zoning districts as provided by this section.

12.8.7.2. *Signs on undeveloped property.* Signs on undeveloped property shall be specifically limited to real estate and/or construction signs and must comply with sign design and size criteria as set forth in this section.

12.8.7.3. *Real estate and construction sign specifications.* Property owners may erect a real estate or construction sign in accordance with the following specifications:

- (a) No construction sign shall be erected prior to the issuance of a building permit for the project to which the sign pertains, and the construction sign must be removed prior to the issuance of a Certificate of Occupancy;
- (b) Signs must be spaced at least fifty (50) feet apart along a lot frontage;
- (c) No more than four (4) signs are allowed per lot;
- (d) The total effective area of each sign may not exceed thirty-six (36) square feet;
- (e) Each sign shall be no taller than sixteen (16) feet in overall height;
- (f) No sign shall be placed on utility or light poles, whether public or private;

- (g) Such signs shall be removed immediately upon the earliest of:
  - i. The property or land to which the signs refer is sold;
  - ii. Seventy-five (75) percent of the property or land to which the signs refer is rented, leased, or sold; or
  - iii. At least eighteen (18) months have elapsed since the sign permit was issued or since the first Certificate of Occupancy (in the case of a residential subdivision development) was issued.

12.8.7.4. Off-premises real estate and/or construction signs are prohibited.

#### **12.8.8. Movement control signs.**

In addition to other attached and detached signs allowed by this section, movement control signs are permitted in all zoning districts, may be attached or detached, and may be erected without limit as to number provided that such signs shall comply with the following requirements:

12.8.8.1. Each sign must not exceed two (2) square feet in effective area; and.

12.8.8.2. The copy must not exceed four (4) inches in height and may be used for identification purposes only.

#### **12.8.9. Banner signs.**

12.8.9.1. Banner signs are allowed in C-1, C-2, C-3 and C-4 districts, and in I-L and I-H districts zoning districts, as designated by this Ordinance, and in a planned development (PD) zoning district if approved by the City Council, in accordance with the following regulations:

- (a) A premise may display one (1) banner sign announcing a grand opening of a new business. Display of such sign is limited to a maximum of sixty (60) days per opening. The privilege to begin display of such sign expires six (6) months after the issuance of a Certificate of Occupancy. Use of grand opening signs only apply to new ownership, tenancy, or use. Size of banner is limited to fifty (50) square feet with at least one-half (1/2) of all readable copy stating, "Grand Opening" or "Now Open."
- (b) A premise may display banner signs containing a message directly relating to a special event; provided, however, that such banners may be displayed no more than fourteen (14) days prior to the special event, must be removed within two (2) days after the conclusion of the special event, and may be displayed for no more than a total of twenty-one (21) days.

#### **12.8.10. Political signs.**

12.8.10.1. In addition to other attached and detached signs allowed by this section, political signs are permitted in all zoning districts. There is no limitation on the total number of political signs for each candidate that are allowed within the City, as long as the signs: (i) have an effective area that is no greater than thirty-six (36) square feet each; (ii) are no more than eight (8) feet high; (iii) are not illuminated; and (iv) do not have any moving elements. A permit shall not be required for the erection of a political sign that meets these requirements.

12.8.10.2. Notwithstanding anything contained in this section to the contrary:

- (a) Any sign that may display a commercial message may display a noncommercial message in place of the commercial message, so long as the sign complies with the other requirements of this section and other City ordinances; and
- (b) Any sign that may display one (1) type of noncommercial message may also display any other type of noncommercial message, so long as the sign complies with the other requirements of this section and other City ordinances.

**12.8.11. Subdivision signs.**

- 12.8.11.1. In addition to other attached and detached signs allowed by this section, subdivision signs displaying the name of a residential subdivision shall be allowed, provided that such signs shall comply with the following requirements:
  - (a) No more than two (2) signs per subdivision or one sign per entrance of the subdivision, whichever is greater;
  - (b) Each sign must not exceed thirty-two (32) square feet in effective area;
- 12.8.11.2. Subdivision signs may either be a monument sign or may be attached to a permanent masonry wall at the entrance to the subdivision;
- 12.8.11.3. Notwithstanding anything to the contrary contained in this section, no attached or detached subdivision sign shall contain luminescent gaseous tubing;

- 12.8.11.4. Subdivision signs and the commercial message font must be of a uniform size within a subdivision.

**12.8.12. Nonconforming signs.**

- 12.8.12.1. *Generally.* It is the declared purpose of this section that in time all signs shall either conform to the provisions of this section or be removed. By the passage of this section and its amendments, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this section and all other ordinances of the City. Any sign that does not conform to all provisions of this section shall be a nonconforming sign if it legally existed as a conforming or nonconforming sign under prior ordinances, or an illegal sign if it did not exist as a conforming or legal nonconforming sign under prior ordinances.
- 12.8.12.2. *Destroyed sign.* Any nonconforming sign that has been substantially destroyed or dismantled for any purpose other than maintenance shall be deemed completely destroyed if the cost of repairing the sign is more than sixty (60) percent of the cost of erecting a new sign of the same type at the same location. Under this provision, the sign shall be removed, and a permit shall be required to erect a new sign.
- 12.8.12.3. *Removal of sign by owner.* The owner of a premises sign or sign structure and/or the owner or operator of any premises upon which a premises sign or sign structure is located shall remove the sign or sign structure after the first anniversary of the date the business, person, or activity that the sign or sign structure identifies or advertises ceases to operate on the premises on which the sign or sign structure is located. If the premises containing the sign or sign structure are

leased, the sign or sign structure shall be removed after the second anniversary after the date the most recent tenant ceases to operate on the premises.

- 12.8.12.4. *City's removal of signs.* The sign Administrator shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically, or structurally defective sign, or a sign requiring a permit for which no permit has been issued. The sign Administrator shall provide written notice to the permit-holder or property owner that shall describe the sign and specify the violation involved and state that, if the sign is not removed or the violation is not corrected within ten (10) calendar days from date of issuance of the notice, the sign shall be removed in accordance with the provisions in this section. However, if the sign Administrator determines that a dangerous or defective sign may cause imminent peril to life or property, the sign Administrator may order the immediate removal of the sign, with notice to be given as soon as practicable after removal.

**12.8.13. *Impoundment of signs.***

- 12.8.13.1. Signs that the City removes shall be kept by the City for fifteen (15) days after the date of removal. The owner or responsible party for the sign may recover the sign by paying a fee as follows:
- a. Five hundred dollars (\$500.00) for signs that are twelve (12) square feet or less in effective area
  - b. One thousand dollars (\$1,000.00) for signs that are larger than twelve (12) square feet in effective area.
- 12.8.13.2. The City may dispose of signs not recovered within fifteen (15) days after impoundment in any manner the City shall elect.

**12.8.14.      *Repair or renovation of nonconforming signs.***

- 12.8.14.1.    A nonconforming sign shall not be repaired, renovated or structurally altered except to bring the sign into compliance within the provisions of this section, unless the sign Administrator determines, based on evidence provided by the owner of the sign, that the cost of such repair, renovation or structural alteration will not exceed fifty (50) percent of the cost to bring the sign into compliance with the provisions of this section.
- 12.8.14.2.    The copy or message on a nonconforming sign may not be replaced or changed out due to a change in ownership or business name, or for other reasons, unless the sign is first brought into compliance with the provisions of this section

**12.8.15.      *Variances.***

- 12.8.15.1.    The Board of Adjustment may authorize a variance to any restriction set forth in this ordinance, including but not limited to the number, type, area, height, or setback of signs, or any other aspect involved in the sign permitting process. In granting any variance, the Board of Adjustment shall determine that a literal enforcement of the sign regulations will create an unnecessary hardship or a practical difficulty on the applicant, that the situation causing the unnecessary hardship or practical difficulty is unique to the affected property and is not self-imposed, that the variance will not injure and will be wholly compatible with the use and permitted development of adjacent properties, and that the granting of the variance will be in harmony with the spirit and purpose of this Ordinance.
- 12.8.15.2.    A person may request a variance from this Ordinance by filing the request with the City Administrator. Any request for a variance shall be accompanied by a completed application and a non-refundable filing fee in the amount specified in the current fee schedule adopted by the City Council.

- 12.8.15.3. The Board of Adjustment may not authorize a variance to any sign restriction approved by the City Council in connection with a planned development (PD) zoning district.

### **SECTION 13 - NON-CONFORMING STRUCTURES AND USES**

- 13.1. GENERAL. Within the districts established by this Ordinance or amendments thereto that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. 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 the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, not 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 in the district involved.

#### **13.2 EXISTING BUILDING PERMITS**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or land development project for which a building permit was lawfully issued no more than six months prior to the date of adoption or amendment of this Ordinance. Construction on a building permit issued prior to the adoption of this Ordinance must be begun within six months of the adoption date and must be completed within two years of adoption. Such permit shall not be renewed or extended without all other conditions of this Ordinance having been met.

#### **13.3 SIZE NONCONFORMITY OF LOTS OF RECORD**

in any district in which single-family dwellings or commercial buildings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling or commercial building and customary accessory buildings may be erected on any single lot which existed on the effective date of adoption or amendment of this Ordinance where zoning under this Ordinance is otherwise proper. This provision shall apply even though such lot fails to meet requirements for width or area, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

#### **13.4 NONCONFORMING USES OF LAND**

Where, on the effective date of adoption or amendment of this Ordinance, or upon annexation, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

13.4.1 No such nonconforming use shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;

13.4.2 A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use. A nonconforming use, if changed to a more restrictive nonconforming use, may not thereafter be changed except to an equal or a more restricted use;

13.4.3 No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of adoption or amendment of this Ordinance;

13.4.4 No additional structures shall be erected in connection with such nonconforming use of land.

#### **13.5 NONCONFORMING STRUCTURES**

Where a lawful structure exists on the effective date of this Ordinance or amendment thereof that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

13.5.1 Such structure may not be enlarged in a way which increases its nonconformity;

13.5.2 Such structure may not be altered in a way which increases its nonconformity;

13.5.3 Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

### **13.6 NONCONFORMING USES OF STRUCTURES**

If a lawful use of a structure exists on the effective date of adoption or amendment of this Ordinance, which would not be allowed under the terms of this Ordinance in the district in which it is located, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

13.6.1 No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

13.6.2 A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use. A nonconforming use, if changed to a more restrictive nonconforming use, may not be thereafter changed except to an equal or a more restricted use;

13.6.3 Any nonconforming use may be extended throughout any parts of a structure which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such structure.

### **13.7 REPAIRS AND MAINTENANCE**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty-five percent (25%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

If a building or portion of a building containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by and duly authorized City official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**13.8. SPECIAL EXCEPTION USES/SPECIFIC USE PERMITS: NOT NONCONFORMING USES**

Any use for which a special exception or specific use permit is granted pursuant to this Ordinance shall not be deemed a nonconforming use, but shall, without further action be deemed a conforming use in such district only for the single property granted such special exception or specific use permit.

Any special exception or specific use permit heretofore granted by the Board of Adjustment or City Council which was lawfully existing on the effective date of this Ordinance but which is no longer permitted under this Ordinance or amendment thereof shall be considered a nonconforming use and shall be subject to all terms of this Ordinance relating to nonconforming uses, unless the zoning classification under this Ordinance for the property to which the special use attaches allows that particular use. Any special exception or specific use permit which has expired or which is not in compliance with the conditions placed upon such use shall not be permitted to continue.

**13.9. DISCONTINUANCE OR ABANDONMENT**

13.9.1. 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:

- 13.9.1.1. 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 twelve (12) months during any three (3) year period.
- 13.9.1.2. 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 twelve (12) months during any three (3) year period.
- 13.9.1.3. 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.
- 13.9.1.4. 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.

13.9.2. 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.

13.9.3. Upon evidence of hardship, the Board of Adjustment shall have the power to extend the time limits in paragraph 13.9.1 not to exceed one (1) year.

### **13.10. DESTRUCTION OF NONCONFORMING USE**

13.10.1. 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.

13.10.2. If the destruction is greater than fifty percent (50%), the Board of Adjustment may, after a public hearing, authorize repair, taking into consideration the property owner's circumstances and the effect on surrounding properties.

13.10.3. 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 Board of Adjustment may permit the reconstruction of such destroyed structure or structures under conditions which reasonably allow the owner to recoup his original investment.

13.10.4. Notwithstanding anything herein to the contrary, a single family residence which is destroyed shall be permitted to be reconstructed without Board of Adjustment approval regardless of the extent of destruction provided that the construction complies with all current building codes and is commenced within six (6) months of the date of destruction. The failure of the owner to start such reconstruction within six (6) months shall forfeit the owner's right to restore or reconstruct the dwelling except in conformance with this Ordinance.

- 13.10.5. 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 Board of Adjustment, the nonconforming structure or use shall be deemed to be discontinued or abandoned as provided in Section 13.9 above.

### **13.11. AMORTIZATION OF NONCONFORMING USES**

The Board of Adjustment may from time to time on its own motion or upon cause presented by interested persons inquire into the existence, continuation or maintenance of any nonconforming use within the City. The Board of Adjustment may take specific action to abate, remove, limit or terminate any nonconforming use or structure under reasonable plan whereby the owner's investment in the nonconforming use or structure can be recouped through amortization over a defined period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of the Ordinance. The concurring vote of four (4) members of the Board shall be necessary to take any such action.

### **13.12. NON-CONFORMING MOBILE HOMES OR HUD-CODE MANUFACTURED HOMES USED AS DWELLING**

The use of a mobile home or HUD-Code manufactured home previously legally permitted and occupied as a residential dwelling, which no longer conform to the requirements of this Ordinance shall be nonconforming and may be continued only in accordance with this subsection. A mobile home occupied for residential use may be replaced with a HUD Code manufactured home, in compliance with all development requirements except minimum living space requirements. A HUD Code manufactured home may not be replaced, but the City Council shall have the authority to permit the expansion of a HUD Code manufactured home, not to exceed twenty five percent (25%) of the existing floor area.

## **SECTION 14. CONDITIONAL USES**

- 14.1. GENERAL - Any use that requires a conditional use permit is prohibited in the City unless and until the City Council grants a conditional use permit for such use in accordance with the requirements and procedures set forth in this section.

### **14.2. APPLICATIONS**

- 14.2.1. Submittal. All conditional-use permit applications shall be submitted to the Code Official as provided in this Ordinance. All applications shall be accompanied by maps, drawings,

statements or other documents in accordance with the provisions of this Ordinance. An appropriate fee established by the City Council shall be collected at the time of submittal.

### **14.3. PUBLIC HEARING**

- 14.3.1. Hearing and action. A conditional use permit may only be granted following a public hearing before the Planning and Zoning Commission and the City Council in accordance with the same notice and hearing requirement for zoning changes as set forth in Section 19 of this Ordinance. However, approval of a conditional use permit shall not be considered a change of zoning and shall not be subject to the protest procedures set forth in Section 21 13.006 of the Local Government Code.

### **14.4. DETERMINATION**

- 14.4.1. Authorization. In deciding whether to approve a request for a conditional use permit, the City Council shall have the authority to impose conditions and safeguards as deemed necessary to protect and enhance the health, safety and welfare of the surrounding area. The authorization of a conditional use permit shall not be made unless the evidence presented is such to establish:
- a. That such use will not, under the specific circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area and that the proposed use is necessary or desirable and provides a service or facility that contributes to the general well being of the surrounding area.
  - b. That such use will comply with the regulations and conditions specified in this Ordinance for such use.
  - c. The request is consistent with all applicable provisions of the comprehensive plan.
  - d. The request is compatible with the existing or allowable uses of adjacent properties.
  - e. The applicant can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.

- f. The request can demonstrate adequate provision for maintenance of the use and associated structures.
- g. The applicant has minimized, to the degree possible, adverse effects on the natural environment.
- h. The request will not create undue traffic congestion.
- i. The City Council shall itemize, describe or justify, and have recorded and filed in writing, the conditions imposed on the conditional use.

#### **14.5. EXPIRATION AND REVOCATION**

- 14.5.1. General. A conditional-use permit shall be considered exercised when the use has been established or when a building permit has been issued and substantial construction accomplished. When such permit is abandoned or discontinued for a period of 1 year, it shall not be reestablished, unless authorized by the City Council.

A conditional-use permit shall be revoked when the applicant fails to comply with conditions imposed by the hearing examiner.

#### **14.6. AMENDMENTS**

- 14.6.1. General. An amendment to an approved conditional use permit shall be submitted to the Code Official accompanied by supporting information. The and Zoning Commission and the City Council shall review the amendment and the City Council shall be permitted to grant, deny or amend such amendment and impose conditions deemed necessary.

### **SECTION 15 - SPECIFIC USE PERMIT**

- 15.1. **General Provision** - As permitted under the provisions of this Ordinance, a property owner may petition the City for a specific use of property, as authorized by the zoning district in which the property is located. Such petition shall be considered by the Planning and Zoning Commission. After proper notice and a public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council regarding any application for a Specific Use Permit. The Planning and Zoning Commission may require information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed.

- 15.1.2 An application for a Specific Use Permit (SUP) shall be accompanied by a site plan drawn to scale and showing the general arrangements of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials and locations of buildings; the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; visual screening such as walls, landscaping, and fences; and the relationship of the intended use to all existing properties and land uses in all directions to minimum distance of two hundred (200)feet.
- 15.1.3 After proper notice and a public hearing, the City Council may grant a permit for a specific use of property as authorized by the zoning district in which the property is situated. The City Council may require information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed.

## **15.2. Specific Use Permit Regulations**

- 15.2.1. In recommending that a specific use permit for the premises under consideration be granted, the Planning and Zoning Commission shall determine that such use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys, and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and compatibility of buildings.
- 15.2.2. The City Council shall authorize issuance of a Specific Use Permit only after determining that the proposed use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the premises under consideration.
- 15.2.3. The City Council shall authorize issuance of a Specific Use Permit only after determining that adequate provisions have been made for the paving of streets, alleys, and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and compatibility of buildings.
- 15.2.4. No Specific Use Permit shall be granted unless the applicant, owner, and grantee of the Specific Use Permit shall be willing

to accept and agree to be bound by and comply with the written requirements of the permit, as attached to the site plan drawing (or drawings) and approved by the City Council. No public hearing is necessary for site plan approval.

- 15.2.5. Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules or restrictions which are more restrictive or impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any State or Federal pollution control or environmental protection law or regulation.
- 15.2.6. When the City Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.

## **SECTION 16. ZONING OF PROPERTY TO BE PLATTED OR ANNEXED**

### **16.1. Zoning Required Prior to Approval of Plat**

The City Council shall not approve any plat of any subdivision within the City limits until the area covered by the proposed plat shall have been permanently zoned by the City Council.

### **16.2. Annexation Prior to Approval of Plat**

The City Council shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the City is pending before the City Council unless and until such annexation shall have been approved by ordinance by the City Council after any public hearings have been held, and due notice has been given, as required by state law.

### **16.3. Contemporaneous Action on Zoning and Annexation**

In the event the City Council holds a hearing on a proposed annexation, it may, at its discretion, hold a contemporaneous hearing upon the permanent zoning that is to be applied to the area or tract to be annexed. The City Council may, at its discretion, act contemporaneously on the matters of permanent zoning and annexation.

**SECTION 17. CLASSIFICATION OF NEW AND UNLISTED USES****17.1. Procedure for Classifying New/Unlisted Uses**

It is recognized that new types of land use will develop and forms of land use not anticipated may seek to locate in the City In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

17.1.1. The Code Official shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation to the City Council as to the zoning classification(s) into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

The Planning and Zoning Commission shall make a recommendation to the City Council regarding the zoning districts within which such use should be permitted.

17.1.2. The Planning and Zoning Commission and the City Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, in determining the zoning district or districts within which such use should be permitted.

17.1.3. The City Council shall by ordinance approve or make such determination concerning the classification of such use as is determined to be appropriate, based upon its findings.

**SECTION 18. CREATION OF BUILDING SITE****18.1. Procedure for Creating Building Site/Lot**

No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

18.1.1. The lot or tract is part of a plat of record, properly approved by the City Council and signed by the Mayor, and filed in the

plat records of the county or counties in which the lot or tract is located.

- 18.1.2. The plot, tract or lot faces upon a dedicated street and was separately owned prior to the effective date of this Ordinance or prior to annexation to the City, whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this Ordinance may be issued on each such original separately owned parcel.
- 18.1.3. The plot or tract is all or part of a site plan officially approved by the City Council and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land. Any and all plots, tracts, or lots must be provided access via a public street or drive.

## **SECTION 19. BOARDS**

### **19.1. HISTORIC PRESERVATION BOARD**

#### **19.1.1. HISTORIC PRESERVATION PROGRAM ESTABLISHED**

The development and promotion of historic preservation is hereby established as a program and function of the City of Aurora, Texas.

#### **19.1.2. DEFINITIONS**

The following words, when used in this Section, shall have the meaning respectively ascribed to them below, unless the context of this Ordinance clearly indicates otherwise.

*Alteration-* means any change to the exterior of a building, structure, object or site. Alteration shall include, but is not limited to, changing to a different kind, type or size of roofing or siding materials; changing, elimination, or adding exterior doors, door frames, windows, window frames, shutters, fences, railings, columns, beams, walls, porches, steps, porte-cocheres, balconies, or ornamentation, or the dismantling, moving or removing any exterior feature. Alteration does not include ordinary maintenance or repair.

*Certificate of Appropriateness-* means a current and valid permit issued by the Aurora Historical Board authorizing the issuance of a building permit for alteration, rehabilitation, restoration, relocation or demolition required by this Section.

*Board* – means the City of Aurora Historical Board,

*City Council* - means the City Council of the City of Aurora.

*Designated*- means the formal recognition by the City Council of a building, structure, object, site or district as historically, architecturally, culturally or archaeologically significant to the city, state, nation or region.

*Exterior Feature*- means an element of the architectural character and general arrangement of the external portion of a building, structure or object, including building material that is visible from a public right-of-way.

*Historic District*- means an area or district of the City designated by ordinance of the City Council which possesses within definable geographic boundaries, a significant concentration, linkage or continuity of sites, buildings or structures united historically or aesthetically by plan or physical development.

*Historic Landmark*- means any site, individual building, structure, or object designated by ordinance of the City Council that is worthy of rehabilitation, restoration and/or preservation for its historic, cultural and/or architectural significance to the City.

*Noncontributing Property*- means any property that may be located in a designated historic district but does not, in itself, exhibit construction or characteristics that are recognized as being historic in nature.

*Ordinary Maintenance*- means activities relating to a property that would be considered ordinary or common for maintaining the property, such as replacement of a porch floor with identical or in-kind materials. It also may include other activities such as painting.

*Preservation*- means the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

### **19.1.3. GOALS AND PURPOSES**

The City Council of the City of Aurora hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks and districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that areas of the City represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. Section 19.1 of this Ordinance is intended to:

- (a) Protect and enhance the landmarks and districts which represent distinctive elements of Aurora's historic, architectural, and cultural heritage;
- (b) Foster civic pride in the accomplishments of the past;
- (c) Protect and enhance the City of Aurora's attractiveness to visitors and to support and stimulate the economy thereby provided;
- (d) Insure the harmonious, orderly, and efficient growth and development of the City;
- (e) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City; and
- (f) Encourage stabilization, restoration, and improvements of such properties and their values.

#### **19.1.4. FUNDING**

The City of Aurora may provide funding to the Board as approved by the City Council.

#### **19.1.5. HISTORICAL BOARD**

A five (5) member City of Aurora Historical Board is hereby established to plan and recommend the historic preservation functions and activities of the City. Board members shall be appointed by the City Council. In the event a Board member leaves prior to the expiration of his/her term, the City Council shall appoint a Board member to fill the un-expired term. Members shall serve for two (2) year terms. Terms shall be staggered as to provide for two members to be replaced in even numbered years, and three members to be replaced in odd numbered years. Members of the Board shall be citizens of the City of Aurora. All Board members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge in historic preservation within the City of Aurora. The Chairman and Vice Chairman of the Board shall be elected by and from the members of the Board annually.

Should a matter come before the Board in which a member of the Board has a substantial interest, the member shall file an affidavit with the City Secretary as required by Chapter 171 of the Local Government Code and shall not participate in any discussion or vote on the matter.

The Board shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the Chairman or Vice-Chairman, or on the written

request of any two Board members. All meetings shall be held in conformance with the Texas Open Meetings Act.

A quorum for the transaction of business shall consist of not less than a majority of the full authorized membership.

#### **19.1.6. POWERS OF THE BOARD**

The Board shall be empowered to:

- (a) Prepare rules, by-laws and procedures as necessary to carry out the business of the Board, which shall be ratified by the City Council of the City of Aurora;
- (b) Adopt criteria for the designation of historic, architectural, and cultural landmarks and delineation of historic districts, which shall be recommended to the City Council of the City of Aurora;
- (c) Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the City;
- (d) Recommend the designation of resources as landmarks and historic districts;
- (e) Create committees from among its membership and delegate to these committees responsibilities to carry out the purposes of Section 19.1 of this Ordinance;
- (f) Maintain written minutes which record all actions taken by the Board and the reasons for taking such actions;
- (g) Recommend conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques and/or markers;
- (h) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs;
- (i) Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City;
- (j) Approve or disapprove applications for Certificates of Appropriateness pursuant to this Section;

- (k) Prepare and submit annually to the City Council, a report summarizing the work completed during the previous year;
- (l) Recommend to the City Council specific guidelines for the review of landmarks and districts;
- (m) Recommend to the City Council the acquisition of a landmark structure by the City where its preservation is essential to the purpose of this Section and where private preservation is not feasible;
- (n) Propose and recommend to the City Council tax abatement programs for historic landmarks or districts; and
- (o) Accept on behalf of the City, the donation of preservation easements and development rights as well as any other gift of value for the purpose of historic preservation, subject to the approval of the City Council.

#### **19.1.7. DESIGNATION OF HISTORIC LANDMARKS**

- (a) The provisions of this Section pertaining to the designation of historic landmarks shall constitute part of the comprehensive land use plan of the City of Aurora.
- (b) Property owners of proposed historic landmarks shall be notified prior to the Board hearing on the recommended designation. At the Board's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.
- (c) Upon recommendation of the Board, the proposed historic landmark shall be submitted to the Planning and Zoning Commission within the time frame as governed by the City of Aurora Zoning Ordinance. Within sixty (60) days after receipt of the recommendation of the Board, the Planning and Zoning Commission shall give notice and hold a public hearing on the proposed designation in the same manner as is required for a proposed change of zoning. Following the public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council concerning the proposed designation.
- (d) Within sixty (60) days after receipt of the recommendation of the Planning and Zoning Commission, the City Council shall give notice and hold a public hearing on the proposed designation in the same manner as is required for a proposed change of zoning. Following the public hearing, the City Council shall approve or disapprove the Planning and Zoning Commission recommendation.

- (e) Upon designation of a building, object, site, or structure as an historic landmark, the City Council shall cause the designation to be recorded in the official public records of real property of Wise County, the tax records of the City of Aurora, and the Wise County Appraisal District as well as the official zoning maps of the City of Aurora. All zoning maps shall indicate designated landmarks with an appropriate mark.

#### **19.1.8. DESIGNATION OF HISTORIC DISTRICTS**

- (a) These provisions pertaining to the designation of historic districts constitute a part of the comprehensive land use plan of the City of Aurora.
- (b) Property owners within a proposed historic district shall be notified prior to the Board's hearing on the recommended designation. At the Board's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence that will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic district.
- (c) The Board may recommend the designation of a district in accordance with the City of Aurora Zoning Ordinance if it:
  - (i) Contains properties and an environmental setting which meet one or more of the criteria for designation of a landmark; and
  - (ii) Constitutes a distinct section of the city.
- (d) Upon recommendation of the Board, the proposed historic district shall be submitted to the Planning and Zoning Commission. Within sixty (60) days after receipt of the recommendation of the Board, the Planning and Zoning Commission shall give notice and hold a public hearing on the proposed designation in the same manner as is required for a proposed change of zoning. Following the public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council concerning the proposed designation.
- (e) Within sixty (60) days after receipt of the recommendation of the Planning and Zoning Commission, the City Council shall give notice and hold a public hearing on the proposed designation in the same manner as is required for a proposed change of zoning. Following the public hearing, the City Council shall approve or disapprove the Planning and Zoning Commission recommendation.

- (f) Upon designation of an historic district the City Council shall cause the designated boundaries to be recorded in the official public records of real property of Wise County, the tax records of the City of Aurora and the Wise County Appraisal District as well as the official zoning maps of the City of Aurora. All zoning maps shall indicate designated historic districts by an appropriate mark.

#### **SECTION 19.1.9. CRITERIA FOR DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS**

An historic landmark or district may be designated if it meets any of the following criteria:

- (a) Possesses significance in history, architecture, archeology, and culture;
- (b) Is associated with events that have made a significant contribution to local, regional, state, or national history;
- (c) Embodies the distinctive characteristics of a type, period, or method of construction;
- (d) Represents the work of a master designer, builder, or craftsman; and
- (e) Represents a significant, established and familiar visual feature of the city.

#### **SECTION 19.1.10. RELATIONSHIP OF DESIGNATIONS TO BASE ZONING DISTRICT**

(a) Designation of a structure, site or area by the City Council as an historic landmark or historic district is intended as a zoning overlay which supplements the primary underlying zoning district classification. The permitted uses of the property shall be determined and controlled by the use regulations set forth for the primary zoning district classification for the property.

(b) The height of structures and the minimum dimensions of lots and yards shall be determined by the regulations set forth for the underlying primary zoning district classification except where more restrictive height and area regulations are specified in design guidelines adopted by the City Council for an historic district.

(c) If there is any conflict between the provisions of this Section 19.1 and any other provision of the Zoning Ordinance, the most restrictive regulation shall apply in the absence of a specific directive to the contrary.

(c) If there is any conflicted between the adopted design guidelines and any provision of this Section, the most restrictive regulation shall apply.

**SECTION 19.1.11. CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS**

No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within a historic district, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any historic landmark or any property within a historic district without having been issued a Certificate of Appropriateness.

**SECTION 19.1.12. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS**

In considering an application for a Certificate of Appropriateness, the Board shall be guided by any adopted design guidelines. Any adopted design guideline shall be made available to the property owners of historic landmarks or within historic districts. The following, from *The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings*, shall be a minimum guideline for approval:

- (a) Every reasonable effort shall be made to adapt the property in a manner that requires minimal alteration of the building, structure, object, or site and its environment;
- (b) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed;
- (c) The removal or alteration of any historic material or distinctive architectural features should be avoided when possible;
- (d) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged;
- (e) Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected;
- (f) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, object, or site shall be kept where possible;
- (g) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary,

the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features whenever possible, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures;

- (h) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials should not be undertaken;
- (i) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project;
- (j) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment; and
- (k) Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

#### **19.1.13. CERTIFICATION OF APPROPRIATENESS APPLICATION PROCEDURE**

- (a) Prior to the commencement of any work requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Code Official. The application shall contain:
  - (i) Name, address, telephone number of applicant, detailed description of proposed work;
  - (ii) Location and photograph of the property and adjacent properties;
  - (iii) Elevation drawings of the proposed changes, if available;
  - (iv) Samples of materials to be used, if applicable;
  - (v) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of

illumination (if any), and a plan showing the sign location on the property; and

- (vi) Any other information, which the Board may deem necessary, in order to visualize the proposed work.
- (b) The Code Official shall submit the application to the Board for review and a decision. The Board shall review the application at a regularly scheduled meeting within thirty (30) days from the date the application is received by the Board, at which time an opportunity will be provided for the applicant to be heard. The Board shall approve, deny, or approve with modifications, a Certificate of Appropriateness within forty-five (45) days after the review meeting. In the event the Board does not act within ninety (90) days of the receipt of the application, a Certificate of Appropriateness shall be deemed to have been granted.
- (c) No building permit shall be issued for such proposed work until a Certificate of Appropriateness has first been issued by the Board. The Certificate of Appropriateness required by this Section shall be in addition to and not in lieu of any building permit that may be required by any other Ordinance of the City of Aurora.
- (d) All decisions of the Board shall be in writing. The Board's decision shall state the reasons for its decision concerning the approval, denial, or approval with modification of the application. The decision of the Board shall be returned to the Code Official for action.
- (e) The Board shall issue a Certificate of Appropriateness for demolition or relocation of a Noncontributing Property located in a designated historic district, subject to compliance by the owner with demolition guidelines.
- (f) In the event an applicant for a Certificate of Appropriateness is dissatisfied with the decision of the Board relating to the issuance or denial of a Certificate of Appropriateness, the applicant shall have the right to appeal to the Board through the Economic Hardship Application Procedure as defined in Section 19.1.15 of this Ordinance.

#### **SECTION 19.1.14. CERTIFICATE OF APPROPRIATENESS REQUIRED FOR DEMOLITION**

A permit for the demolition of a historic landmark or property within a historic district, including secondary buildings and landscape features, shall not be granted by the Code Official of the City of Aurora, without the review of a completed application for a Certificate of Appropriateness by the Board, as provided for in Sections 19.1.11, 19.1.12 and 19.1.13 of this Ordinance.

**SECTION 19.1.15. ECONOMIC HARDSHIP APPLICATION PROCEDURE**

- (a) After receiving written notification from the Board of the denial of Certificate of Appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Board makes a finding that hardship exists.
- (b) When a claim of economic hardship is made due to the effect of this Ordinance, the owner must prove that:
  - (i) The property is incapable of earning a reasonable economic return, regardless of whether that return represents the most profitable return possible;
  - (ii) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, such would result in a reasonable economic return; and
  - (iii) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (c) The applicant shall consult in good faith with the Board, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Board.
- (d) The Board shall hold a public hearing on the application within thirty (30) days from the date the application is received by the Board.
- (e) Following the hearing, the Board has thirty (30) days in which to prepare a written decision and forward it to the Code Official. In the event that the Board does not act within ninety (90) days of the receipt of the application, a Certificate of Appropriateness shall be deemed to have been granted.
- (f) All decisions of the Board shall be in writing. The Board's written decision shall state its reasons for the approval or denial of the hardship application. The decision of the Board shall be returned to the Code Official for action.
- (g) An applicant for a Certificate of Appropriateness dissatisfied with the action of the Board relating to the issuance or denial of a Certificate of Appropriateness based on a claim of economic hardship shall have the right to appeal to the Board of Adjustment, within thirty (30) days after receipt of notification of such action.

The Board of Adjustment shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner

as provided in this Ordinance with respect to other appeals to the Board of Adjustment.

#### **SECTION 19.1.16. ENFORCEMENT**

All work performed pursuant to a Certificate of Appropriateness issued under this Ordinance shall conform to all requirements included therein. It shall be the duty of the Code Official of the City of Aurora to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Board and verification by the Code Official, the Code Official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

#### **SECTION 19.1.17. ORDINARY MAINTENANCE**

Nothing in this Ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of an historic landmark or property within a historic district which does not involve a change in design, material or outward appearance. In-kind replacement or repair is included in this definition of ordinary maintenance.

#### **SECTION 19.1.18. DEMOLITION BY NEGLIGENCE**

No owner or person with an interest in real property designated as an historic landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Board, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (a) Deterioration of exterior walls or other vertical supports;
- (b) Deterioration of roof or other horizontal members;
- (c) Deterioration of exterior chimneys;
- (d) Deterioration or crumbling of exterior stucco or mortar;
- (e) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors; and
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

**SECTION 19.1.19. NO AUTHORITY TO GRANT VARIANCE**

The Board of Adjustment shall have no jurisdiction to grant any variance from the criteria for the designation of historic landmarks or districts or from the criteria for issuance of a Certificate of Appropriateness.

**SECTION 19.19.20. CUMULATIVE REMEDIES**

The provisions of this Section 19.1 shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under Section 315.006 of the Texas Local Government Code and Section 442.016 of the Texas Government Code.

**SECTION 19.2. PARKS AND RECREATION BOARD****19.2.1. PARKS AND RECREATION PROGRAM ESTABLISHED**

The development and promotion of parks and recreation and open space preservation is hereby established as a program and function of the City of Aurora, Texas.

**19.2.2. DEFINITIONS**

The following words, when used in this Section, shall have the meaning respectively ascribed to them below, unless the context of this Ordinance clearly indicates otherwise.

*Public park or playground* - means a park, playground, recreation area, together with parking lot, which is operated, maintained and controlled by the City of Aurora and heretofore platted, dedicated and designated as a public park within the City of Aurora.

*Board* – means the City of Aurora Parks and Recreation Board,

*City Council* - means the City Council of the City of Aurora.

**19.2.3. GOALS AND PURPOSES**

The City Council of the City of Aurora hereby declares that as a matter of public policy the preservation of open space and development of park land for the good of the citizenry. This Board serves in an advisory capacity to the City Council concerning the acquisition, maintenance, operation and use of parks, playgrounds and open spaces within the City.

**19.1.4. FUNDING**

The City of Aurora may provide funding to the Board as approved by the City Council.

**19.1.5. PARKS AND RECREATION BOARD**

Consists of five (5) members appointed every two years. It is the duty of the Parks and Recreation Commission to make recommendations to the City Council concerning park and recreational activities within the City and to solicit private donations to assist in funding park improvements. Members of the Board shall be citizens of the City of Aurora. All Board members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge in the preservation of open space and parks and recreation within the City of Aurora. The Chairman and Vice Chairman of the Board shall be elected by and from the members of the Board annually.

Should a matter come before the Board in which a member of the Board has a substantial interest, the member shall file an affidavit with the City Secretary as required by Chapter 171 of the Local Government Code and shall not participate in any discussion or vote on the matter.

The Board shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the Chairman or Vice-Chairman, or on the written request of any two Board members. All meetings shall be held in conformance with the Texas Open Meetings Act.

A quorum for the transaction of business shall consist of not less than a majority of the full authorized membership.

**19.1.6. POWERS OF THE BOARD**

The Board shall be empowered to:

- (a) Prepare rules, by-laws and procedures as necessary to carry out the business of the Board, which shall be ratified by the City Council of the City of Aurora;
- (b) Adopt criteria for the preservation and use of open space, which shall be recommended to the City Council of the City of Aurora;
- (c) Maintain written minutes which record all actions taken by the Board and the reasons for taking such actions;
- (d) Increase public awareness of the value of preserving open/green space and participating in public education programs;

- (e) Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation open space and development of parks within the City;
- (f) Make recommendations to the City Council relating to management of a public park and recreation program
- (g) Make recommendations to the City Council relating to the conduct on public playgrounds, athletic fields, concession rights and other recreation facilities and activities on any of the properties controlled by the City
- (h) Make recommendations to the City Council concerning recreational activities that employ the leisure time of the citizenry
- (i) Prepare and submit annually to the City Council, a report summarizing the work completed during the previous year

## **SECTION 20. CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES**

### **20.1. Declaration of Policy**

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures to be a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- 20.1.1. To correct any error in the regulations or map.
- 20.1.2. To recognize changed or changing conditions or circumstances in a particular locality.
- 20.1.3. To recognize changes in technology, style of living, or manner of doing business.

### **20.2. Authority to Amend Ordinance**

The City Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the classification or boundaries of the zoning districts. Any amendment, supplement, or change to the text of the Zoning Ordinance and/or the zoning map any change in the classification or boundaries of the zoning districts may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Commission, the City Council, or may

be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.

### 20.3. **Public Hearing and Notice**

20.3.1. **Public Hearing for Zoning Change.** Upon filing of an application for an amendment to the Zoning Ordinance and map, the Planning and Zoning Commission and City Council shall each hold a public hearing on said application.

20.3.2. **Written Notice of Hearing.** Written notice of the hearing before the Planning and Zoning Commission shall be sent to the owner(s) of the property or his agent and to all owners of real property lying within two hundred fifty (250) feet of the property on which the change in classification is proposed.

The required notice will be mailed first-class return receipt requested, and via standard mail. This notice shall not be given less than ten (10) days before the date of such hearing, to all owners who have rendered their said property for City taxes as the ownership appears on the last approved City tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the Regional Post Office.

Where property lying within two hundred fifty (250) feet of the property proposed to be changed is located in territory which was annexed to the City after the final date for making the renditions which are included on the last approved City tax roll, notice to such owners shall be given by one publication in the official newspaper at least fifteen (15) days before the time of the hearing if the addresses of such owners can not be ascertained by other means.

20.3.3. **Notice by Posted Signage.** The applicant, property owner and/or developer, as applicable, shall upon submittal of application erect a sign, at his/her own expense, on all properties affected by the zoning change application. Each property, lot or tract shall have a posted sign at least twenty-four (24) by thirty-six (36) inches in size which shall state "**Zoning (Conditional Use, Specific Use, Special Use or Variance) change Requested for information call City Hall**" and the telephone number of **(817)636-2783**, shall be listed. Failure to post signage will be cause for the determination of an "incomplete application" and the zoning change application and all applicable fees must be resubmitted.

**20.4. Action of the Planning and Zoning Commission**

- 20.4.1. If, at the conclusion of the hearing, the Planning and Zoning Commission recommends amendment of this Ordinance to the City Council, said recommendation shall be by resolution of the Planning and Zoning Commission carried by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.
- 20.4.2. The Planning and Zoning Commission may recommend denial of an application with or without prejudice against the applicant to re-file the application. If the Commission recommends denial of the application and fails to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being recommended for denial without prejudice against re-filing. If it is later determined by the Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given R1-A zoning is exempt from the one (1) year waiting period.

**20.5. Action of the City Council**

- 20.5.1. If the Planning and Zoning Commission has recommended approval or denial of an application, the City Council shall set said application for public hearing and shall give notice of the time and place of the hearing by one (1) publication in the official newspaper at least fifteen (15) days prior to such hearing.
- 20.5.2. If the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be disapproved, the City Council may refuse to adopt the amendment by a simple majority vote of the Councilmen present and voting. In the event of a tie vote of the City Council members present, the Mayor may cast the deciding vote. In order to adopt the amendment which has been recommended for disapproval by the Planning and Zoning Commission, the amendment shall not become effective except by the affirmative vote of all members of the City Council of the City of Aurora.

- 20.5.3. When the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be approved, the City Council may disapprove the petition or application for amendment by a simple majority vote of the City Councilmen present and voting. In the event of a tie vote of the City Council Members present and voting, the Mayor may cast the deciding vote.
- 20.5.4. In the case of a protest against an amendment to the Ordinance signed by the owners of twenty percent (20%) or more either of the area of the lots or land immediately adjoining the area included in the proposed change and extending two hundred (200) feet from that area, such amendment shall not become effective except by an affirmative vote of all members of the City Council of the City of Aurora.
- 20.5.5. **In making its determination, the City Council shall consider the following factors:**
- 20.5.5.1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
- 20.5.5.2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.
- 20.5.5.3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.
- 20.5.5.4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed changes.
- 20.5.5.5. The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should also be modified.
- 20.5.5.6. Any other factors which will substantially affect the public health, safety, morals or general welfare.

20.5.6. In considering a motion to deny a zoning application, or upon voting to deny a zoning application, the City Council shall further consider whether said application shall be denied with or without prejudice against re-filing. If the City Council shall deny the application and fail to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being denied without prejudice against re-filing. If an application is denied with prejudice, no application may be filed for all or part of the subject tract of land for a period of one (1) year from the date of denial by the City Council. If it is determined by the Planning and Zoning Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given R1-A zoning is exempt from the one (1) year waiting period.

**20.6. Effect of Denial of Petition**

In case the application for an amendment to the Zoning Ordinance is denied by the City Council, said application shall not be eligible for reconsideration for one (1) year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Planning and Zoning Commission, to be eligible for consideration within one (1) year of the denial of the original application.

In the event of a reapplication affecting the same land is for a zone that will permit the same use of the property as that which would have been permitted under the denied application, the same shall not be considered to be substantially different from the application denied.

**20.7. Final approval and Ordinance Adoption**

If the amending ordinance is not approved within six (6) months from the time of its original consideration, the zoning request, at the option of the City Council, may be recalled for a new public hearing.

**20.8. Changes in Zoning Regulations**

Amendments to the Zoning Ordinance not involving a particular property but involving change in the zoning regulations generally do not require notice to individual property owners. In such cases, notice of the required public hearing shall be given by publication in the official newspaper of the City, stating the time and location of the public hearing, which time shall not be earlier than fifteen (15) days from the date of such publication.

**SECTION 21. SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The City Council has established a schedule of fees, charges, and expenses, pertaining to this Ordinance, by Ordinance O-200407A adopted on July 12, 2004. The schedule is posted in the office of the administration official and may be altered or amended only by the City Council.

No permits, certificates, special exception, or variance shall be issued unless and until such costs, charges, fees, or expenses have been paid in full, nor shall any action taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

The exact charge for the following services will be established by separate ordinance:

- a. For docketing a zoning petition with the Planning and Zoning Commission of the City of Aurora.
- b. For docketing an application for relief with the Board of Adjustment of the City of Aurora.

**SECTION 22. PENALTY FOR VIOLATIONS**

Any person or corporation violating any of the provisions of this Ordinance shall upon conviction be fined a sum not to exceed two thousand dollars (\$2000.00) per day and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district where such property owner may be affected or invaded by a violation of the terms of the Ordinance to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

**SECTION 23. VALIDITY. SEVERANCE AND CONFLICT.**

If any section, paragraph, subdivision, clause, phrase or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall be severed from and shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so dedicated to be invalid or unconstitutional. To the extent any provision of this Ordinance conflicts with other ordinances of the City of Aurora the terms of this Ordinance shall control.

This Ordinance shall be effective upon the posting and/or publication of its caption as required by law and the City Administrator is hereby directed to implement such posting and/or publication.

**SECTION 24. EFFECTIVE DATE**

The City Secretary of the City of Aurora is hereby directed to publish in the official newspaper of the City of Aurora, the caption, penalty clause, and effective date clause of this Ordinance two (2) days as authorized by Section 52.011 of the Local Government Code.

This Ordinance shall be in full force and effect immediately upon passage and it is so ordained.

**RECOMMENDED FOR ACCEPTANCE** by the Planning and Zoning Commission of the City of Aurora, Texas, on the 3<sup>rd</sup> day of July, 2007.

Signed by Planning and Zoning Commission Chair:

Justin Pratt, Chair \_\_\_\_\_

\_\_\_\_\_

**PASSED AND APPROVED BY** a vote of \_\_\_\_\_ to \_\_\_\_\_ on this the 3<sup>rd</sup> day of July 2007.

Signed:

Attest:

\_\_\_\_\_  
Terry Solomon, Mayor

\_\_\_\_\_  
Toni Kelly  
City Administrator/Administrator