



Planning and Zoning Commission Meeting Agenda

Monday, July 20, 2026 at 6:00 PM

City Hall – 520 East Ocean Blvd. Los Fresnos, TX 78566

<https://cityoflosfresnos.com/meetings>

NOTICE OF SAID MEETING IS HEREBY GIVEN BY THE CITY OF LOS FRESNOS PURSUANT TO CHAPTER 551, TITLE 5 OF THE TEXAS GOVERNMENT CODE, THE TEXAS OPEN MEETINGS ACT.

A. CALL MEETING TO ORDER

B. VISITORS REMARKS

To speak, you must sign in with the City Secretary prior to the meeting. You have a limit of 5 minutes to speak.

C. PUBLIC HEARING

1. Public hearing to receive comments from the public regarding a proposed zoning change for certain properties located on the north side of West Ocean Boulevard/Highway 100, from R-1 Single-Family Residential District to C-2 General Commercial District, generally described as portions of Block 164 and Block 165 of the Fresnos Land & Irrigation Company Subdivision and adjacent unsubdivided tracts identified by Cameron County Property IDs 138155, 138156, 138159, 138164, 138165, 161933, 161936, 161937, 161941, 161943, and 241923.
2. Public Hearing to present and receive comments from residents regarding proposed amendments to Articles 1, 2, and 3 of the City of Los Fresnos Zoning Ordinance relating to application requirements and review processes, the On-Site Stormwater Management Incentive Program, the Wildfire Protection Incentive Program, and the Shaded Parking Lots Incentive Program; associated with TxCDBG Planning Grant Contract No. 23-160-015-E338.

D. ACTION ITEMS

1. Consideration and ACTION to approve the minutes from June 15, 2026.
2. Consideration and ACTION to approve a proposed zoning change for certain properties located on the north side of West Ocean Boulevard/Highway 100, from R-1 Single-Family Residential District to C-2 General Commercial District, generally described as portions of Block 164 and Block 165 of the Fresnos Land & Irrigation Company Subdivision and adjacent unsubdivided tracts identified by Cameron County Property IDs 138155, 138156, 138159, 138164, 138165, 161933, 161936, 161937, 161941, 161943, and 241923
3. Consideration and ACTION to recommend proposed amendments to Article 1, 2, and 3 of the City of Los Fresnos Zoning Ordinance associated with TxCDBG Planning Grant Contract No. 23-160-015-E338.

E. ADJOURNMENT

This is to certify that I, Jacqueline Moya, posted this agenda on the front bulletin board of the City Hall and the city website at www.cityoflosfresnos.com on July 14, 2026 on or before 5:30 p.m. and it shall remain so posted continuously for at least 3 business days preceding the scheduled time of said meeting.

/s/ Jacqueline Moya, City Secretary

Persons with any disabilities that would like to attend meetings must notify City Secretary 24 hours in advance so that the City can make arrangements for that disabled person.

**ACTION ITEM REPORT****Item Title:**

Public hearing to receive comments from the public regarding a proposed zoning change for certain properties located on the north side of West Ocean Boulevard/Highway 100, from R-1 Single-Family Residential District to C-2 General Commercial District, generally described as portions of Block 164 and Block 165 of the Fresnos Land & Irrigation Company Subdivision and adjacent unsubdivided tracts identified by Cameron County Property IDs 138155, 138156, 138159, 138164, 138165, 161933, 161936, 161937, 161941, 161943, and 241923.

Recommendation:

Years ago when the city annexed the area to the west on Highway 100, the property closest to the highway was zoned commercial. Further away was zoned residential. A property owner wants to utilize more of his land to build a business but it turns into residential. It can't be spot zoned where we just do a limited area. Staff has analyzed this area and believes the correct thing to do is convert the residential area all the way to the drainage ditch (which is half way to Whipple Road). This would mirror exactly what the city did from Zarsky Lumber to close to FM 1575 on the north side. From Highway 100 to the drainage ditch it is all commercial. Then it turns into residential on the north side of the drainage ditch. We believe this would be the best solution for this area.

I recommend approval.

6/2/2026

Jose Mario Narvaez Castro
32075 State Hwy 100
Owner ID: 768553
Geo ID: 75-0171-1640-0601-00
ABST2 - F L & I CO BLK 164 PTW18.48, 1.80 AC OF 8.222 ACRES

Buenas tardes,

Mi Nombre es José Mario Narvaez Castro, y por medio de la presente solicito el cambio de zonificación de una porción de mi propiedad de uso residencial a uso commercial.

Actualmente, mi terreno ubicado en la dirección 32075 State Hwy 100 cuenta aproximadamente con la cuarta parte clasificada como residencial, mientras que el resto ya se encuentra zonificado como commercial. Mi interés es cambiar la porción residencial a commercial para que toda la propiedad tenga una zonificación commercial uniforme. El propósito de esta solicitud es desarrollar una plaza commercial. Para llevar a cabo este Proyecto es necesario que la totalidad del terreno cuente con ser zona commercial.

Agradecería su consideración de esta solicitud y quedo a su disposición para proporcionar cualquier documentación o información adicional que sea necesaria para el proceso.

Muchas gracias por su tiempo y atención

Atentamente



Jose Mario Narvaez Castro
(956) 484-5044



July 1, 2026

TO: PROPERTY OWNERS ON PORTIONS OF HIGHWAY 100

FROM: CITY OF LOS FRESNOS

SUBJECT: REQUEST TO RE-ZONE PROPERTY ON THE NORTH SIDE OF WEST OCEAN BLVD/HIGHWAY 100.

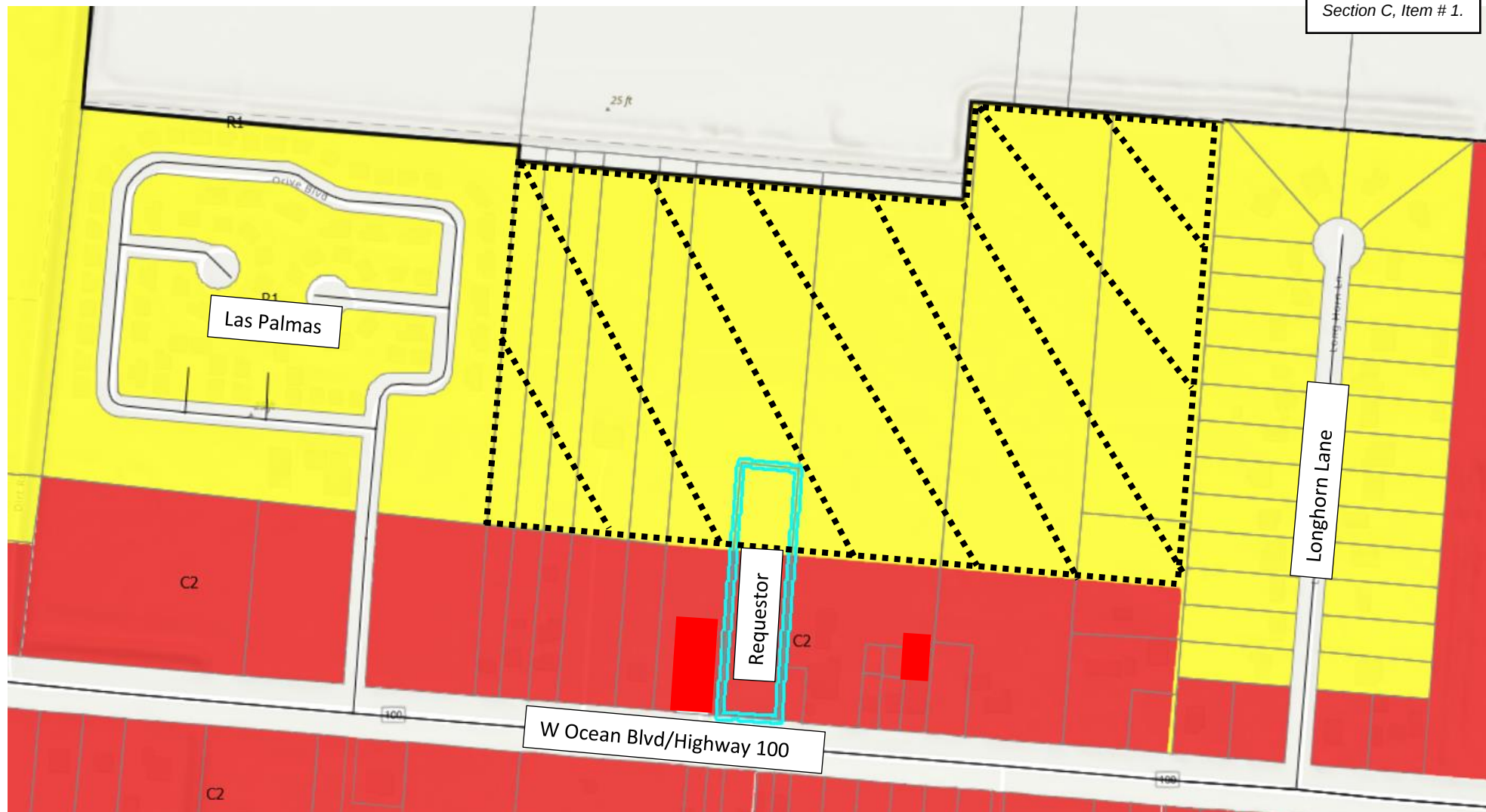
You are receiving this notice regarding a proposed zoning change near your property. In accordance with City requirements, all property owners located within 200 feet of the subject property including the owners of the property to be rezoned are being notified. The properties listed below are currently zoned R-1 Single-Family Residential District. The City is proposing to rezone these properties to C-2 General Commercial District.

PROPERTY ID	GEO ID	LEGAL DESCRIPTION
138155	75-0171-1640-0600-00	ABST2 - F L & I CO BLK 164 PTW18.48, 6.422 AC OF 8.222 ACRES
138156	75-0171-1640-0800-00	FRESNOS LAND & IRRG CO SUBDIVISION 8.85 ACRES & 0.172 ACRES OUT OF BLK 164
138159	75-0171-1640-1101-00	FRESNOS LAND & IRRG CO SUBDIVISION 10.1220 ACRES OUT OF BLK 164 (VOL 3 PG 9-A CCMR)
138164	75-0171-1640-1105-00	FRESNOS LAND & IRRG CO SUBDIVISION 2.229 ACS OF 3.059 ACS OF 9.088 AC BLKS 164 & 165 (VOL 3 PG 9-A CCMR)
138165	75-0171-1640-1110-00	FRESNOS LAND & IRRG CO SUBDIVISION PT OF BLKS 164-165, 5.965 ACS (VOL 3 PG 9-A CCMR)
161933	79-1210-0220-0010-00	ABST2 - UNSUBDIVIDED PTSE8.34 SHAR E 12 TRACT V-1, 1.2600 ACRES
161936	79-1210-0220-0030-00	ABST2 - UNSUBDIVIDED PTSE8.34 SHAR E 12 TRACT V-1, 1.2600 ACRES
161937	79-1210-0220-0040-00	ABST2 - UNSUBDIVIDED PTSE8.34 SHAR E 12 TRACT V-1, 2.5200 ACRES
161941	79-1210-0220-0060-00	ABST2 - UNSUBDIVIDED PTSE8.34 SHAR E 12 TRACT V-1, 1.2600 ACRES
161943	79-1210-0220-0080-00	ABST2 - UNSUBDIVIDED PTSE8.34 SHAR E 12 TRACT V-1, 1.9900 ACRES
241923	75-0171-1640-0601-00	ABST2 - F L & I CO BLK 164 PTW18.48, 1.80 AC OF 8.222 ACRES

The **Planning and Zoning Commission** will hold a public hearing on **Monday, July 20, 2026 at 6:00 p.m. in City Hall, 520 E Ocean Blvd., Los Fresnos, TX. 78566** to receive comments from the property owners concerning the rezoning.

If the request is granted by the Planning and Zoning Commission, the **City Council** of the City of Los Fresnos will hold a public hearing on **Tuesday, August 11, 2026 at 6:00 p.m. in City Hall, 520 E Ocean Blvd., Los Fresnos, TX. 78566** to receive comments from the property owners concerning the rezoning.

If you have any questions concerning the above, please contact Jacqueline Moya, City Secretary or Mark Milum, City Manager at (956) 233-5768.



Proposed Re-zone to C2 General Commercial District



C2 General Commercial District

R1 Single Family Residential District

ACTION ITEM REPORT**Item Title:**

Public Hearing to present and receive comments from residents regarding proposed amendments to Articles 1, 2, and 3 of the City of Los Fresnos Zoning Ordinance relating to application requirements and review processes, the On-Site Stormwater Management Incentive Program, the Wildfire Protection Incentive Program, and the Shaded Parking Lots Incentive Program; associated with TxCDBG Planning Grant Contract No. 23-160-015-E338.

Recommendation:

This time will allow the public to comment.

Report is under the action item.

ACTION ITEM REPORT



Item Title: Consideration and ACTION to approve the minutes from June 15, 2026.

Recommendation:

I recommend approval.



Planning and Zoning Commission Meeting Minutes

Monday, June 15, 2026 at 6:00 PM

City Hall – 520 East Ocean Blvd. Los Fresnos, TX 78566

<https://cityoflosfresnos.com/meetings>

NOTICE OF SAID MEETING IS HEREBY GIVEN BY THE CITY OF LOS FRESNOS PURSUANT TO CHAPTER 551, TITLE 5 OF THE TEXAS GOVERNMENT CODE, THE TEXAS OPEN MEETINGS ACT.

A. CALL MEETING TO ORDER

Meeting was called to order at 6:00 p. m.

PRESENT

Place 1 Robert Walsdorf
Place 2 Abel Torres
Place 3 Juan Sierra
Place 4 Anita Matta
Place 5 Henry Bebon
Place 7 Javier Rodriguez

ABSENT

Place 6 Larry Meade

B. VISITORS REMARKS

To speak, you must sign in with the City Secretary prior to the meeting. You have a limit of 5 minutes to speak.

There was none.

C. PUBLIC HEARING

1. Public hearing to receive comments from residents regarding a variance request to reduce the front yard setback requirement from 25 feet to 20 feet for the proposed Valle Alto East Subdivision, Phase 7 & 8, Block 1, Lots 15-16, Block 4, Lots 42-46, 55-59, Block 5, Lots 12-16, 25-29, 38-40.

Public hearing opened at 6:00 p.m.

There were no comments.

Public hearing closed at 6:00 p.m.

D. ACTION ITEMS

1. Consideration and ACTION to approve the minutes from April 20, 2026.

Motion was made and seconded to approve the minutes from April 20, 2026.

Motion made by Place 3 Sierra, Seconded by Place 4 Matta.

Voting Yea: Place 1 Walsdorf, Place 2 Torres, Place 3 Sierra, Place 4 Matta, Place 5 Bebon, Place 7 Rodriguez

2. Consideration and ACTION to approve a variance request to reduce the front yard setback requirement from 25 feet to 20 feet for the proposed Valle Alto East Subdivision, Phase 7 & 8, Block 1, Lots 15-16, Block 4, Lots 42-46, 55-59, Block 5, Lots 12-16, 25-29, 38-40.

Mr. Milum explained that while previous variances for rear setbacks had been granted, this request for a reduced front setback was not recommended, citing concerns about homes

being too close to the roadway and potential vehicle related safety issues. He recommended denial and suggested that larger cut-de-sac lots be redesigned if additional space is needed.

Motion was made and seconded to deny a variance request to reduce the front yard setback requirement from 25 feet to 20 feet for the proposed Valle Alto East Subdivision, Phase 7 & 8, Block 1, Lots 15-16, Block 4, Lots 42-46, 55-59, Block 5, Lots 12-16, 25-29, 38-40.

Motion made by Place 4 Matta, Seconded by Place 3 Sierra.

Voting Yea: Place 1 Walsdorf, Place 2 Torres, Place 3 Sierra, Place 4 Matta, Place 5 Bebon, Place 7 Rodriguez

E. ADJOURNMENT

Meeting was adjourned at 6:03 p.m.

Robert Walsdorf, Chairman

ATTEST:

Jacqueline Moya, City Secretary

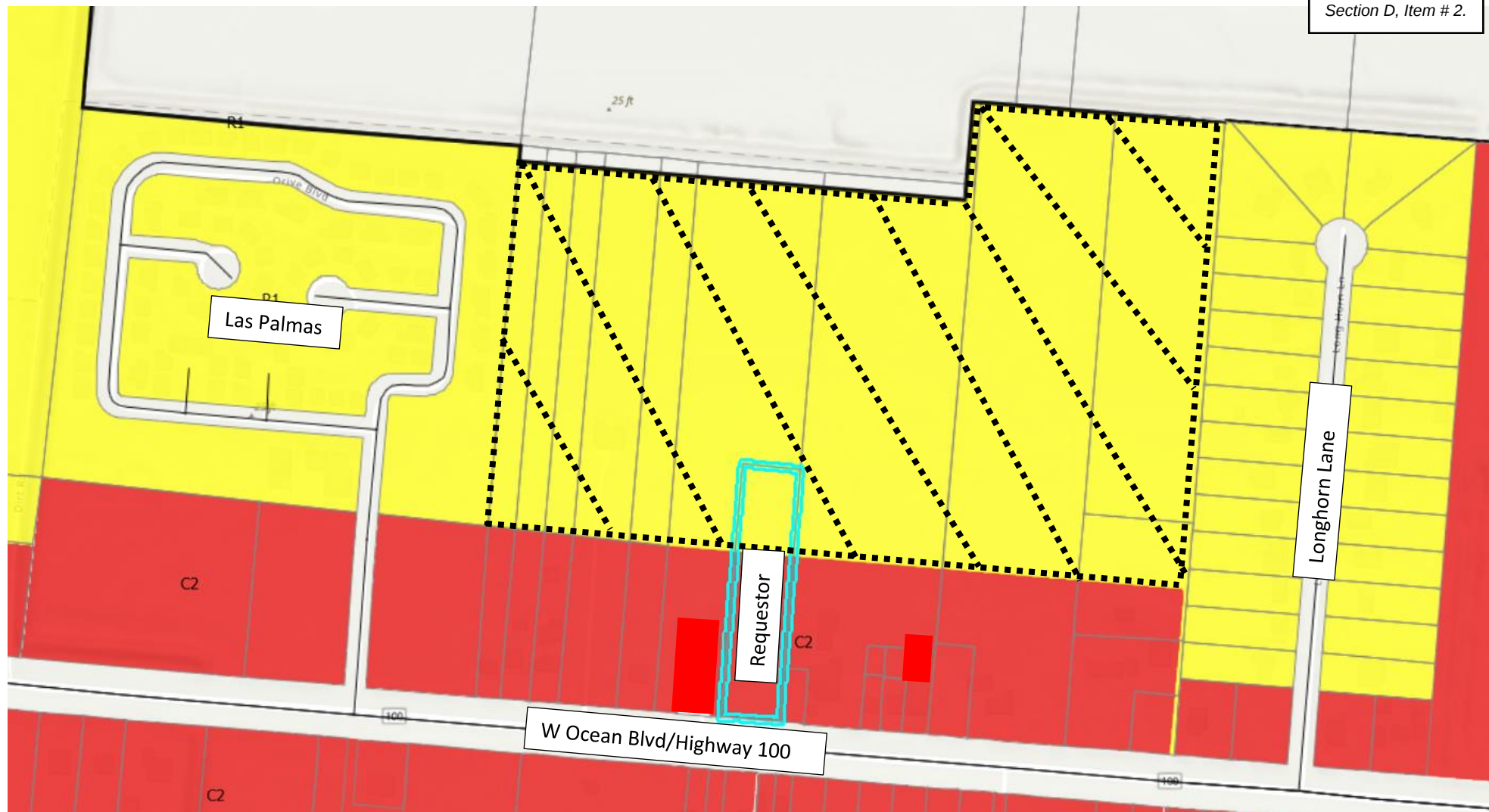
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Recommendation:

When this area was annexed into the city a few years ago, the first portion along Highway 100 was zoned commercial. The back part was zoned residential. There has been a request for a business to locate farther back on the property in order to properly operate the business. This gets into the residential portion. Looking from a large view, the entire property to the drainage ditch should have been zoned commercial just like it is along the O'Reilly's Automotive area, past Walmart to the school property. That entire area is zoned commercial and then on the north side of the drainage ditch changes to residential. This area should have been done the same way. Changing the zoning will accomplish that adding more commercial area that is in short supply. The existing residential homes are grandfathered and can remain as is.

I recommend approval.



Proposed Re-zone to C2 General Commercial District



C2 General Commercial District

R1 Single Family Residential District



July 1, 2026

TO: PROPERTY OWNERS ON PORTIONS OF HIGHWAY 100

FROM: CITY OF LOS FRESNOS

SUBJECT: REQUEST TO RE-ZONE PROPERTY ON THE NORTH SIDE OF WEST OCEAN BLVD/HIGHWAY 100.

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If you have any questions concerning the above, please contact Jacqueline Moya, City Secretary or Mark Milum, City Manager at (956) 233-5768.

ACTION ITEM REPORT



Item Title:

Consideration and ACTION to recommend proposed amendments to Article 1, 2, and 3 of the City of Los Fresnos Zoning Ordinance associated with TxCDBG Planning Grant Contract No. 23-160-015-E338.

Recommendation:

As part of our planning grant for the 10-year comprehensive plan, they are recommending a few updates.

I recommend approval.

Preliminary Report

Amendments to the Los Fresnos Zoning Ordinance

Resilient Communities Program, Contract No. 23-160-015-E338

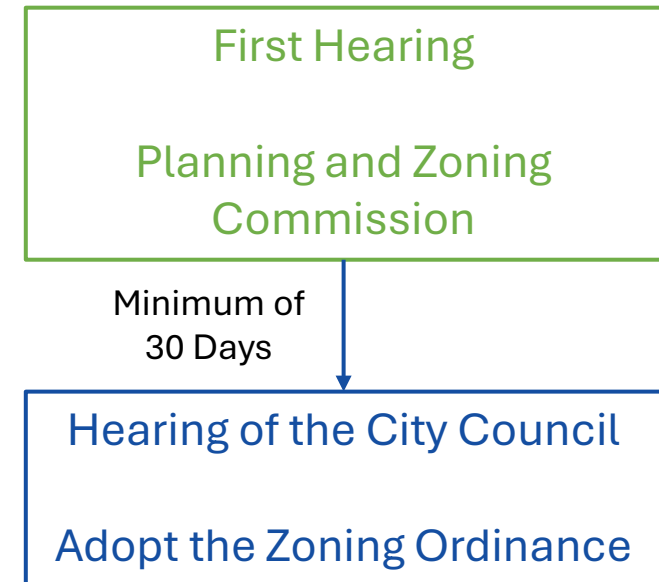
Prepared by GrantWorks, Inc.

Why are we here?

The Texas General Land Office Resilient Communities Program (RCP) offers grants to disaster-impacted communities that cover 100% of the costs of selected hazard mitigation activities

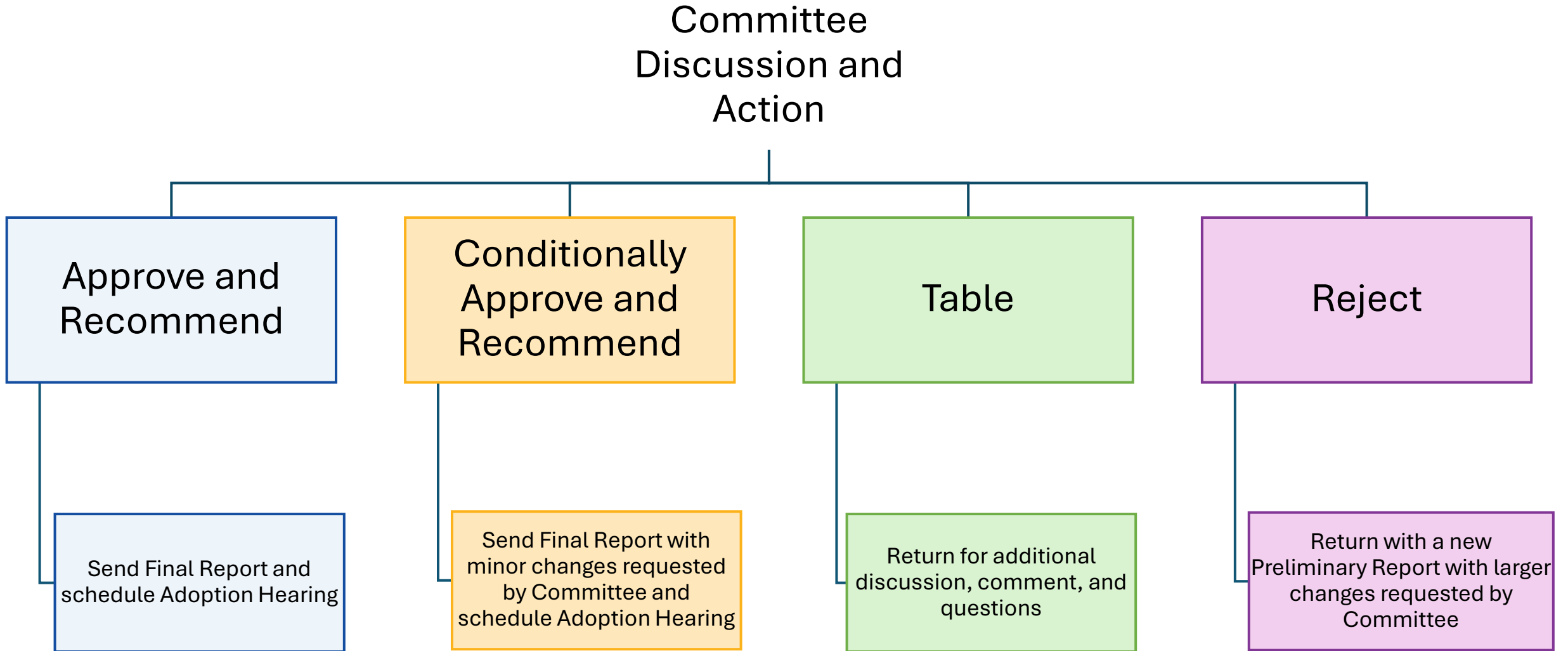
The Town of Los Fresnos hired GrantWorks, Inc. to assist with its Resilient Communities Program (RCP) grant. The grant pays for:

- “Development and adoption of forward-looking **Comprehensive Plans** that integrate hazard mitigation plans”
- “Development, adoption, and implementation of a **Zoning Ordinance** based upon the comprehensive plan”



Review Process

Section D, Item # 3.



Zoning Amendments

Application Requirements and Review Processes

PURPOSE: Incorporate hazard resilience into zoning applications and decision-making

APPLICABILITY: All applications for Conditional Uses, Special Uses, Amendments, and Variances

REQUIREMENTS: Applicants for zoning permits and manufactured home developments must:

- Identify the location of the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas relative to their property.
- Describe the present hazard risks, if located within one of these areas.
- Address these hazard risks sufficiently.

The City will consider:

- How the proposed use will impact hazard risks for the subject and adjacent properties.
- Whether the subject and adjacent properties are adequately protected.

Application Requirements and Review Processes

ADDITIONAL AMENDMENTS:

- Resiliency to natural hazards is included as one of the eight principal purposes of the Zoning Ordinance (Section 48-1).
- Resiliency-related definitions (e.g. 100-Year Floodplain) are added (Section 48-2).
- Shade-providing plants, including both preserved and new trees, are encouraged to be used in any place where landscaping is required to provide heat mitigation (Section 48-206).

On-Site Stormwater Maintenance Incentive Program

- PURPOSE:** Encourage the installation of on-site stormwater management features (e.g. rain gardens) to reduce runoff and decrease flood risks
- ELIGIBILITY:** All developments subject to site plan review, throughout the city
- INCENTIVES:** Eligible projects can receive up to a 50% reduction in building permit fees depending on the number and size of the stormwater management features.
- REQUIREMENTS:**
- Applicants receive Stormwater Management Points for including stormwater management features in their project.
 - Applicants must provide at least one stormwater management feature from a list of eligible features.
 - The number of points awarded for a single feature depends on the size of that feature.
 - Applicants can use multiple features to collect Stormwater Management Points.
 - Six (6) Stormwater Management Points qualify applicants for the maximum 50% reduction.

Wildfire Protection Incentive Program

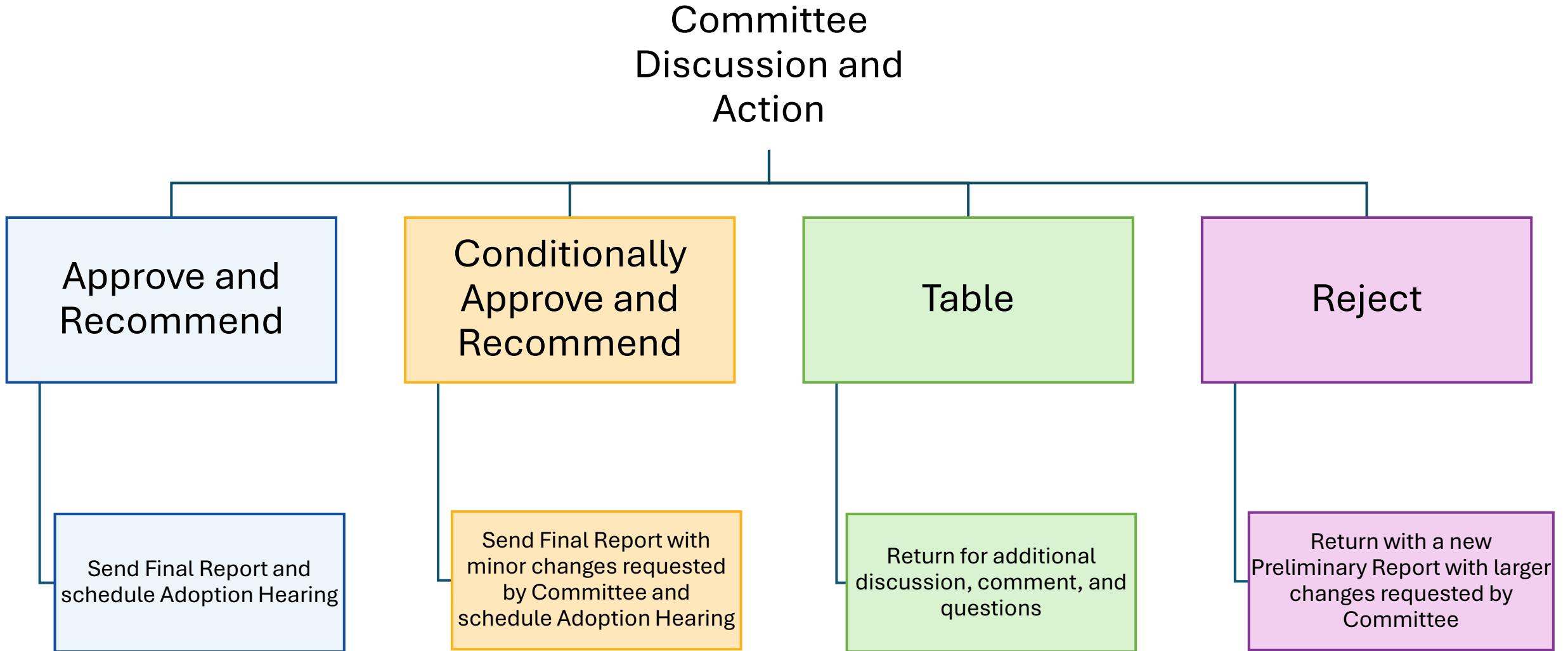
- PURPOSE:** Encourage the use of wildfire protections in building and site design to reduce the spread of wildfires
- ELIGIBILITY:** All developments subject to site plan review, throughout the city
- INCENTIVES:** Eligible projects can receive up to a 60% reduction in building permit fees depending on the wildfire protections used.
- REQUIREMENTS:** Applicants can choose any combination of these protections:
- 1. Increased setbacks**, either 10% of the minimum (1 point) or 4 feet or 5 feet for the side and rear setbacks, respectively (2 points)
 - 2. Separating structures** on the lot according to a required distance, with 1 point available for the minimum distances and 2 points for the recommended distances
 - 3. Using fire resistant materials and building hardening** (1 point)
- Five (5) Wildfire Protection Points qualify applicants for the maximum 60% reduction.

Shading Parking Lots Incentive Program

- PURPOSE:** Encourage parking lots to incorporate landscaping and shade-providing trees to reduce heat
- ELIGIBILITY:** All developments subject to site plan review, throughout the city
- INCENTIVES:** Eligible projects can receive up to a 50% reduction in building permit fees depending on the ratio of trees to parking spaces within the parking lot.
- REQUIREMENTS:** Applicants must provide landscaped areas and shade-providing trees depending on the number of parking spaces and parking aisles in the lot.
Applicants that provide at least four trees for every ten parking spaces (ratio of 0.4 or higher) are eligible for maximum fee reduction of 50%.

Review Process

Section D, Item # 3.





PRELIMINARY REPORT

Amendments to the City of Los Fresnos Zoning Ordinance

Resilient Communities Program Contract No. 23-160-015-E338
Prepared by GrantWorks, Inc.

July 20, 2026

Application Requirements and Review Process

Amendments to the City of Los Fresnos Zoning Ordinance

Chapter 48 ZONING¹

ARTICLE I. IN GENERAL

Sec. 48-1. Purpose and intent.

The zoning regulations established in this chapter have been developed in a comprehensive manner in order to guide the planning and growth of the city and to promote the health, safety and general welfare of the citizens of the city. More specifically, the objectives of this chapter are as follows:

- (1) To encourage the growth of the city with quality urban design;
- (2) To promote a harmonious relationship between land uses which promotes and protects the aesthetic quality of the landscape, and enhances the value of land and buildings;
- (3) To specifically address those areas of the city which have scenic, historic and tourist related values, such as the major highway entrances and the Central Business District, and to encourage the development of these areas in a manner that protects their aesthetic values;
- (4) To promote a safe and effective traffic circulation system;
- (5) To outline the appropriate density controls which will encourage proper population and structural densities;
- (6) To promote resiliency to natural hazards by anticipating risks; incorporating hazard mitigation into the design and location of lots, buildings, and infrastructure; and addressing vulnerabilities;
- (7) To provide for adequate open spaces for light, air and livability room; and
- (8) To facilitate the adequate provisions of community utilities and services.

(Ord. No. 235, § 2, 6-22-1993)

Sec. 48-2. Definitions.

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

100-Year Floodplain means the land within a community subject to a 1 percent or greater chance of flooding in any given year, as defined by the most recent Flood Insurance Rate Map prepared by FEMA.

500-Year Floodplain means the boundary of the flood that has a 0.2-percent chance of being equaled or exceeded in any given year, as defined by the most recent Flood Insurance Rate Map prepared by FEMA. Officially termed the 0.2-percent annual chance floodplain.

¹State law reference(s)—Municipal zoning authority generally, V.T.C.A., Local Government Code § 211.001 et seq.; municipal planning and development generally, V.T.C.A., Local Government Code § 371.001 et seq.; municipal zoning boards of adjustment, V.T.C.A., Local Government Code § 211.008; issuance of local permits, V.T.C.A., Local Government Code § 245.001 et seq.; municipal and county authority to regulate subdivisions, V.T.C.A., Local Government Code § 242.001 et seq.; municipal comprehensive plans, V.T.C.A., Local Government Code § 213.001 et seq.; authority for municipal regulation of signs, V.T.C.A., Local Government Code § 216.001 et seq.

Accessory building or structure means a subordinate building or structure not attached to the main building or structure, the use of which is incidental and related to the main use and is located on the same building lot. The term "accessory building or structure" includes satellite dish antennas and similar structures, but excludes detached garages, carports, and guest or servant quarters. No manufactured housing, motor vehicles, trailer or similar vehicles or structures shall be used or converted for use as an accessory building.

Administrative and business offices means offices of private firms or organizations which are primarily used for the provision of executive management or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

Administrative services means offices, administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county and city offices.

Agricultural sales and services means establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, feed and grain stores, and tree and landscape service firms.

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

Apartment means a dwelling unit in a multiple-family dwelling or apartment house arranged, designed, or occupied as a place of residence by a single-family.

Area of lot means the square foot area of a lot within the bounding property lines and exclusive of dedicated streets or alleys.

Area of special flood hazard, or special flood hazard areas, means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHB). After detailed rate-making has been completed in preparation for publication of the FIRM, zone A usually is refined into zone A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Area regulations means the regulations controlling minimum lot area, lot width, lot depth, front yard, side yard, rear yard, coverage and floor area ratio.

Automotive and equipment services means establishments or places of business primarily engaged in automotive related or heavy equipment sales or services. The following are automotive and equipment use types:

Automotive service station means the provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.

Automotive treatment means washing and cleaning of automobiles and related light equipment. Typical uses include car washes, auto laundries and car treatment centers.

Automotive/boat rental services means rental of automobiles, noncommercial trucks, trailers, recreational vehicles and boats, including incidental parking and servicing of vehicles or boats available for rent or lease. Examples of this activity include auto and boat rental agencies, trailer rental agencies, and taxicab parking and dispatching.

Automotive/boat repair services means repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, tire sales and installation wheel and brake shops, body and fender shops, and similar repair and service activities, but excluding dismantling or salvage.

Automotive/boat sales means sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Examples of this activity include new and used car dealerships, motorcycle dealerships, and boat, trailer, and recreational vehicle dealerships.

Automotive equipment sales means the sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance and servicing. Examples of this activity include truck and tractor dealerships, construction equipment dealerships, and mobile homes sales establishments.

Aviation facilities means landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter sales and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

Basement means that portion of a building which is substantially below grade. A basement shall not be counted in computing the number of stories.

Block means an area enclosed by streets, or if said word is used as a term of measurement, it shall mean the distance along a side of a street between two intersecting streets, or if the street is of a dead-end type, a block shall be considered to be measured between the nearest intersecting street and the end of such dead end street.

Building means any structure designed, built or intended for the shelter or enclosure of persons, animals, chattels, or movable property of any kind or for an accessory use. When separated by a firewall, each portion of such structure so separated shall be deemed a separate building. The term "building" shall include structures wholly or partly enclosed with an exterior wall.

Building line means a line parallel or approximately parallel to the street line at a specified distance therefrom, marking the minimum distance from the street line that a building may be erected. For existing buildings, the building line shall be the exterior wall or omitted wall line which is closest to the street.

Building lot means a lot, or a portion of a lot, or a combination of lots, when used for the construction of one building or commercial center.

Building maintenance services means establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.

Business or trade school means a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined, college or university, or public or private educational facility.

Business support services means establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excludes automotive, construction and farm equipment. Examples of this activity include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.

Campground means campground facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents. Typical uses include recreational vehicle parks.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Club or lodge means a use providing meeting, recreational, or social facilities for a private or nonprofit association, primarily for use by members and guests. Typical uses include private social clubs and fraternal organizations.

Cocktail lounge means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses.

College and university facilities means an educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree, as defined by the state board of education.

Commercial center means a commercial business complex in which more than one business operates, and meets one or more of the following criteria:

- (1) Each business owner owns shares of stock in a corporation that owns the grounds and building.
- (2) Each business owner owns its own space within a building under a commercial condominium arrangement.
- (3) Each business owner rents/leases its own space within the same building.
- (4) Each business is a member of a merchants association which contributes to the joint promotional efforts of the center.
- (5) Maintenance and management of the center is provided for in one of the following ways:
 - a. The owner-developer acts as his own manager and supervises his own maintenance and management force.
 - b. The owner-developer acts as the agent for the merchants association.
 - c. The owner-developer turns over the center's operations to a management firm.
- (6) The property owner contracts to independently operated businesses with ground leases on one building lot.
- (7) Exception. Any business which meets all of the location requirements as listed in this subsection shall not be considered as a part of the commercial center:
 - a. The business is located in a building structurally separated from the main building in the center;
 - b. The business is located on a platted lot other than the lot occupied by the main building; and
 - c. The lot so occupied abuts a public street.

Communications services means establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Typical uses include television studios, telecommunication service centers or telegraph service offices.

Condominium means a structure containing four or more apartments wherein the airspace-within the apartment is individually owned by the occupant, together with the right of access and required automobile parking space, and where the lot upon which the building is located, is under one ownership.

Construction material sales and services means establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware; but excludes those classified as one of the automotive and equipment service use types. Typical uses include building materials stores, tool and equipment rental or sales, or building contractors.

Consumer repair services means establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding automotive and equipment use types. Typical uses include appliance repair shops, watch or jewelry repair, or musical instrument repair firms.

Convalescent services means a use providing bed care and inpatient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services, and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Convenience storage means storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

Cultural services means a library, museum, art gallery, or similar nonprofit use affording display, preservation and exhibition of objects of permanent interest in one or more of the arts and sciences.

Day care services (general) means a facility, or use of a dwelling unit or portion thereof, for daytime care of six or more individuals. The term "day care services" includes nursery schools, pre-schools, day care centers for children or adults, and similar uses.

Detention facilities means a publicly operated use providing housing and care for individuals confined by law.

Dwelling, duplex, means the use of a platted lot or site for two dwelling units within a single building.

Dwelling, multiple-family, means the use of a site for three or more dwelling units, within one building.

Dwelling, single-family detached means the use of a platted lot or site for only one dwelling unit having customary side yards to serve as buffers.

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

Equipment repair services means repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling or salvage.

Family means a family is any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage, or adoption.

Financial services means establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.

Flood insurance rate map (FIRM) means an official map of a community on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Floor area means the total square foot area of all floors in the building measured to the outside faces of exterior walls or to the line of an omitted wall, whichever includes the largest area.

Floor area ratio means the relationship between the total mass of a building and the site area on which it is located.

Food sales means establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and health food or ethnic food outlets.

Frontage, lot, means the length of street frontage between property lines or lease lines.

Frontage, street, means the length of all property on one side of a street between two intersecting streets measured along the line of the street, or if the street is dead-ended, then the length of all property abutting on one side between an intersecting street and the end of the dead-end street.

Funeral services means establishments engaged in preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

Grade means the average elevation of the highest and lowest elevations measured at the finished surface of the ground at any of the exterior corners of the building or structure.

Guidance services means a use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition, either on a residential or daytime care basis.

Height means the vertical distance measured from grade to the highest roof surface, or to the highest point of any structure erected on the roof of a building.

Home occupation means any occupation or activity which meets all of the following tests:

- (1) The occupation is managed and owned by a person residing on the premises and not more than one other person is employed by the owner/manager on the premises except members of the immediate family of the owner/manager who also live on the premises.
- (2) The exterior of the premises used for the home occupation is indistinguishable from any other residential dwelling of like design and character, in that there shall be no commercial displays, show windows, exterior storage areas, parking areas, except for a name plate or business sign not more than two square feet which may be permitted if attached flush to the side of the building.
- (3) The home occupation shall additionally comply with the standards listed in this subsection. These standards, because of their difficulty to define, shall, if questioned, be determined and judged to be in compliance or not by the city planning commission with appeal to the city council. The standards are as follows:
 - a. The home occupation does not generate pedestrian traffic substantially greater, or vehicular traffic or vehicular parking substantially greater or substantially different in kind or character, than that ordinarily associated with a similar dwelling which is used solely for residential purposes.
 - b. The home occupation is no more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to premises used solely for residential purposes.
 - c. No loud or unpleasant noises, bright, or glaring lights, offensive or noxious fumes, or odors, or perceptible vibrations attributable to the home occupation are emitted from the premises.

Hospital services means a facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees or visitors.

Hotel-motel means lodging services involving the provision of room and/or board. Typical uses include hotels, motels or transient boardinghouses.

Housing, multifamily, means a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities.

Institutional use means schools, churches, colleges, hospitals, convents, welfare homes and similar establishments.

Kennels means boarding and care services where three or more dogs, cats and domesticated small animals over four months old, including those of the owner, are bred, raised, trained, boarded, or kept. Typical uses include boarding kennels, pet shelters, or dog training centers.

Laundry services means establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as personal services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Legal height means the maximum height of a building imposed by this chapter or any other ordinance or section of this Code which may be more restrictive.

Liquor sales means establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales for off-site consumption.

Loading space means an off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot means a parcel of land occupied or to be occupied by a building or group of buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are required by this chapter, and having frontage upon public street or a place approved by the commission.

Lot area means the total horizontal area within the lot lines of a lot.

Lot, corner, means a lot abutting upon two or more streets at their intersection or jurisdiction.

Lot depth means the horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot line.

Lot, key, means the first lot immediately to the rear of a reversed corner lot and not separated by an alley.

Lot line, front, means the line separating the lot from the street in the case of an interior lot, and the line separating the narrowest street frontage of the lot from the street in the case of a corner lot.

Lot line, rear, means the lot line which is opposite and most distant from the front lot line.

Lot line, side, means any lot line not a front lot line or a rear lot line.

Lot of record means a lot which has been surveyed and has been recorded in the office of the county clerk of Cameron County.

Lot, reversed corner, means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first interior lot to it rear.

Lot, through, means a lot having frontage on two parallel or approximately parallel streets.

Main building means the buildings on a lot which are occupied by the primary use, including detached garages, and detached guest or servant quarters.

Maintenance and service facilities means a facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including corporation yards, equipment service centers, public utility facilities (gas, electric, television, telephone, municipal), and similar uses having characteristics of commercial services or contracting or industrial activities.

Manufacturing, custom, means establishments primarily engaged in the on-site production of goods by hand manufacturing and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candlemaking shops or custom jewelry manufacturers, woodworking and custom picture framing and furnishings.

Manufacturing, limited and product assembly, means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, but excluding basic industrial processing.

Medical offices means establishments providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by chiropractors, medical doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the state.

Military installations means military facilities of the federal or state governments.

Monolith means one structure made of natural rock, brick or stone to which a sign is secured.

Neighborhood business means establishments engaged in selling merchandise or services for personal or household consumption as listed below, but not exceeding 3,000 square feet of net floor area for the total of all establishments in one development:

- (1) Administrative and business offices.
- (2) Administrative services.
- (3) Consumer repair services.
- (4) Cultural services.
- (5) Food sales.
- (6) Laundry services.

- (7) Liqueur sales.
- (8) Personal improvement services.
- (9) Personal services.
- (10) Professional office.
- (11) Restaurants, convenience.
- (12) Restaurants, general.
- (13) Retail sales, general.

Nonconforming buildings means a building or structure lawfully existing at the time the ordinance from which this chapter is derived became effective, any portion of which does not comply with the provisions of this chapter for the zone in which it is located.

Nonconforming use means a use which lawfully occupied a building or land at the time the ordinance from which this chapter is derived became effective and which does not conform with the use regulations of the zone in which it is located.

Occupancy means the purpose for which a building is used or intended to be used.

Open space means an area on a lot that is open and unobstructed to the sky except for the ordinary projections of cornices and eaves.

Park and recreation services means publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.

Personal improvement services means establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

Personal services means establishments or places of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barbershops, seamstress, tailor, shoe repair and maintenance shops or parlors, and self-service laundry or apparel cleaning services.

Pet services means retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.

Postal facilities means postal services, including post offices, bulk mail processing or sorting centers, operated by the United States postal service.

Primary educational facilities means a public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the state.

Professional office means a use providing professional or consulting services in the fields of law, city planning, architecture, environmental and interior design, engineering, accounting, appraising (real and personal property), tax service, finance, real estate, management services, personnel services, education and similar professions.

Public assembly means publicly owned or operated facilities for major public assembly, recreation, sports, amusement, or entertainment, including civil or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.

Recreation, commercial, means establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:

Indoor recreation means predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls and dance halls.

Indoor sports and recreation means uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, racket sports, swim clubs and firing ranges and weight training centers.

Outdoor entertainment means predominantly spectator uses conducted in open facilities. Typical uses include sports arenas, racing facilities, amusement parks.

Outdoor sports and recreation means uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, racquetball courts.

Recreation, community, means a recreational facility for use by residents and guests of a particular residential development, planned unit development, or limited residential neighborhood, including both indoor and outdoor facilities.

Religious assembly means a use located in a permanent building which provides organized religious worship and religious education incidental thereto, but excluding primary or secondary educational facilities. A property tax exemption obtained pursuant to laws of the state shall constitute evidence of religious assembly use.

Research services means establishments primarily engaged in research of an industrial or scientific nature but excludes product testing. Typical uses include electronics research laboratories, space research and development firms, or pharmaceutical research labs.

Residential care services means a use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including overnight occupancy or care for extended periods.

Resource extraction means a use involving the on-site extraction of surface or sub surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

Restaurant, convenience, means a use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on-premises consumption. Typical uses include ice cream parlors, sandwich shops, cafes and coffee shops.

Restaurant, general, means a use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature which produces less than 50 percent of the gross income. A general restaurant may include live entertainment. Typical uses include restaurants, coffee shops, dinner theater and similar establishments with incidental alcoholic beverage service.

Retail sales, general, means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses include department stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys and hand crafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishings and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation).

Safety services means facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

Scrap and salvage services means places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards or paper salvage yards.

Secondary educational facilities means a public, private or parochial school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the state.

Sign. See section 48-272.

Stables means boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than the occupants of the premises or their non-paying guests. Typical uses include boarding stables or public stables.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, then the space between such floor and the ceiling next above it.

Street, public, means any thoroughfare other than an alley which has been dedicated to the public use and which affords primary access to abutting property.

Street, private, means any thoroughfare other than an alley which has not been dedicated for public use and which affords interior circulation and/or access to abutting property.

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

Structure means the same as a building, but, in addition, includes such items as a freestanding sign and pylon when erected on a base and not made integral with a building, and also includes roofed structures which are unenclosed.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Tourist-visitor services means establishments primarily engaged in the provision of lodging services on a less than weekly basis with incidental food, drink and other sales and services intended for the convenience of guests.

Transportation terminal (bus/aviation) means a facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus and airport terminals.

Utility facilities, major, means electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants, water storage areas, and similar facilities or public agencies or public utility firms having potentially significant impact upon surrounding uses.

Utility services, local, means services which are necessary to support principal development and involve only minor structures such as lines, poles and transformer stations, which are necessary to support principal development.

Vehicle storage means long-term storage (longer than 72 hours) of operating or non-operating vehicles. Typical uses include storage of private parking towaways or impound yards, but excluding dismantling or salvage activities.

Veterinary services means veterinary services for animals. Typical uses include pet clinics, dog and cat hospitals, and veterinary hospitals.

Wall, exterior, means the exposed or outermost wall of the structure.

Warehousing, general and distribution, means open-air storage, distribution and handling of materials and equipment. Typical uses include building materials (lumber, structural steel), monument or stone yards, grain elevators or open storage yards.

Warehousing, limited and distribution, means wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.

Wildfire means unplanned fires that occur in wildlands such as forest, rangelands, or grasslands and may spread to developed areas.

Wildfire Risk Area means a designated location with a heightened probability of fire occurrence and potential for significant damage to homes, infrastructure, and natural resources. Wildfire Risk Areas shall be indicated by a Wildfire Exposure Score equal to six (6) or higher, according to the Texas A&M Forest Service Wildfire Risk Assessment Portal or comparable source.

Yard means an open space on the lot on which a building is situated and which is open and unobstructed to the sky.

Yard, front required, means a yard facing and abutting a street and extending across the front of the lot between the side lot lines and having a minimum horizontal depth measured from the front property line equal to the depth of the minimum front yard specified for the district in which the lot is located. The required front yard line represents the line in front of which no building or structure may be erected.

Yard, rear required, means a yard, except for accessory buildings as herein permitted, extending across the rear of the lot between side lot lines and having a minimum depth measured from the rear lot line as specified for the district in which the lot is located.

Yard, side required, means a yard located on a lot and extending from the required rear yard lot line and having a minimum width measured from the side lot line as specified for the zone in which the lot is located. Any lot line which is not a rear or front lot line shall be deemed a side lot line. Where a lot has only three lot lines, those lot lines which do not front upon a street shall be deemed side lot lines.

Zone means a classification within which the regulations specified herein are uniform and which is assigned to a particular area of the city of delineation upon the zoning map which is a part of this chapter.

Zone map means the official certified map upon which the boundaries of the various zones are shown and which are an integral part of this chapter and, together with this zoning text, make up a zoning ordinance for the city.

(Ord. No. 235, § 33, 6-22-1993)

ARTICLE II. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 48-26. Conditional uses.

- (a) *Purpose.* It is the intent of the city within specified districts, to allow certain land uses which shall be specifically noted as conditional uses for that district. These conditional uses shall not be automatically allowable, but shall be approved or disapproved by the planning and zoning commission, after a public hearing held thereon. Conditional uses shall not be considered as a variance, waiver, nor a zone change to this article. The purpose of this procedure is to streamline and make more flexible the process of adjustments to this chapter in a limited number of specified situations.
- (b) *Procedures.*
- (1) *Application.* Application for a conditional use permit shall be filed with the planning department two weeks prior to the planning and zoning commission meeting. The application shall include the following:
- a. Name/address of owner/applicant.
 - b. Address/property legal description.
 - c. Statement that the applicant is the owner or authorized agent, or has a contract for sale.
 - d. A statement describing the full nature and operating characteristics of the proposed use. For uses involving public assembly or industrial processing, or uses potentially generating high volumes of vehicular traffic, the commission may require specific information relative to the anticipated peak loads and peak use periods, relative to industrial processes and the ability of the use to meet performance standards, or substantiating the adequacy of proposed parking, loading and circulation facilities.
 - e. Site plans, building elevations, improvement plans, and other such drawings, all sufficiently dimensioned land oriented to illustrate the following:
 1. The location and dimensions of boundary lines, easements, and required yards and setbacks.
 2. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting lots.
 3. The location of existing and proposed site improvements, including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs and lighting, where applicable.
 4. The location of existing/proposed watercourses and drainage features.
 5. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements, where applicable.
 6. For sites with an average slope greater than 15 percent, a plan showing proposed grading, drainage and erosion control measures.
 7. The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.
 8. The relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.

- (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
- (3) *Preliminary conference.* The applicant shall meet with the city staff from the planning department to consider alternatives and the nature of his petition prior to or during the application process.
- (4) *Public hearing and notice.* The planning and zoning commission shall hold a public hearing on each application for a conditional use permit. Written notice shall be given at least ten days prior to the public hearing to all property owners within 200 feet of the area presented. At the public hearing, the commission shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained.
- (5) *Review by the planning department.* The planning department shall review the application or proposal and shall prepare a report thereon which shall be filed with the planning and zoning commission prior to the public hearing.
- (6) *Action by the planning and zoning commission.* The commission may grant the conditional use permit as presented, or in a modified form, or subject to conditions, or it may deny the application on the grounds of being incompatible with neighboring uses.
- (7) *Review and evaluation criteria.* The commission shall review and evaluate each conditional use application using the following criteria:
 - a. That the granting of the permit will not be contrary to the public interest.
 - b. Conformance with applicable regulations and standards established by the zoning district for which the use is identified.
 - c. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development and access and circulation features.
 - d. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.
 - e. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.
 - f. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.
 - g. Protection of persons and property from erosion, flood or water damage, fire, noise, glare and similar hazards or impacts.
 - h. That the proposed use will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 1. Factors considered during this review shall include, but are not limited to:
 - (i) The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;
 - (ii) Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 - (iii) Proposed stormwater management infrastructure; and
 - (iv) For developments 5 acres in total lot area, the net change in runoff rate.

- i. Location, lighting, and signage; and relation of signs to traffic control and adverse effect on adjacent properties.
 - j. Adequacy and convenience of off-street parking and loading facilities, where applicable.
- (8) *Findings.* The planning and zoning commission shall make the following findings prior to the granting of a conditional use permit:
- a. That the proposed use is compatible with the objectives of this article and the general purposes of the zone in the neighborhood in which the site is located.
 - b. That the proposed use will comply with the applicable provisions of this article.
 - c. That the proposed use and its site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity.
 - d. That any conditions for approval are necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed use with existing or permitted uses in the same district and the surrounding area.
 - e. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- (9) *Conditions of approval.*
- a. The planning and zoning commission may establish conditions for approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications regulating vehicular ingress and egress, and traffic circulation, regulation of signs, regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements, establishment of development schedules or time limits for performance of completion, and such other conditions as the commission may deem necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare.
 - b. The commission may set a time period after which the permit shall lapse, and the land uses allowed shall revert to that of the underlying zone. If the owner is not in compliance after the 30-day suspension, the permit shall be revoked without need for another hearing, and the owner shall terminate the use of the property as granted by the permit, and the land uses allowed shall revert to that of the underlying zone.
- (10) *Suspension and revocation.*
- a. Upon violation of any applicable provision of this article, or, if granted subject to conditions, upon failure to comply with stated conditions, a conditional use permit shall be suspended upon a 30-day notice of noncompliance given to the owner of a use or property subject to the conditional use permit.
 - b. If no time period is established, then the permit shall run with the land until such time as there is a violation, and the permit is revoked, or until by action of the council the permit is revoked in the public interest.
 - c. Notification shall be made through action of the planning and zoning commission, after a public hearing, and after a certified letter of said hearing is mailed to the owner at least two weeks prior to said hearing.
- (11) *Conditional use permits; nonconforming uses.* A conditional use permit may be applied for the reconstruction of a structure housing a preexisting nonconforming use if the structure is destroyed by fire, flood, or other calamity, to a greater extent than 50 percent. The extent of damage or partial destruction

shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the appraised value of the structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the building department and shall be based on the minimum cost of construction in compliance with the currently adopted building code. If a conditional use permit is applied for, all the requirements of this section are applicable.

(12) *Effective date.* The decision of the planning and zoning commission shall be effective ten days after the date of the decision.

(13) *Appeal to city council.* A decision of the planning and zoning commission may be appealed to the city council not more than ten days after the date of action through the submission of a letter to the city secretary. Not more than 40 days following the filing of an appeal, the council shall hold a public hearing on the appeal. Notice shall be given ten days prior to council hearing to all property owners within 200 feet of the application. The decision of the council shall be final and become effective immediately. In order to appeal to city council, the appellant must be either the petitioner for the conditional use permit, or a property owner within 200 feet.

(14) *Certificates of occupancy.* A certificate of occupancy shall be required after compliance with the stipulations of the permit, and prior to occupancy. No certificate of occupancy shall be granted until all the requirements imposed by the commission are complied with for the property in question.

(Ord. No. 235, § 6, 6-22-1993)

Sec. 48-27. Special uses.

(a) Purpose.

- (1) The planning and zoning commission of the city may, after conducting a public hearing as required for all amendments to this article in accordance with the provisions of section 48-316(c), authorize for specific parcels of land the issuance of special use permits in accordance with the requirements of this section.
- (2) The special use permit must be approved by the commission, and such action does not change the zoning on the land, but establishes a permit for a specific use with an approved plan. Violations of the approved plan are violations of this chapter and subject to the penalties contained herein. The commission shall execute the provisions of this section for the protection of the health, safety, comfort, convenience, and welfare of the public. Decisions shall not be detrimental to the economic welfare of the community and will be consistent with the intent and purpose of this article and the comprehensive plan.

(b) Procedures.

- (1) *Application.* Application for a special use permit shall be filed with the planning department two weeks prior to the planning and zoning commission meeting when such application is to be considered. The application shall include the following:
 - a. Name and address of owner and applicant.
 - b. Address and property legal description.
 - c. Statement that the applicant is the owner or authorized agent, or has a contract for sale.
 - d. A statement describing the full nature and operating characteristics of the proposed use. For uses potentially generating high volumes of vehicular traffic, the commission may require specific information relative to the anticipated peak loads and peak use periods, the ability of the use to meet performance standards, or substantiating the adequacy of proposed parking, loading and circulation facilities.
 - e. Site plans, building elevations, improvement plans, and other such drawings, all sufficiently dimensioned land oriented to illustrate the following:

1. The location and dimensions of boundary lines, easements, and required yards and setbacks.
 2. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting lots.
 3. The location of existing and proposed site improvements, including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs and lighting, where applicable.
 4. The location of existing/proposed watercourses and drainage features.
 5. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements, where applicable.
 6. For sites with an average slope greater than 15 percent, a plan showing proposed grading, drainage and erosion control measures.
 7. The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.
 8. **The relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.**
- (2) **The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.**
- (3) *Preliminary conference.* The applicant shall meet with the city staff from the planning department to consider alternatives and the nature of his petition prior to or during the application process.
- (4) *Public hearing and notice.* The planning and zoning commission shall hold a public hearing on each application for a special use permit. Written notice shall be given at least ten days prior to the public hearing to all property owners within 200 feet of the area presented. At the public hearing, the commission shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained.
- (5) *Review by the planning department.* The planning department shall review the application or proposal and shall prepare a report thereon which shall be filed with the planning and zoning commission prior to the public hearing.
- (6) *Action by the planning and zoning commission.* The commission may grant the special use permit as presented, or in a modified form, or subject to conditions, or it may deny the application.
- (7) *Review and evaluation criteria.* The commission shall review and evaluate each special use application using the following criteria:
- a. That the granting of the permit will not be contrary to the public interest.
 - b. Conformance with applicable regulations and standards established by the zoning district for which the use is identified.
 - c. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development and access and circulation features.
 - d. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.

- e. Modifications to the site plan which would result in increased compatibility, or would result in unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.
 - f. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.
 - g. Protection of persons and property from erosion, flood or water damage, fire, noise, glare and similar hazards or impacts.
 - h. That the proposed use will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 - 1. Factors considered during this review shall include, but are not limited to:
 - (i) The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;
 - (ii) Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 - (iii) Proposed stormwater management infrastructure; and
 - (iv) For developments 5 acres in total lot area, the net change in runoff rate.
 - i. Location, lighting, and signage; and relation of signs to traffic control and adverse effect on adjacent properties.
 - j. Adequacy and convenience of off-street parking and loading facilities, where applicable.
- (8) *Findings.* The planning and zoning commission shall make the following findings prior to the granting of a special use permit:
- a. That the proposed use is compatible with the objectives of this article and the general purposes of the zone in the neighborhood in which the site is located.
 - b. That the proposed use and its site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity.
 - c. That any conditions for approval are necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed use with existing or permitted uses in the same district and the surrounding area.
 - d. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- (9) *Conditions of approval.* The planning and zoning commission may establish conditions for approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications regulating vehicular ingress and egress, and traffic circulation, regulation of signs, regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements, establishment of development schedules or time limits for performance of completion, and such other conditions as the commission may deem necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare. The commission may set a time period after which the permit shall lapse, and the land uses allowed shall revert to that of the underlying zone.
- (10) *Suspension and revocation.*

- a. Upon violation of any applicable provision of this article, or, if granted subject to conditions, upon failure to comply with stated conditions, a special use permit shall be suspended by the commission.
- b. Notifications shall be made through action of the planning and zoning commission, after a public hearing, and after a certified letter of said hearing is mailed to the owner at least two weeks prior to said hearing. The commission shall give the owner not longer than 30 days to comply with the conditions of his permit.
- c. If the owner is not in compliance after the 30-day period, the permit shall be revoked without need for another hearing, and the owner shall terminate the use of the property as granted by the permit, and the land uses allowed shall revert to that of the underlying zone.
- d. In addition, the council may take action to revoke a permit issued by the commission if the operation of the specific use is determined to be contrary to the public interest. Said action must be taken after a public hearing, in which the owner/operator of the specific use has been given written notice.

(11) *Effective date.* The decision of the planning and zoning commission shall be effective ten days after the date of the decision.

(12) *Appeal to city council.* A decision of the planning and zoning commission may be appealed to the city council not more than ten days after the date of action through the submission of a letter to the city secretary. Not more than 40 days following the filing of an appeal, the council shall hold a public hearing on the appeal. Notice shall be given ten days prior to council hearing to all property owners within 200 feet of the land. The decision of the council shall be final and become effective immediately. In order to appeal to city council, the appellant must be either the petitioner for the special use permit, any party aggrieved by the decision of the commission, or the city.

(13) *Certificates of occupancy.* A certificate of occupancy shall be required after compliance with the stipulations of the permit, and prior to occupancy. No certificate of occupancy shall be granted until all the requirements imposed by the commission are complied with for the property in question.

(Ord. No. 235, § 28.1, 6-22-1993)

DIVISION 4. RESIDENTIAL DISTRICTS

Sec. 48-103. M-H Manufactured Housing District.

- (a) *Purpose.* The purpose of the M-H Manufactured Housing District is to provide for subdivisions and rental communities for manufactured housing.
- (b) *Uses permitted.* The following use types are permitted in the M-H district:
 - (1) *Mobile home park.* A mobile home park which is unified development for rental purposes, approved by the planning and zoning commission, consisting of mobile home sites, plots, and/or provisions for transient travel trailer accommodations on a tract of land under a single ownership and management, containing at least three acres, with not more than ten sites for manufactured housing, exclusive of trailer campers, per acre. The commission may require a larger area if, in its judgment, the larger development would be more harmonious with adjoining properties.
 - a. Accessory buildings and uses customarily incident to above uses, including manager's dwelling unit and office, storage building, restrooms, wash rooms, bath house, in conjunction with a swimming pool, for the private use of the occupants of the park, recreation building, and similar uses.
 - b. Auxiliary or incidental business operated for the sole convenience of the park residents only as follows: food market, personal services, restaurant and mobile home or travel trailer sales. Said auxiliary or incidental uses shall be located at least 100 feet from any public street.
 - c. One lighted identification sign not exceeding 100 square feet of sign area may be established on the premises of the trailer park; provided, however, that said sign may be double faced.
 - (2) *Manufactured housing subdivision.* This is a subdivision approved by the planning and zoning commission and may consist of lots for manufactured homes, industrialized housing, and site built homes. Commission approval of any such subdivision shall consider the need to ensure that the subdivision is of sufficient size so as to create an integral subdivision and not a small island of manufactured housing within a larger area of site built homes. A minimum size of three acres is required, but the commission may require more if, in its judgment, a larger subdivision would be more harmonious with adjoining properties. This type of subdivision can be created new, or the zoning district may be applied to an existing platted area within the city.
 - (3) RV parks can allow recreational resort cottages with a minimum of 400 square feet to a maximum of 700 square feet with wooden piers or steel frames. They must have skirting, be tied down and meet building codes in effect.
- (c) *Home requirements.*
 - (1) All homes, porches and other additions will be skirted with necessary vents, screen and manways, and will be kept closed at all times unless in use. Foundations to support said homes shall be either poured concrete or solid blocks. No wood support will be allowed.
 - (2) Skirting, porches, awnings and other additions, when installed, shall be maintained in good repair. The use of space immediately underneath a manufactured home shall not be used for storage.
 - (3) All manufactured homes shall be anchored in accordance with state law governing such anchoring.
 - (4) All homes shall have a covered carport or garage with an attached storage room with a minimum of 50 square feet with a door, which will be kept closed at all times, unless in use.
 - (5) All manufactured homes, when moved in, must not be older than five years old and be a minimum of 12 feet wide by 60 feet long and must meet all state requirements for manufactured homes.

- (6) Homes of the wood pier and beam construction type will not be allowed to be moved into the subdivision, unless said home is of new construction.
- (7) Site built homes must have a minimum of 900 square feet living area with an attached carport or garage.
- (d) Location.
 - (1) No residence or other structure permitted in this zone may be erected, altered, placed, moved, or converted on any lot or tract unless said lot or tract is in conformity with all minimum area regulations specified in this section.
 - (2) No manufactured housing may be parked or stored within this zoning district without being set-up, anchored, connected to utilities and either occupied or ready for occupancy.
 - (3) Manufactured housing is not allowed in any zoning district other than the M-H or R-M districts, as permitted, with the exception of sales lots for said housing when located in a district permitting those sales.
- (e) Size of lot or space.
 - (1) Mobile home park.
 - a. Minimum lot width: 40 feet.
 - b. Minimum lot area: 3,600 square feet, except for travel trailers, which shall be determined by the commission.
 - (2) Manufactured homes.
 - a. Minimum lot width: 50 feet.
 - b. Minimum lot area: 5,000 square feet.
 - (3) *Previously subdivided lots in mobile home zone.* Such lots shall not be reduced in size below the minimum lot size established in subsection (e)(2) of this section.
- (f) Yards, setbacks and height limits for rental communities.
 - (1) Front yards: 20 feet. For existing mobile home parks, setbacks for the front and rear yards may be reduced to less than the required provided that the home is not placed closer to the lot lines than the average setback of homes on the same side of the same block, and provided that off-street parking is established in accordance with this chapter.
 - (2) Side yards: Five feet.
 - (3) Rear yards: Ten feet. For existing mobile home parks, setbacks for the front and rear yards may be reduced to less than the required provided that the home is not placed closer to the lot lines than the average setback of homes on the same side of the same block, and provided that off-street parking is established in accordance with this chapter.
 - (4) Building height limits: 15 feet.
- (g) *Height, area, and setback regulations for subdivisions.* Height, area, and setback regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (h) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (i) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (j) *Plan requirements.* A plan for the proposed manufactured housing development shall be submitted for approval by the city. The plan:
 - (1) Shall include, as a minimum:

- a. A description of the outer boundaries of the proposed subdivision or park;
 - b. A plan for paved private streets and parking areas;
 - c. A plan for entrances/exits;
 - d. A plan for fencing all or a part of the outer perimeter of the development;
 - e. The proposed density of the park; and
 - f. Construction standards, skirting and permanent foundations.
 - g. The relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.
- (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
- (3) May be submitted as a map or site plan, or in narrative form or a combination of the two.
- (4) May be approved, or disapproved, or approved with modifications by the city, and shall be incorporated as a part of the ordinance changing the zoning.
- (Ord. No. 235, § 17, 6-22-1993; Ord. No. 235-E, § 17.1(2-A), 10-8-1996; Ord. No. 522, 6-8-2021)

DIVISION 7. ADDITIONAL STANDARDS

Subdivision II. Heights, Area, Setback, Bufferyards and Driveway Spacing

Sec. 48-206. Supplementary regulations and clarifications.

- (a) Except for a detached garage, or servant and guest quarters, in all Estate, R-1, R-1A, R-2 and R-LB districts there shall be only one main building per lot. In other zoning districts, more than one main building may be built per lot, provided that all other pertinent codes are complied with that concern the construction of buildings, and the subdivision of land.
- (b) In any district, all buildings must comply with any other codes regulating the construction standards of said buildings.
- (c) On a corner lot, excluding the CBD district, no obstructions that would obscure traffic visibility, including buildings, trees, signs, fences, walls, or other plant growth or vehicles, are allowed greater than three feet or less than eight feet in height measured above the curblines in a rectangular shaped area described as follows:
 - (1) A parcel of land formed by the two curblines extending back from their point of intersection, a distance of 15 feet, and at said 15-foot point on each curbline, a line is drawn perpendicular to the curb to the point of intersection of these two perpendicular lines. Where streets do not intersect on a 90 degree angle, an approximation shall be drawn of this rectangular shaped area by the building official.
 - (2) Any fence or wall constructed within the described area shall have a majority of that area composed of openings. Any plant growth within the described area shall be trimmed so as not to extend into the area described.
- (d) Fences in all districts if constructed of solid wood or stone may be erected to a height not exceeding six feet along the rear and side boundaries of a lot. No solid fence may be erected forward of the front surface of the finished siding of a building. Fences forward of the front edge of the structure may be no more than four feet in height and shall consist of a material in which the open areas comprise not less than 70 percent of the total fence area, thus allowing clear visibility through the fence fabric. A fence, a hedge or a combination thereof, which is forward of the front edge of the structure, that does not allow clear vision through it, may not be more than three feet in height. No sharpened barbs, pikes, spikes, razor wire, concertina wire or broken glass, or any like material, may be used atop any fence. No barbed wire fences may be erected. On corner lots, no fence, hedge or other plant taller than three feet may be planted or erected in an area bounded by a line parallel to each curb and measured 15 feet perpendicular to the curb.
- (e) The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, water tanks, chimneys, or smokestacks and flag poles, or similar structures, but all such structures, including guy wire anchors or other anchoring devices, shall meet all setback regulations for accessory buildings.
- (f) A porch, porte cochere, upper floor balcony or carport which is open (all sides open with walls not higher than three feet from ground level), or similar terraces, porches, balconies, or chimneys, may project into a required yard area but not closer to the property line than 50 percent of the yard requirement. However, if any such construction is an accessory building, or part thereof, it shall additionally abide by the regulations set forth in subsection (h) of this section.
- (g) Filling station pumps and pump islands may be located within a required yard, but in no case shall be less than 15 feet from any street right-of-way line. Filling station pumps and pump islands shall not be closer than 100 feet from any residential district.

- (h) No accessory building or structure may be erected within any front yard requirements. No accessory buildings or structure shall be set within the side yard requirements or less than six feet of the rear property line unless the accessory building or structure is screened by a privacy fence composed of wood or masonry. Said fence shall cover the entire height of the accessory building or structure and extend at least six feet beyond either end of said building/structure.
- (i) No accessory building or structure when projecting into any side or rear yard, either partially or totally, shall be greater in area than 150 square feet. No accessory building or structure shall be greater in height than ten feet when built within six feet of the side or rear property line. The height of said building/structure may increase to that allowed for the main building or structure when located within all required setbacks for the main building/structure. In those cases where the accessory building or structure is located six or more feet from the side or rear property lines, but within the required rear yard, the height of said building/structure may increase in height greater than ten feet, provided that the height of the building or structure is setback two feet horizontally for each one foot vertically. For example, a building may be ten feet in height at a distance of six feet from the property line; 11 feet in height in a distance of eight feet; 12 feet in height at a distance of ten feet from the property line, and so forth.
- (j) Building setback requirements shall apply to all upper floors as well as to ground floors.
- (k) Where a lot abuts upon an alley, one-half the alley width may be considered as part of the required rear yard. Where a garage or carport is located with entry from an alley at the rear, the carport/garage must then be a minimum of 18 feet from the alley line if it is a single car unit, if a double car or larger, a six-foot minimum applies. If a carport is an accessory building with an entrance from an alley, the regulations as listed in subsection (h) of this section do not apply.
- (l) Except as noted in section 48-205(b)(4), at each end of a through lot there shall be a front yard of the depth required by this article for the district in which each street frontage is located.
- (m) Where more than one building containing dwelling units is built on the same building lot, then a minimum distance of ten feet shall be maintained between buildings, except as may be specifically noted in certain zoning districts.
- (n) All front or rear yard requirements may be modified in those situations in which existing buildings on the same block have been constructed closer to the property line than the minimum requirements of this district. Said modifications shall be a reduction in the required front or rear yard setbacks to the average front or rear yards of the existing buildings on the same side of the same block, but in no case to less than ten feet.
- (o) Cornices, eaves, belt course, sills, canopies, or other similar architectural features shall not be considered the building line for the purposes of identifying the yard requirements. Except as outlined in subsection (f) of this section, said features shall not extend more than two feet beyond the building line into the required side yard space.
- (p) Where a lot has only three lot lines, two straight lines drawn on the interior and one continuous curve fronting a street, then the two interior lot lines shall be constructed to be side lot lines, and the curved front shall be construed to be one front yard.
- (q) The building setback line shall be a line parallel or approximately parallel to the lot line, and when a lot contains lot lines which vary due to a combination of straight lines and curves, the building official shall determine the setback line based upon the establishment of a line that as closely as possible parallels the lot lines.
- (r) Where vegetation or landscaping are required by this ordinance, the City encourages the use of plant material and landscaping techniques that provide heat mitigation to individuals and buildings, including:
 - (1) The preservation of existing trees and shade cover, and
 - (2) The installation of new shade-providing trees and shade cover.
 - (3) Acceptable shade-providing trees and shade cover shall include:
 - a. Medium or large trees recommended by the Texas A&M Forest Service for Cameron County, or

- b. Trees or other plant material that provide a minimum canopy diameter of 15 feet at maturity.

(Ord. No. 235, § 25.3, 6-22-1993; Ord. No. 235-K, § I(3a), 7-27-1999)

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

Sec. 48-315. Planning and zoning commission.

(a) *Authority of the planning and zoning commission.* The planning and zoning commission, hereinafter referred to in this section as the "commission", shall have jurisdiction of and be responsible for the administration of the regulations and provisions of this chapter. It shall have the power to exercise this jurisdiction as hereafter provided, and shall have the authority to act in its administrative capacity on the following matters:

- (1) Variance and adjustments.
- (2) Interpretations.

In exercising its jurisdiction, the commission shall adopt from time to time such general rules and regulations relating to its procedure as may be deemed necessary.

(b) *Variances.* Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter would occur from its strict literal interpretation and enforcement, the commission shall have authority to grant upon such terms and conditions as it deems necessary, such variances therefrom as may be in harmony with their general purpose and intent, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done as follows:

- (1) Permit the extension of an existing or proposed conforming use into an adjoining more restricted zone.
- (2) Permit a building or use on a lot immediately adjoining or across an alley from a less restricted zone, upon such conditions and safeguards as will tend to cause an effective transition from the less restricted to the more restricted zone.
- (3) Permit the addition or enlargement of a building, nonconforming as to use regulations, provided such addition or enlargement complies with all the height and area regulations of the zone in which it is located, and that the total aggregate floor area of such additions or enlargements does not exceed 50 percent of the floor area of the existing nonconforming buildings.
- (4) Permit in the Estate, R-1, R-2, and R-3 districts, a transitional use on a lot adjoining a building nonconforming as to use, provided such transitional use shall only be a use permitted in the next less restricted zone than the one in which the nonconforming building is located, such as and R-2 use in an R-1 district.
- (5) Permit a less restricted use in a more restricted zone as follows: Any C-2 use in the C-1 district, any M-1 use in the C-3 district, any M-2 use in the M-1 district; provided such use due to its limited nature, modern devices, or building design will be no more objectionable than use permitted in such zone.
- (6) Permit such modification of the height and area regulation as may be necessary to secure an appropriate improvement on lot.
- (7) Permit the modification or waiver of the automobile parking or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of this chapter.
- (8) Permit the modification of the conditions under which specific uses are allowed in certain zones.
- (9) Permit temporary buildings and uses for periods of not to exceed two years in undeveloped sections of the city, and for periods of not to exceed six months in developed sections.
- (10) Permit the following uses in zones from which they are prohibited by this chapter: airports or aircraft landing fields, cemeteries, development of natural resources, together with the necessary buildings, apparatus or appurtenances incident thereto, hospitals or institutions, governmental enterprises, public libraries or museums, public utilities and public service uses or structures, and recreational or community centers privately operated.

- (c) *Variance requirements.* No variance shall be granted by the commission unless it finds that:
- (1) The strict application of the provisions of this chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the chapter;
 - (2) There are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood;
 - (3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and
 - (4) The granting of such variance will not be contrary to the objectives of any part of the master plan adopted by the commission; provided, however, that all of the above enumerated requirements need not apply to variances involving special and conditional uses specified in this article, and variances for such uses shall only be granted by the commission where it finds that they are deemed essential or desirable to the public convenience or welfare, are in harmony with the various elements or objectives of the master plan, and will not be materially detrimental or injurious to property or improvements in the immediate neighborhood.
 - (5) *That the granting of such variance will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.*
 - a. *Factors considered during this review shall include, but are not limited to:*
 1. *The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;*
 2. *Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;*
 3. *Proposed stormwater management infrastructure; and*
 4. *For developments 5 acres in total lot area, the net change in runoff rate.*
- (d) *Application.* Applications for variances shall be filed with the clerk of the commission in writing, and shall be accompanied by a sketch or plat showing the desired variances.
- (1) *The sketch plan shall demonstrate the relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.*
 - (2) *The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.*
- (a) *Hearing.* Upon filing of an application for a variance, the clerk of the commission shall set a date for public hearing thereon as soon as may be practicable.
- (e) *Notice.* Written notice of such public hearing shall be sent to owners of real property lying within 200 feet of the property on which the variance is proposed. Such notice shall be mailed not less than ten days before the date set for such hearing, by mailing such notice properly addressed and postage paid to all such owners on the last approved city tax roll; provided, however, that where property lying within 200 feet of the property proposed to be varied is located in territory that was annexed to the city after compilation of the last approved city tax roll, notice to such owners shall be given by publication of the time and place of such hearing in a newspaper of general circulation published in the city, at least 15 days prior to such hearing, without the necessity of mail notices.
- (f) *Decision.* The planning and zoning commission shall render its decision by filing a statement of such decision with the city secretary. Such decision shall be the preliminary and final report of the commission, unless otherwise specified.

- (g) *Effect date of variance.* No variance granted by the commission shall become effective until the expiration of ten days from the date of its decision or upon final determination by the city council.
- (h) *Conditions of variance.* The commission may condition the effectiveness of the granting of a variance in such means and manners as it deems just and reasonable. For example, it may condition the effectiveness of the variance upon the proposed construction being actually completed within a certain length of time, or carried on diligently to completion, and in the event that it is not, then the variance shall become void. The commission shall retain authority to extend or modify such conditions.

(1) The commission may condition the granting of a variance on the construction or installation of such measures that the commission deems necessary to effectively mitigate risks related to flooding and fires.

- (i) *Interpretation.* The commission shall have the authority to interpret the intent of this chapter by written decision, which shall be in the form of a resolution adopted by a majority of its membership. Thereafter, such interpretation shall be followed in applying said provisions, unless changed by the city council on appeal.

(Ord. No. 235, § 29, 6-22-1993)

Sec. 48-316. Amendments.

- (a) *In general.* The boundaries of the districts or the regulations and restrictions established in this chapter may, from time to time, be amended, supplemented, or changed by ordinance.
- (b) *Application.* Any application for a change in zoning classification of a particular lot, or any other request or proposal to amend or supplement the boundaries of districts, shall be submitted in writing and filed with the clerk of the planning and zoning commission.
 - (1) If the particular lot or other proposal is located within the 100-Year Floodplain and/or Wildfire Risk Area, the application shall be accompanied by a sketch plan that demonstrates the relationship of the site and the structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Area.
 - (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. If the particular lot or proposal is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
- (c) *Hearing.* Upon the filing of such application, the clerk of the commission shall set a date for a public hearing thereon as soon as possible.
- (d) *Notice.* Written notice of such public hearing shall be sent to owners of real property lying within 200 feet of the property on which the change is proposed. Such notice shall be mailed not less than ten days before the date set for such hearing, by mailing such notice properly addressed and postage paid to all such owners who have rendered their said property for city taxes on the last approved city tax roll. Provided, however, that where property lying within 200 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 publication of the time and place of such hearing in a newspaper of general circulation published in the city, at least 15 days prior to such hearing without the necessity of mail notices.
- (e) *Decision.* The planning and zoning commission shall render its decision by filing a statement of such decision with the city secretary. Such decision shall be the preliminary and final report of the commission unless otherwise specified.
- (f) *Denial.* In the event the application for variance or zoning change is denied by the planning and zoning commission, and no person appeals as hereinafter provided, then the decision of the planning and zoning commission shall be final, and there shall be no further proceedings shall be had on any such application.

- (g) *Granting variance.* In the event the decision of the planning and zoning commission is the granting of a variance, and no person appeals as hereinafter provided, then the action of the planning and zoning commission shall be final, and no further proceedings shall be had on any such application.
- (h) *Granting zone change.* In the event the decision of the planning and zoning commission is granting of zone change, then, regardless of whether there has been an appeal, the city secretary shall place the matter on the agenda for a city council meeting, and notices of such public hearing shall be given as set forth in subsection (i) of this section.
- (i) *Notice of appeal.* Any person aggrieved or affected by the planning and zoning commission's decision may appeal by filing with the city secretary, within ten days from the date of the commission's decision, a written notice of appeal. Such notice shall be sufficient if it is signed by the person appealing and set forth an intent to appeal. The date of the decision is filed with the city secretary.
- (j) *Notice of public hearing.* On receipt of the notices of appeal, the city secretary shall add the consideration of the appeal to the agenda of the earliest practicable city council meeting. Notice of such meeting shall be published at least 15 days in advance in a newspaper of general circulation published in the city.
- (k) *Hearing.* The city council shall hold a public hearing at the time and place specified in such notice and may continue the same from day to day.
- (l) *Decision.* Upon such hearing, the city council shall act on such appeal. Provided, however, in case of a written protest against such change, signed by the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom, a change in zoning shall not become effective except by favorable vote of three-fourths or more of all members of the city council.
- (m) *Review Criteria.* In determining whether to approve, approve with modifications or conditions, or disapprove amendments to the Official Zoning Map, the Commission and Council shall consider and make findings on the following matters regarding the proposed amendment:
 - (1) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
 - (2) Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment (the current zoning district);
 - (3) Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment (the proposed zoning district);
 - (4) Availability of water and wastewater facilities suitable and adequate for the proposed use;
 - (5) That the proposed use will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 - a. Factors considered during this review shall include, but are not limited to:
 - 1. The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;
 - 2. Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 - 3. Proposed stormwater management infrastructure; and
 - 4. For developments 5 acres in total lot area, the net change in runoff rate.

(Ord. No. 235, § 30, 6-22-1993)

On-Site Stormwater Management Incentive Program

Amendments to the City of Los Fresnos Zoning Ordinance

Sec 48-184. On-Site Stormwater Management Incentive Program

(a) Purpose and Intent

- (1) The purpose of this Section is to encourage development that reduces stormwater runoff, improves water quality, and enhances watershed protection by providing voluntary development incentives in exchange for the incorporation of enhanced stormwater management practices beyond minimum regulatory requirements.

(b) Applicability

- (1) Participation in this incentive program is voluntary. All development may proceed under base zoning standards without the use of incentives.
- (2) This Section shall apply to all development subject to site plan review, under this Zoning Ordinance, unless expressly exempted by the Zoning Administrator.

(c) Incentive System Overview

- (1) Eligible projects may earn Stormwater Management Points (SMPs) by implementing the practices listed in (d) Stormwater Management Credit Schedule.
- (2) Points determine eligibility for incentives as follows:

Total SMPs	Incentive
2 points	10% building permit fee reduction
4 points	25% building permit fee reduction
6 points (maximum)	50% building permit fee reduction

- (3) Incentives shall only be granted where stormwater facilities are properly designed, installed, and maintained.

(d) Stormwater Best Management Practices (SBMP) Credit Schedule

Option	Description	Points Awarded	Public Benefit
Rain Gardens / Planting Areas	Landscaped areas that capture and absorb runoff or pavement	1 point per 200 sq ft	Reduces flooding and improves water quality
Permeable Pavement	Porous pavement in parking lots, drives, or walkways	1 point per 300 sq ft	Reduces runoff and ponding
Green Roofs	Vegetated roof systems	1 point per 1,000 sq ft roof area	Reduces runoff and heat island effect
Rainwater Reuse Systems	Cisterns or tanks that collect roof water for reuse	1 point: 50–150 gal 2 points: 150–300gal 3 points: 300–500gal 4 points: 500–750 gal 5 points: 750–1,000 ga 6 points: 1,000+ gal	Reduces demand on the storm system and water supply
Bioswales / Vegetated Drainage Channels	Landscaped drainage systems instead of pipes	1 point: 20–50 LF 2 points: 50–100 LF 3 points: 100–300 LF 4 points: 300–500 LF 5 points: 750–1,000 LF 6 points: 1,000+ LF	Slows and filters runoff
Reduced Pavement Area	Less asphalt/concrete than the maximum allowed	1 point per 5% reduction	Less runoff entering the storm system
Stream / Drainage Buffer Protection	Wider natural buffer areas along streams or drainageways	2 points: 30–50 LF 4 points: 50–100 LF 6 points: 100+ LF	Protects waterways and reduces erosion

(e) *Administration and Approval*

- (1) Incentive applications shall be reviewed during the site plan review.
- (2) The Applicant shall submit:
 - a. A site plan showing all structures, impermeable surfaces, public stormwater management infrastructure, natural water features, and proposed stormwater features.
 - b. A narrative describing the scope of work, including each selected incentive option.
 - c. A cost estimate for the Stormwater Best Management Practices features to be installed.
 - d. Basic calculations demonstrating compliance with this Section.
 - e. A Stormwater Management Maintenance Agreement.
- (3) Incentive Calculation
 - a. The City Engineer or designee shall verify point calculations and eligibility.
 - b. Stormwater Management Points shall be calculated based on site plan submissions and simple engineering calculations prepared by a qualified professional.
- (4) Final incentive approval shall be granted prior to the issuance of development approval.

(f) *Construction and Maintenance Requirement*

- (1) All stormwater management features used to obtain an incentive shall be constructed in accordance with approved plans.
- (2) The City may require the property owner to execute a maintenance agreement ensuring long-term operation and upkeep of all stormwater facilities.
- (3) The City may require financial security to ensure installation and performance of approved systems.
- (4) Failure to maintain approved stormwater features shall constitute a violation of this Ordinance and may result in revocation of incentive benefits.

(g) *Compliance and Enforcement*

- (1) In the event that the Stormwater Best Management Practices (SBMP) required for the building fee reduction in Section (c) are not maintained, are removed, or fail to operate as designed, the developer, owner, or their successors, heirs, or assigns shall be liable to the City for the following:
 - a. Immediate Cure: Failure to maintain the SBMPs shall be a violation of the site plan approval. The City may notify the owner, who shall have 30 days to repair the system.
 - b. Clawback: If the system is not repaired, the City shall have the right to require the developer, owner, or their successors, heirs, or assigns to pay back to the City the 100% of the incentive funds granted and/or impose a financial penalty equivalent to two times the fee reduction, which shall be paid to the City within 30 days of written notice.
 - c. Recording: These obligations shall be recorded as a restrictive covenant running with the land.

(h) *Relationship to other Regulations*

- (1) Projects utilizing incentives shall comply with applicable stormwater regulations, including local ordinances and state and federal requirements.
- (2) If any portion of this Section is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Wildfire Protection Incentive Program

Amendments to the City of Los Fresnos Zoning Ordinance

Sec. 48-185. Wildfire Protection Incentive Program**(a) Purpose.**

- (1) The purposes of this Section are to encourage development that is protected from wildfire risks and to limit the spread of wildfire between structures. This will be accomplished by providing voluntary development incentives in exchange for building and site design practices beyond minimum regulatory requirements.

(b) Applicability

- (1) Participation in this incentive program is voluntary. All development may proceed under base zoning standards without the use of incentives.
- (2) This Section shall apply to all development subject to site plan review under this Zoning Ordinance, unless expressly exempted by the Zoning Administrator.

(c) Incentive System Overview.

- (1) Eligible developments may earn the following incentives by implementing the practices described in subsection (d):

Total Wildfire Protection Points	Incentive
1 points	20% building permit fee reduction
2 points	30% building permit fee reduction
3 points	40% building permit fee reduction
4 points	50% building permit fee reduction
5 points (maximum)	60% building permit fee reduction

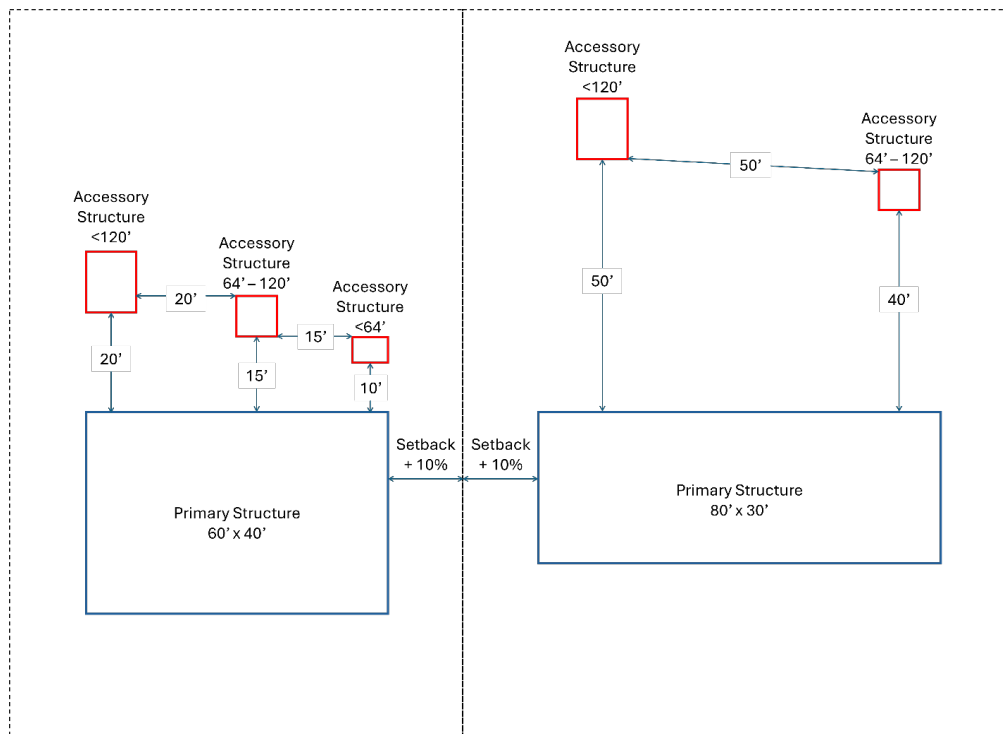
(d) Wildfire Protections Credit Schedule

Option	Description	Points Awarded	Public Benefit
Increased setbacks	Increase in width of side yard and depth of rear yard by 10% of the stated minimum buffer yard.	1 point	Reduces the risks of structure-to-structure ignition between lots
	Increase in width of side yard by 4 feet or depth of rear yard by 5 feet above the stated minimum buffer yard.	2 points	
Building separation	Separating primary and accessory structures on the same lot, according to the Option 1 distances listed in subsection (e).	1 point	Reduces the risks of structure-to-structure ignition within a lot
	Separating primary and accessory structures on the same lot, according to the	2 points	

	Option 2 distances listed in subsection (e).		
Fire Resistant Materials and Building Hardening	Using fire resistant building materials and building hardening systems.	1 point	Reduces the risks of damage and injury to structures and occupants

(e) Building Separation Schedule

Type of Structure		Accessory Structure (>120')	Accessory Structure (64'-120')	Accessory Structure (<64')
Separation From Primary Structure	Option 1 (Minimum Separation)	20'	15'	10'
	Option 2 (Minimum Separation)	50'	40'	30'
Separation From Other Accessory Structures	Option 1 (Minimum Separation)	20'	15'	10'
	Option 2 (Minimum Separation)	50'	40'	30'



(f) *Administration and Approval*

- (1) Incentive applications shall be reviewed during the site plan review.
- (2) The applicant shall submit:
 - a. A site plan showing all structures, with distances between all structures and the size of each buffer yard indicated;
 - b. A narrative describing each selected incentive option; and
 - c. Basic calculations demonstrating compliance with this section
- (3) Incentive Calculation
 - a. The City Engineer or designee shall verify point calculations and eligibility.
 - b. Wildfire Protection Points shall be calculated based on site plan submissions and simple engineering calculations prepared by a qualified professional.
- (4) Final incentive approval shall be granted prior to the issuance of development approval.

(g) *Construction Requirement*

- (1) All buildings designed to obtain an incentive shall be constructed in accordance with approved plans.
- (2) The City may require financial security to ensure construction meets the requirements of this Section.

(h) *Compliance and Enforcement*

- (1) In the event that the buildings designed to obtain an incentive are not constructed in accordance with approved plans or are altered such that they no longer comply with the design standards required to obtain the incentive, the developer, owner, or their successors, heirs, or assigns shall be liable to the City for the following:
 - a. Penalty/Clawback: If the system is not remedied, the City may require the developer, owner, or their successors, heirs, or assigns to pay back to the City the 100% of the incentive funds granted, which shall be repaid to the City within 30 days of written notice.
 1. The City may accept partial refunding in the event of partial compliance with the design standards required to obtain the approved incentive.
 - b. Recording: These obligations shall be recorded as a restrictive covenant running with the land.

(i) *Relationship to other Regulations*

- (1) Projects utilizing incentives shall comply with applicable regulations, including local ordinances, building codes, and state and federal requirements.
- (2) If any portion of this Section is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Shaded Parking Lots Incentive Program

Amendments to the City of Los Fresnos Zoning Ordinance

Sec. 48-247. Shaded Parking Lots Incentive Program.**(a) Purpose**

- (1) The purposes of this Section is to encourage the design of parking lots that mitigate heat reflection from paved surfaces by providing voluntary development incentives in exchange for incorporating landscaping and shade-providing trees.

(b) Applicability

- (1) Participation in this incentive program is voluntary. All development may proceed under base zoning standards without the use of incentives.
- (2) This Section shall apply to all development subject to site plan review which includes at least two (2) parking spaces, under this Zoning Ordinance, unless expressly exempted by the Zoning Administrator.

(c) Incentive System Overview

- (1) Eligible projects may earn the following incentives based on the ratio of trees provided, as required in section (d), to required parking spaces, as enumerated in *Sec. 48-246 Schedule of off-street parking requirements*:

Ratio of Trees to Parking Spaces	Incentive
≤0.2	20% building permit fee reduction
0.2-0.39	30% building permit fee reduction
≥0.4	50% building permit fee reduction

- (2) Incentives shall only be granted where landscaped areas are properly designed, installed, and maintained.

(d) Requirements**(1) End Islands**

- a. Every row of parking that contains more than ten (10) parking spaces shall have an end island located at one (1) end of the row.
 - b. Every row of parking that contains more than twenty (20) parking spaces shall have an end island located at both ends of the row.
 - c. End islands and peninsulas shall have a total landscaped area of at least 180 square feet, measured from the back of the curb.
 - d. Sidewalks may pass through end islands and peninsulas provided that the end island is expanded to maintain the minimum landscaped area of 180 square feet.
 - e. Where two separate rows of parking spaces are directly adjacent to each other, the required end islands may be combined into one island that contains at least 360 square feet of landscaped area.
 - f. A sidewalk may pass through a combined end island provided that the island is expanded to maintain the minimum landscaped area of 180 square feet.
 - g. When an end island is attached to a median, it shall be called a peninsula. Peninsulas shall comply with all applicable design and landscaping standards for end islands.
1. Where two adjacent parking rows are divided by a median, the required end islands may not be combined into one unit for the purposes of this ordinance. They shall instead be treated as two separate peninsulas and shall be subject to all applicable design and landscaping standards.

(2) Interior Islands

- a. Every row of parking that contains more than twenty-five (25) parking spaces shall have an interior island located in the middle of the parking row.
- b. The number of parking spaces between landscaped islands (interior islands or end islands) shall not exceed twenty-five (25).
- c. Interior islands shall have a total landscaped area of at least 180 square feet, measured from the back of the curb.
- d. Where two separate rows of parking spaces are directly adjacent to each other, the required interior islands may be combined into one island at least 360 square feet of landscaped area.
- e. A sidewalk may pass through a combined interior island provided that the island is expanded to maintain the minimum landscaped area of 180 square feet.
- f. When an interior island is attached to a median, it shall be called a peninsula. Peninsulas shall comply with all applicable design and landscaping standards for interior islands.
 - 1. Where two adjacent parking rows are divided by a median, the required interior islands may not be combined into one unit for the purposes of this ordinance. They shall instead be treated as two separate peninsulas and shall be subject to all applicable design and landscaping standards.

(3) Peninsulas

- a. When attached to a median, a peninsula will take the place of an interior island or end island where required by this section.
- b. Peninsulas shall have a total landscaped area of at least 180 square feet, measured from the back of the curb.
- c. Sidewalks may pass through a peninsula provided that the peninsula is expanded to maintain the minimum landscaped area of 180 square feet.

(4) Medians

- a. Medians shall have a landscaped area at least 10 feet in width, measured from the back of the curb, along the entire length of the median, measured from the back of the curb.
- b. There shall be no more than three adjacent parking rows without a median.
- c. A sidewalk may pass through the median provided that the landscaped area is expanded to meet the minimum 10-foot width.

(5) Landscaping

- a. *Shade-providing trees.* Acceptable shade-providing trees and shade cover shall include:
 - 1. Medium or large trees recommended by the Texas A&M Forest Service for Cameron County, or
 - 2. Trees or other plant material that provide a minimum canopy diameter of 15 feet at maturity.
 - 3. Trees preserved during construction shall be satisfactory for the requirements of this section, provided that they are correctly located within a landscaped median, island, or peninsula.
- b. *Medians.* A minimum of 1 shade-providing tree should be provided every 30 feet within a median. Measurement shall begin at the end of the median and shall measure to and from the center of each trunk.
- c. *End Islands and Interior Islands.* One (1) shade-providing tree shall be planted within each island. If an island extends the length of two (2) parking spaces, two (2) shade-providing trees shall be planted within the island.
- d. *Peninsulas.* One (1) shade-providing tree shall be planted within each peninsula.

- e. Trees planted in compliance with this section shall be located in a landscaped area of at least 180 square feet with a minimum width of 8 feet, measured from the back of the curb.

(e) *Administration and Approval*

(1) The Applicant shall submit:

- a. A site plan showing all public right-of-way, structures, parking spaces, drive aisles, islands, peninsulas, medians, and trees.
- b. A narrative describing the scope of work, including the number and types of trees and other plants to be planted.
- c. A cost estimate for the landscaped medians, islands, and/or peninsulas.
- d. Basic calculations of the tree to parking space ratio.
- e. A Landscape Maintenance Agreement.

(2) Incentive Calculation.

- a. The City Engineer or designee shall verify tree to parking space ratio calculations and eligibility.
- b. Parking reductions shall be awarded based on site plans submissions and simple calculations.

(3) Final incentive approval shall be issued prior to the issuance of development approval.

(f) *Construction and Maintenance Requirement*

(1) All parking spaces, islands, peninsulas, and medians used to obtain an incentive shall be constructed in accordance with approved plans.

(2) The City may require the property owner to execute a maintenance agreement ensuring long-term upkeep of all landscaped areas.

(3) The City may require financial security to ensure installation of approved landscaped areas.

(4) Failure to maintain approved landscaped areas and plant life shall constitute a violation of this Ordinance and may result in financial penalty, as described in subsection (g).

(g) *Compliance and Enforcement*

(1) In the event that the landscaped areas and plant life required for the parking reduction incentive are not maintained or are removed, the developer, owner, or their successors, heirs, or assigns shall be liable to the City for the following:

- a. Immediate Cure: Failure to maintain the required landscaped areas and plant life shall be a violation of the site plan approval. The City may notify the owner, who shall have 30 days to remedy the noncompliance, which may include maintenance of landscaped areas and plant life and replacement of dead or dying trees or other plant life.
- b. Penalty: Failure to remedy any noncompliance with this section shall be subject to financial penalty according to the time that has passed since the completion of construction:
 - 1. *Within 180 days of completion*: \$500
 - 2. *Between 180 days and 18 months*: \$300
 - 3. *After 18 months*: \$100
 - 4. The cumulative amount of the financial penalty shall not exceed a total of \$1,000.
 - 5. Each day any violation of this section continues shall constitute a separate offense.
 - 6. The City shall notify the property owner that the 30-day period for immediate cure has elapsed and that financial penalties shall be applied daily until the noncompliance is remedied.
 - 7. No penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the State.
 - 8. The fine shall be paid to the City within 30 days of written notice.
- c. Recording: These obligations shall be recorded as a restrictive covenant running with the land.

(h) *Relationship to Other Regulations*

- (1) Projects utilizing incentives shall comply with all applicable regulations, including local ordinances and state and federal requirements.
- (2) If any portion of this Section is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Amended Zoning Ordinance: Red-Lined

Amendments to the City of Los Fresnos Zoning Ordinance

Chapter 48 ZONING¹

ARTICLE I. IN GENERAL

Sec. 48-1. Purpose and intent.

The zoning regulations established in this chapter have been developed in a comprehensive manner in order to guide the planning and growth of the city and to promote the health, safety and general welfare of the citizens of the city. More specifically, the objectives of this chapter are as follows:

- (1) To encourage the growth of the city with quality urban design;
- (2) To promote a harmonious relationship between land uses which promotes and protects the aesthetic quality of the landscape, and enhances the value of land and buildings;
- (3) To specifically address those areas of the city which have scenic, historic and tourist related values, such as the major highway entrances and the Central Business District, and to encourage the development of these areas in a manner that protects their aesthetic values;
- (4) To promote a safe and effective traffic circulation system;
- (5) To outline the appropriate density controls which will encourage proper population and structural densities;
- (6) To promote resiliency to natural hazards by anticipating risks; incorporating hazard mitigation into the design and location of lots, buildings, and infrastructure; and addressing vulnerabilities;
- (7) To provide for adequate open spaces for light, air and livability room; and
- (8) To facilitate the adequate provisions of community utilities and services.

(Ord. No. 235, § 2, 6-22-1993)

Sec. 48-2. Definitions.

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

100-Year Floodplain means the land within a community subject to a 1 percent or greater chance of flooding in any given year, as defined by the most recent Flood Insurance Rate Map prepared by FEMA.

500-Year Floodplain means the boundary of the flood that has a 0.2-percent chance of being equaled or exceeded in any given year, as defined by the most recent Flood Insurance Rate Map prepared by FEMA. Officially termed the 0.2-percent annual chance floodplain.

¹State law reference(s)—Municipal zoning authority generally, V.T.C.A., Local Government Code § 211.001 et seq.; municipal planning and development generally, V.T.C.A., Local Government Code § 371.001 et seq.; municipal zoning boards of adjustment, V.T.C.A., Local Government Code § 211.008; issuance of local permits, V.T.C.A., Local Government Code § 245.001 et seq.; municipal and county authority to regulate subdivisions, V.T.C.A., Local Government Code § 242.001 et seq.; municipal comprehensive plans, V.T.C.A., Local Government Code § 213.001 et seq.; authority for municipal regulation of signs, V.T.C.A., Local Government Code § 216.001 et seq.

Accessory building or structure means a subordinate building or structure not attached to the main building or structure, the use of which is incidental and related to the main use and is located on the same building lot. The term "accessory building or structure" includes satellite dish antennas and similar structures, but excludes detached garages, carports, and guest or servant quarters. No manufactured housing, motor vehicles, trailer or similar vehicles or structures shall be used or converted for use as an accessory building.

Administrative and business offices means offices of private firms or organizations which are primarily used for the provision of executive management or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

Administrative services means offices, administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county and city offices.

Agricultural sales and services means establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, feed and grain stores, and tree and landscape service firms.

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

Apartment means a dwelling unit in a multiple-family dwelling or apartment house arranged, designed, or occupied as a place of residence by a single-family.

Area of lot means the square foot area of a lot within the bounding property lines and exclusive of dedicated streets or alleys.

Area of special flood hazard, or special flood hazard areas, means the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHB). After detailed rate-making has been completed in preparation for publication of the FIRM, zone A usually is refined into zone A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Area regulations means the regulations controlling minimum lot area, lot width, lot depth, front yard, side yard, rear yard, coverage and floor area ratio.

Automotive and equipment services means establishments or places of business primarily engaged in automotive related or heavy equipment sales or services. The following are automotive and equipment use types:

Automotive service station means the provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.

Automotive treatment means washing and cleaning of automobiles and related light equipment. Typical uses include car washes, auto laundries and car treatment centers.

Automotive/boat rental services means rental of automobiles, noncommercial trucks, trailers, recreational vehicles and boats, including incidental parking and servicing of vehicles or boats available for rent or lease. Examples of this activity include auto and boat rental agencies, trailer rental agencies, and taxicab parking and dispatching.

Automotive/boat repair services means repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, tire sales and installation wheel and brake shops, body and fender shops, and similar repair and service activities, but excluding dismantling or salvage.

Automotive/boat sales means sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Examples of this activity include new and used car dealerships, motorcycle dealerships, and boat, trailer, and recreational vehicle dealerships.

Automotive equipment sales means the sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance and servicing. Examples of this activity include truck and tractor dealerships, construction equipment dealerships, and mobile homes sales establishments.

Aviation facilities means landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter sales and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

Basement means that portion of a building which is substantially below grade. A basement shall not be counted in computing the number of stories.

Block means an area enclosed by streets, or if said word is used as a term of measurement, it shall mean the distance along a side of a street between two intersecting streets, or if the street is of a dead-end type, a block shall be considered to be measured between the nearest intersecting street and the end of such dead end street.

Building means any structure designed, built or intended for the shelter or enclosure of persons, animals, chattels, or movable property of any kind or for an accessory use. When separated by a firewall, each portion of such structure so separated shall be deemed a separate building. The term "building" shall include structures wholly or partly enclosed with an exterior wall.

Building line means a line parallel or approximately parallel to the street line at a specified distance therefrom, marking the minimum distance from the street line that a building may be erected. For existing buildings, the building line shall be the exterior wall or omitted wall line which is closest to the street.

Building lot means a lot, or a portion of a lot, or a combination of lots, when used for the construction of one building or commercial center.

Building maintenance services means establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.

Business or trade school means a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined, college or university, or public or private educational facility.

Business support services means establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excludes automotive, construction and farm equipment. Examples of this activity include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.

Campground means campground facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents. Typical uses include recreational vehicle parks.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Club or lodge means a use providing meeting, recreational, or social facilities for a private or nonprofit association, primarily for use by members and guests. Typical uses include private social clubs and fraternal organizations.

Cocktail lounge means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses.

College and university facilities means an educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree, as defined by the state board of education.

Commercial center means a commercial business complex in which more than one business operates, and meets one or more of the following criteria:

- (1) Each business owner owns shares of stock in a corporation that owns the grounds and building.
- (2) Each business owner owns its own space within a building under a commercial condominium arrangement.
- (3) Each business owner rents/leases its own space within the same building.
- (4) Each business is a member of a merchants association which contributes to the joint promotional efforts of the center.
- (5) Maintenance and management of the center is provided for in one of the following ways:
 - a. The owner-developer acts as his own manager and supervises his own maintenance and management force.
 - b. The owner-developer acts as the agent for the merchants association.
 - c. The owner-developer turns over the center's operations to a management firm.
- (6) The property owner contracts to independently operated businesses with ground leases on one building lot.
- (7) Exception. Any business which meets all of the location requirements as listed in this subsection shall not be considered as a part of the commercial center:
 - a. The business is located in a building structurally separated from the main building in the center;
 - b. The business is located on a platted lot other than the lot occupied by the main building; and
 - c. The lot so occupied abuts a public street.

Communications services means establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Typical uses include television studios, telecommunication service centers or telegraph service offices.

Condominium means a structure containing four or more apartments wherein the airspace-within the apartment is individually owned by the occupant, together with the right of access and required automobile parking space, and where the lot upon which the building is located, is under one ownership.

Construction material sales and services means establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware; but excludes those classified as one of the automotive and equipment service use types. Typical uses include building materials stores, tool and equipment rental or sales, or building contractors.

Consumer repair services means establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding automotive and equipment use types. Typical uses include appliance repair shops, watch or jewelry repair, or musical instrument repair firms.

Convalescent services means a use providing bed care and inpatient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services, and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Convenience storage means storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

Cultural services means a library, museum, art gallery, or similar nonprofit use affording display, preservation and exhibition of objects of permanent interest in one or more of the arts and sciences.

Day care services (general) means a facility, or use of a dwelling unit or portion thereof, for daytime care of six or more individuals. The term "day care services" includes nursery schools, pre-schools, day care centers for children or adults, and similar uses.

Detention facilities means a publicly operated use providing housing and care for individuals confined by law.

Dwelling, duplex, means the use of a platted lot or site for two dwelling units within a single building.

Dwelling, multiple-family, means the use of a site for three or more dwelling units, within one building.

Dwelling, single-family detached means the use of a platted lot or site for only one dwelling unit having customary side yards to serve as buffers.

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

Equipment repair services means repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling or salvage.

Family means a family is any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage, or adoption.

Financial services means establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.

Flood insurance rate map (FIRM) means an official map of a community on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Floor area means the total square foot area of all floors in the building measured to the outside faces of exterior walls or to the line of an omitted wall, whichever includes the largest area.

Floor area ratio means the relationship between the total mass of a building and the site area on which it is located.

Food sales means establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and health food or ethnic food outlets.

Frontage, lot, means the length of street frontage between property lines or lease lines.

Frontage, street, means the length of all property on one side of a street between two intersecting streets measured along the line of the street, or if the street is dead-ended, then the length of all property abutting on one side between an intersecting street and the end of the dead-end street.

Funeral services means establishments engaged in preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

Grade means the average elevation of the highest and lowest elevations measured at the finished surface of the ground at any of the exterior corners of the building or structure.

Guidance services means a use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition, either on a residential or daytime care basis.

Height means the vertical distance measured from grade to the highest roof surface, or to the highest point of any structure erected on the roof of a building.

Home occupation means any occupation or activity which meets all of the following tests:

- (1) The occupation is managed and owned by a person residing on the premises and not more than one other person is employed by the owner/manager on the premises except members of the immediate family of the owner/manager who also live on the premises.
- (2) The exterior of the premises used for the home occupation is indistinguishable from any other residential dwelling of like design and character, in that there shall be no commercial displays, show windows, exterior storage areas, parking areas, except for a name plate or business sign not more than two square feet which may be permitted if attached flush to the side of the building.
- (3) The home occupation shall additionally comply with the standards listed in this subsection. These standards, because of their difficulty to define, shall, if questioned, be determined and judged to be in compliance or not by the city planning commission with appeal to the city council. The standards are as follows:
 - a. The home occupation does not generate pedestrian traffic substantially greater, or vehicular traffic or vehicular parking substantially greater or substantially different in kind or character, than that ordinarily associated with a similar dwelling which is used solely for residential purposes.
 - b. The home occupation is no more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to premises used solely for residential purposes.
 - c. No loud or unpleasant noises, bright, or glaring lights, offensive or noxious fumes, or odors, or perceptible vibrations attributable to the home occupation are emitted from the premises.

Hospital services means a facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for out-patient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees or visitors.

Hotel-motel means lodging services involving the provision of room and/or board. Typical uses include hotels, motels or transient boardinghouses.

Housing, multifamily, means a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities.

Institutional use means schools, churches, colleges, hospitals, convents, welfare homes and similar establishments.

Kennels means boarding and care services where three or more dogs, cats and domesticated small animals over four months old, including those of the owner, are bred, raised, trained, boarded, or kept. Typical uses include boarding kennels, pet shelters, or dog training centers.

Laundry services means establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as personal services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

Legal height means the maximum height of a building imposed by this chapter or any other ordinance or section of this Code which may be more restrictive.

Liquor sales means establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales for off-site consumption.

Loading space means an off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot means a parcel of land occupied or to be occupied by a building or group of buildings and accessory buildings, together with such yards, open spaces, lot width and lot area as are required by this chapter, and having frontage upon public street or a place approved by the commission.

Lot area means the total horizontal area within the lot lines of a lot.

Lot, corner, means a lot abutting upon two or more streets at their intersection or jurisdiction.

Lot depth means the horizontal distance between the front and rear lot lines, measured in the mean direction of the side lot line.

Lot, key, means the first lot immediately to the rear of a reversed corner lot and not separated by an alley.

Lot line, front, means the line separating the lot from the street in the case of an interior lot, and the line separating the narrowest street frontage of the lot from the street in the case of a corner lot.

Lot line, rear, means the lot line which is opposite and most distant from the front lot line.

Lot line, side, means any lot line not a front lot line or a rear lot line.

Lot of record means a lot which has been surveyed and has been recorded in the office of the county clerk of Cameron County.

Lot, reversed corner, means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first interior lot to it rear.

Lot, through, means a lot having frontage on two parallel or approximately parallel streets.

Main building means the buildings on a lot which are occupied by the primary use, including detached garages, and detached guest or servant quarters.

Maintenance and service facilities means a facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including corporation yards, equipment service centers, public utility facilities (gas, electric, television, telephone, municipal), and similar uses having characteristics of commercial services or contracting or industrial activities.

Manufacturing, custom, means establishments primarily engaged in the on-site production of goods by hand manufacturing and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candlemaking shops or custom jewelry manufacturers, woodworking and custom picture framing and furnishings.

Manufacturing, limited and product assembly, means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, but excluding basic industrial processing.

Medical offices means establishments providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by chiropractors, medical doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the state.

Military installations means military facilities of the federal or state governments.

Monolith means one structure made of natural rock, brick or stone to which a sign is secured.

Neighborhood business means establishments engaged in selling merchandise or services for personal or household consumption as listed below, but not exceeding 3,000 square feet of net floor area for the total of all establishments in one development:

- (1) Administrative and business offices.
- (2) Administrative services.
- (3) Consumer repair services.
- (4) Cultural services.
- (5) Food sales.
- (6) Laundry services.

- (7) Liqueur sales.
- (8) Personal improvement services.
- (9) Personal services.
- (10) Professional office.
- (11) Restaurants, convenience.
- (12) Restaurants, general.
- (13) Retail sales, general.

Nonconforming buildings means a building or structure lawfully existing at the time the ordinance from which this chapter is derived became effective, any portion of which does not comply with the provisions of this chapter for the zone in which it is located.

Nonconforming use means a use which lawfully occupied a building or land at the time the ordinance from which this chapter is derived became effective and which does not conform with the use regulations of the zone in which it is located.

Occupancy means the purpose for which a building is used or intended to be used.

Open space means an area on a lot that is open and unobstructed to the sky except for the ordinary projections of cornices and eaves.

Park and recreation services means publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.

Personal improvement services means establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

Personal services means establishments or places of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barbershops, seamstress, tailor, shoe repair and maintenance shops or parlors, and self-service laundry or apparel cleaning services.

Pet services means retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.

Postal facilities means postal services, including post offices, bulk mail processing or sorting centers, operated by the United States postal service.

Primary educational facilities means a public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of the state.

Professional office means a use providing professional or consulting services in the fields of law, city planning, architecture, environmental and interior design, engineering, accounting, appraising (real and personal property), tax service, finance, real estate, management services, personnel services, education and similar professions.

Public assembly means publicly owned or operated facilities for major public assembly, recreation, sports, amusement, or entertainment, including civil or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.

Recreation, commercial, means establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:

Indoor recreation means predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls and dance halls.

Indoor sports and recreation means uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, racket sports, swim clubs and firing ranges and weight training centers.

Outdoor entertainment means predominantly spectator uses conducted in open facilities. Typical uses include sports arenas, racing facilities, amusement parks.

Outdoor sports and recreation means uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, racquetball courts.

Recreation, community, means a recreational facility for use by residents and guests of a particular residential development, planned unit development, or limited residential neighborhood, including both indoor and outdoor facilities.

Religious assembly means a use located in a permanent building which provides organized religious worship and religious education incidental thereto, but excluding primary or secondary educational facilities. A property tax exemption obtained pursuant to laws of the state shall constitute evidence of religious assembly use.

Research services means establishments primarily engaged in research of an industrial or scientific nature but excludes product testing. Typical uses include electronics research laboratories, space research and development firms, or pharmaceutical research labs.

Residential care services means a use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including overnight occupancy or care for extended periods.

Resource extraction means a use involving the on-site extraction of surface or sub surface mineral products or natural resources. Typical extractive uses are quarries, borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

Restaurant, convenience, means a use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on-premises consumption. Typical uses include ice cream parlors, sandwich shops, cafes and coffee shops.

Restaurant, general, means a use engaged in the preparation and retail sale of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature which produces less than 50 percent of the gross income. A general restaurant may include live entertainment. Typical uses include restaurants, coffee shops, dinner theater and similar establishments with incidental alcoholic beverage service.

Retail sales, general, means the sale or rental of commonly used goods and merchandise for personal or household use. Typical uses include department stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys and hand crafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishings and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation).

Safety services means facilities for conduct of public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.

Scrap and salvage services means places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards or paper salvage yards.

Secondary educational facilities means a public, private or parochial school offering instruction at the junior and senior high school levels in the branches of learning and study required to be taught in the public schools of the state.

Sign. See section 48-272.

Stables means boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than the occupants of the premises or their non-paying guests. Typical uses include boarding stables or public stables.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, then the space between such floor and the ceiling next above it.

Street, public, means any thoroughfare other than an alley which has been dedicated to the public use and which affords primary access to abutting property.

Street, private, means any thoroughfare other than an alley which has not been dedicated for public use and which affords interior circulation and/or access to abutting property.

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

Structure means the same as a building, but, in addition, includes such items as a freestanding sign and pylon when erected on a base and not made integral with a building, and also includes roofed structures which are unenclosed.

Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Tourist-visitor services means establishments primarily engaged in the provision of lodging services on a less than weekly basis with incidental food, drink and other sales and services intended for the convenience of guests.

Transportation terminal (bus/aviation) means a facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation, including bus and airport terminals.

Utility facilities, major, means electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants, water storage areas, and similar facilities or public agencies or public utility firms having potentially significant impact upon surrounding uses.

Utility services, local, means services which are necessary to support principal development and involve only minor structures such as lines, poles and transformer stations, which are necessary to support principal development.

Vehicle storage means long-term storage (longer than 72 hours) of operating or non-operating vehicles. Typical uses include storage of private parking towaways or impound yards, but excluding dismantling or salvage activities.

Veterinary services means veterinary services for animals. Typical uses include pet clinics, dog and cat hospitals, and veterinary hospitals.

Wall, exterior, means the exposed or outermost wall of the structure.

Warehousing, general and distribution, means open-air storage, distribution and handling of materials and equipment. Typical uses include building materials (lumber, structural steel), monument or stone yards, grain elevators or open storage yards.

Warehousing, limited and distribution, means wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.

Wildfire means unplanned fires that occur in wildlands such as forest, rangelands, or grasslands and may spread to developed areas.

Wildfire Risk Area means a designated location with a heightened probability of fire occurrence and potential for significant damage to homes, infrastructure, and natural resources. Wildfire Risk Areas shall be indicated by a Wildfire Exposure Score equal to six (6) or higher, according to the Texas A&M Forest Service Wildfire Risk Assessment Portal or comparable source.

Yard means an open space on the lot on which a building is situated and which is open and unobstructed to the sky.

Yard, front required, means a yard facing and abutting a street and extending across the front of the lot between the side lot lines and having a minimum horizontal depth measured from the front property line equal to the depth of the minimum front yard specified for the district in which the lot is located. The required front yard line represents the line in front of which no building or structure may be erected.

Yard, rear required, means a yard, except for accessory buildings as herein permitted, extending across the rear of the lot between side lot lines and having a minimum depth measured from the rear lot line as specified for the district in which the lot is located.

Yard, side required, means a yard located on a lot and extending from the required rear yard lot line and having a minimum width measured from the side lot line as specified for the zone in which the lot is located. Any lot line which is not a rear or front lot line shall be deemed a side lot line. Where a lot has only three lot lines, those lot lines which do not front upon a street shall be deemed side lot lines.

Zone means a classification within which the regulations specified herein are uniform and which is assigned to a particular area of the city of delineation upon the zoning map which is a part of this chapter.

Zone map means the official certified map upon which the boundaries of the various zones are shown and which are an integral part of this chapter and, together with this zoning text, make up a zoning ordinance for the city.

(Ord. No. 235, § 33, 6-22-1993)

Secs. 48-3—48-22. Reserved.

ARTICLE II. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 48-23. Establishment of districts; provision for official zoning map.

- (a) Official zoning map.
 - (1) The city is hereby divided into zones, or districts, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
 - (2) The official zoning map shall be identified by the signature of the mayor attested by the city secretary, and bearing the seal of the city under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 48 of the Code of Ordinances of the City of Los Fresnos, Texas.".
 - (3) If, in accordance with the provisions of this article, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council.
 - (4) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this article. Any unauthorized change of whatever kind by any person shall be considered a violation of this article and punishable as provided under section 48-318.
 - (5) Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the office of the city secretary shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.
- (b) Replacement of official zoning map.
 - (1) In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof.
 - (2) Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.
- (c) *District designations.* For the purposes of this article, the city is hereby divided into districts as provided in this article.
- (d) *Determination of boundaries in questioned cases.* Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the official zoning map, the following rules shall apply:
 - (1) Where district boundaries are indicated as approximately following lot lines, rail lines or water lines, such lines shall be construed to be such boundaries. All district boundary lines indicated on or within street rights-of-way shall be construed to be at the center of such right-of-way. Whenever any such street is vacated, the zoning indicated shall remain at the center of the vacated street right-of-way, unless changed through the normal zone change process.
 - (2) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the center or right-of-way lines of highways, rail lines or water lines, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on

the official zoning map. If distance is not given, such dimension shall be determined by the use of the scale on said map.

- (3) In the case of a district boundary line dividing a property in half, the district boundary line shall be construed to be consistent with the more restrictive zoning designation, and it shall apply to the entire property. In cases where the district boundary line divides a property into two unequal parts, the zoning district shall be construed to be consistent with the more restrictive zoning designation.
- (e) *Zoning of newly annexed areas.* All territory which may hereafter be annexed to the city shall be classified as lying and being in the R-1 (Single-Family Residential) district until such classification is changed by law or unless permanently zoned concurrent with annexation. The commission shall, within 120 days following annexation of any territory, recommend to the city council a permanent zoning classification and cause a zoning district map to be prepared if not permanently zoned with annexation. The procedure to be followed for permanent zoning shall be the same as is provided by law for the adoption of zoning changes, unless permanently zoned concurrent with annexation.

(Ord. No. 235, § 3, 6-22-1993)

Sec. 48-24. Effects of districting and general regulations.

- (a) *Conformance required.* Except as specified in this article, no land, building, structure or premises shall hereafter be used, and no building, or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located; such regulations include, without limitation, the following: the use of buildings, signs, structures or land, including performance standards as defined herein, in connection with such use; the height, size, dimensions of buildings or structures; the size or dimensions of lots, yards, and other open spaces surrounding buildings; the provision, location, size, improvement and operation of off-street parking, loading and unloading spaces.
- (b) *Additional uses; commission determination.* In any zoning district, apart from those uses mentioned in this article as specifically permitted or similar uses, the only other land uses that may be allowed are those that may be permitted through the process of conditional use permits, zone changes or special use permits.
- (c) Conversion of buildings. See section 48-25.
- (d) *Unsafe buildings.* Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any part of any building or structure.
- (e) Division of existing lots.
 - (1) No part of a yard, open space, or off-street parking or loading space required by this article for one land use shall be included as a part of a yard, open space, or off-street parking or loading space for another land use, unless specifically authorized by this article.
 - (2) No yard or lot existing at the time of passage of the ordinance from which this article is derived shall be reduced in dimension or area below the minimum requirements set forth in this article. Yards or lots created after the effective date of the ordinance from which this chapter is derived shall meet at least the minimum requirements established by this article.

(Ord. No. 235, § 4, 6-22-1993)

Sec. 48-25. Nonconforming uses or buildings.

- (a) *Existing nonconforming uses; continuation.* Except as specified in this article, the lawful use of a building, structure or land existing at the time of the adoption of the ordinance from which this article is derived may be continued, although such use does not conform with the provisions of this article for the district in which it

is located. However, this section does not apply to division 7, subdivision IV, of this article, relating to regulation of signs. Continuation of nonconforming uses for signs shall only be as provided therein.

- (b) *Nonconforming uses or buildings; enlargement.* No existing building, structure or premises devoted to a use not permitted by this article in the district in which such building is located, except when required to do so by law or order, shall be enlarged, substituted or structurally altered, or, in cases in which the use in which the use is nonconforming, no expansion of that use is allowed which would necessitate additional parking or loading spaces.
- (c) *Discontinuance of a use.* No building, structure or land where a nonconforming use has been discontinued for a period of six consecutive months or more shall be put to a nonconforming use. When buildings (including mobile homes) are removed from a lot, the requirements of the zoning district shall apply to any new use.
- (d) *Repairs and alterations.* Repairs and maintenance work as required to keep it in sound condition may be made to a nonconforming building or structure. Alterations may be made that do not violate other parts of this article.
- (e) *Replacing damaged building.* Any nonconforming building or structure or one or more of a group of nonconforming buildings or structures which has been or may be damaged by fire, flood, explosion, earthquake, war or riot, or other calamity may be reconstructed and used as before if it is done within six months of such calamity, and if the area restored does not exceed the square foot area as it existed at the time of such calamity, and if other parts of this article are not violated. Said six-month time limit may be extended by the commission if the owner has shown a good faith effort to settle any insurance claims, or obtain financing, but has not been able to do so. If, however, the replacement cost of repairing the damage exceeds 50 percent of the appraised value of said building or structure, the right to operate such nonconforming use shall terminate. If normal wearing and age has caused a nonconforming building or structure to be in such a deteriorated condition that repair costs of the building or structure exceed 50 percent of the appraised value of said building or structure, the right to operate such nonconforming use shall terminate.
- (f) *Nonconforming signs.* See division 7, subdivision IV of this article.
- (g) Changing a nonconforming use.
 - (1) Any nonconforming use that is changed to a conforming use cannot be changed back to a nonconforming use.
 - (2) A nonconforming use may be changed to another nonconforming use provided that the following conditions are complied with:
 - a. The new nonconforming use is a permitted use within the same or more restricted zoning district as the old nonconforming use.
 - b. No new parking is constructed, and that the new use meets the required number of parking spaces determined by the available existing parking spaces.
 - c. Compliance with all other requirements that are enumerated in this section.

(Ord. No. 235, § 5, 6-22-1993)

Sec. 48-26. Conditional uses.

- (a) *Purpose.* It is the intent of the city within specified districts, to allow certain land uses which shall be specifically noted as conditional uses for that district. These conditional uses shall not be automatically allowable, but shall be approved or disapproved by the planning and zoning commission, after a public hearing held thereon. Conditional uses shall not be considered as a variance, waiver, nor a zone change to this article. The purpose of this procedure is to streamline and make more flexible the process of adjustments to this chapter in a limited number of specified situations.

(b) Procedures.

- (1) *Application.* Application for a conditional use permit shall be filed with the planning department two weeks prior to the planning and zoning commission meeting. The application shall include the following:
 - a. Name/address of owner/applicant.
 - b. Address/property legal description.
 - c. Statement that the applicant is the owner or authorized agent, or has a contract for sale.
 - d. A statement describing the full nature and operating characteristics of the proposed use. For uses involving public assembly or industrial processing, or uses potentially generating high volumes of vehicular traffic, the commission may require specific information relative to the anticipated peak loads and peak use periods, relative to industrial processes and the ability of the use to meet performance standards, or substantiating the adequacy of proposed parking, loading and circulation facilities.
 - e. Site plans, building elevations, improvement plans, and other such drawings, all sufficiently dimensioned land oriented to illustrate the following:
 1. The location and dimensions of boundary lines, easements, and required yards and setbacks.
 2. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting lots.
 3. The location of existing and proposed site improvements, including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs and lighting, where applicable.
 4. The location of existing/proposed watercourses and drainage features.
 5. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements, where applicable.
 6. For sites with an average slope greater than 15 percent, a plan showing proposed grading, drainage and erosion control measures.
 7. The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.
 8. The relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.
- (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
- (3) *Preliminary conference.* The applicant shall meet with the city staff from the planning department to consider alternatives and the nature of his petition prior to or during the application process.
- (4) *Public hearing and notice.* The planning and zoning commission shall hold a public hearing on each application for a conditional use permit. Written notice shall be given at least ten days prior to the public hearing to all property owners within 200 feet of the area presented. At the public hearing, the commission shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained.
- (5) *Review by the planning department.* The planning department shall review the application or proposal and shall prepare a report thereon which shall be filed with the planning and zoning commission prior to the public hearing.

- (6) *Action by the planning and zoning commission.* The commission may grant the conditional use permit as presented, or in a modified form, or subject to conditions, or it may deny the application on the grounds of being incompatible with neighboring uses.
- (7) *Review and evaluation criteria.* The commission shall review and evaluate each conditional use application using the following criteria:
- a. That the granting of the permit will not be contrary to the public interest.
 - b. Conformance with applicable regulations and standards established by the zoning district for which the use is identified.
 - c. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development and access and circulation features.
 - d. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.
 - e. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.
 - f. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.
 - g. Protection of persons and property from erosion, flood or water damage, fire, noise, glare and similar hazards or impacts.
 - h. That the proposed use will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 1. Factors considered during this review shall include, but are not limited to:
 - (i) The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;
 - (ii) Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 - (iii) Proposed stormwater management infrastructure; and
 - (iv) For developments 5 acres in total lot area, the net change in runoff rate.
 - i. Location, lighting, and signage; and relation of signs to traffic control and adverse effect on adjacent properties.
 - j. Adequacy and convenience of off-street parking and loading facilities, where applicable.
- (8) *Findings.* The planning and zoning commission shall make the following findings prior to the granting of a conditional use permit:
- a. That the proposed use is compatible with the objectives of this article and the general purposes of the zone in the neighborhood in which the site is located.
 - b. That the proposed use will comply with the applicable provisions of this article.
 - c. That the proposed use and its site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity.

- d. That any conditions for approval are necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed use with existing or permitted uses in the same district and the surrounding area.
- e. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

(9) Conditions of approval.

- a. The planning and zoning commission may establish conditions for approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications regulating vehicular ingress and egress, and traffic circulation, regulation of signs, regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements, establishment of development schedules or time limits for performance of completion, and such other conditions as the commission may deem necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare.
- b. The commission may set a time period after which the permit shall lapse, and the land uses allowed shall revert to that of the underlying zone. If the owner is not in compliance after the 30-day suspension, the permit shall be revoked without need for another hearing, and the owner shall terminate the use of the property as granted by the permit, and the land uses allowed shall revert to that of the underlying zone.

(10) Suspension and revocation.

- a. Upon violation of any applicable provision of this article, or, if granted subject to conditions, upon failure to comply with stated conditions, a conditional use permit shall be suspended upon a 30-day notice of noncompliance given to the owner of a use or property subject to the conditional use permit.
- b. If no time period is established, then the permit shall run with the land until such time as there is a violation, and the permit is revoked, or until by action of the council the permit is revoked in the public interest.
- c. Notification shall be made through action of the planning and zoning commission, after a public hearing, and after a certified letter of said hearing is mailed to the owner at least two weeks prior to said hearing.

(11) *Conditional use permits; nonconforming uses.* A conditional use permit may be applied for the reconstruction of a structure housing a preexisting nonconforming use if the structure is destroyed by fire, flood, or other calamity, to a greater extent than 50 percent. The extent of damage or partial destruction shall be based upon the ratio of the estimated cost of restoring the structure to its condition prior to such damage or partial destruction, to the appraised value of the structure as it existed prior thereto. Estimates for this purpose shall be made by or shall be reviewed and approved by the building department and shall be based on the minimum cost of construction in compliance with the currently adopted building code. If a conditional use permit is applied for, all the requirements of this section are applicable.

(12) *Effective date.* The decision of the planning and zoning commission shall be effective ten days after the date of the decision.

(13) *Appeal to city council.* A decision of the planning and zoning commission may be appealed to the city council not more than ten days after the date of action through the submission of a letter to the city secretary. Not more than 40 days following the filing of an appeal, the council shall hold a public hearing on the appeal. Notice shall be given ten days prior to council hearing to all property owners within 200 feet of the application. The decision of the council shall be final and become effective immediately. In

order to appeal to city council, the appellant must be either the petitioner for the conditional use permit, or a property owner within 200 feet.

- (14) *Certificates of occupancy.* A certificate of occupancy shall be required after compliance with the stipulations of the permit, and prior to occupancy. No certificate of occupancy shall be granted until all the requirements imposed by the commission are complied with for the property in question.

(Ord. No. 235, § 6, 6-22-1993)

Sec. 48-27. Special uses.

(a) Purpose.

- (1) The planning and zoning commission of the city may, after conducting a public hearing as required for all amendments to this article in accordance with the provisions of section 48-316(c), authorize for specific parcels of land the issuance of special use permits in accordance with the requirements of this section.
- (2) The special use permit must be approved by the commission, and such action does not change the zoning on the land, but establishes a permit for a specific use with an approved plan. Violations of the approved plan are violations of this chapter and subject to the penalties contained herein. The commission shall execute the provisions of this section for the protection of the health, safety, comfort, convenience, and welfare of the public. Decisions shall not be detrimental to the economic welfare of the community and will be consistent with the intent and purpose of this article and the comprehensive plan.

(b) Procedures.

- (1) *Application.* Application for a special use permit shall be filed with the planning department two weeks prior to the planning and zoning commission meeting when such application is to be considered. The application shall include the following:
 - a. Name and address of owner and applicant.
 - b. Address and property legal description.
 - c. Statement that the applicant is the owner or authorized agent, or has a contract for sale.
 - d. A statement describing the full nature and operating characteristics of the proposed use. For uses potentially generating high volumes of vehicular traffic, the commission may require specific information relative to the anticipated peak loads and peak use periods, the ability of the use to meet performance standards, or substantiating the adequacy of proposed parking, loading and circulation facilities.
 - e. Site plans, building elevations, improvement plans, and other such drawings, all sufficiently dimensioned land oriented to illustrate the following:
 1. The location and dimensions of boundary lines, easements, and required yards and setbacks.
 2. The location, height, bulk, general appearance, and intended use of existing and proposed buildings on the site, and the approximate location of existing buildings on abutting lots.
 3. The location of existing and proposed site improvements, including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, signs and lighting, where applicable.
 4. The location of existing/proposed watercourses and drainage features.
 5. The number of existing and proposed off-street parking and loading spaces, and a calculation of applicable minimum requirements, where applicable.
 6. For sites with an average slope greater than 15 percent, a plan showing proposed grading, drainage and erosion control measures.

7. The relationship of the site and the proposed use to surrounding uses, including pedestrian and vehicular circulation, current use of nearby parcels, and any proposed off-site improvements to be made.
 8. The relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.
- (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
 - (3) *Preliminary conference.* The applicant shall meet with the city staff from the planning department to consider alternatives and the nature of his petition prior to or during the application process.
 - (4) *Public hearing and notice.* The planning and zoning commission shall hold a public hearing on each application for a special use permit. Written notice shall be given at least ten days prior to the public hearing to all property owners within 200 feet of the area presented. At the public hearing, the commission shall review the application and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained.
 - (5) *Review by the planning department.* The planning department shall review the application or proposal and shall prepare a report thereon which shall be filed with the planning and zoning commission prior to the public hearing.
 - (6) *Action by the planning and zoning commission.* The commission may grant the special use permit as presented, or in a modified form, or subject to conditions, or it may deny the application.
 - (7) *Review and evaluation criteria.* The commission shall review and evaluate each special use application using the following criteria:
 - a. That the granting of the permit will not be contrary to the public interest.
 - b. Conformance with applicable regulations and standards established by the zoning district for which the use is identified.
 - c. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development and access and circulation features.
 - d. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use.
 - e. Modifications to the site plan which would result in increased compatibility, or would result in unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.
 - f. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.
 - g. Protection of persons and property from erosion, flood or water damage, fire, noise, glare and similar hazards or impacts.
 - h. That the proposed use will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 1. Factors considered during this review shall include, but are not limited to:
 - (i) The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;

- (ii) Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 - (iii) Proposed stormwater management infrastructure; and
 - (iv) For developments 5 acres in total lot area, the net change in runoff rate.
 - i. Location, lighting, and signage; and relation of signs to traffic control and adverse effect on adjacent properties.
 - j. Adequacy and convenience of off-street parking and loading facilities, where applicable.
- (8) *Findings.* The planning and zoning commission shall make the following findings prior to the granting of a special use permit:
- a. That the proposed use is compatible with the objectives of this article and the general purposes of the zone in the neighborhood in which the site is located.
 - b. That the proposed use and its site development, together with any modifications applicable thereto, will be compatible with existing or permitted uses in the vicinity.
 - c. That any conditions for approval are necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed use with existing or permitted uses in the same district and the surrounding area.
 - d. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- (9) *Conditions of approval.* The planning and zoning commission may establish conditions for approval. Conditions may include, but shall not be limited to, requirements for special yards, open spaces, buffers, fences, walls and screening; requirements for installation and maintenance of landscaping and erosion control measures; requirements for street improvements and dedications regulating vehicular ingress and egress, and traffic circulation, regulation of signs, regulation of hours or other characteristics of operation; requirements for maintenance of landscaping and other improvements, establishment of development schedules or time limits for performance of completion, and such other conditions as the commission may deem necessary to ensure compatibility with surrounding uses, to preserve the public health, safety and welfare. The commission may set a time period after which the permit shall lapse, and the land uses allowed shall revert to that of the underlying zone.
- (10) *Suspension and revocation.*
- a. Upon violation of any applicable provision of this article, or, if granted subject to conditions, upon failure to comply with stated conditions, a special use permit shall be suspended by the commission.
 - b. Notifications shall be made through action of the planning and zoning commission, after a public hearing, and after a certified letter of said hearing is mailed to the owner at least two weeks prior to said hearing. The commission shall give the owner not longer than 30 days to comply with the conditions of his permit.
 - c. If the owner is not in compliance after the 30-day period, the permit shall be revoked without need for another hearing, and the owner shall terminate the use of the property as granted by the permit, and the land uses allowed shall revert to that of the underlying zone.
 - d. In addition, the council may take action to revoke a permit issued by the commission if the operation of the specific use is determined to be contrary to the public interest. Said action must be taken after a public hearing, in which the owner/operator of the specific use has been given written notice.

- (11) *Effective date.* The decision of the planning and zoning commission shall be effective ten days after the date of the decision.
- (12) *Appeal to city council.* A decision of the planning and zoning commission may be appealed to the city council not more than ten days after the date of action through the submission of a letter to the city secretary. Not more than 40 days following the filing of an appeal, the council shall hold a public hearing on the appeal. Notice shall be given ten days prior to council hearing to all property owners within 200 feet of the land. The decision of the council shall be final and become effective immediately. In order to appeal to city council, the appellant must be either the petitioner for the special use permit, any party aggrieved by the decision of the commission, or the city.
- (13) *Certificates of occupancy.* A certificate of occupancy shall be required after compliance with the stipulations of the permit, and prior to occupancy. No certificate of occupancy shall be granted until all the requirements imposed by the commission are complied with for the property in question.

(Ord. No. 235, § 28.1, 6-22-1993)

Sec. 48-28. Special uses permitted.

Only those uses listed in this section shall be permitted as a special use.

- (1) Junkyards/automobile graveyards/secondhand stores with outdoor storage.
- a. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Automobile graveyard means any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts outside of a building.

Junk means all old worn out and discarded material, in general, that may be turned to some use, including odds and ends, old iron or other metal, glass, cordage, rags, batteries, paper, trash, rubber debris, waste, parts of machinery and dismantled or wrecked automobiles or parts thereof.

Junkyard means any establishment or place of business maintained, used or operated for storing, keeping, buying or selling junk, for processing scrap metal, or for the maintenance or operation of an automobile graveyard outside of a building.

Secondhand stores with outdoor storage means any establishment or place of business which stores, keeps, buys or sells secondhand goods, including appliances, and stores such goods outside within the public view, for any period of 24 consecutive hours, except that used vehicles, such as cars, boats and trailers for sale or rent on a used car lot, or similar lot, shall not be considered a "secondhand store with outdoor storage."
 - b. No junkyards, automobile graveyards or secondhand stores with outdoor storage may be maintained within the city unless:
 1. A special use permit is granted upon proper application; and
 2. The fencing requirements as described herein are installed and maintained by the owner or user of the property.
 - c. All junkyards, automobile graveyards and secondhand stores with outdoor storage shall be enclosed either in a building or by a solid fence or wall at least six feet in height, which shall be constructed and maintained as follows:

1. A building permit approving the proposed design placement, materials and construction specifications of any fence erected pursuant to this article shall be obtained from the city building inspection department prior to start of construction.
 2. All fences shall be constructed of solid wood, rock or masonry, or a combination thereof; provided, however, that any one side of a yard shall be bounded by a fence or wall constructed of only one of the above materials.
 3. All fences or walls shall be a minimum height of six feet, and shall extend downward to within three inches of the ground and shall test plumb and square at all times, unless otherwise dictated by the city building code.
 4. Where fences or walls are immediately adjacent to a residential zone, the first row of stacks of junk shall be set back from said wall or fence a minimum distance that is equal to the height of the fence.
 5. Fences or walls that front on arterial streets shall be set back 20 feet from the right-of-way or easement line of the road, or shall be set back from that line a distance equal to the average building setback line on both sides of the property, if those buildings are closer than 20 feet to the right-of-way or easement line of the road; however, in no case shall any fence be constructed closer than ten feet to that line.
 6. Any part of a fence or wall may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements set forth in this section.
 7. Openings in the prescribed enclosures which are necessary to permit reasonable access shall be equipped with a gate, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal business hours.
- d. Compliance with this section.
1. Compliance with the fencing requirements set forth in this section shall be commenced at all existing junkyards and automobile graveyards, and secondhand stores with outdoor storage within 120 days after the passage of the ordinance from which this section is derived and shall be completed within one year of its passage.
 2. Newly annexed junkyards, automobile graveyards and secondhand stores with outdoor storage must commence with construction of fencing requirements within 120 days after annexation and must have completed fencing within one year after annexation.
 3. All junkyards, automobile graveyards and secondhand stores with outdoor storage already in use on the date of passage of the ordinance from which this section is derived shall be considered nonconforming uses and therefore shall not be required to obtain a special use permit.
- e. Access and inspection.
1. All junkyards, automobile graveyards and secondhand stores with outdoor storage shall have the materials arranged so that reasonable access is provided for inspection by fire, health and police officials of the city.
 2. Oil, gasoline and other flammable liquids shall be drained from inoperable vehicles.
 3. Latches shall be removed from refrigerators, freezers and any appliance which might entrap a child. Plastic or metal containers which would allow water stagnation or offer rodents shelter shall have proper covers or be stored in such a manner as to preclude health nuisances.

f. Exceptions.

1. Any business which operates exclusively as a state licensed motor vehicle impound lot, provided that said business meets any applicable health or safety regulations of the city. Such impound lot is one wherein there are kept, or stored, solely to the exclusion of others, vehicles delivered by, or stored at, the request of the state, county, municipality, or agency thereof.
 2. Modifications to the fence requirements may be made by the planning and zoning commission upon review and approval of a site plan presented by the owner at a public hearing. Such modifications may not be granted unless there is evidence of, and the commission makes, the findings set forth in section 48-27(b)(7).
- (2) The manufacture, processing, blending, mixing, refining, storage, or distribution of the following products as defined in the Standard Fire Prevention Code and other applicable codes: explosives, blasting agents, flammable or combustible gases, solids, or liquids, hazardous chemicals, and liquefied petroleum gases where the storage exceeds that allowed for LP Gas in either the M-1 or M-2 districts. Excluded from this section, however, is the storage of incidental cleaning products, the retail sale of certain hazardous materials when packaged for sale at normal retail stores, and the underground storage of bulk fuel. In addition to the requirements of section 48-27, a report shall be submitted to the commission by the city fire marshal regarding the application of this special use stating the recommendations of that office.
- (3) Any use not permitted in the zoning districts of this article may be considered for a special use permit following the procedures as set forth in section 48-27.

(Ord. No. 235, § 28.2, 6-22-1993)

Sec. 48-29. Official Zoning Map.

The official zoning map for the city is on file in the office of the city secretary.

(Ord. No. 235, 6-22-1993)

Secs. 48-30—48-46. Reserved.

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 48-47. AG Agricultural District.

- (a) *Purpose.* The AG Agricultural District is designed for application to large tracts of a rural or semi-rural character and is intended to prevent isolated and premature urban land uses from locating on lands presently in use for agricultural, ranching and certain urban support uses requiring large land uses. It is intended that the AG district may be replaced by other district classifications at such time as market demand prompts more intense urban land use activities, subject to the availability of utilities and streets, and compatibility with existing developments.
- (b) *Uses permitted.* The following use types are permitted in the AG district:
- (1) Single-family residential.
 - (2) Modular residential.
 - (3) Mobile home.
 - (4) Quarters for hired help (as accessory buildings).
 - (5) Municipal animal control facility, water and wastewater facilities.
 - (6) Golf course.
 - (7) Public park and recreation services and facilities.
 - (8) Clubs: FFA/4H.
 - (9) Experiment station.
 - (10) Farmers market.
 - (11) Farming.
 - (12) Game preserves.
 - (13) Garden center.
 - (14) Grain storage.
 - (15) Grazing.
 - (16) Horticulture.
 - (17) Livestock exhibition and sales facilities.
 - (18) Pasture.
 - (19) Public sanitary landfill facilities.
 - (20) Plant nursery.
 - (21) Poultry production.
 - (22) Ranches.
 - (23) Riding academy.
 - (24) Stables.
 - (25) Tree service.
 - (26) Truck farms.
 - (27) Veterinary clinics.

(28) Office and storage facilities (enclosed) incidental to the use listed.

(29) Home occupations.

(30) Any use judged to be a similar use with similar effects upon the property and adjoining property, but not specifically listed in this subsection (b), or elsewhere in this article.

(c) *Lot area, width, yard and height regulations.* Each site in the AG Agricultural District shall meet the following requirements:

Site Component	Standard>
Lot area	Minimum: Three acres
Lot width	Minimum: 200 feet
Lot density	There shall not be more than three dwelling units for the first three acres, and not more than one dwelling per every ten acres thereafter. In no case shall there be more than one mobile home for the entire parcel of land. Communal living quarters for hired help shall be considered as an accessory building, and not counted as a dwelling unit
Floor area ratio	No requirement
Height	Maximum: 35 feet
Street yard	Minimum required setback: 50 feet
Interior yard	Minimum required setback: 25 feet
Building coverage	Maximum coverage: 30 percent
Impervious coverage	Maximum coverage: 50 percent
Usable open space	No requirement

(1) *Parking.* Off-street parking shall be in accordance with the provisions of division 7, subdivision III of this article.

(2) *Signs.* Signs shall be in accordance with the provisions of division 7, subdivision IV of this article.

(Ord. No. 235, § 7, 6-22-1993)

Secs. 48-48—48-67. Reserved.

DIVISION 3. RECREATIONAL DISTRICTS

Sec. 48-68. OSR Open Space-Recreation District.

(a) *Purpose.* The OSR Open Space-Recreation District is intended to be used in those areas where the recreational potential of the land, whether public or private, is judged by the city to be the highest and best use of the land; or applied to lands which contain areas of critical environmental importance whether flood zones, steeply sloping hillsides, scenic vistas, or other areas that should be preserved in their natural or semi-natural state.

(b) *Uses permitted.* The following use types are permitted in the OSR district:

- (1) Publicly owned and operated parks, playgrounds, recreation facilities and open spaces.
- (2) Community recreation facilities for use by residents and guests of a particular residential development, such as tennis courts, marinas, playgrounds, etc.
- (3) Campground facilities providing camping or parking areas and incidental services for travelers.

- (4) Outdoor sports and recreation conducted in open or partially enclosed or screened facilities, including, but not limited to, golf courses, swimming pools, tennis or racquetball courts.
 - (5) Outdoor entertainment to include sports arenas, racing facilities, amusement parks, lakes and water sports.
 - (6) Game preserves.
 - (7) Uses incidental to the permitted uses, such as offices, club houses, dressing rooms, showers, rest rooms, and guest quarters which may be rented or leased for short or long terms.
 - (8) Any uses judged to be a similar use with similar effects upon the property, but not specifically listed in subsections (b)(1) through (b)(7) of this section, or elsewhere in this article.
- (c) *Lot area, width, yard and height regulations.* Each site in the OSR Open-Space-Recreation District shall meet the following requirements:

Site Component	Standard
Lot area	Minimum: None
Lot width	Minimum: None
Lot density	N/A
Floor area ratio	N/A
Height	Maximum: 35 feet
Street yard	Minimum required setback: 50 feet
Interior yard	Minimum required setback: 25 feet
Building coverage	Maximum coverage: 30 percent
Impervious coverage	Maximum coverage: 50 percent
Usable open space	No requirement

- (1) *Parking.* Off-street parking shall be in accordance with the provisions of division 7, subdivision III of this article.
 - (2) *Signs.* Signs shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (Ord. No. 235, § 8, 6-22-1993)

Secs. 48-69—48-94. Reserved.

DIVISION 4. RESIDENTIAL DISTRICTS

Sec. 48-95. Estate Single-Family District.

- (a) *Purpose.* The purpose of the Estate Single-Family District is to provide for areas of large lot single-family residences. These areas would not be considered suitable for business, nor higher density residential.
- (b) *Uses permitted.* The following use types are permitted in the Estate district:
 - (1) Single-family site built dwellings.
 - (2) Accessory buildings, including servants' or guest quarters, and detached garages.
 - (3) Home occupation.
 - (4) Private neighborhood parks and playgrounds, provided that no main building or swimming pool located in that private park or playground equipment shall be located closer than 75 feet from any other lot.

- (c) *Conditional uses.* The following use types are conditional uses in the Estate district:
- (1) Public parks or playgrounds.
 - (2) Churches or other places of worship and Sunday schools.
 - (3) Nursery schools and day care centers, provided that such schools/centers are located in a residential structure that remains in appearance as a residential structure.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (Ord. No. 235, § 9, 6-22-1993)

Sec. 48-96. R-1 Single-Family District.

- (a) *Purpose.* The purpose of the R-1 Single-Family District is to provide areas of moderate sized lots for single-family residential detached dwellings and to offer those residing families protection from the encroachment of business or higher density residential uses. However, it is also the intent of this district to allow on a conditional basis certain limited businesses, two-family residences, modular homes, or community/public land uses, but only after an approval at a public hearing in front of the planning and zoning commission.
- (b) *Uses permitted.* The following use types are permitted in the R-1 district: all permitted uses in the Estate Single-Family District.
- (c) *Conditional uses.* The following use types are conditional uses in the R-1 district:
- (1) Any conditional use listed in the Estate district.
 - (2) Two-family dwellings.
 - (3) Civic/community uses:
 - a. Administrative services.
 - b. Local utility services.
 - c. Municipal maintenance and service facilities.
 - d. Park and recreation services and facilities.
 - e. Public utility substations, gas compressor or regulator station; radio or television broadcasting transmitter or tower, microwave relay tower, pump houses or lift stations, high-power transmission lines.
 - f. Public library or museum.
 - g. Elementary school, nursery school, kindergarten or day care for children, whether public or private.
 - (4) Neighborhood businesses.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.

(Ord. No. 235, § 10, 6-22-1993)

Sec. 48-97. Reserved.

Editor's note(s)—Ord. No. 235-GG, § 11, adopted Aug. 11, 2015, repealed § 48-97, which pertained to R-1A single-family district and derived from Ord. No. 235, § 11, 6-22-1993.

Ord. No. 235-GG further stipulated that "areas already zoned R-1A Single Family District will continue to follow the guidelines as required. All future residential uses will be R1 Single Family District or other districts such as R2 or Estate."

Sec. 48-98. R-2 Two-Family District.

- (a) *Purpose.* The purpose of the R-2 Two-Family District is to permit areas of moderate residential density, including two-family homes as well as single-family. The basic desired character of these areas remains residential. However, it is also the intent of this district to allow on a conditional basis certain limited businesses, three or four dwelling unit buildings, modular homes, or community/public land uses, but only after an approval at a public hearing in front of the planning and zoning commission.
- (b) *Uses permitted.* The following use types are permitted in the R-2 district:
 - (1) All permitted uses in the Estate Single-Family District.
 - (2) Two-family dwellings.
 - (3) Zero lot line dwellings, provided that the dwellings meet all the platting requirements of the R-C zone for zero lot line dwellings.
 - (4) Churches, other places of worship, Sunday schools.
- (c) *Conditional uses.* The following use types are conditional uses in the R-2 district:
 - (1) All conditional uses allowed in the R-1 Single-Family District, not otherwise listed in subsection (b) of this section as a permitted use.
 - (2) Three- or four-family dwellings.
 - (3) Neighborhood business.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (g) *Performance standards.* Performance standards shall be in accordance with section 48-27.

(Ord. No. 235, § 12, 6-22-1993)

Sec. 48-99. R-LB Residential-Limited Business District.

- (a) *Purpose.* The purpose of the R-LB Residential-Limited Business District is to provide for areas where a mix of uses which are low to moderate density residential and limited business can be properly blended. The basic character of the area is to remain residential, but with permitted uses allowing two- or three-family units and limited businesses. One intent of this district is to be used in older residential areas that are in a transition phase from single-family dwellings. The district would allow some conversion of existing homes to two- or three-family dwellings, or offices, or other very limited businesses in order to encourage redevelopment, but

grant protection to the remaining single-family homes from the normal effects of zone changes to multifamily or commercial zoning. The design of all new construction, rehabilitation, or reconstruction shall be similar to that of the single-family home.

(b) *Uses permitted.* The following use types are permitted in the R-LB district:

- (1) All permitted uses in the R-2 Two-Family District.
- (2) Three-family dwellings.
- (3) Professional and business offices such as physician, dentist, artist, lawyer, engineer, planner, architect, accountant, real estate, insurance, or similar offices, provided that retail and wholesale sales shall not be permitted except as a minor, incidental service to the permitted use.
- (4) Public parks and recreation facilities.
- (5) Public library or museums.
- (6) Art gallery, dance, music or drama studio, and sale of related work or goods as a part of the gallery or studios.
- (7) Health, exercise or weight control studios.
- (8) Children's day care facility/nursery.
- (9) Neighborhood businesses.
- (10) Public/private elementary schools.
- (11) Administrative services.
- (12) Restaurants, convenience.
- (13) Cemetery or mausoleum.

(c) *Conditional uses.* The following use types are conditional uses in the R-LB district:

- (1) All conditional uses listed in the R-1 R-2 districts, not otherwise listed in subsection (b) of this section as a permitted use.
- (2) Clubs and lodges.

(d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.

(e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.

(f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.

(g) *Performance standards.* The exterior design of all new construction, rehabilitation, or reconstruction of any building within this district shall appear to be a residence from the outside.

(Ord. No. 235, § 13, 6-22-1993)

Sec. 48-100. R-C Residential Cluster District.

(a) *Purpose.* It is the intent of the R-C Residential Cluster District to provide for the development of moderate-density residential uses and structures. In fulfilling the intent of this district, the townhouse or rowhouse concept may be used which permits the construction of single-family dwellings immediately adjacent to one another without side yards between the individual units and which units may or may not be structurally connected. The intent of this district may also be fulfilled by the use of the zero lot line concept (patio/garden homes), permitting the construction of single-family dwellings on lots without a side yard requirement. This

concept permits better use of the entire lot by condensing the usual front, rear and side yards into one or more internal gardens or patios.

- (b) *Uses permitted.* The following use types are permitted in the R-C district:
- (1) Any and all uses permitted in the R-2 residential zone.
 - (2) Townhouse projects as a cluster development.
 - (3) Zero lot line dwellings as a cluster development.
 - (4) Condominiums as described in subsection (d)(4) of this section.
- (c) *Conditional uses.* The following use types are conditional uses in the R-C district: any conditional use allowed in the R-2 zone.
- (d) *Lot area, width, yard and height regulations.* All building setback requirements listed in subsections (d)(1) through (d)(4) of this section are to be measured from the property line when adjoining a public street, and from the back of curb when adjoining a private drive.
- (1) Townhouses.
 - a. Minimum lot width: 24 feet.
 - b. Area/dwelling: Total land area minus area dedicated to public divided by total number of dwellings equals 2400 square feet.
 - c. Maximum building height: 35 feet.
 - d. Minimum side yard: None, except in the following situations:
 1. 15 feet on corner lots.
 2. Ten feet when abutting the property line of the perimeter of the townhouse subdivision.
 3. Ten feet when abutting property zoned for single- or two-family residences.
 4. Ten feet when abutting single- or two-family residences within the R-C zone.
 - e. Minimum front yard:
 1. When fronting on arterial street: 25 feet.
 2. When fronting collector or minor streets: 20 feet.
 3. When rear entry access is provided, the front yard when fronting minor streets may be reduced to 15 feet.
 - f. Minimum rear yard:
 1. When abutting on arterial street: 25 feet.
 2. When abutting collector or minor streets: 20 feet.
 3. When abutting the development property line: 15 feet.
 - g. Other setback or yard requirements are intended to allow lot sizes to vary and distances are measured differently in various situations as described in this subsection:
 1. When opposite rows of townhouses face each other without also facing a private drive or public street, the separation between buildings shall be as follows:
 - (i) 30 feet; provided, however, that this shall not preclude the ability to offset individual townhouses where it is not desired to have townhouses in one line. The 30 feet shall be measured between townhouses directly across the court space and not on an angle to adjoining two houses.

- (ii) Where two rows of townhouses are built at approximately a 90 degree angle to each other, a minimum space of 20 feet shall be maintained between any portion of the side of one building and the front/rear of the other.
 - 2. When two rows of buildings face a private drive, a minimum distance of 15 feet shall be maintained between the building and curb, except that each carport/garage shall be set back from the curb a minimum of 19 feet.
 - 3. When the private drive is accessed by from only one row of townhouses, the minimum setback requirement for that row of townhouses shall be six feet. This shall also be the case in situations where opposite rows of dwellings each face upon a private drive, which drive is divided by an open space (median, boulevard, or other suitable space) effectively separating the two drives.
 - 4. When one row of dwellings face or back to the development property line, a minimum setback of 15 feet shall be maintained, unless the property line abuts a public street.
- (2) Zero lot line homes.
- a. Minimum lot width: 30 feet.
 - b. Area/dwelling: Total land area-area dedicated to public total number of dwellings: 3,000 square feet.
 - c. Maximum building height: 35 feet.
 - d. Minimum side yard: Except as described in subsection (h)(5) of this section, the zero lot line home shall be built with one side wall on one property line, whether that wall is an exterior wall or whether it abuts the side wall of another similar unit or whether it shares one common wall with another similar unit. The opposite side yard shall be a minimum of ten feet in all cases except a corner lot where it shall be a minimum of 15 feet. The side yard abutting the development property line shall be a minimum of ten feet. Where two rows of zero lot line homes are built at approximately a 90 degree angle to each other, a minimum space of 20 feet shall be maintained between any portion of the side of one building and the front/rear of the other.
 - e. Minimum front yard: Same as in a townhouse project.
 - f. Minimum rear yard: Same as in a townhouse project.
- (3) *R-1/R-1A/R-2 uses*. Lots used for single-family detached dwellings shall be designated on the subdivision plat and approved by the commission.
- a. Minimum lot width: 40 feet.
 - b. Minimum lot area per dwelling: 5,000 square feet.
 - c. Maximum building height: 35 feet.
 - d. Minimum side yard setback: Five feet, or a minimum of ten feet between buildings. In all cases, a 15 foot corner lot side yard is required.
 - e. Minimum front or rear yard setback: Same as for townhouses.
- (4) *Condominiums*. Dwellings may be developed under a condominium arrangement in this district without platting individually owner lots; provided, however, that all density, setbacks, yard, area, height, and parking requirements shall be the same as required for townhouses or zero lot line homes, whichever is applicable. In a situation where the condominium arrangement is similar to a townhouse site plan, then the minimum building width for the condominiums shall be the same as the minimum townhouse lot width.
- (5) *Other*. For other height, area or setback requirements, see division 7, subdivision II of this article.

- (e) *Common courts.* Cluster residential projects may be designed with common areas, referred to as common courts. These courts shall be maintained in private ownership and shall be platted either as separate lots owned in common by all property owners, or as an easement across the private lots. The allowed joint uses of all owners shall be clearly indicated on the plat. Common courts shall meet the following minimum criteria, subject to commission approval:
- (1) If used for vehicular purposes:
 - a. All private drives shall be constructed in a manner to meet minimum city specifications for public streets, except as those standards pertain to the minimum width requirements. Plans shall be approved by the city engineer.
 - b. No common drive shall be in excess of 500 feet if a dead end, nor shall a common drive serve more than 20 dwellings if a dead end.
 - c. There shall be a clearly painted 20-foot wide fire lanes where the city fire marshal so recommends. Signs shall also be posted to clearly warn residents of the fire lane which shall prohibit all parking.
 - d. Pavement widths shall be measured from face of curb to face of curb.
 - e. No parking shall be allowed in the common drive unless extra width is added to accommodate the 20 foot fire lane plus parking.
 - f. No private drive shall provide access to adjoining property.
 - g. Dead-end private drives in excess of 100 feet in length shall be provided with a suitable turnaround for emergency vehicles. Said turnaround need not be a cul-de-sac as described in the public street design criteria, but shall be approved by the planning and zoning commission.
 - (2) All pedestrian common courts shall be landscaped as approved by the commission in a site plan, or in accordance with landscaping policy set by the commission and approved by the city planning department.
- (f) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (g) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (h) Other design criteria.
- (1) For townhouses and zero lot line homes, no windows, doors or other openings shall be permitted in the wall that rests upon any lot line.
 - (2) All townhouse projects shall be encouraged to design communal garbage disposal units with proper fencing, walls or landscaping.
 - (3) A series of townhouse dwelling units shall not exceed eight units in number, nor exceed 250 linear feet in length. Between end units in two rows of townhouses not facing each other, there shall be an open space of 20 feet.
 - (4) One end home in a series of zero lot line homes may be detached and not placed with a wall on a property line if the lot is a corner lot and the unit has a 15-foot setback to the one street side and a ten foot setback to the interior lot line.
 - (5) Impervious surfaces shall not cover more than 75 percent of the entire tract held in private ownership.
 - (6) Each subdivision plat designating lots for zero lot line homes shall contain restrictions providing for maintenance/drainage easements along the side lot line abutting the zero lot line sides of each dwelling.
- (i) *Homeowners' associations/condominium associations.* Each development that contains commonly owned property shall have prepared the necessary documents which shall include a clearly written statement that the city shall never be responsible for the maintenance of any private facilities or drives, a fee schedule for the

homeowners to provide for the maintenance of common areas, and an enforceable and legal method for the collection of said fees. These documents shall be approved by the city attorney's office.

(Ord. No. 235, § 14, 6-22-1993)

Sec. 48-101. R-3 and R-3A Multifamily Districts.

- (a) *Purpose.* The purpose of the R-3 and R-3A Multifamily Districts is to provide for a variety of housing types, but primarily moderate density apartments or condominiums. This zoning district is the first of the zoning districts which should be located on major streets with the appropriately sized utility services necessary for higher density residential uses.
- (b) *Uses permitted.* The following use types are permitted in the R-3 and R-3A districts:
 - (1) Any use permitted in the R-2 Two-Family District, or R-C Residential-Cluster District, provided that for R-C developments, the property is platted in accordance with the R-C requirements.
 - (2) Multifamily dwellings, including apartments and condominiums.
 - (3) Children's day care or nursery facilities.
 - (4) Public parks, playgrounds, and recreational facilities.
 - (5) Public or private elementary schools.
 - (6) Churches or other places of worship and Sunday schools.
 - (7) Residential care services.
- (c) *Conditional uses.* The following use types are conditional uses in the R-3 and R-3A district:
 - (1) All conditional uses listed in the R-LB district, not otherwise listed as a permitted use in subsection (b) of this section.
 - (2) Club/lodge.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.

(Ord. No. 235, § 15, 6-22-1993)

Sec. 48-102. R-M Residential-Modular District.

- (a) *Purpose.* The purpose of the R-M Residential-Modular District is to provide for subdivisions planned for the placement of single-family detached dwellings approved by the state as modular homes. Single-family detached site-built homes or industrialized housing may also be constructed on any of the lots within this district. The R-M district should be treated as a single-family zone and protected in that environment as the other single-family zones in the city.
- (b) *Uses permitted.* The following use types are permitted in the R-M district:
 - (1) All uses in the R-1 Single-Family District.
 - (2) Modular homes, site-built homes or industrialized housing, but not including manufactured home rental communities.

- (c) *Conditional uses.* The following use types are conditional uses in the R-M district: All conditional uses listed in the R-1 Single-Family District.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (g) *Plan requirements.* A plan for the proposed subdivision shall be submitted for approval by the city. The plan:
 - (1) Shall include, as a minimum:
 - a. A description of the outer boundaries of the proposed subdivision or park;
 - b. A plan for paved private streets and parking areas;
 - c. A plan for entrances/exits;
 - d. A plan for fencing all or a part of the outer perimeter of the development; and
 - e. Construction standards, skirting, permanent foundations.
 - (2) May be submitted as a map or site plan, or in narrative form or a combination of the two.
 - (3) May be approved, disapproved, or approved with modifications by the city, and shall be incorporated as a part of the ordinance changing the zoning.

(Ord. No. 235, § 16, 6-22-1993)

Sec. 48-103. M-H Manufactured Housing District.

- (a) *Purpose.* The purpose of the M-H Manufactured Housing District is to provide for subdivisions and rental communities for manufactured housing.
- (b) *Uses permitted.* The following use types are permitted in the M-H district:
 - (1) *Mobile home park.* A mobile home park which is unified development for rental purposes, approved by the planning and zoning commission, consisting of mobile home sites, plots, and/or provisions for transient travel trailer accommodations on a tract of land under a single ownership and management, containing at least three acres, with not more than ten sites for manufactured housing, exclusive of trailer campers, per acre. The commission may require a larger area if, in its judgment, the larger development would be more harmonious with adjoining properties.
 - a. Accessory buildings and uses customarily incident to above uses, including manager's dwelling unit and office, storage building, restrooms, wash rooms, bath house, in conjunction with a swimming pool, for the private use of the occupants of the park, recreation building, and similar uses.
 - b. Auxiliary or incidental business operated for the sole convenience of the park residents only as follows: food market, personal services, restaurant and mobile home or travel trailer sales. Said auxiliary or incidental uses shall be located at least 100 feet from any public street.
 - c. One lighted identification sign not exceeding 100 square feet of sign area may be established on the premises of the trailer park; provided, however, that said sign may be double faced.
 - (2) *Manufactured housing subdivision.* This is a subdivision approved by the planning and zoning commission and may consist of lots for manufactured homes, industrialized housing, and site built homes. Commission approval of any such subdivision shall consider the need to ensure that the subdivision is of sufficient size so as to create an integral subdivision and not a small island of manufactured housing within a larger area

of site built homes. A minimum size of three acres is required, but the commission may require more if, in its judgment, a larger subdivision would be more harmonious with adjoining properties. This type of subdivision can be created new, or the zoning district may be applied to an existing platted area within the city.

- (3) RV parks can allow recreational resort cottages with a minimum of 400 square feet to a maximum of 700 square feet with wooden piers or steel frames. They must have skirting, be tied down and meet building codes in effect.

(c) Home requirements.

- (1) All homes, porches and other additions will be skirted with necessary vents, screen and manways, and will be kept closed at all times unless in use. Foundations to support said homes shall be either poured concrete or solid blocks. No wood support will be allowed.
- (2) Skirting, porches, awnings and other additions, when installed, shall be maintained in good repair. The use of space immediately underneath a manufactured home shall not be used for storage.
- (3) All manufactured homes shall be anchored in accordance with state law governing such anchoring.
- (4) All homes shall have a covered carport or garage with an attached storage room with a minimum of 50 square feet with a door, which will be kept closed at all times, unless in use.
- (5) All manufactured homes, when moved in, must not be older than five years old and be a minimum of 12 feet wide by 60 feet long and must meet all state requirements for manufactured homes.
- (6) Homes of the wood pier and beam construction type will not be allowed to be moved into the subdivision, unless said home is of new construction.
- (7) Site built homes must have a minimum of 900 square feet living area with an attached carport or garage.

(d) Location.

- (1) No residence or other structure permitted in this zone may be erected, altered, placed, moved, or converted on any lot or tract unless said lot or tract is in conformity with all minimum area regulations specified in this section.
- (2) No manufactured housing may be parked or stored within this zoning district without being set-up, anchored, connected to utilities and either occupied or ready for occupancy.
- (3) Manufactured housing is not allowed in any zoning district other than the M-H or R-M districts, as permitted, with the exception of sales lots for said housing when located in a district permitting those sales.

(e) Size of lot or space.

- (1) Mobile home park.
 - a. Minimum lot width: 40 feet.
 - b. Minimum lot area: 3,600 square feet, except for travel trailers, which shall be determined by the commission.
- (2) Manufactured homes.
 - a. Minimum lot width: 50 feet.
 - b. Minimum lot area: 5,000 square feet.
- (3) *Previously subdivided lots in mobile home zone.* Such lots shall not be reduced in size below the minimum lot size established in subsection (e)(2) of this section.

(f) Yards, setbacks and height limits for rental communities.

- (1) Front yards: 20 feet. For existing mobile home parks, setbacks for the front and rear yards may be reduced to less than the required provided that the home is not placed closer to the lot lines than the average setback of homes on the same side of the same block, and provided that off-street parking is established in accordance with this chapter.
 - (2) Side yards: Five feet.
 - (3) Rear yards: Ten feet. For existing mobile home parks, setbacks for the front and rear yards may be reduced to less than the required provided that the home is not placed closer to the lot lines than the average setback of homes on the same side of the same block, and provided that off-street parking is established in accordance with this chapter.
 - (4) Building height limits: 15 feet.
 - (g) *Height, area, and setback regulations for subdivisions.* Height, area, and setback regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
 - (h) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
 - (i) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
 - (j) *Plan requirements.* A plan for the proposed manufactured housing development shall be submitted for approval by the city. The plan:
 - (1) Shall include, as a minimum:
 - a. A description of the outer boundaries of the proposed subdivision or park;
 - b. A plan for paved private streets and parking areas;
 - c. A plan for entrances/exits;
 - d. A plan for fencing all or a part of the outer perimeter of the development;
 - e. The proposed density of the park; and
 - f. Construction standards, skirting and permanent foundations.
 - g. The relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.
 - (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
 - (3) May be submitted as a map or site plan, or in narrative form or a combination of the two.
 - (4) May be approved, or disapproved, or approved with modifications by the city, and shall be incorporated as a part of the ordinance changing the zoning.
- (Ord. No. 235, § 17, 6-22-1993; Ord. No. 235-E, § 17.1(2-A), 10-8-1996; Ord. No. 522, 6-8-2021)

Secs. 48-104—48-134. Reserved.

DIVISION 5. COMMERCIAL/INDUSTRIAL DISTRICTS

Sec. 48-135. C-1 Neighborhood Commercial District.

- (a) *Purpose.* The purpose of the C-1 Neighborhood Commercial District is to provide for office and limited business activities which may be located abutting residential neighborhoods and which will fit harmoniously into and will service primarily the adjacent residential neighborhoods. Neighborhood commercial districts should be located on either collector or arterial streets.
- (b) *Uses permitted.* The following use types are permitted in the C-1 district:
- (1) All uses allowed in the R-3 Multifamily District.
 - (2) Administrative and business offices.
 - (3) Administrative services.
 - (4) Club/lodge.
 - (5) Community recreation.
 - (6) Consumer repair services.
 - (7) Cultural services.
 - (8) Local utility services.
 - (9) Medical offices.
 - (10) Neighborhood businesses.
 - (11) Park and recreation services and facilities.
 - (12) Personal and personal improvement services.
 - (13) Professional offices.
 - (14) Primary education facilities.
 - (15) Residential care services.
 - (16) Restaurants, convenience.
 - (17) Safety services.
- (c) *Conditional uses.* The following use types are conditional uses in the C-1 district:
- (1) All conditional uses allowed in the R-1 zone not otherwise listed as a permitted use.
 - (2) Cemetery, mausoleum, crematorium.
 - (3) Convalescent services.
 - (4) Convenience storage.
 - (5) Financial services.
 - (6) Guidance services.
 - (7) Pet services.
 - (8) Plant nurseries.
 - (9) Postal facilities.
 - (10) Public assembly.

- (11) Restaurant, general.
 - (12) Secondary education facilities.
 - (13) Service stations.
 - (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
 - (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
 - (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (Ord. No. 235, § 18, 6-22-1993)

Sec. 48-136. C-2 General Commercial District.

- (a) *Purpose.* The purpose of the C-2 General Commercial District is to provide for those retail businesses, offices and services requiring locations in a highly active business climate with access to streets designated as arterial streets on the city's circulation plan. The term "access" means driveway locations that direct traffic onto the arterial streets and not into residential areas. This zone permits moderate to high density residential, but excludes the construction of new single- or two-family dwellings, except as a conditional use.
- (b) *Uses permitted.* The following use types are permitted in the C-2 district:
 - (1) All uses allowed in the C-1 Neighborhood Commercial District, except that single-family detached dwellings and two-family dwellings are not a permitted use; however, existing one- or two-family dwellings are valid nonconforming uses and may be enlarged or structurally altered notwithstanding the provisions of section 48-25(b).
 - (2) Agricultural sales and service.
 - (3) Automotive/boat rental/services.
 - (4) Automotive/boat sales and repair.
 - (5) Automotive and equipment services.
 - (6) Building maintenance services.
 - (7) Business support services.
 - (8) Business/trade school.
 - (9) Campground.
 - (10) Cemetery.
 - (11) Cocktail lounge.
 - (12) College or university facilities.
 - (13) Commercial off-street parking.
 - (14) Communications services.
 - (15) Convalescent services.
 - (16) Convenience storage.
 - (17) Day care services.
 - (18) Equipment sales and service.

- (19) Farmers market.
 - (20) Financial services.
 - (21) Food sales.
 - (22) Funeral services.
 - (23) Garden center.
 - (24) General retail sales.
 - (25) Guidance service.
 - (26) Horticulture/tree service.
 - (27) Hospital services.
 - (28) Hotels/motels.
 - (29) Kennels.
 - (30) Laundry services.
 - (31) Liquor sales (off-premises).
 - (32) Lumber yards which are fenced on all sides abutting a residential district with a solid wood, rock or masonry fence of a minimum height of six feet and of a character as would be found in a residential zone.
 - (33) On-premises sales and consumption of alcoholic beverages.
 - (34) Outdoor sports/recreation.
 - (35) Pet services.
 - (36) Plant nurseries.
 - (37) Postal facilities.
 - (38) Professional and medical offices.
 - (39) Public assembly.
 - (40) Recreation, commercial
 - (41) Recreational vehicle park and sales, service and repair.
 - (42) Research services.
 - (43) Restaurants, general.
 - (44) Secondary education facilities.
 - (45) Transportation terminals.
 - (46) Veterinary services.
 - (47) Any use judged to be a similar use with similar effects upon the property and adjacent property not otherwise listed as a permitted, conditional, or prohibited use in this article.
- (c) *Conditional uses.* The following use types are conditional uses in the C-2 district:
- (1) Construction materials sales and services.
 - (2) Custom manufacturing.
 - (3) Detention facilities
 - (4) Maintenance and service facilities.

- (5) Mobile home sales and service.
 - (6) Resource extraction.
 - (7) Single- or two-family residences.
 - (8) Trucking and transportation services.
 - (9) Vehicle storage.
 - (10) All uses allowed in C-1, R-1, R-2, R-3 and R-3A districts.
 - (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
 - (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
 - (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (Ord. No. 235, § 19, 6-22-1993)

Sec. 48-137. C-3 Central Business District.

- (a) *Purpose.* The purpose of the C-3 Central Business District is to provide for a core area of the city which serves as a highly intense business center, and because of the significant development density, this district has special needs which have been translated into this article in the form of height, area, and parking regulation adjustments which encourage the growth of such a core business center of the city This district is also intended to provide for high density residential or mixed residential-commercial use.
- (b) *Uses permitted.* The following use types are permitted in the C-3 district:
 - (1) Multifamily dwellings, or any residential dwelling built within the same building as a commercial business.
 - (2) All uses allowed in the C-2 General Commercial District, except as may be listed in subsection (c) of this section.
 - (3) Detention facilities.
 - (4) Any use judged to be a similar use with similar effects upon the property and adjacent property not otherwise listed as a permitted, conditional, or prohibited use in this article.
- (c) *Conditional uses.* The following use types are conditional uses in the C-3 district:
 - (1) Dwellings, single-family.
 - (2) Dwellings, two-family.
 - (3) Funeral services.
 - (4) Outdoor sports and recreation, commercial.
 - (5) Transportation terminals.
 - (6) Veterinary services.
 - (7) All uses allowed in the C-1 and C-2 districts.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.

(Ord. No. 235, § 20, 6-22-1993)

Sec. 48-138. C-4 Heavy Commercial District.

- (a) *Purpose.* The purpose of the C-4 Heavy Commercial District is to provide for certain quasi-industrial uses that should not normally be considered industrial uses, but quite often have operating characteristics or traffic service requirements incompatible with residential, office or limited commercial uses within the district or abutting it. The permitted uses include the type described above and other commercial uses that can be compatible with these quasi-industrial uses. The C-4 district is the type of district that should have direct access to an arterial street, as described in the C-2 district.
- (b) *Uses permitted.* The following use types are permitted in the C-4 district:
- (1) Agricultural sales and service.
 - (2) Building maintenance services.
 - (3) Business support services.
 - (4) Commercial off-street parking.
 - (5) Communication services.
 - (6) Construction sales and service.
 - (7) Consumer repair services.
 - (8) Convenience storage.
 - (9) Farmers market.
 - (10) Garden center.
 - (11) Horticultural/tree services/plant nurseries.
 - (12) Laundry services.
 - (13) Lumber yards, provided that any outdoor storage shall be fenced along all property lines which abut a residential district with a solid wood, rock or masonry fence of a minimum height of six feet and a character as would be found in a residential zone. Abutting residential districts shall include those across a street from the lumber yard.
 - (14) Manufacturing, custom.
 - (15) Manufacturing, limited, and product assembly.
 - (16) Mobile home sales/service.
 - (17) Postal facilities.
 - (18) Research services.
 - (19) Safety services.
 - (20) Transportation terminals.
 - (21) Trucking and transportation facilities.
 - (22) Utility services, local.
 - (23) Warehousing and distribution, limited.
 - (24) Any use judged to be a similar use with similar effects upon the property and adjacent property not otherwise listed as a permitted, conditional, or prohibited use in this article.

- (c) *Conditional uses.* The following use types are conditional uses in the C-4 district:
- (1) Administrative and business offices.
 - (2) Automotive/boat sales, rental and repair service.
 - (3) Automotive and equipment services.
 - (4) Business/trade school.
 - (5) Cemetery.
 - (6) Cocktail lounge, and other on-premises sales and consumption of alcoholic beverages.
 - (7) Day care services.
 - (8) Detention facilities.
 - (9) Equipment sales and repair services.
 - (10) Food sales.
 - (11) General retail sales.
 - (12) Guidance services.
 - (13) Kennels.
 - (14) Maintenance/service facilities.
 - (15) Park and recreation services.
 - (16) Personal improvement services.
 - (17) Personal services.
 - (18) Pet services.
 - (19) Professional and medical offices.
 - (20) Public assembly.
 - (21) Recreation, commercial.
 - (22) Recreational vehicle park and sales, service and repair.
 - (23) Religious assembly.
 - (24) Residential, multifamily.
 - (25) Restaurants, convenience and general.
 - (26) Service stations.
 - (27) Utility facilities, major.
 - (28) Vehicle Storage.
 - (29) Veterinary services.
 - (30) All uses allowed in the C-1, C-2, C-3, R-1, R-2, R-3 and R-3A districts.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.

(Ord. No. 235, § 21, 6-22-1993)

Sec. 48-139. M-1 Light Industrial District.

- (a) *Purpose.* The purpose of the M-1 Light Industrial District is to provide for areas in which manufacturing and other light industries are encouraged to develop. With that intent, residential and lighter commercial uses are not permitted unless on a conditional basis. An M-1 zone should have direct access to an arterial street, as described in the C-2 zone.
- (b) *Uses permitted.* The following use types are permitted in the M-1 district:
 - (1) All permitted uses in the C-4 Heavy Commercial District.
 - (2) General warehousing and distribution.
 - (3) Light manufacturing and product assembly.
 - (4) Lumber yards.
 - (5) LP gas storage to 3,000 gallons water storage capacity with a hazardous materials permit obtained from the city fire department.
 - (6) Any use judged to be a similar use with similar effects upon the property and adjacent property not otherwise listed as a permitted, conditional or prohibited use in this article.
 - (7) All permitted uses in the M-1 district shall be limited to 150,000 square feet of gross building area. Hazardous materials as outlined in section 48-28 shall not be permitted in any zoning district without a special use permit as described in section 48-27.
- (c) *Conditional uses.* The following use types are conditional uses in the M-1 district:
 - (1) All conditional uses listed in the C-4 Heavy Commercial District, except multifamily dwellings.
 - (2) Resource extraction, and ready mix concrete plants.
 - (3) M-1 district uses that exceed 150,000 square feet.
 - (4) All uses allowed in the C-1, C-2 and C-3 districts.
- (d) *Lot area, width, yard and height regulations.* Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.

(Ord. No. 235, § 22, 6-22-1993)

Sec. 48-140. M-2 Heavy Industrial District.

- (a) *Purpose.* The purpose of the M-2 Heavy Industrial District is to provide for locations suitable for industrial, manufacturing, and similar land uses that may produce more significant off-site impacts such as noise, traffic or other potentially negative impacts, except those defined as hazardous materials and listed in section 48-28. Traffic access shall be as defined for the M-1 district.
- (b) *Uses permitted.* The following use types are permitted in the M-2 district:
 - (1) Any use permitted in the M-1 Light Industrial District and the C-3 district with the addition that all uses may build with unlimited square footage.
 - (2) Airports.

- (c) *Conditional uses.* The following use types are conditional uses in the M-2 district:
- (1) All conditional uses listed in the M-1 Light Industrial District.
 - (2) LP gas storage to 180,000 gallons water storage capacity, and with a hazardous materials permit from the city fire department.
- (d) *Lot area, width, yard and height regulations.* (Same as the M-1 district.) Lot area, width, yard and height regulations shall be in accordance with the provisions of division 7, subdivision II of this article.
- (e) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
- (f) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
- (Ord. No. 235, § 23, 6-22-1993)

Secs. 48-141—48-163. Reserved.

DIVISION 6. PLANNED UNIT DEVELOPMENT

Sec. 48-164. PUD Planned Unit Development District.

- (a) *Purpose.* The purpose of the PUD Planned Unit Development District is to provide areas where a variety of living environments and commercial or industrial developments may be developed in a planned design that relaxes and makes more flexible the normal strict standards of the other zoning districts, but at the same time is also designed to protect adjacent properties or areas considered to be of critical concern.
- (b) *Uses permitted.* The following use types are permitted in the PUD district:
- (1) *PUD residential.* Single-family, two-family and multifamily residential, including townhouses, zero lot line homes, or condominiums, and R-M uses.
 - (2) *PUD commercial.* All commercial uses listed as permitted uses in this article, plus mobile home parks.
 - (3) *PUD industrial.* All industrial uses as permitted uses in this article.
 - (4) *PUD mixed uses.* Any combination of the residential, commercial, or industrial.
- (c) *Development concept.* An applicant/owner may apply for approval of a PUD development plan in any permitted use category using either one of the following two procedural tracks:
- (1) Pre-development—Track I.
 - a. Minimum standards. This procedure allows for the owner of a property to apply for a zone change when his development plans have not yet been determined. However, certain minimum standards must be decided upon and approved as follows:
 1. *Land use intensity.* Land use intensity shall be approved which shall define maximum floor area ratio, minimum open space ratio, minimum recreation space, and location of major streets.
 2. *PUD commercial.* Factors to be determined prior to approval are location of major streets and access to those streets, types of commercial uses to be allowed, maximum height of buildings and setbacks from existing streets and the outside perimeter of the property, and maximum impervious surface ratio.
 3. *PUD industrial.* Factors to be determined prior to approval are location of major streets and access to those streets, types of industrial uses to be allowed, maximum height of buildings

and setbacks from existing streets and the outside perimeter of the property, and maximum impervious surface ratio.

4. *PUD mixed use.* Factors to be considered shall be the appropriate mix of subsections (c)(1)a.1, 2, and 3 of this section. At this stage of zoning the commission is not required to site each type of use on the property, but imply to determine the proper mix of uses utilizing the guidelines listed in subsections (c)(1)a.1, 2, and 3 of this section.
- b. After a public hearing with notice to surrounding property owners as described in subsection (f) of this section, the planning and zoning commission shall recommend approval, approval with modifications, or disapproval to the city council with the minimum standards as decided upon. However, if approved by the council, this does not authorize the owner to obtain building permits. A development plan as described in subsection (d) of this section must be approved by the commission prior to any construction whether it be streets, utilities, buildings, or grading or excavating.
- (2) *Development—Track II.* This procedure is designed for those applicant/owners who are ready to proceed with development and have their preliminary planning accomplished. The information and standards that are needed for track I are also included in the development plan. The commission shall make a recommendation for approval, approval with modifications or disapproval of the zone change and development plan to the council. The council shall then approve or disapprove the zone change with its associated development plan. Approval of the development plans requires that said plan be adhered to and building or construction permits may be issued but in accordance with said plan.
- (d) *Development plans.* The applicant/owner shall present plans, reports, and related information in sufficient detail to enable the commission to evaluate the proposed development in accordance with said plan.
- (1) *Residential development plan.* A residential development plan shall be submitted which shall meet the requirements as listed in this subsection. The plan shall be incorporated as a part of the zone change ordinance, and no deviations from said plan are allowed without another zone change application, with the exception of minor adjustments that may become necessary as approved by staff that do not deviate from the intent of the plan as adopted by the council or commission. The value of the adjacent properties shall be protected and enhanced through the proper location and use of buildings, recreation/open space, streets, and landscaping. In addition, certain incentives are enumerated in this section which are intended to make the development more cost effective.
 - a. The first requirement that shall be determined is the floor to area ratio. The land use intensity standards as developed by the FHA-HUD will serve as a guide in making decisions, but the commission and council shall have the flexibility in assigning the ratio that best suits the development in their judgment.
 - b. The second requirement of the residential development plan is to submit the information required for a preliminary plat in accordance with chapter 38. This stage of the development may also meet the requirements of a preliminary plat provided that all the requirements of the appropriate section of chapter 38 are met.
 - c. The third requirement of the residential development plan is to provide a site plan which will establish the location of all buildings, recreation/open space, parking and loading spaces, setbacks of buildings from streets and abutting properties.
 - d. The fourth requirement of the residential development plan is that a description of land uses shall be specified for each building, and all land areas. This shall include the following:
 1. Residential housing types, i.e., single-family detached, townhouses, zero lot line homes, duplexes, multifamily apartments, condominiums, etc.
 2. Residential densities.
 3. Description of the open space, and type of recreation area.

4. Description of landscaping.

- (2) *Commercial development plan.* The commercial development will not need to establish a floor to area ratio. Therefore, this plan shall begin with the second requirement of the residential development plan. The one additional requirement of this section concerns only mobile home parks. If a mobile home park is a part of a PUD application, that park shall meet or exceed the minimum standards for a mobile home park, as listed in section 48-103.
- a. The first requirement of this plan shall be the submission of the information required for a preliminary plat as in the residential development plan, and as stated therein may serve as the preliminary plat.
 - b. The second requirement of this plan is the same as the third requirement of the residential development plan, i.e., a site plan as outlined in subsection (d)(1)c of this section.
 - c. The third requirement of this plan is the same as the fourth requirement of the residential development as outlined in subsection (d)(1)d of this section, which requires a description of all land uses, except that the description shall be for commercial uses rather than residential.
- (3) *Industrial development plan.* The same three requirements of the commercial development plan are required here, with the exception that all references to commercial shall be deleted, and industrial shall be used in lieu thereof.
- (4) *Mixed use development plan.*
- a. The mixed use development plan shall consist of any combination of two or more of the plans listed in subsection (d)(1), (d)(2), and (d)(3) of this section. If the site area is divided horizontally by use, i.e., residential, commercial, or industrial in different parcels, than an accurate legal description must be provided for each parcel. In those situations, then the same requirements of each respective plan is required for each section.
 - b. If, however, a site plan proposes a mix of uses in the same area, such as a residential, office, retail combination, than floor to area ratios shall not be used. However, the commission or council shall designate minimum open space and/or recreational space, and approve street and parking lot locations.
 - c. After this step has been determined, all remaining steps in the respective development plans shall be accomplished to present a total plan for the entire track in one composite plan.
- (e) *Subdivision standards.* All requirements of chapter 38 shall be met prior to the issuance of any permits for construction.
- (1) *Lot area, width, height, and yard regulations.* The area, width, height and yard standards of the other zones in this article shall serve as a guide, but shall not strictly apply to this zone. It is the intent of this zone to create flexibility in standards, while at the same time insuring appropriate planning through the approval of the development and site plans.
 - (2) *Parking.* Parking regulations shall be in accordance with the provisions of division 7, subdivision III of this article.
 - (3) *Signs.* Sign regulations shall be in accordance with the provisions of division 7, subdivision IV of this article.
 - (4) *Owners' associations.* In development plans which contain common areas that shall be owned jointly by the various owners of the development, an owners association shall be legally established and approved by the city attorney that will ensure the proper maintenance, operation, use and enforcement of the grounds and restrictions.
- (f) *Procedures.*

- (1) This planned unit development is a zone, and other than as approved with an annexation, all PUD applications shall be heard in accordance with established zone change procedures. The one different aspect regarding the PUD is that if an applicant requests a zone change to a PUD on the track I route, as described in subsection (c)(1) of this section, then the final development plan approval, after the zone change has been approved by the city council, shall be approved by the planning and zoning commission at a second public hearing. This second public hearing shall have notice given to the surrounding property owners as with the initial meeting; however, a public notice in the newspaper 15 days prior to this second hearing shall be given for the commission's second public hearing meeting. The commission must approve the plan by majority vote of the full commission membership. Appeal of the commission's decision to the city council may be made by either the applicant or one of the notified property owners or by the city, but must be filed with the city secretary within the ten days of the commission's decisions. Approval of the development plan by the commission shall become effective after ten days. Should the applicant undertake the zone change on the track II route, as described in subsection (c)(2) of this section, then the same zone change procedures for a normal zone change shall be applicable for the proposal with development plan. There would be no second public hearing in front of the commission for approval of the development plan as this plan would be incorporated as a part of the original zone change application.
- (2) Additionally, as with any other zoning amendment, the city may initiate the zone change hearing. The commission may also recommend to city council a zone change to the PUD district rather than a zone change to another zone that may have been requested by the applicant. If so, the commission's recommendation would incorporate the elements of the track I route.
- (g) *Violations and penalties.* Violations of this section, including violations of the development plan, shall be subject to the immediate termination of any building permits, and other penalties as outlined in section 48-318.

(Ord. No. 235, § 24, 6-22-1993)

Secs. 48-165—48-181. Reserved.

DIVISION 7. ADDITIONAL STANDARDS

Subdivision I. In General

Sec. 48-182. House numbering.

- (a) *House numbering system employed.* All houses and buildings within the city shall be numbered in accordance with the system adopted by the city council and on file in the office of the city secretary.
- (b) Application for designation of house number.
 - (1) It is the duty of the owner of every house, building, or subdivision of a building in the city, and if the owner is a nonresident of the city, then for the occupant or agent in charge thereof, to apply to the city secretary for the designation of its number.
 - (2) When such application is made to the city secretary, he shall at once designate the proper number in accordance with the system adopted, from the map furnished by him for that purpose.
- (c) *Placing numbers on houses.* Such applicant shall provide himself with the number designated by the city secretary and shall conspicuously place the same on or near the front door of the house or part thereof to be numbered, or shall cause the same to be neatly and legibly painted thereon. Such numbers shall be of a neat design and not less than three inches in height and shall be of such material as to ensure durability.
- (d) *Replacing illegible numbers when required.* Whenever any number is put on a house in accordance with the requirements and the same shall afterwards become illegible, defaced, or shall in any way be destroyed it shall be replaced within ten days after such occurrence by the person whose duty it is herein made to place said number there.
- (e) *Building erected in the future to be numbered within ten days.* All houses and buildings that may be erected in this city in the future shall be numbered within ten days after they are erected.

(Ord. No. 235-D, § 26A, 11-14-1995)

Sec. 48-183. Sidewalks.

Sidewalks shall be required within all subdivisions platted after January 1985 (including all buildings, be they residential or commercial), and shall be as follows:

- (1) All sidewalks shall be a minimum of four feet wide, excluding curb width. Sidewalks shall be installed at building or lot owners' expense at the time the building is erected and shall be contiguous with the curb and gutter; provided, however, that they shall be installed with due consideration being given to existing trees and shrubbery which may require installation away from the curb for a short distance in order to prevent removal of such features.
- (2) All sidewalks installed shall connect with any existing sidewalks adjacent to, or part of the subdivision.
- (3) All sidewalks installed shall have ramps installed for the handicapped in accordance with ADA requirements.
- (4) Sidewalks shall be placed either five feet from the property line, five feet from the edge of the pavement or curb, or contiguous to curb, but not over water lines.

(Ord. No. 235-D, § 26B, 11-14-1995)

Sec. 48-184. On-Site Stormwater Management Incentive Program

(a) Purpose and Intent

- (1) The purpose of this Section is to encourage development that reduces stormwater runoff, improves water quality, and enhances watershed protection by providing voluntary development incentives in exchange for the incorporation of enhanced stormwater management practices beyond minimum regulatory requirements.

(b) Applicability

- (1) Participation in this incentive program is voluntary. All development may proceed under base zoning standards without the use of incentives.
- (2) This Section shall apply to all development subject to site plan review, under this Zoning Ordinance, unless expressly exempted by the Zoning Administrator.

(c) Incentive System Overview

- (1) Eligible projects may earn Stormwater Management Points (SMPs) by implementing the practices listed in (d) Stormwater Management Credit Schedule.
- (2) Points determine eligibility for incentives as follows:

Total SMPs	Incentive
2 points	10% building permit fee reduction
4 points	25% building permit fee reduction
6 points (maximum)	50% building permit fee reduction

- (3) Incentives shall only be granted where stormwater facilities are properly designed, installed, and maintained.

(d) Stormwater Best Management Practices (SBMP) Credit Schedule

Option	Description	Points Awarded	Public Benefit
Rain Gardens / Planting Areas	Landscaped areas that capture and absorb runoff or pavement	1 point per 200 sq ft	Reduces flooding and improves water quality
Permeable Pavement	Porous pavement in parking lots, drives, or walkways	1 point per 300 sq ft	Reduces runoff and ponding
Green Roofs	Vegetated roof systems	1 point per 1,000 sq ft roof area	Reduces runoff and heat island effect
Rainwater Reuse Systems	Cisterns or tanks that collect roof water for reuse	1 point: 50–150 gal 2 points: 150–300gal 3 points: 300–500gal 4 points: 500–750 gal 5 points: 750–1,000 ga 6 points: 1,000+ gal	Reduces demand on the storm system and water supply
Bioswales / Vegetated Drainage Channels	Landscaped drainage systems instead of pipes	1 point: 20–50 LF 2 points: 50–100 LF 3 points: 100–300 LF 4 points: 300–500 LF 5 points: 750–1,000 LF 6 points: 1,000+ LF	Slows and filters runoff
Reduced Pavement Area	Less asphalt/concrete than the maximum allowed	1 point per 5% reduction	Less runoff entering the storm system
Stream / Drainage Buffer Protection	Wider natural buffer areas along streams or drainageways	2 points: 30–50 LF 4 points: 50–100 LF 6 points: 100+ LF	Protects waterways and reduces erosion

(e) Administration and Approval

- (1) Incentive applications shall be reviewed during the site plan review.
- (2) The Applicant shall submit:
 - a. A site plan showing all structures, impermeable surfaces, public stormwater management infrastructure, natural water features, and proposed stormwater features.
 - b. A narrative describing the scope of work, including each selected incentive option.
 - c. A cost estimate for the Stormwater Best Management Practices features to be installed.
 - d. Basic calculations demonstrating compliance with this Section.
 - e. A Stormwater Management Maintenance Agreement.
- (3) Incentive Calculation
 - a. The City Engineer or designee shall verify point calculations and eligibility.
 - b. Stormwater Management Points shall be calculated based on site plan submissions and simple engineering calculations prepared by a qualified professional.
- (4) Final incentive approval shall be granted prior to the issuance of development approval.

(f) Construction and Maintenance Requirement

- (1) All stormwater management features used to obtain an incentive shall be constructed in accordance with approved plans.
- (2) The City may require the property owner to execute a maintenance agreement ensuring long-term operation and upkeep of all stormwater facilities.
- (3) The City may require financial security to ensure installation and performance of approved systems.
- (4) Failure to maintain approved stormwater features shall constitute a violation of this Ordinance and may result in revocation of incentive benefits.

(g) Compliance and Enforcement

- (1) In the event that the Stormwater Best Management Practices (SBMP) required for the building fee reduction in Section (c) are not maintained, are removed, or fail to operate as designed, the developer, owner, or their successors, heirs, or assigns shall be liable to the City for the following:
 - a. Immediate Cure: Failure to maintain the SBMPs shall be a violation of the site plan approval. The City may notify the owner, who shall have 30 days to repair the system.
 - b. Clawback: If the system is not repaired, the City shall have the right to require the developer, owner, or their successors, heirs, or assigns to pay back to the City the 100% of the incentive funds granted and/or impose a financial penalty equivalent to two times the fee reduction, which shall be paid to the City within 30 days of written notice.
 - c. Recording: These obligations shall be recorded as a restrictive covenant running with the land.

(h) Relationship to other Regulations

- (1) Projects utilizing incentives shall comply with applicable stormwater regulations, including local ordinances and state and federal requirements.
- (2) If any portion of this Section is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec. 48-185. Wildfire Protection Incentive Program**(a) Purpose.**

- (1) The purposes of this Section are to encourage development that is protected from wildfire risks and to limit the spread of wildfire between structures. This will be accomplished by providing voluntary development incentives in exchange for building and site design practices beyond minimum regulatory requirements.

(b) Applicability

- (1) Participation in this incentive program is voluntary. All development may proceed under base zoning standards without the use of incentives.

- (2) This Section shall apply to all development subject to site plan review under this Zoning Ordinance, unless expressly exempted by the Zoning Administrator.

(c) *Incentive System Overview.*

- (1) Eligible developments may earn the following incentives by implementing the practices described in subsection (d):

Total Wildfire Protection Points	Incentive
1 points	20% building permit fee reduction
2 points	30% building permit fee reduction
3 points	building permit fee reduction
4 points	building permit fee reduction
5 points (maximum)	building permit fee reduction

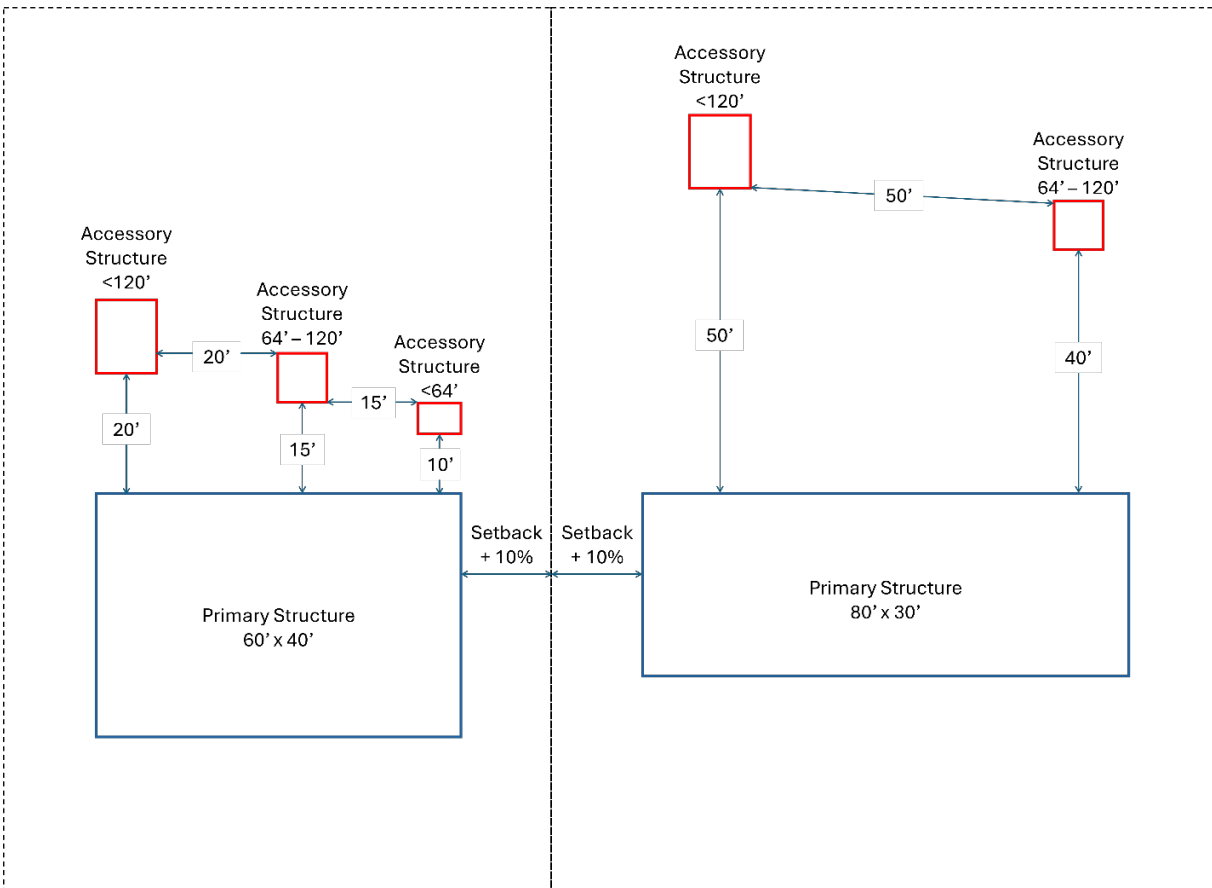
(d) *Wildfire Protections Credit Schedule*

Option	Description	Points Awarded	Public Benefit
Increased setbacks	Increase in width of side yard and depth of rear yard by 10% of the stated minimum buffer yard.	1 point	Reduces the risks of structure-to-structure ignition between lots
	Increase in width of side yard by 4 feet or depth of rear yard by 5 feet above the stated minimum buffer yard.	2 points	
Building separation	Separating primary and accessory structures on the same lot, according to the Option 1 distances listed in subsection (e).	1 point	Reduces the risks of structure-to-structure ignition within a lot
	Separating primary and accessory structures on the same lot, according to the Option 2 distances listed in subsection (e).	2 points	
Fire Resistant Materials and Building Hardening	Using fire resistant building materials and building hardening systems.	1 point	Reduces the risks of damage and injury to structures and occupants

(e) *Building Separation Schedule*

Type of Structure	Accessory Structure (>120')	Accessory Structure (64'-120')	Accessory Structure (<64')
Separation From Primary Structure	Option 1 (Minimum Separation)	20'	15'
	Option 2 (Minimum Separation)	50'	40'

Separation From Other Accessory Structures	Option 1 (Minimum Separation)	20'	15'	10'
	Option 2 (Minimum Separation)	50'	40'	30'



(f) *Administration and Approval*

- (1) Incentive applications shall be reviewed during the site plan review.
- (2) The applicant shall submit:
 - a. A site plan showing all structures, with distances between all structures and the size of each buffer yard indicated;
 - b. A narrative describing each selected incentive option; and
 - c. Basic calculations demonstrating compliance with this section
- (3) Incentive Calculation
 - a. The City Engineer or designee shall verify point calculations and eligibility.
 - b. Wildfire Protection Points shall be calculated based on site plan submissions and simple engineering calculations prepared by a qualified professional.
- (4) Final incentive approval shall be granted prior to the issuance of development approval.

(g) *Construction Requirement*

- (1) All buildings designed to obtain an incentive shall be constructed in accordance with approved plans.
- (2) The City may require financial security to ensure construction meets the requirements of this Section.

(h) *Compliance and Enforcement*

- (1) In the event that the buildings designed to obtain an incentive are not constructed in accordance with approved plans or are altered such that they no longer comply with the design standards required to obtain the incentive, the developer, owner, or their successors, heirs, or assigns shall be liable to the City for the following:
 - a. Penalty/Clawback: If the system is not remedied, the City may require the developer, owner, or their successors, heirs, or assigns to pay back to the City the 100% of the incentive funds granted, which shall be repaid to the City within 30 days of written notice.
 1. The City may accept partial refunding in the event of partial compliance with the design standards required to obtain the approved incentive.
 - b. Recording: These obligations shall be recorded as a restrictive covenant running with the land.

(i) *Relationship to other Regulations*

- (1) Projects utilizing incentives shall comply with applicable regulations, including local ordinances, building codes, and state and federal requirements.
- (2) If any portion of this Section is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Secs. 48-186—48-204. Reserved.

Subdivision II. Heights, Area, Setback, Bufferyards and Driveway Spacing

Sec. 48-205. Table of height, area and setback regulations with footnotes.

(a) Table of height, area and setback regulations.

District	Maximum Height of Buildings Stories (ft.)	Minimum Depth of Front Yard (ft.) ⁽¹⁾	Minimum Width of Side Yard (ft.) ^{(1), (2), (3)}	Minimum Depth of Rear Yard (ft.) ^{(2), (3), (4)}	Minimum Lot Area Per Dwelling Unit (sq. ft.)	Minimum Lot Width (ft.) ^{(3), (5)}	Maximum Percent Impervious Lot Coverage
AG				(See section 48-47)			
OSR				(See section 48-68)			
Estate	3 or 45	40	15	25	40,000	125	25
R-1	2.5 or 35	25	6	25	6,000	60	35
R-2	2.5 or 35	25	6	25	3,000	60	60
R-LB	2.5 or 35	20	5	20	⁽⁶⁾	50	60
R-C				(See section 48-100)			
R-3A	4 or 40	25	6	25	⁽⁷⁾	60	80
R-3	4 or 40	25	6	25	⁽⁷⁾	60	80
R-M	2.5 or 35	20	5	20	5,000	50	25
M-H*	2.5 or 35	20	5	20	4,400	40	25
C-1	2.5 or 35	25	6	15	Coml: None	Coml: None	
					Res: Same as R-3	Res: Same as R-3	80
C-2	60	⁽⁹⁾	None ⁽⁸⁾	15 ⁽¹⁰⁾	Same as C-1	Same as C-1	95
C-3	None ⁽¹¹⁾	None	None ⁽¹¹⁾	None ⁽¹¹⁾	None	Same as C-1	95 ⁽¹²⁾
C-4	60	25	15 ⁽¹⁰⁾	25 ⁽¹⁰⁾	N/A	60	90
M-1	60	25	15 ⁽¹⁰⁾	25 ⁽¹⁰⁾	N/A	60	90
M-2				(See section 48-140)			
PUD				(See section 48-164)			
R-1A**	2.5 or 35	20	5	20	5,000	50	40

*Requirements for a mobile home subdivision. For requirements for a mobile home park, see section 48-103.

**R-1A—Only for areas already zoned prior to effective date of Ord. No. 235-GG, adopted Aug. 11, 2015.

(b) *Footnotes.* All height, area and setback regulations as listed on the table in subsection (a) of this section include the footnotes as detailed in this subsection. In addition, any building code requirements which are stricter than the requirements set forth in this article shall supersede these requirements. These footnotes clarify or place certain modifications upon the table as listed:

- (1) ⁽¹⁾ On corner lots, the yard requirement of the main buildings for the yard facing the side street shall be a minimum of 15 feet, except in the R-1A and R-LB districts where ten feet is required. In such cases the aggregate side yard is increased by the appropriate amount, and except in the area defined as the Central Business District (CBD) in subdivision III of this article, in which case no front or side yard is required. All buildings on corner lots shall face the same direction as the buildings on interior lots.

All front yards, including both street fronts of a corner lot, may be adjusted to less than the building setback requirements to be in line with the average building setback line of existing main buildings on the same side of the same block. However, in no case, except for the C-3 or PUD districts, shall any front yard be less than ten feet.

- (2) ⁽²⁾ Along any zoning boundary line, on a lot abutting such boundary line in the less restricted district, there shall be side and rear yard requirements equal to the average of the required minimum side or rear yard of the abutting district and of the less restricted district. In cases where the height of a proposed structure, on a lot abutting a more restricted district, is greater than that allowed in the more restricted district, then the minimum side and/or rear yard requirements for the structure in the less restricted district shall be increased by one foot for every two feet in height that the proposed structure exceeds the height requirement in the more restricted district. (See section 48-208.)
- (3) ⁽³⁾ The side and rear yard requirements of this article shall not reduce any lot of record, at the time of the passage of the ordinance from which this article is derived, to a buildable lot width or depth of less than 30 feet.
- (4) ⁽⁴⁾ Where the rear yard of a commercial or industrial building abuts on a street, the minimum rear yard required shall equal the average setback of buildings along the same side of that block, or ten feet, whichever is greater, but shall not exceed 25 feet.
- (5) ⁽⁵⁾ Where lots are irregular in shape, and the front property line is narrow, such as on a cul-de-sac, the minimum lot width shall be measured from the front building setback line, but the front property width at the street right-of-way shall not be less than 24 feet.
- (6) ⁽⁶⁾ In the R-LB district, the lot area per dwelling unit shall be as follows:
- a. Single-family: 6,000 square feet.
 - b. Two-family: 3,000 square feet.
 - c. Three D.U.s: 2,000 square feet.
- (7) ⁽⁷⁾ In the R-3 and R-3A districts, the lot area per dwelling unit shall be as follows:
- a. R-3A:
 - 1. Single-family: 5,000 square feet.
 - 2. Two-family: 3,000 square feet.
 - 3. Three or more D.U.s:
 - (i) For each one B.R.: 2,000 square feet.
 - (ii) For each two B.R.: 2,400 square feet.
 - (iii) For each three or more B.R.: 2,800 square feet.
 - b. R-3:
 - 1. Single-family: 5,000 square feet.

2. Two-family: 3,000 square feet.
 3. Three or more D.U.s:
 - (i) For each one B.R.: 1,600 square feet.
 - (ii) For each two B.R.: 1,800 square feet.
 - (iii) For each three or more B.R.: 2,000 square feet.
 - (8) ⁽⁸⁾ All building permit applications in this zoning district shall be reviewed by the city fire marshal for recommendation regarding reasonable access to the sides and rear of properties for firefighting personnel, if the building plans call for a side yard setback of three feet or less on either side of a building.
 - (9) ⁽⁹⁾ There shall be the following front yard requirements in the C-2 district: No front yard requirement except as follows:
 - a. Where street rights-of-way (R.O.W.) are less than 100 feet, all nonresidential buildings shall be set back a minimum of 50 feet from the centerline of the right-of-way, but in no case shall the front yard requirement exceed 15 feet.
 - b. Where street rights-of-way are 100 feet or greater in width, all nonresidential buildings shall be set back a minimum of 60 feet from the centerline of the right-of-way.
 - c. 25 feet for residential buildings.
 - (10) ⁽¹⁰⁾ The rear and side yard requirements for nonresidential buildings may be modified in the following situations:
 - a. In cases where the rear yard abuts an alley, one-half the alley width may be utilized as a portion of the required rear yard.
 - b. In cases where the property owner provides an alternate and acceptable access for fire and emergency vehicles, approved by the city fire marshal, then the rear and side yard requirements may be reduced to that agreed to in writing by the city fire marshal and the city building official.
 - c. The rear yard requirements for residential buildings shall be a minimum of 15 feet.
 - d. See section 48-208 for possible bufferyards required.
 - (11) ⁽¹¹⁾ A site plan shall be prepared for the approval of the city fire marshal to ensure proper access by firefighting personnel.
 - (12) ⁽¹²⁾ The 95 percent maximum impervious lot coverage shall not apply to the area defined as the Central Business District.
- (Ord. No. 235, §§ 25.1, 25.2, 6-22-1993; Ord. No. 235-T, § 25.2, 4-11-2006; Ord. No. 235-GG, § 25.1, 8-11-2015)

Sec. 48-206. Supplementary regulations and clarifications.

- (a) Except for a detached garage, or servant and guest quarters, in all Estate, R-1, R-1A, R-2 and R-LB districts there shall be only one main building per lot. In other zoning districts, more than one main building may be built per lot, provided that all other pertinent codes are complied with that concern the construction of buildings, and the subdivision of land.
- (b) In any district, all buildings must comply with any other codes regulating the construction standards of said buildings.
- (c) On a corner lot, excluding the CBD district, no obstructions that would obscure traffic visibility, including buildings, trees, signs, fences, walls, or other plant growth or vehicles, are allowed greater than three feet or less than eight feet in height measured above the curbline in a rectangular shaped area described as follows:

- (1) A parcel of land formed by the two curblines extending back from their point of intersection, a distance of 15 feet, and at said 15-foot point on each curbline, a line is drawn perpendicular to the curb to the point of intersection of these two perpendicular lines. Where streets do not intersect on a 90 degree angle, an approximation shall be drawn of this rectangular shaped area by the building official.
 - (2) Any fence or wall constructed within the described area shall have a majority of that area composed of openings. Any plant growth within the described area shall be trimmed so as not to extend into the area described.
- (d) Fences in all districts if constructed of solid wood or stone may be erected to a height not exceeding six feet along the rear and side boundaries of a lot. No solid fence may be erected forward of the front surface of the finished siding of a building. Fences forward of the front edge of the structure may be no more than four feet in height and shall consist of a material in which the open areas comprise not less than 70 percent of the total fence area, thus allowing clear visibility through the fence fabric. A fence, a hedge or a combination thereof, which is forward of the front edge of the structure, that does not allow clear vision through it, may not be more than three feet in height. No sharpened barbs, pikes, spikes, razor wire, concertina wire or broken glass, or any like material, may be used atop any fence. No barbed wire fences may be erected. On corner lots, no fence, hedge or other plant taller than three feet may be planted or erected in an area bounded by a line parallel to each curb and measured 15 feet perpendicular to the curb.
 - (e) The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, water tanks, chimneys, or smokestacks and flag poles, or similar structures, but all such structures, including guy wire anchors or other anchoring devices, shall meet all setback regulations for accessory buildings.
 - (f) A porch, porte cochere, upper floor balcony or carport which is open (all sides open with walls not higher than three feet from ground level), or similar terraces, porches, balconies, or chimneys, may project into a required yard area but not closer to the property line than 50 percent of the yard requirement. However, if any such construction is an accessory building, or part thereof, it shall additionally abide by the regulations set forth in subsection (h) of this section.
 - (g) Filling station pumps and pump islands may be located within a required yard, but in no case shall be less than 15 feet from any street right-of-way line. Filling station pumps and pump islands shall not be closer than 100 feet from any residential district.
 - (h) No accessory building or structure may be erected within any front yard requirements. No accessory buildings or structure shall be set within the side yard requirements or less than six feet of the rear property line unless the accessory building or structure is screened by a privacy fence composed of wood or masonry. Said fence shall cover the entire height of the accessory building or structure and extend at least six feet beyond either end of said building/structure.
 - (i) No accessory building or structure when projecting into any side or rear yard, either partially or totally, shall be greater in area than 150 square feet. No accessory building or structure shall be greater in height than ten feet when built within six feet of the side or rear property line. The height of said building/structure may increase to that allowed for the main building or structure when located within all required setbacks for the main building/structure. In those cases where the accessory building or structure is located six or more feet from the side or rear property lines, but within the required rear yard, the height of said building/structure may increase in height greater than ten feet, provided that the height of the building or structure is setback two feet horizontally for each one foot vertically. For example, a building may be ten feet in height at a distance of six feet from the property line; 11 feet in height in a distance of eight feet; 12 feet in height at a distance of ten feet from the property line, and so forth.
 - (j) Building setback requirements shall apply to all upper floors as well as to ground floors.
 - (k) Where a lot abuts upon an alley, one-half the alley width may be considered as part of the required rear yard. Where a garage or carport is located with entry from an alley at the rear, the carport/garage must then be a minimum of 18 feet from the alley line if it is a single car unit, if a double car or larger, a six-foot minimum

applies. If a carport is an accessory building with an entrance from an alley, the regulations as listed in subsection (h) of this section do not apply.

- (l) Except as noted in section 48-205(b)(4), at each end of a through lot there shall be a front yard of the depth required by this article for the district in which each street frontage is located.
- (m) Where more than one building containing dwelling units is built on the same building lot, then a minimum distance of ten feet shall be maintained between buildings, except as may be specifically noted in certain zoning districts.
- (n) All front or rear yard requirements may be modified in those situations in which existing buildings on the same block have been constructed closer to the property line than the minimum requirements of this district. Said modifications shall be a reduction in the required front or rear yard setbacks to the average front or rear yards of the existing buildings on the same side of the same block, but in no case to less than ten feet.
- (o) Cornices, eaves, belt course, sills, canopies, or other similar architectural features shall not be considered the building line for the purposes of identifying the yard requirements. Except as outlined in subsection (f) of this section, said features shall not extend more than two feet beyond the building line into the required side yard space.
- (p) Where a lot has only three lot lines, two straight lines drawn on the interior and one continuous curve fronting a street, then the two interior lot lines shall be constructed to be side lot lines, and the curved front shall be construed to be one front yard.
- (q) The building setback line shall be a line parallel or approximately parallel to the lot line, and when a lot contains lot lines which vary due to a combination of straight lines and curves, the building official shall determine the setback line based upon the establishment of a line that as closely as possible parallels the lot lines.
- (r) Where vegetation or landscaping are required by this ordinance, the City encourages the use of plant material and landscaping techniques that provide heat mitigation to individuals and buildings, including:
 - (1) The preservation of existing trees and shade cover, and
 - (2) The installation of new shade-providing trees and shade cover.
 - (3) Acceptable shade-providing trees and shade cover shall include:
 - a. Medium or large trees recommended by the Texas A&M Forest Service for Cameron County, or
 - b. Trees or other plant material that provide a minimum canopy diameter of 15 feet at maturity.

(Ord. No. 235, § 25.3, 6-22-1993; Ord. No. 235-K, § I(3a), 7-27-1999)

Sec. 48-207. Building setback and driveway spacing requirements on major roadways.

- (a) Due to the increased volume of traffic travelling at higher rates of speed on arterial roadways, the following requirements shall supersede any like requirement in this section.
- (b) On any major roadway within the city limits on which the highway speed limit is set at 50 miles per hour or greater, all buildings shall be set back from the property line which fronts said arterial roadway a distance of 50 feet. If there are existing buildings within 500 feet, on the same side of the road-way, then said building setback line may be reduced to the average of those existing buildings, but in no case to less than 25 feet.
- (c) On any major roadway within the city limits on which the highway speed limit is more than 30 miles per hour, there shall be a required minimum spacing between driveways for any proposed new driveways as listed in the following table:

Speed Limit	Minimum Driveway Spacing
(a) 35 mph	(b) 150 feet
40 mph	185 feet

45 mph	230 feet
50 mph	275 feet
55 mph	500 et

- (d) Where there are existing lots from which any owner has a right of access to the roadway, but where the spacing listed in subsection (d) of this section and/or the terrain eliminates his right to access, then the city engineer shall approve an access from the lot onto the roadway in a manner that best meets the intent of this section, even though at a lesser distance between driveways.
- (e) With any new subdivision, the planning and zoning commission may vary the requirements of this section in order to meet the particularly unique situation offered by the subdivision. The unique situation may involve special terrain features or the application for a planned unit development district.
- (f) If roadway speed limits change, the driveway spacing and building setback requirements listed in this section shall be adjusted accordingly. However, if there is an established building line on either side of a proposed building lot, on the same side of the roadway, within 500 feet of the proposed building, then any new building shall not build closer to the property line than the average of the building setbacks of those established structures, although not required to setback further than 50 feet.

(Ord. No. 235, § 25.4, 6-22-1993)

Sec. 48-208. Bufferyards—Generally.

In order to provide a more harmonious living environment between the more restricted residential zones and those developments in zones of a less restrictive nature, the following bufferyard standards shall be required to be in place and effective prior to the issuance of a certificate of occupancy for any building, or final inspection of any other improvement. Where requirements of this section and sections 48-209 through 48-213 are more restrictive than other setback or area requirements, then the requirements of these sections shall apply.

(Ord. No. 235, § 25.5, 6-22-1993)

Sec. 48-209. Same—Definitions.

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

Bufferyard A means a privacy fence of a maximum height of six feet composed of wood, masonry or combination thereof. Open spaces in the fence shall not constitute more than 25 percent of the fence area. The fence shall extend downward from the required six feet to within three inches of the ground, and shall test plumb and square at all times unless otherwise dictated by the city building code. Said fence shall be inspected and approved by city staff along with other inspections of improvements on the property. The fence shall be of a type that is normally built in single-family residential areas, and prior to approval the owner/developer shall provide the city with a maintenance agreement for the fence. The city attorney's office shall approve the agreement and it shall contain sufficient legal mechanisms that the city shall be able to enforce the maintenance of the fence.

Bufferyard B means the same as the term "Bufferyard A"; however, in addition, all building construction or parking area construction shall be set back a minimum of 50 feet from the property lines.

(Ord. No. 235, § 25.5.A, 6-22-1993)

Sec. 48-210. Same—Restrictiveness classification of zoning districts.

Districts listed below are numbered from 1 to 16 in descending order from more restrictive to less restrictive. Less restrictive districts shall be required to establish a bufferyard when abutting a more restrictive district as outlined on the table in this subsection.

District Number	Zoning	Districts by Category
1	Estate	Single-Family District
2	R-1	Single-Family District
3	R-1A	Single-Family District
4	R-2	Two-Family District
5	R-C	Residential Cluster District
6	R-M	Residential Modular District
7	R-LB	Residential-Limited Business
8	R-3A	Multifamily District
9	R-3	Multifamily District
10	M-H	Manufactured Housing District
11	C-1	Neighborhood Business District
12	C-2	Community Business District
13	C-3	Central Business District
14	C-4	Heavy Commercial District
15	M-1	Light Industrial District
16	M-2	Heavy Commercial District

(Ord. No. 235, § 25.5.B, 6-22-1993)

Sec. 48-211. Same—Table of bufferyards required by district.

Zones required to establish bufferyards as listed.

	1 EST	2 R- 1	3R- 1A	4R- 2	5R- C	6 R-M	7R- LB	8R- 3A	9R- 3	10 M-H	11C- 1	12C- 2	13C- 3	14C- 4	15M- 1	16M- 2
1EST					A			A	A		A	A	A	B	B	B
2R-1					A			A	A		A	A	A	B	B	B
3R- 1A					A			A	A		A	A	A	B	B	B
4R-2								A	A		A	A	A	B	B	B
5R-C								A	A		A	A	A	B	B	B
6R- M								A	A		A	A	A	B	B	B
7R- LB						See Section 48-102		A	A	See Section 48-103	A	A	A	B	B	B
8R- 3A						See Section 48-102				See Section 48-103	A	A	A	B	B	B
9R-3						See Section 48-102				See Section 48-103	A	A	A	B	B	B
10M- H								A	A		A	A	A	B	B	B
11C- 1																
12C- 2																

13C-3																
14C-4																
15M-1																
16M-2																

(Ord. No. 235, § 25.5.C, 6-22-1993)

Sec. 48-212. Same—Clarifications and options.

- (a) Bufferyards shall be required only on those property lines that abut a more restrictive district as indicated, and this does not include a bufferyard when a public street separates the less restrictive from a more restrictive district.
- (b) The developer/owner has the option of preparing an alternative proposal to be presented to the planning and zoning commission for bufferyards designed to protect the adjoining more restricted areas. Said alternative proposal may include the preservation of existing natural terrain, including trees and/or the landscaping of the terrain. The proposal shall contain legal enforcement mechanisms, approved by the city attorney's office, as stated above regarding the fencing requirements. The commission may approve, disapprove, or approve with modifications, the proposal presented by the developer/owner. If disapproved, the bufferyard as described in this section shall be required.

(Ord. No. 235, § 25.5.D, 6-22-1993)

Sec. 48-213. Same—Agricultural and Open Space-Recreational District.

- (a) Any use of land within the AG Agricultural District shall meet all the requirements as outlined in section 48-47 and pertinent health codes.
- (b) Any use of land within the OSR Open Space-Recreational District shall meet the standards listed in section 48-68.

(Ord. No. 235, § 25.5.E, 6-22-1993)

Secs. 48-214—48-239. Reserved.**Subdivision III. Off-Street Parking and Loading****Sec. 48-240. General requirements.**

The general requirements for off-street parking and loading facilities are as follows:

- (1) No building or structure shall be erected, or its use changed, unless permanent off-street parking and loading spaces have been provided in accordance with the provisions of this article.
- (2) The provisions of this section, except where there is a change of use, shall not apply to any existing building or structure. A change in use is where a building or lot has a change in use in which the new use requires more parking spaces than that of the old use.
- (3) Whenever a building or structure has its use changed, or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided only for the enlargement or change. Whenever a building or structure existing prior to the effective date of the ordinance from which this chapter is derived is enlarged to the extent of 50 percent or more of floor area, number of employees, number of housing units, seating capacity, use or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth herein for the total structure.
- (4) All site plans submitted for a building permit shall include a parking plan, which plan shall then be made a part of the building permit. Failure to construct such parking areas shall be a violation of this chapter subject to the penalty provisions contained herein.

- (5) The owner of property used for parking, landscaping, or loading shall maintain such area in good condition without holes and free of trash and other debris.
- (6) Each parking and loading space shall have adequate drives, aisles, and turning and maneuvering areas for access and usability, and shall at all times have access to a public street or alley. All maneuvering shall be designed whereby it can be accomplished solely on private property. Exceptions to this standard are permitted for residential uses in the R-1, R-2 and R-C districts and as may be approved in a PUD district. Any variations from this subsection shall be made in accordance with subsections (7) and (8) of this section.
- (7) All required parking facilities shall be located on the same site as the use for which such facilities are required, except as provided in subsection (4) of this section.
- (8) Changes to existing parking facilities after the effective date of the ordinance from which this article is derived shall not be made so as to reduce the capacity to less than the number of spaces permitted or to alter in design or function the facility to less than the minimum standards prescribed.
- (9) On all new construction if a garage for one vehicle is built than it shall be 11 [feet] × 24 [feet] in size. If a two vehicle garage is built than it shall be 22 [feet] × 24 [feet]. All driveways shall be arranged as to permit ingress and egress of the vehicles at all times without moving any other vehicle.

(Ord. No. 235, § 26.0, 6-22-1993; Ord. No. 235-GG, § 26.0, 8-11-2015)

Sec. 48-241. Parking space dimension.

A parking space shall have minimum rectangular dimensions as follows:

- (1) *90 degree angle parking.* Nine feet in width and 19 feet in length. Maneuvering space shall not be less than 24 feet.
- (2) *60 degree angle parking.* Nine feet in width and 18 feet in length perpendicular to the building or parking line. Maneuvering space shall not be less than 16 feet.
- (3) *45 degree angle parking.* Nine feet in width and 17 feet in length perpendicular to the building or parking line. Maneuvering space shall not be less than 13 feet.
- (4) *Parallel parking.* Nine feet in width and 23 feet in length. The 23 feet may include certain no parking maneuvering spaces at the ends of the striped parking space. An additional 12 feet of maneuvering space shall be provided for one way parking lanes; 24 feet for two way parking lanes.
- (5) *Access.* Each parking space shall have access to a public street or private drive and not be blocked by other parking spaces. The commission may allow certain variations of this rule in specific situations.
- (6) *Off-street parking facilities adjacent to a public alley.* When off-street parking facilities are located adjacent to a public alley, one-half of the width of said alley may be assumed to be a portion of the maneuvering space requirements.
- (7) *Handicapped parking provisions.* Every parking lot shall be designed to accommodate handicapped parking in accordance with the adopted building code of the city identification of parking spaces for the handicapped shall be in accordance with state law.
- (8) *Loading space requirements.* No loading or unloading of shipments or deliveries shall be made in such a manner as to block the travel lanes on any public street.

(Ord. No. 235, § 26.1, 6-22-1993)

Sec. 48-242. Paving and drainage.

- (a) Parking and loading facilities shall be surfaced with a surface sufficient to prevent mud, dust, loose material and other nuisances.
 - (c) All parking and loading areas shall provide for proper drainage of surface water to prevent ponding and the drainage of such water onto adjacent properties or walkways in excess of the drainage existing prior to construction. The owner may, however, cooperate with adjacent owners in order to create certain drainage facilities to carry the excess drainage.
 - (d) Parking spaces shall be clearly marked by paint, buttons or other approved markers.
 - (e) Construction and/or performance standards shall be set by the city engineer and approved by the city council.
- (Ord. No. 235, § 26.2, 6-22-1993)

Sec. 48-243. Location of off-premises parking spaces.

The following regulations shall govern the location of off-street parking spaces and areas, not located on the same site as the use of the land.

- (1) Off-premises parking spaces for apartments, dormitories, or similar residential uses not contiguous to the building lot, shall be located not more than 400 feet from the principal use.
- (2) Off-premises parking spaces for commercial, industrial, or institutional uses, not contiguous to the building lot, shall be located not more than 400 feet from the principal use, except as provided in section 48-245(d).
- (3) All off-premises parking areas shall be measured from the nearest point of the building lot to the nearest point of the parking lot, measured by a straight line.
- (4) 50 percent or less of the parking spaces for theatres, bowling alleys, dance halls, night clubs, evening restaurants and similar evening hour businesses, and up to 100 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by banks, offices, retail stores, service establishments and similar uses not open, used or operated during the same hours; provided that written agreement thereto is properly executed and filed as part of the building permit application. Said agreement shall be approved by the city attorney.
- (5) No required parking areas can be provided for in a manner that will only be temporary. The business must have an interest in off-premises parking. Said interest shall be approved by the city attorney if not owned in fee simple.
- (6) The land between the property line and the street curb shall not be used for parking, or paved, except for sidewalks or driveways.

(Ord. No. 235, § 26.3, 6-22-1993)

Sec. 48-244. Wheel blocks.

Whenever a parking lot extends to a property line, wheel blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the property line.

(Ord. No. 235, § 26.4, 6-22-1993)

Sec. 48-245. Modifications and exceptions.

- (a) *Preservation of existing landscaping.* The city planning director, or acting planning director, is authorized to approve a waiver of up to ten percent of the parking space requirements in order to preserve existing trees or special landscaping terrain features.
- (b) *Alternative modes of transportation.* The commission may grant a waiver to the parking requirements if a parking management plan is presented by which the business ownership establishes alternative modes of transportation such as van pools, varied work shifts, use of company operated buses, and other such means that will reduce the number of vehicles using the premises and shall include the following:
- (1) Plans shall show how the alternative mode will be implemented, the permanency of such mode, the extent of the program, number of vehicles the mode will replace and other pertinent information.
 - (2) Provisions of any waiver shall include a reversion clause which states that should such management plan be terminated or modified beyond a reasonable degree, then said waiver shall terminate also, and the business shall be in violation of this chapter subject to the provisions of section 48-102 unless the required parking is constructed.
- (c) Elderly, retired and handicapped.
- (1) If residential developments are constructed for the elderly, retired or handicapped, then the number of parking spaces per dwelling unit may be reduced to one space per dwelling unit. In addition, depending upon the below listed credits, the number of spaces may be further reduced by the indicated percentages:

Credits	Percentage Reduction
Dependent living: meals and housekeeping furnished	20%
Private bus/van provided	10%
Proximity to shopping *	10%

*Grocery store, drug store within 400 feet measured from the nearest lot line to the nearest lot line by a straight line.

- (2) Verification that the residential units are for the elderly, retired or handicapped shall be made by the city attorney.
- (d) *Central Business District (CBD).* For the purpose of this section, the Central Business District shall consist of the following. Within the CBD, recognition is given to certain factors which contribute to real and practical difficulties in providing off-street parking for every business. Therefore, the following modifications and alternatives are allowed for those properties within the CBD:
- (1) For those businesses which construct their own off-street, off-premises parking, the distance to the parking lot may be extended by 50 percent.
 - (2) When any existing building is converted to another use, or has the usable floor area within the existing building perimeter enlarged, rehabilitated, or remodeled, without enlarging said building perimeter, then said building conversion or improvement shall not require additional off-street parking, other than the number of existing off-street parking spaces which are utilized by said building.
- (e) *Large commercial developments.* In order to prevent the establishment of a greater number of parking spaces than are actually needed to meet the needs of a large scale commercial development, total parking spaces may be reduced to the minimums listed below:

Total Parking Spaces Required	Maximum Allowable Reduction
-------------------------------	-----------------------------

100—199	10 percent
200—299	15 percent
300 or greater	20 percent

;adv=6q>(Ord. No. 235, § 26.5, 6-22-1993)

Sec. 48-246. Schedule of off-street parking requirements.

Parking requirements for each use shall be provided as follows:

- (1) The computation for business parking and loading requirements shall be based on net floor area unless otherwise indicated. Net floor area shall include all occupiable building space excluding area devoted to public use areas including restrooms, building circulation and support space (elevators, stairwells, corridors, atriums, lobbies, mechanical spaces and building storage).
- (2) Where the application of space standards results in a fractional requirement, a fraction of the 0.5 or greater shall be resolved to the higher whole number.
- (3) Spaces per employee calculated on largest shift.
- (4) Any use not listed shall be interpreted to be the most similar use listed.
- (5) Approval of planned developments or items listed under "exceptions" may vary these requirements.

SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

Use Classification	Minimum Off-Street Parking Requirement
<i>Residential Uses:</i>	
Single-family residential	2 spaces/dwelling
Duplex residential	1.5 spaces/dwelling
Cluster residential (townhouse/zero lot line dwellings)	2 spaces/dwelling*
Mobile/modular residential	2 spaces/dwelling
Multifamily residential (applicable only to three or more units):	
Efficiency	1 space
1 bedroom	1.5 spaces
2 bedroom or more	2 spaces
* Where townhouse/zero lot line lots are less than 50 feet in width, an additional one-half space per dwelling shall be provided.	
<i>Commercial Uses:</i>	
Agricultural sales and service	1 space/1,000 sq. ft.
Automotive rentals	1 space/500 sq. ft.
Automotive/boat repair service	2 spaces/repair stall
Automotive/boat/equipment sales	1 space/750 interior sq. ft. (sales/display)
Automotive and equipment services	1 space/2 gas pumps plus 1 space/2 service bays or 1 space/200 sq. ft. gross floor area plus 1 space/employee
Building maintenance services	1 space/1,000 sq. ft.
Business support services	1 space/1,000 sq. ft.
Campground/RV Park	1 space/camping unit
Club/lodge	1 space/100 sq. ft.
Cocktail lounge	1 space/2 persons capacity or 1 space/100 sq. ft.
Communications services	1 space/500 sq. ft.

Construction sales and services	1 space/500 sq. ft.
Consumer repair services	1 space/300 sq. ft.
Convenience storage	1 space/100 sq. ft.
equipment repair services	1 space/400 sq. ft.
Equipment sales	1 space/400 sq. ft.
Financial services	1 space/300 sq. ft.
Food sales:	
Supermarket	1 space/400 sq. ft.
Convenience market	1 space/200 sq. ft.
Funeral services	1 space/4 person capacity or 1 space/100 sq. ft. of chapel gross floor area
General retail services	1 space/400 sq. ft.
Hotel/motel:	
First 50 rooms	1.0 space/room
Each additional room exceeding 50 rooms	0.75 space/room
Each additional room exceeding 100 rooms	0.50 space/room
General retail services	50% of required schedule
Other uses or activities	50% of required schedule
Indoor entertainment (theatre, videogame, billiards, etc.)	1 space/4 seats or 1 space each 100 sq. ft.
Indoor sports and recreation	2 spaces each lane/court or 1 space each 600 sq. ft. occupancy
Indoor storage, equipment servicing or manufacturing	1 space/1,000 sq. ft.
Kennels	1 space each 500 sq. ft.
Laundry services	1 space/200 sq. ft.
Liquor sales	1 space/200 sq. ft.
Medical/dental offices	1 space/200 sq. ft. of examination treating/waiting rooms and office
Offices, administrative and business	1 space/300 sq. ft.
Outdoor sales, service or display	1 space/750 sq. ft.
Outdoor sports and recreation	1 space/5 person capacity or 1 space/30 sq. ft. of seating area, whichever is greater
Outdoor storage, equipment servicing or manufacturing	1 space/2,000 sq. ft.
Personal improvement services and personal services	1 space/200 sq. ft.
Personal storage (mini-storage)	1 space each 5 storage bays
Pet services	1 space/300 sq. ft.
Research services	1 space/300 sq. ft.
Restaurants:	
Evening hour	10 spaces/1,000 sq. ft. of dining/bar gross floor area
Others, primarily midday	15 spaces/1,000 sq. ft. of dining floor area
Valuables storage	1 space/500 sq. ft. storage area
Veterinary services	1 space/500 sq. ft. <i>Industrial Uses:</i>
Manufacturing	1 space/500 sq. ft.
Warehousing/distribution	1 space/1,000 sq. ft.
Research/laboratory	1 space/300 sq. ft.
Resource extraction	1 space/2 employees <i>Public Services/Institutional Uses:</i>

Administrative services	1 space/300 sq. ft.
Community recreation	1 space/5 person capacity
Convalescent services (nursing, sanitarium)	2 spaces/3 beds
Churches and other places of religious assembly	1 space/4 seats
Hospitals	1 space for each bed
Libraries, museums and art galleries	1 space/400 sq. ft.
Elementary and middle schools	2 spaces/each classroom plus 1 space/every eight seats of fixed seating in auditoriums or assembly halls
High schools and colleges/universities	4 spaces/classroom plus 1 space/each teacher and employee
Kindergartens, child care centers, nursery schools and similar uses, except as a home occupation	2 spaces/each classroom, but not less than six for the building

(Ord. No. 235, § 26.6, 6-22-1993)

Sec. 48-247. Shaded Parking Lots Incentive Program.

(a) Purpose

- (1) The purposes of this Section is to encourage the design of parking lots that mitigate heat reflection from paved surfaces by providing voluntary development incentives in exchange for incorporating landscaping and shade-providing trees.

(b) Applicability

- (1) Participation in this incentive program is voluntary. All development may proceed under base zoning standards without the use of incentives.
- (2) This Section shall apply to all development subject to site plan review which includes at least two (2) parking spaces, under this Zoning Ordinance, unless expressly exempted by the Zoning Administrator.

(c) Incentive System Overview

- (1) Eligible projects may earn the following incentives based on the ratio of trees provided, as required in section (d), to required parking spaces, as enumerated in *Sec. 48-246 Schedule of off-street parking requirements*:

Ratio of Trees to Parking Spaces	Incentive
≤0.2	20% building permit fee reduction
0.2-0.39	30% building permit fee reduction
≥0.4	50% building permit fee reduction

- (2) Incentives shall only be granted where landscaped areas are properly designed, installed, and maintained.

(d) Requirements

(1) End Islands

- a. Every row of parking that contains more than ten (10) parking spaces shall have an end island located at one (1) end of the row.
- b. Every row of parking that contains more than twenty (20) parking spaces shall have an end island located at both ends of the row.
- c. End islands and peninsulas shall have a total landscaped area of at least 180 square feet, measured from the back of the curb.
- d. Sidewalks may pass through end islands and peninsulas provided that the end island is expanded to maintain the minimum landscaped area of 180 square feet.

- e. Where two separate rows of parking spaces are directly adjacent to each other, the required end islands may be combined into one island that contains at least 360 square feet of landscaped area.
- f. A sidewalk may pass through a combined end island provided that the island is expanded to maintain the minimum landscaped area of 180 square feet.
- g. When an end island is attached to a median, it shall be called a peninsula. Peninsulas shall comply with all applicable design and landscaping standards for end islands.
 - 1. Where two adjacent parking rows are divided by a median, the required end islands may not be combined into one unit for the purposes of this ordinance. They shall instead be treated as two separate peninsulas and shall be subject to all applicable design and landscaping standards.

(2) Interior Islands

- a. Every row of parking that contains more than twenty-five (25) parking spaces shall have an interior island located in the middle of the parking row.
- b. The number of parking spaces between landscaped islands (interior islands or end islands) shall not exceed twenty-five (25).
- c. Interior islands shall have a total landscaped area of at least 180 square feet, measured from the back of the curb.
- d. Where two separate rows of parking spaces are directly adjacent to each other, the required interior islands may be combined into one island at least 360 square feet of landscaped area.
- e. A sidewalk may pass through a combined interior island provided that the island is expanded to maintain the minimum landscaped area of 180 square feet.
- f. When an interior island is attached to a median, it shall be called a peninsula. Peninsulas shall comply with all applicable design and landscaping standards for interior islands.
 - 1. Where two adjacent parking rows are divided by a median, the required interior islands may not be combined into one unit for the purposes of this ordinance. They shall instead be treated as two separate peninsulas and shall be subject to all applicable design and landscaping standards.

(3) Peninsulas

- a. When attached to a median, a peninsula will take the place of an interior island or end island where required by this section.
- b. Peninsulas shall have a total landscaped area of at least 180 square feet, measured from the back of the curb.
- c. Sidewalks may pass through a peninsula provided that the peninsula is expanded to maintain the minimum landscaped area of 180 square feet.

(4) Medians

- a. Medians shall have a landscaped area at least 10 feet in width, measured from the back of the curb, along the entire length of the median, measured from the back of the curb.
- b. There shall be no more than three adjacent parking rows without a median.
- c. A sidewalk may pass through the median provided that the landscaped area is expanded to meet the minimum 10-foot width.

(5) Landscaping

- a. *Shade-providing trees.* Acceptable shade-providing trees and shade cover shall include:
 - 1. Medium or large trees recommended by the Texas A&M Forest Service for Cameron County, or

2. Trees or other plant material that provide a minimum canopy diameter of 15 feet at maturity.
 3. Trees preserved during construction shall be satisfactory for the requirements of this section, provided that they are correctly located within a landscaped median, island, or peninsula.
- b. *Medians.* A minimum of 1 shade-providing tree should be provided every 30 feet within a median. Measurement shall begin at the end of the median and shall measure to and from the center of each trunk.
 - c. *End Islands and Interior Islands.* One (1) shade-providing tree shall be planted within each island. If an island extends the length of two (2) parking spaces, two (2) shade-providing trees shall be planted within the island.
 - d. *Peninsulas.* One (1) shade-providing tree shall be planted within each peninsula.
 - e. Trees planted in compliance with this section shall be located in a landscaped area of at least 180 square feet with a minimum width of 8 feet, measured from the back of the curb.
- (e) *Administration and Approval*
- (1) The Applicant shall submit:
 - a. A site plan showing all public right-of-way, structures, parking spaces, drive aisles, islands, peninsulas, medians, and trees.
 - b. A narrative describing the scope of work, including the number and types of trees and other plants to be planted.
 - c. A cost estimate for the landscaped medians, islands, and/or peninsulas.
 - d. Basic calculations of the tree to parking space ratio.
 - e. A Landscape Maintenance Agreement.
 - (2) Incentive Calculation.
 - a. The City Engineer or designee shall verify tree to parking space ratio calculations and eligibility.
 - b. Parking reductions shall be awarded based on site plans submissions and simple calculations.
 - (3) Final incentive approval shall be issued prior to the issuance of development approval.
- (f) *Construction and Maintenance Requirement*
- (1) All parking spaces, islands, peninsulas, and medians used to obtain an incentive shall be constructed in accordance with approved plans.
 - (2) The City may require the property owner to execute a maintenance agreement ensuring long-term upkeep of all landscaped areas.
 - (3) The City may require financial security to ensure installation of approved landscaped areas.
 - (4) Failure to maintain approved landscaped areas and plant life shall constitute a violation of this Ordinance and may result in financial penalty, as described in subsection (g).
- (g) *Compliance and Enforcement*
- (1) In the event that the landscaped areas and plant life required for the parking reduction incentive are not maintained or are removed, the developer, owner, or their successors, heirs, or assigns shall be liable to the City for the following:
 - a. *Immediate Cure:* Failure to maintain the required landscaped areas and plant life shall be a violation of the site plan approval. The City may notify the owner, who shall have 30 days to remedy the noncompliance, which may include maintenance of landscaped areas and plant life and replacement of dead or dying trees or other plant life.
 - b. *Penalty:* Failure to remedy any noncompliance with this section shall be subject to financial penalty according to the time that has passed since the completion of construction:

1. *Within 180 days of completion: \$500*
 2. *Between 180 days and 18 months: \$300*
 3. *After 18 months: \$100*
 4. *The cumulative amount of the financial penalty shall not exceed a total of \$1,000.*
 5. *Each day any violation of this section continues shall constitute a separate offense.*
 6. *The City shall notify the property owner that the 30-day period for immediate cure has elapsed and that financial penalties shall be applied daily until the noncompliance is remedied.*
 7. *No penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the State.*
 8. *The fine shall be paid to the City within 30 days of written notice.*
- c. *Recording: These obligations shall be recorded as a restrictive covenant running with the land.*
- (h) *Relationship to Other Regulations*
- (1) *Projects utilizing incentives shall comply with all applicable regulations, including local ordinances and state and federal requirements.*
 - (2) *If any portion of this Section is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.*

Secs. 48-248—48-270. Reserved.

Subdivision IV. Signs

Sec. 48-271. Purpose.

- (a) Recognizing that the city economic base is largely dependent upon visitors and the immigration of permanent residents, in part due to its natural beauty and pleasant appearance, the proper control of signs is essential for the continued growth and economic prosperity of the city. Additionally, it is recognized that traffic safety problems can be created by the lack of control of the visual environment. The purpose of this section is to establish standards for the construction and placement of signs.
- (b) Although there is more to this city than its natural resources and appearance, the attraction and servicing of visitors constitutes one of its leading economic activities. The impressions of the visitors and investors of the city determine the success or failure of its economic future. After studying the many ramifications of sign usage and realizing that there are a myriad of public and private interests to be weighed in the balance, it is apparent that the economic, health, and safety factors are inseparable. Each is but a part of the same problem. Any attempt to separate them distorts the picture that is essential to this community. The recognized right of business to advertise must be kept within reasonable boundaries consistent with the objectives and goals of the community to retain its special character and the economic advantages, which rest largely on the quality of its appearance, and high standards of the public health, safety and welfare.
- (c) Signs left unregulated can become a problem for the residents of the city as follows:
 - (1) Without abatement, abandoned or damaged signs can become a hazard to the public.
 - (2) Signs can become a cause of garbage accumulation, an obstruction to light and air to adjoining properties.
 - (3) The proliferation of signs without relative rhyme or reason can create a situation in which the travelling motorist is so distracted that dangerous driving conditions are created.
 - (4) Signs may be visually incompatible with their surroundings, both with the natural environment and with adjoining buildings.

- (5) Signs may detrimentally affect adjoining property values, causing said abutting property to become economically less-competitive.
- (d) Therefore, the objectives of these sign regulations are as follows:
- (1) To ensure that each business or individual maintains adequately their right to communicate to the public.
 - (2) To ensure that the size, location and lighting/coloration of each sign meets the standards necessary to protect the health, welfare and safety of the public and preserves the values of adjacent properties.
 - (3) To ensure that passing motorists or pedestrians can be adequately informed by signs providing information and directions.
 - (4) To alleviate the proliferation of sign usage which is detrimental to the growth of the city, and the safety and welfare of the citizen travelling city streets.
- (e) In summary, the clutter and confusion of unregulated signs has been found to contribute to traffic safety problems, and to be detrimental to the economic and commercial welfare of the community.
- (Ord. No. 235, § 27.0, 6-22-1993)

Sec. 48-272. Definitions.

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

Sign means any letters, figures, symbols, trademarks, or devices designed to inform people or attract the attention of persons or to an individual, firm, profession, business, commodity or service, and which are recognizable from any public right-of-way. Some, but not all, kinds of signs are defined as follows.

Sign, A-frame. See the term "Sign, unattached."

Sign, area, means the square foot area enclosed by the perimeter of the sign face with each face contributing to the aggregate area. The sign face shall exclude decorative wood or metal devices, or frames, or sign supports to include sign supports which are defined as a monolith. However, double-faced sign faces shall be counted only as the area of one face. In cases where the sign, or portion thereof, is composed only of letters, figures, or other characters, standing against no sign face background or secured to a monolith, then the sign face area shall be the sum of the area of an imaginary figure (circle, triangle, rectangle, or other) which fully contains all words, figures, devices, designs or trademarks which constitute the sign.

Sign, auxiliary, means any sign attached to the building or canopy indicating general information, such as pricing, trading stamps, credit cards, official notices or services required by law, trade associations, or giving directions to offices, rest rooms, exits, and like facilities.

Sign, balloon advertising, means a gas filled rubber, plastic or fabric balloon resembling a giant animal, a blimp, dirigible, hot air balloon or other non-rigid airship, that is tethered but free floating at a specific location and used to attract attention to that business, residence or event, whether or not the balloon is lettered or illuminated externally or internally.

Sign, banner, means a piece of paper, plastic, or fabric which may possess colors, characters, letters, illustrations, or ornamentations, and that is not permanently affixed to a sign support. This definition shall not include flags.

Sign, billboard (outdoor advertising). See the term "sign, off-premises."

Sign, canopy, means a sign attached to a canopy which does not exceed the following limits:

- (5) Does not exceed the width of the canopy.
- (6) Does not extend more than six feet above the top of the canopy.

- (7) Does not extend more than six feet above the roofline.
- (8) Does meet the requirements of a projecting sign when attached to a canopy projecting from the side of a building, except for advertisements painted onto awnings or other sun shades attached to a canopy.
- (9) Additionally, when the canopy is detached from the building, no canopy sign hangs more than three feet below the canopy but allowing for 7½ feet of ground clearance for pedestrians, except when attached to a canopy support.

Sign, changeable copy, means a sign that is designed so that letters, numbers, or illustrations can be changed or rearranged without changing the face or surface of the sign. The term "changeable copy sign" does not include billboards.

Sign, community service (public service), means any sign which solicits support for or advertises a nonprofit community use, public use, or social institution. Such signs may include, but shall not be limited to, seasonal holidays such as Christmas or Easter, school activities, charitable programs, or religious activities, or events of community interest. Such signs shall be placed only by units of local, state or federal governments, by nonprofit organizations, by schools, by the chamber of commerce, or by normally recognized religious organizations. A community service sign shall not, if freestanding, exceed 32 square feet in area in nonresidential zones, and six square feet in residential zones.

Sign, construction means signs temporarily placed on a construction site identifying the project, and/or owner, developer, contractor, architect, and other information regarding the project, such as opening dates.

Sign, damaged, means any sign which is unsafe, insecure, disfigured or broken.

Sign, directional, means signs which are freestanding and which do not exceed six square feet in sign face area and whose primary purpose is to give directions to parking lots, exits, entrances drive-through windows, or similar directions.

Sign, double-faced, means one structure containing either one sign with two faces back-to-back oriented in opposite directions, or two signs back-to-back with faces oriented in opposite directions with a distance of not more than three feet between the two signs.

Sign, existing, means a sign which was:

- (f) (1) Completely constructed and erected in place on or before January 1, 1993, 12:00 midnight, and erected in accordance with all laws applicable at the time of its erection. Such laws include: city ordinance requiring a permit for erection of a sign; Southern Building Code provisions for signs (adopted as the city building code) the city Sign Ordinance and the Electrical Code; and located inside the extraterritorial jurisdiction, as such extraterritorial jurisdiction existed on January 1, 1993; or
- (g) (2) A sign which was completely constructed and erected in place, at a time when the sign was located entirely outside the extraterritorial jurisdiction of the city.

Sign, externally illuminated, means any sign illuminated in any manner by an artificial light source which is detached from the sign.

Sign, flag, means a rectangular piece of fabric of distinctive design bearing the official symbol of a nation, state or other governmental or business, and which is not permanently affixed to a sign support.

Sign, flashing, means signs with flashing, blinking, or moving lights, regardless of wattage, whether directly or indirectly illuminated, excepting time and temperature signs. This shall include signs which make use of travelling lights or travelling lighted messages, or flashing lights.

Sign, freestanding, means any sign which is secured to the ground, and which is not affixed to a building secured, as is defined in the definition of "sign, unattached." Billboards are defined, for the purposes of this subdivision, as a freestanding sign; however, those signs listed in section 48-273 are excluded from this definition.

Sign, governmental, means any sign indicating public works projects, or other programs or activities conducted or required by any government subdivision. The term "sign, governmental" is also considered a community service sign.

Sign, height, means the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the average established ground level beneath the sign, unless curb elevation is higher than the ground level, in which case the height shall be measured from curb level.

Sign, integral, means any memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible material mounted on the face of a building.

Sign, internally illuminated, means any sign illuminated in any manner by an artificial light source as an integral part of the sign.

Sign, marquee, means a sign hung from or affixed to a marquee. The term "marquee sign" shall be synonymous with a canopy sign.

Sign, nonconforming, means any sign which does not conform to the regulations of this or existing city ordinances, but was placed on constructed in accordance with existing city ordinances at the time of its placement or construction.

Sign, off-premises, means any sign structure used for any sign advertising an establishment, merchandise, service or entertainment, which is sold, produced, manufactured and/or furnished at a place other than on the property on which said sign is located.

Sign, pennant, means a piece of fabric of any kind, tapering to a point or swallowtail, which may possess colors, characters, letters, illustrations, or ornamentations, and which is not permanently affixed to a sign support.

Sign, portable. See the term "Sign, unattached."

Sign, projecting, means any sign, other than a wall sign, which is affixed to any building or wall whose leading edge extends more than two feet beyond such building or wall. A canopy or marquee sign is not defined as a projecting sign.

Sign, realty, means any sign which is used to offer for sale, lease, or rent the property upon which the sign is located.

Sign, roof, means any sign that is mounted on, and is wholly supported by, the roof of a building and does not extend beyond the wall line.

Sign, sandwich. See the term "Sign, unattached."

Sign, setback, means the distance measured from the nearest part of any sign or sign support to the property line, or if specifically stated, measured to another point such as the street curbline.

Sign, snipe, means a sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, or fences, or to other objects, and the advertising matter appearing thereon is not applicable to the use of the premises upon which such sign is located. Snipe signs do not include political election signs.

Sign, travelling lighted message, means a sign which utilize lights to form letters, words, figures, symbols, etc., and which letters, words, figures, symbols, etc., are changed more than once every four minutes.

Sign, unattached, means any sign which is carried, wheeled or moved about without having to detach the sign from a secure anchoring device which is set in the ground or to a building which is set on an approved foundation; or any sign which is not secured in a manner approved by the city building department and designed to withstand wind pressures as specified in Section 1205 of the Standard Building Code adopted by the city. Such signs are considered to be unattached as they can reasonably be expected to be blown about in high winds which may cause injuries to pedestrians and traffic safety hazards. Said signs include portable signs, "A-frame" signs, and sandwich signs. However, realty signs, individual contractor signs, and political election signs which are six square

feet in area or less are not included in this definition, nor are signs intended for temporary use for safety reasons due to construction, dangers, traffic control, or government or community service signs which are deemed necessary to inform the public.

Sign, wall, means any sign that is painted on, or attached to and erected parallel or approximately parallel to the face of, or erected and confirmed within the limits of the outside wall of any building, or a wall or fence which is built along the perimeter of the property or substantial part thereof. Any such sign shall be supported by the building, wall or fence, and shall display one surface for advertising. Such signs shall not extend more than two feet from the building wall, nor more than six inches from the fence/wall. The term "wall sign" does not include banners, pennants, or flags.

(Ord. No. 235, § 27.13, 6-22-1993; Ord. No. 235-M, § III, 1-22-2001)

Sec. 48-273. Signs exempted from certain regulations.

All signs listed in this subdivision, as defined, are exempt from the regulations listed in this section. However, said signs shall remain subject to construction and electrical standards of the building and electrical codes and of the ordinances of the city.

- (1) *Realty signs*. Realty signs advertising the sale, lease or rental of the premises upon which the sign is located, which shall not exceed 32 square feet in area, except in all residential districts where the area of the sign shall not be more than six square feet. This exception includes garage sale signs or similar signs in residential areas. Realty signs shall be limited to one per street frontage.
- (2) *Professional name plate*. One professional name plate or shingle sign not to exceed four square feet in area.
- (3) *Name and address signs*. Signs denoting the name and address of the occupants of the premises, not to exceed four square feet in area.
- (4) *Places of worship, libraries, museums, social clubs, societies, charitable organizations*. One sign or bulletin board customarily incidental to places of worship, libraries, museums, social clubs, societies, or charitable organizations and which shall be located on the premises of such institution and which shall not exceed 32 square feet.
- (5) *Buildings under construction*. One sign per street frontage of a building which is under construction or structural alteration or repair announcing the character of the building, enterprise or the purpose for which the building is intended, including names of architects, engineers, contractors, developers, financiers, and others, provided the area of such sign shall not exceed 32 square feet in all districts, except 16 square feet in residential districts. Individual contractor signs, not exceeding three square feet in area, are allowed in addition to the construction sign listed above. All such contractor or construction signs shall be removed within 30 days of the completion of the construction project. All such signs which are larger than the subcontractor sign limitation of three square feet shall be set back from the property line to the normal building setback line required in the applicable zoning district.
- (6) *Governmental signs*. Governmental signs not exceeding 32 square feet in area.
- (7) *Community service signs*. If community service signs are placed on or over the public right-of-way, said signs shall obtain a street use permit. All signs in this category shall be maintained in good condition, and, if not, the city building official shall cause said sign to be removed. If any sign in this category is for a special event, that sign shall not be erected more than six weeks prior to the event and shall be removed not later than ten days after the event. The owner shall be responsible for all costs involved in the erection and removal of such signs.
- (8) *Flags or pennants*. Flags or pennants attached to a building, but which are not extended over parking lots or other open areas, nor in any manner are supported apart from the building. Also exempted are flags, not to exceed six in number, mounted on poles which are governmental flags, or flags carrying the

emblem of the business located on the same building lots. In no case shall any one flag exceed 50 square feet in size.

- (9) *Commemorative plaques/integral signs.* Commemorative plaques placed by governmental or civic organizations, or integral signs.
- (10) *Approved PUD signs.* Signs specifically approved in a Planned Unit Development.
- (11) *Rearrangement/replacement on existing signs.* Rearrangement/replacement of letters, numbers, characters, or pictures on existing signs, provided that the sign area is not enlarged.
- (12) *Political election signs.* Political election signs, provided:
 - a. That no political signs may be placed on any city owned property, including any easement or right-of-way.
 - b. That political signs may be placed on private real property with the consent of the property owner subject to the following:
 - 1. No permit for or approval of the city is required for placement of political signs.
 - 2. No political sign may be greater than an effective area of 36 feet, be more than eight feet high, be illuminated, or have any moving elements.
 - 3. Any political sign that becomes loose and is blown from the property that it was placed on is subject to any anti-littering ordinance of the city.
 - 4. No political signs may be placed on any real property, 90 days before the date of the election to which the sign relates; and such signs must be removed no later than the 15th day following the election by the candidates for public office or by the owner of the private real property.
 - 5. This subsection (12) does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.
- (13) *Public service signs.* Public service signs indicating time and temperature.
- (14) *Auxiliary signs.*
- (15) *Canopy signs.*
- (16) *Roof signs.*
- (17) *Wall signs.*
- (18) *Window signs.*
- (19) *Directional signs.*
- (20) *Signs placed on benches, trash cans, etc.* Signs placed on benches, trash cans, or other structures which are located in the public right-of-way, provided that the city council has authorized the placement of the structure or receptacle in the right-of-way, and has additionally authorized the placement of the sign on the structure or receptacle.
- (21) *Unattached or portable signs.* Unattached or portable signs may be used on property for 30 days and a maximum of 90 days per calendar year with a permit issued by the city.

(Ord. No. 235, § 27.1, 6-22-1993; Ord. No. 235-P, §§ 1—3, 2-8-2005; Ord. No. 235-Q, § I, 5-9-2005; Ord. No. 556, § 2, 6-11-2024)

Sec. 48-274. Prohibited signs.

All signs listed in this section shall be prohibited in the city. Existing signs which fall into this category are subject to the provisions of section 48-281.

- (1) *Signs located on the public right-of-way.* Any signs and supports, other than those required by governmental authority, or for which a street license has been issued, which are located on or over the public right-of-way, including public sidewalks, streets, alleys and parkways. This subsection shall not apply to signs on commercial vehicles or commercial trailers lawfully operated or parked in such areas, except that this exception shall not otherwise be used to legitimate the use of advertising vehicles and trailers or portable or wheeled signs prohibited in this section, neither shall this subsection apply to those projecting signs allowed in the C-3 zone, except as prohibited by state law or guidelines.
- (2) *Signs which revolve, rotate, whirl, spin, etc.* Signs which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention. Flags and pennants as exempted in section 48-273 are not included in these prohibited signs.
- (3) *Signs utilizing flashing lights, moving lights, or travelling lighted messages.* Signs which utilize flashing lights, moving lights, or travelling lighted messages, except for time and temperature.
- (4) *Sign illumination directed at streets or residential properties.* No external lighting device used for the illumination of signs, buildings, or grounds shall employ sources of light which are directed at streets or any adjacent residential properties. This provision shall not include street lights. Any internal lighting devices designed to light any sign shall have the source of light shielded and not visible from the street or adjacent residential properties, except that light bulbs which do not exceed the lumen output of a 40-watt incandescent bulb may be visible from the street.
- (5) *Signs obstructing or interfering with traffic.* Signs which, by reason of their size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of emergency or road equipment vehicles or which hide from view any traffic or street sign or signal or device.
- (6) *Sound emitting signs.* Any sign which emits sound.
- (7) *Entrance, exit, directional fire escape notices.* No signs other than entrance, exit or directional fire escape notices shall be placed in any form, shape, or manner on any fire escape or door or window giving access to a fire escape.
- (8) *Damaged signs, signs no longer applicable.* Damaged signs, or signs that are located on property which becomes vacant and is unoccupied for a period of 12 months or more, or any sign which pertains to a time, event, or purpose which no longer applies.
- (9) *Unattached or portable signs.* Unattached or portable signs may be used on property for 30 days and a maximum of 90 days per calendar year with a permit issued by the city.
- (10) *Motor vehicles or trailers.* Motor vehicles or trailers whose primary purpose is as a permanent advertising device. This shall not include the placement of wagons that are of a type that once were drawn by animals and are placed upon property for historic or landscaping purposes, provided that no signs are placed thereon.
- (11) *Snipe signs.*
- (12) *Other signs.* Any sign which has been or is erected, altered, repaired or relocated without having received an applicable permit, and without being erected, altered, repaired or relocated in conformance with this Code or in conformance with the building and electrical codes of the city or in accordance with the regulations of this section.

(Ord. No. 235, § 27.2, 6-22-1993; Ord. No. 235-M, § I, 1-22-2001; Ord. No. 235-Q, § I, 5-9-2005; Ord. No. 235-W, § 27.2(1), 5-16-2008; Ord. No. 235-Y, § 27.2, 9-8-2009)

Sec. 48-275. Signs permitted by zone.

All of the signs listed within this section are required to meet the standards in this subdivision (except for banner signs) and shall be required to obtain a permit from the building official.

- (1) *Estate, R-1, R-1A, R-2 R-C districts, and the Planned Unit Development District.* The following signs shall be permitted in the Estate, R-1, R-1A, R-2 and R-C districts, and the Planned Unit Development District unless otherwise provided in the PUD development plan:
 - a. *Allowed signs previously listed.* All signs listed in section 48-273 that are applicable to residential uses, or as may be allowed with a home occupation.
 - b. *Subdivision name sign.* Subdivision name sign, not exceeding 32 square feet in sign area.
- (2) *R-LB, R-3 and C-1 districts.* The following signs shall be permitted in the R-LB, R-3 and C-1 districts:
 - a. *Allowed signs previously listed.* As permitted in subsection (1) of this section.
 - b. *Projecting sign.* One projecting sign per building face of each business which cannot extend more than nine feet from the building face (wall), and cannot be more than six feet in width from the building edge of the sign to the outside edge of the sign measured perpendicularly to the building.
 - c. Unattached or portable signs.
- (3) *C-2, C-4, or M-1 districts.* The following signs shall be permitted in the C-2, C-4, or M-1 districts:
 - a. *Allowed signs previously listed.* As permitted in subsection (2) of this section.
 - b. *Freestanding signs on lots or building lots 50 feet in width but less than 200 feet in width.* One freestanding sign is permitted for each building lot as outlined in this subsection, with the exceptions as noted:
 1. *Sign area.* The maximum allowable sign area shall equal 100 square feet.
 2. *Sign height.* The maximum height of any sign shall equal 30 feet.
 3. Location of signs.
 - (i) No freestanding sign shall be located on a building lot that is less than 50 feet in width. However, if lots less than 50 feet are combined to form a building lot for one business or a commercial center and the resulting width of the building lot equals or exceeds 50 feet, then one freestanding sign is allowed. However, in no case shall freestanding signs be located less than 50 feet apart, and in no case shall there be more than one freestanding sign for a commercial center.
 - (ii) A through lot is allowed to have one freestanding sign on each of the two parallel street frontages, provided that the signs meet all other requirements of this section, including the distance requirement of 50 feet between signs.
 - c. *Freestanding signs on building lots 200 feet in width but less than 400 feet in width.* One freestanding sign is permitted for each building lot or commercial center. The freestanding sign shall meet the following criteria:
 1. *Sign area.* The maximum allowable sign area shall equal 150 square feet.
 2. *Sign height.* The maximum allowable sign height shall equal 35 feet.
 3. Location of signs.
 - (i) No freestanding sign shall be located within 60 feet of any other freestanding sign.

- (ii) A through lot is allowed to have one freestanding sign on each of the two parallel street frontages, provided that the signs meet all other requirements of this section, including the distance requirement of 60 feet between signs.
- d. *Freestanding signs on building lots 400 feet or greater in width.* Two freestanding signs are allowed for each building lot or commercial center. The freestanding signs shall meet the following criteria:
 - 1. *Sign area.* The maximum allowable sign area shall equal 200 square feet for one sign, and 100 square feet for the other.
 - 2. *Sign height.* The maximum allowable sign height shall equal 40 feet for the larger sign, and 30 feet for the smaller sign.
 - 3. *Location of signs.* No sign shall be closer than 70 feet from any other freestanding sign.
- e. Off-[premises] sign (billboard) regulations.
 - 1. *Maximum area per sign panel.* 385 square feet, including border and trim but excluding ornamental base or apron, supports and other structural members. Back to back displays erected at no greater than a 30 degree angle to each other shall be permitted and deemed to be a single sign.
 - 2. *Setback.* An off-[premises] sign shall be set back a minimum of 50 feet or ten feet plus one foot for each foot of height of the sign whichever is greater from all property lines.
 - 3. *Height.* No off-[premises] sign shall exceed 60 feet in vertical height.
 - 4. No new off-[premises] sign (billboard) signs are permitted within the city. Existing signs may be replaced, provided they maintain the same location, size and setback as originally placed and comply with the current regulations.
- f. *Banner signs.* Banner signs, if and only if:
 - 1. The entire banner sign covers portions of:
 - (i) The outside wall of any building; or
 - (ii) A wall or fence which is built along the perimeter of a substantial part of such property.
 - 2. The entire square footage of banner signs at one business location shall not exceed 80 square feet.
 - 3. The banner sign is, and remains in, good condition and without torn, or tattered portions.
- (4) *C-3 district.* The following signs shall be permitted in the C-3 Central Business District. The same sign regulations that are listed in subsection (3) of this section for the C-2, C-4, or M-1 districts shall apply to the C-3 district with the following exceptions: Signs may extend over the sidewalk, but shall remain at least two feet from the curb face, and with a minimum vertical clearance of 7½ feet above the sidewalk.
- (5) *Planned Unit Development District.* Within any Planned Unit Development District, sign regulations shall be as follows: Unless specifically approved otherwise in a development plan, signs shall be regulated as they would be in the most similar zoning district.
- (6) *AG or OSR district.* Within any AG or OSR district, sign regulations shall be as follows:
 - a. Any business allowed in either the AG or OSR districts shall be permitted to have signs in accordance with the most similar land use in one of the above mentioned zoning districts.
 - b. No part of a sign face shall be located within a plane measured from three feet to eight feet above the curb of a driveway or intersecting side street, if said sign face is located both within ten feet of the back curb of a driveway, and within 15 feet of the back of curb of any street; provided, however, if the driveway is at a lower elevation than the street curb, the city building

official may require that the no obstruction plane be extended to ground level within the ten-foot by 15-foot area in order to prevent traffic visibility problems.

(7) *Advertising balloons.* Advertising balloons shall meet the following requirements:

- a. *Maximum size.* The maximum inflated size shall be equal to a calculated volume of 2,000 cubic feet.
- b. *Maximum height.* The maximum vertical, tethered height shall be equal to 100 feet.
- c. *Minimum horizontal distance.* The minimum horizontal distance to any major thoroughfare shall be equal to the total length of the tether.
- d. *Grounding requirements.* The balloon, the tether and the mooring station shall conform to the National Electrical Code requirements for grounding.
- e. *Statement of liability* The permit shall contain a statement of liability which holds the city safe and harmless from litigation that may arise from the deployment of the balloon.
- f. Other signs.
 1. *Electronic displays.* Electronic message unit signs are permitted in C-1, C-2, C-3, and C-4 districts and may be located on the same sign structure as non-message unit signs.
 - (i) Electronic message unit signs may not be located within 100 feet of the boundary of any residentially-zoned district.
 - (ii) Electronic message unit signs may also display time and temperature as well as information of a civic, charitable, or similar nature.
 - (iii) Messages may not change at a rate faster than one change per eight seconds.
 - (iv) All Electronic message unit signs shall be capable of displaying timely information regarding (i) Amber Alerts, (ii) Silver Alerts, and (iii) public safety and emergency alerts regarding, but not limited to, natural disasters, threatening weather, terrorist attacks, chemical spills, train derailments, industrial and transportation accidents, mass shootings, and other emergency notifications, as may be requested by designated officials of the city. All electronic message unit signs shall also be capable of displaying public service and other community and non-profit announcements and messages as may be requested by designated officials, to the extent such announcements and messages do not interfere with contractual commitments for privately sponsored messaging, such being necessary to fund the installation and maintenance of the electronic message unit signs without the need for taxpayer or any other governmental funds. Emergency messages shall always preempt privately sponsored messages and have top priority.

(Ord. No. 235, § 27.3, 6-22-1993; Ord. No. 235-M, § II, 1-22-2001; Ord. No. 235-Y, § 27.3, 9-8-2009; Ord. No. 555, §§ 2, 3, 1-9-2024; Ord. No. 563, § 2, 12-10-2024)

Sec. 48-276. Maintenance.

Every sign, including those specifically exempt from this Code in respect to permits and permit fees, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The building inspector or his authorized representative shall inspect and shall have the authority to order the painting, repair, alteration, or removal of a sign which shall constitute a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence.

(Ord. No. 235, § 27.4, 6-22-1993)

Sec. 48-277. Permits required and conformance with codes.

- (a) No sign shall be erected, altered, repaired or relocated without first obtaining a permit from the building official. The signs enumerated in section 48-273 shall be an exception unless otherwise specified in this subdivision or in city building and electrical codes.
- (b) All applications for permits for all signs shall be accompanied by such drawings or descriptions as are necessary to fully advise the building official as to location, construction, details as to brackets, main guy cables, wired braces, bolts and turn buckles; if to be extended from building walls, thickness of said wall or walls and height of sign and height of building; if on standards, size and height of standards; the weight of sign, size of sign and other details which the building official may deem necessary.
- (c) Where the sign is to be attached to an existing building or freestanding sign, a current photograph of the wall face or freestanding sign is to be attached to the application. Each permit shall contain the name, address and telephone number of the owner or persons entitled to possession of the sign or maintenance of the sign, and the name, address and telephone number of the sign contractor/erector.
- (d) When a sign permit has been issued by the building official, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the building official. A written record of such approval shall be entered upon the original permit application and maintained in the files of the building official.
- (e) The building official shall notify the responsible party in writing of any signs which are damaged and considered to be an immediate danger to the public. The responsible party shall immediately proceed to remove or repair the sign. Should the responsible party, not later than ten days after being notified, fail to correct any such cited damage, the building official shall cause such sign and its supports to be demolished and removed.
- (f) Whenever the building inspector or any of his agents or any police officer finds a sign which was erected after the effective date of the ordinance from which this section is derived and which was erected in violation hereof, the inspector or agent or officer shall require the party responsible for such sign to remove the same immediately. If the party responsible fails to remove said sign within three days after being duly notified to do so or if it appears to the inspector, agent or officer that the illegal sign placement poses an immediate danger to the public then such sign may be removed by the city at the expense of the party responsible. Any sign so removed shall be stored or impounded and shall not be returned to the party responsible until all applicable charges are paid. If any sign remains unclaimed for a period of 30 days after its removal, or if the removal and storage costs are not paid within the 30 day period, the city may destroy, sell, or otherwise dispose of the sign.
- (g) Any owner failing to remove any sign after being duly notified to do so shall be in violation of this chapter, and necessary legal proceedings shall be instituted.

(Ord. No. 235, § 27.5, 6-22-1993)

Sec. 48-278. Responsible party.

Parties responsible for signs shall be identified as follows:

- (1) A sign shall have printed upon it, in a legible manner, the name and address of the party responsible for the placement, maintenance and removal of the sign;
- (2) A sign shall clearly indicate through its advertising medium the party responsible for the placement, maintenance and removal of the sign; or
- (3) All signs which do not comply with either subsections (1) or (2) of this section shall become the responsibility of the property owner upon which the sign is placed. Said responsibility shall include that of repair, maintenance or removal, as may be necessary.

(Ord. No. 235, § 27.6, 6-22-1993)

Sec. 48-279. Construction standards and compliance.

All regulations established in Chapter XXIII, Southern Standard Building Code, or as they may be amended, which do not conflict with this subdivision, shall remain in full force and effect. All portions of said codes which are in conflict with this section are hereby repealed.

(Ord. No. 235, § 27.7, 6-22-1993)

Sec. 48-280. Permit fees.

A fee shall be paid for each sign permit in accordance with the amount provided in the city fee schedule.

(Ord. No. 235, § 27.8, 6-22-1993)

Sec. 48-281. Future annexation.

For all areas not within the jurisdiction of this chapter, that may come within the jurisdiction of this chapter at some future date, the requirements and procedures of this chapter shall apply commencing on the date of annexation or the extension of the extraterritorial authority of the city.

(Ord. No. 235, § 27.9, 6-22-1993)

Sec. 48-282. Waivers.

Waivers may be granted for existing signs which do not conform to the requirements of this subdivision, provided that the procedures and standards set out in this section are followed.

(1) Procedures.

- a. *Application.* Application for a waiver shall be filed with the planning department two weeks prior to the planning and zoning commission meeting. The application shall include the following:
 1. Name/address of owner/applicant.
 2. Address/property legal description
 3. Statement that the applicant is the owner or authorized agent, or has a contract for sale.
 4. Site plans, elevations, improvement plans, and other such drawings, all sufficiently dimensioned land oriented to illustrate the following:
 - (i) The location and dimensions of lot lines.
 - (ii) The location, appearance, and intended use of buildings and signs on the site, and the approximate location of existing buildings and freestanding signs on abutting lots. (Photographs may be used.)
 - (iii) The location of site improvements, including parking and loading areas, pedestrian and vehicular access, landscaped areas, utility or service areas, fencing and screening, and lighting, where applicable. (Photographs may be used.)
- b. *Preliminary conference.* The applicant shall meet with staff to consider alternatives and the nature of his petition prior to or during the application process.

- c. *Public hearing.* The planning and zoning commission shall hold a public hearing on each application for a waiver. At the public hearing, the commission shall review the application and shall receive pertinent evidence concerning the proposed waiver.
 - d. *Review by the planning department.* The planning department shall review the application or proposal and shall be filed with the planning and zoning commission prior to the public hearing.
 - e. *Action by the planning and zoning commission.* The commission may grant the waiver as presented, or in a modified form, or subject to conditions, or it may deny the application on the grounds of being incompatible with a neighboring use, traffic safety or design.
- (2) *Evaluation criteria.* The planning and zoning commission shall review each request for a waiver to this section and shall evaluate the request based upon the following standards prior to making a decision.
- a. *Traffic safety.*
 - 1. The sign shall not unduly distract traffic by creating a situation in which more signs are permitted than allowed by this chapter per street frontage of each building lot. Exceptional situations may be considered on corner lots, and lots less than 50 feet in width.
 - 2. The sign shall not unduly distract traffic by containing components which flash, whirl, spin, or otherwise make use of motion, including travelling lighted messages.
 - 3. The sign shall not obstruct traffic visibility at intersections of streets, or streets and driveways. A report from the city engineering division shall be considered.
 - b. *Design.* The commission shall consider the design of the sign prior to approval. In its design evaluation, the commission shall determine the following:
 - 1. The sign shall be designed to ensure instant recognition by the clarity of its message, and designed in such a manner so as to adequately convey an advertising message without competing for attention with its neighboring businesses by extraordinary height, size, color, etc.
 - 2. The sign shall not contribute to the clutter and confusion of signs too closely spaced.
 - 3. The sign shall not be sited or constructed in a manner that would obscure other businesses, or significantly reduce the visibility of natural terrain features.
 - 4. Landscape treatment, where appropriate, shall be provided to enhance architectural features and strengthen vistas.
 - 5. Materials used in the construction of the sign should be so designed to be of good architectural character relating to the features of the building and/or the natural terrain features.
 - c. *Neighborhood compatibility.* No waiver shall be given for any sign which, in the judgment of the commission, will unduly obscure a neighboring business or that business' sign.
- (3) *Exceptions.*
- a. No waivers authorized by this section shall be allowable for the signs that are listed as a prohibited sign in section 48-274.
 - b. Notwithstanding the provisions of this section, any sign owner may apply for a variance as described in section 48-315; provided that all requirements relating to variances in that section are determined by the commission to exist, and that all hearing requirements are complied with.

(Ord. No. 235, § 27.11, 6-22-1993)

Sec. 48-283. Amortization in the event of invalidity.

In the event any provision of state law authorizing the prohibition, removal or alteration of signs after a period of amortization is held invalid, any provision of this section, or any regulation, action, or decision, thereunder, is held invalid, or any period of amortization set by the city sign board is ever held to be invalid, then amortization period for any sign invalidly amortized under any such law, ordinance, regulation, action or decision shall be, and is, eight years from the effective date of the ordinance from which this subdivision is derived.

(Ord. No. 235, § 27.12, 6-22-1993)

Secs. 48-284—48-314. Reserved.

ARTICLE III. ADMINISTRATION AND ENFORCEMENT

Sec. 48-315. Planning and zoning commission.

(a) *Authority of the planning and zoning commission.* The planning and zoning commission, hereinafter referred to in this section as the "commission", shall have jurisdiction of and be responsible for the administration of the regulations and provisions of this chapter. It shall have the power to exercise this jurisdiction as hereafter provided, and shall have the authority to act in its administrative capacity on the following matters:

- (1) Variance and adjustments.
- (2) Interpretations.

In exercising its jurisdiction, the commission shall adopt from time to time such general rules and regulations relating to its procedure as may be deemed necessary.

(b) *Variances.* Where practical difficulties, unnecessary hardships, or results inconsistent with the general purposes of this chapter would occur from its strict literal interpretation and enforcement, the commission shall have authority to grant upon such terms and conditions as it deems necessary, such variances therefrom as may be in harmony with their general purpose and intent, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done as follows:

- (1) Permit the extension of an existing or proposed conforming use into an adjoining more restricted zone.
- (2) Permit a building or use on a lot immediately adjoining or across an alley from a less restricted zone, upon such conditions and safeguards as will tend to cause an effective transition from the less restricted to the more restricted zone.
- (3) Permit the addition or enlargement of a building, nonconforming as to use regulations, provided such addition or enlargement complies with all the height and area regulations of the zone in which it is located, and that the total aggregate floor area of such additions or enlargements does not exceed 50 percent of the floor area of the existing nonconforming buildings.
- (4) Permit in the Estate, R-1, R-2, and R-3 districts, a transitional use on a lot adjoining a building nonconforming as to use, provided such transitional use shall only be a use permitted in the next less restricted zone than the one in which the nonconforming building is located, such as and R-2 use in an R-1 district.
- (5) Permit a less restricted use in a more restricted zone as follows: Any C-2 use in the C-1 district, any M-1 use in the C-3 district, any M-2 use in the M-1 district; provided such use due to its limited nature, modern devices, or building design will be no more objectionable than use permitted in such zone.
- (6) Permit such modification of the height and area regulation as may be necessary to secure an appropriate improvement on lot.
- (7) Permit the modification or waiver of the automobile parking or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of this chapter.
- (8) Permit the modification of the conditions under which specific uses are allowed in certain zones.
- (9) Permit temporary buildings and uses for periods of not to exceed two years in undeveloped sections of the city, and for periods of not to exceed six months in developed sections.
- (10) Permit the following uses in zones from which they are prohibited by this chapter: airports or aircraft landing fields, cemeteries, development of natural resources, together with the necessary buildings, apparatus or appurtenances incident thereto, hospitals or institutions, governmental enterprises, public libraries or museums, public utilities and public service uses or structures, and recreational or community centers privately operated.

- (c) *Variance requirements.* No variance shall be granted by the commission unless it finds that:
- (1) The strict application of the provisions of this chapter would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the chapter;
 - (2) There are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood;
 - (3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located; and
 - (4) The granting of such variance will not be contrary to the objectives of any part of the master plan adopted by the commission; provided, however, that all of the above enumerated requirements need not apply to variances involving special and conditional uses specified in this article, and variances for such uses shall only be granted by the commission where it finds that they are deemed essential or desirable to the public convenience or welfare, are in harmony with the various elements or objectives of the master plan, and will not be materially detrimental or injurious to property or improvements in the immediate neighborhood.
 - (5) That the granting of such variance will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 - a. Factors considered during this review shall include, but are not limited to:
 1. The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;
 2. Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 3. Proposed stormwater management infrastructure; and
 4. For developments 5 acres in total lot area, the net change in runoff rate.
- (d) *Application.* Applications for variances shall be filed with the clerk of the commission in writing, and shall be accompanied by a sketch or plat showing the desired variances.
- (1) The sketch plan shall demonstrate the relationship of the site and structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Areas.
 - (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. When a proposed development is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
- (a) *Hearing.* Upon filing of an application for a variance, the clerk of the commission shall set a date for public hearing thereon as soon as may be practicable.
- (e) *Notice.* Written notice of such public hearing shall be sent to owners of real property lying within 200 feet of the property on which the variance is proposed. Such notice shall be mailed not less than ten days before the date set for such hearing, by mailing such notice properly addressed and postage paid to all such owners on the last approved city tax roll; provided, however, that where property lying within 200 feet of the property proposed to be varied is located in territory that was annexed to the city after compilation of the last approved city tax roll, notice to such owners shall be given by publication of the time and place of such hearing in a newspaper of general circulation published in the city, at least 15 days prior to such hearing, without the necessity of mail notices.
- (f) *Decision.* The planning and zoning commission shall render its decision by filing a statement of such decision with the city secretary. Such decision shall be the preliminary and final report of the commission, unless otherwise specified.

- (g) *Effect date of variance.* No variance granted by the commission shall become effective until the expiration of ten days from the date of its decision or upon final determination by the city council.
- (h) *Conditions of variance.* The commission may condition the effectiveness of the granting of a variance in such means and manners as it deems just and reasonable. For example, it may condition the effectiveness of the variance upon the proposed construction being actually completed within a certain length of time, or carried on diligently to completion, and in the event that it is not, then the variance shall become void. The commission shall retain authority to extend or modify such conditions.

(1) The commission may condition the granting of a variance on the construction or installation of such measures that the commission deems necessary to effectively mitigate risks related to flooding and fires.

- (i) *Interpretation.* The commission shall have the authority to interpret the intent of this chapter by written decision, which shall be in the form of a resolution adopted by a majority of its membership. Thereafter, such interpretation shall be followed in applying said provisions, unless changed by the city council on appeal.

(Ord. No. 235, § 29, 6-22-1993)

Sec. 48-316. Amendments.

- (a) *In general.* The boundaries of the districts or the regulations and restrictions established in this chapter may, from time to time, be amended, supplemented, or changed by ordinance.
- (b) *Application.* Any application for a change in zoning classification of a particular lot, or any other request or proposal to amend or supplement the boundaries of districts, shall be submitted in writing and filed with the clerk of the planning and zoning commission.
 - (1) If the particular lot or other proposal is located within the 100-Year Floodplain and/or Wildfire Risk Area, the application shall be accompanied by a sketch plan that demonstrates the relationship of the site and the structures to the 100-Year Floodplain, 500-Year Floodplain, and Wildfire Risk Area.
 - (2) The City of Los Fresnos desires to mitigate flooding and wildfire risk. If the particular lot or proposal is located in the 100-Year Floodplain and/or Wildfire Risk Area, the applicant shall provide documentation that identifies and describes these risks in adequate detail to support informed City risk review.
- (c) *Hearing.* Upon the filing of such application, the clerk of the commission shall set a date for a public hearing thereon as soon as possible.
- (d) *Notice.* Written notice of such public hearing shall be sent to owners of real property lying within 200 feet of the property on which the change is proposed. Such notice shall be mailed not less than ten days before the date set for such hearing, by mailing such notice properly addressed and postage paid to all such owners who have rendered their said property for city taxes on the last approved city tax roll. Provided, however, that where property lying within 200 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 publication of the time and place of such hearing in a newspaper of general circulation published in the city, at least 15 days prior to such hearing without the necessity of mail notices.
- (e) *Decision.* The planning and zoning commission shall render its decision by filing a statement of such decision with the city secretary. Such decision shall be the preliminary and final report of the commission unless otherwise specified.
- (f) *Denial.* In the event the application for variance or zoning change is denied by the planning and zoning commission, and no person appeals as hereinafter provided, then the decision of the planning and zoning commission shall be final, and there shall be no further proceedings shall be had on any such application.

- (g) *Granting variance.* In the event the decision of the planning and zoning commission is the granting of a variance, and no person appeals as hereinafter provided, then the action of the planning and zoning commission shall be final, and no further proceedings shall be had on any such application.
- (h) *Granting zone change.* In the event the decision of the planning and zoning commission is granting of zone change, then, regardless of whether there has been an appeal, the city secretary shall place the matter on the agenda for a city council meeting, and notices of such public hearing shall be given as set forth in subsection (i) of this section.
- (i) *Notice of appeal.* Any person aggrieved or affected by the planning and zoning commission's decision may appeal by filing with the city secretary, within ten days from the date of the commission's decision, a written notice of appeal. Such notice shall be sufficient if it is signed by the person appealing and set forth an intent to appeal. The date of the decision is filed with the city secretary.
- (j) *Notice of public hearing.* On receipt of the notices of appeal, the city secretary shall add the consideration of the appeal to the agenda of the earliest practicable city council meeting. Notice of such meeting shall be published at least 15 days in advance in a newspaper of general circulation published in the city.
- (k) *Hearing.* The city council shall hold a public hearing at the time and place specified in such notice and may continue the same from day to day.
- (l) *Decision.* Upon such hearing, the city council shall act on such appeal. Provided, however, in case of a written protest against such change, signed by the owners of 20 percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom, a change in zoning shall not become effective except by favorable vote of three-fourths or more of all members of the city council.
- (m) *Review Criteria.* In determining whether to approve, approve with modifications or conditions, or disapprove amendments to the Official Zoning Map, the Commission and Council shall consider and make findings on the following matters regarding the proposed amendment:
 - (1) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
 - (2) Suitability of the property affected by the amendment for uses permitted by the district applicable to the property at the time of the proposed amendment (the current zoning district);
 - (3) Suitability of the property affected by the amendment for uses permitted by the district that would be made applicable by the proposed amendment (the proposed zoning district);
 - (4) Availability of water and wastewater facilities suitable and adequate for the proposed use;
 - (5) That the proposed use will not significantly heighten the risk of damage from flooding or wildfire for the subject and adjacent properties and structures.
 - a. Factors considered during this review shall include, but are not limited to:
 - 1. The relative location of the 100-year Floodplain, 500-year Floodplain, and Wildfire Risk Areas with respect to the lots in question;
 - 2. Presence and preservation of existing natural drainage features, including but not limited to creeks, wetlands, and ponds;
 - 3. Proposed stormwater management infrastructure; and
 - 4. For developments 5 acres in total lot area, the net change in runoff rate.

(Ord. No. 235, § 30, 6-22-1993)

Sec. 48-317. Permits; licenses; certificates of occupancy.

- (a) *Permit required.* Before commencing any work pertaining to the erection, construction, reconstruction, moving, conversion or alteration of any building, a permit shall be secured from the building inspector by any owner or his agent for said work, and it shall be unlawful to commence any work until and unless such permit shall have been obtained, provided further that no such building shall be occupied or used unless a certificate of occupancy and a license for such use where required is first obtained from the department or person vested with the duty or authority to issue same.
- (b) *Compliance.* All department officials or public employees vested with the duty or authority to issue permits, licenses, or certificates of occupancy where required by law, shall conform to the provisions of this chapter. No such permit, license, or certificate for buildings, uses or purposes, where the same would be in conflict with the provisions of this chapter, shall be issued in conflict with the provisions hereof, shall be null and void.
- (c) *Compliance by city.* The provisions of this chapter shall apply to all buildings, improvements, lots and premises, owned, leased, operated or controlled by the city or any department thereof, or by any other municipal or quasi-municipal corporation or governmental agency.
- (d) Certificate of occupancy for buildings.
 - (1) No building hereafter erected, moved, enlarged, or altered, shall be occupied, used, or changed in use until a certificate of occupancy shall have been issued by the building inspector of the city. Such certificate shall be applied for coincident with the application for a building permit, and shall be issued only after such building enlargement or alteration has been completed in conformity with the provisions of this chapter, and when the proposed use conforms thereto. Further, no excavation for a building shall be started before application has been made for a certificate of occupancy.
 - (2) Any use legally occupying an existing building at the time the ordinance from which this chapter is derived became effective, may be continued but shall not be changed unless a certificate of occupancy for the new use shall have been issued by the building inspector, after finding that such use conforms with the provisions of this chapter.
- (e) *Certificate of occupancy for land.* A certificate of occupancy shall be applied for before any vacant land is hereafter used, or before an existing use of vacant land is hereafter used, or before an existing use of vacant land is changed, and the building inspector shall issue such certificate within ten days after said application is filed, provided such use is in conformity with the provisions of this chapter, provided further, that no certificate of occupancy shall be required where the land is to be used for tiling the soil and growing therein farm, garden, or orchard products.
- (f) *Certificate of occupancy; contents, etc.* The certificate of occupancy shall state that the building or proposed use of a building or land complies with all laws and ordinances, and with the provisions of this chapter. A record of all certificates shall be kept on file in the office of the building inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

(Ord. No. 235, § 31, 6-22-1993)

Sec. 48-318. Interpretation; conflict; enforcement; penalties; validity.

- (a) *Interpretation, purpose, conflict.* In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties. Where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this chapter shall control; provided, however, that any conditional variance granted, pursuant to the

provisions of any zoning or districting ordinance enacted prior to the effective date of the ordinance from which this chapter is derived, shall be construed to be a variance under this chapter, subject to all limitations imposed in such conditional variance. Such variances, however, if not utilized within 180 days from the effective date of the ordinance from which this chapter is derived, shall be null and void and the property included therein shall thereafter be subject to all the regulations of the zone in which it is located.

(g) Enforcement and penalties.

- (1) It shall be the duty of the building inspector to enforce the provisions of this chapter pertaining to the erection, construction, reconstruction, moving, conversion, alteration, addition or use of any building, or to the use of land.
- (2) It shall also be the duty of the city police department and all officers of said city otherwise charged with the enforcement of the law, to enforce this chapter.
- (3) Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a Class C misdemeanor, and on conviction thereof, be punished by fine according to the amount thereof established by the state legislature for punishment upon conviction of a Class C misdemeanor. Such person, firm or corporation shall be deemed guilty for each day during any portion of which any violation is committed, continued or permitted, and shall be punishable as herein provided.
- (4) The city attorney, upon request of the council, shall institute any necessary legal proceedings to enforce the provisions of this chapter, and he is hereby authorized, in addition to the remedy herein provided, to institute an action for an injunction to restrain, or any other appropriate action or proceedings to enforce such provisions.

(Ord. No. 235, § 32, 6-22-1993)