



CITY COUNCIL SPECIAL/WORKSHOP MEETING

Monday, December 04, 2023 at 5:30 PM
City Council Chambers | 202 N. Virginia Street, Port Lavaca TX 77979

PUBLIC NOTICE OF MEETING

The following item will be addressed at this or any other meeting of the city council upon the request of the mayor, any member(s) of council and/or the city attorney:

Announcement by the mayor that council will retire into closed session for consultation with city attorney on matters in which the duty of the attorney to the city council under the Texas disciplinary rules of professional conduct of the state bar of Texas clearly conflicts with the open meetings act (title 5, chapter 551, section 551.071(2) of the Texas government code).

(All matters listed under the consent agenda item are routine by the city council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and will be considered separately.)

AGENDA

Council will consider/discuss the following items and take any action deemed necessary.

Public notice is hereby given that the City Council of the City of Port Lavaca, Texas, will conduct a special meeting and a workshop session on Monday, December 04, 2023 beginning at 5:30 p.m. at the regular meeting place in Council Chambers at City Hall, 202 North Virginia Street, Port Lavaca, Texas to consider the items listed.

[After publication, any information in a council packet is subject to change during the meeting]

The meeting will also be available via the video conferencing application “ZOOM”.

Join Zoom Meeting:

<https://us02web.zoom.us/j/84302271307?pwd=YjIreFU2d2lqRHFITG95ejkzTzdTZz09>

Meeting ID: 843 0227 1307

Passcode: 429048

One Tap Mobile

+13462487799,,84302271307#,,,,*429048# US (Houston)

Dial by your location

+1 346 248 7799 US (Houston)

CITY COUNCIL SPECIAL MEETING

I. ROLL CALL

II. CALL TO ORDER

III. COMMENTS FROM THE PUBLIC

(Limited to 3 minutes per individual unless permission to speak longer is received in advance. You may make public comments as you would at a meeting by logging on with your computer and using "Join Zoom Meeting" information on first page of this agenda).

IV. ACTION ITEMS - Council will consider/discuss the following items and take any action deemed necessary

1. Discuss status of the Corporation Ditch culvert replacement project and take any action deemed necessary. Presenter is Jody Weaver
2. Announcement by Mayor that City Council will retire into closed session:
 - For consultation with City Attorney on matters in which the duty of the Attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act (Title 5, Chapter 551, Section 551.071(2) of the Texas Government Code). Presenter is Mayor Whitlow
3. Return to Open Session and take any action deemed necessary with regard to matters in closed session. Presenter is Mayor Whitlow

V. ADJOURN SPECIAL MEETING

CITY COUNCIL WORKSHOP

VI. CALL TO ORDER

VII. COMMENTS FROM THE PUBLIC

(Limited to 3 minutes per individual unless permission to speak longer is received in advance. You may make public comments as you would at a meeting by logging on with your computer and using "Join Zoom Meeting" information on first page of this agenda).

VIII. ITEMS FOR DISCUSSION - Council will discuss the following items

1. Discuss Zoning Ordinance. Presenter is Derrick Smith

IX. ADJOURN WORKSHOP

CERTIFICATION OF POSTING NOTICE

This is to Certify that the above foregoing notice of a Special Meeting and a Workshop Session of the City Council of the City of Port Lavaca, Texas, to be held Monday, December 04, 2023 beginning at 5:30 p.m., was posted at City Hall, easily accessible to the Public, as of 5:00 p.m., Thursday, November 30, 2023.

Mandy Grant, *City Secretary*

ADA NOTICE

The Port Lavaca City Hall and Council Chambers are wheelchair accessible. Access to the building is available at the primary north entrance facing Mahan Street. Special parking spaces are located in the Mahan Street parking area. In compliance with the Americans with Disabilities Act, the City of Port Lavaca will provide for reasonable accommodations for persons attending meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact City Secretary Mandy Grant at (361) 552-9793 Ext. 230 for assistance.

COMMUNICATION

SUBJECT: Discuss status of the Corporation Ditch culvert replacement project and take any action deemed necessary. Presenter is Jody Weaver

INFORMATION:

COMMUNICATION

SUBJECT: Announcement by Mayor that City Council will retire into closed session:

INFORMATION:

- For consultation with City Attorney on matters in which the duty of the Attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act (Title 5, Chapter 551, Section 551.071(2) of the Texas Government Code). Presenter is Mayor Whitlow

COMMUNICATION

SUBJECT: Return to Open Session and take any action deemed necessary with regard to matters in closed session. Presenter is Mayor Whitlow

INFORMATION:

COMMUNICATION

SUBJECT: Discuss Zoning Ordinance. Presenter is Derrick Smith

INFORMATION:

CITY OF PORT LAVACA

MEETING: December 4, 2023 **AGENDA ITEM** _____

DATE: 11.28.2023

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: DERRICK SMITH, DEVELOPMENT SERVICES DIRECTOR

SUBJECT: PROPOSED ZONING ORDINANCE TO ASSIST IN ACHIEVING THE MOST DESIRABLE OBJECTIVES AS ESTABLISHED IN THE COMPREHENSIVE PLAN

In February of 2019, a zoning advisory committee (ZAC) was established to create a Unified Development Code (UDC) that would include a zoning ordinance for the City of Port Lavaca. Due to COVID-19, progress was put on pause in 2020. The UDC consolidates all development-related regulations. This includes zoning and land use, subdivisions, design and development standards, and review standards.

The advantage of developing a UDC is to avoid overlapping, conflicting, or inconsistency of ordinances. After reviewing the notes and numerous drafts that were completed during that time, staff has drafted a proposed Zoning Ordinance in lieu of a UDC. The recommended ordinance omits the following items which were included in the draft 2020 UDC. These items are already addressed in the City of Port Lavaca Code of Ordinances. Along with other requirements, they can be added with the Zoning Ordinance to develop a UDC at a later date. The purpose is to first protect the character and establish a beneficial pattern of land use in accordance with the Port Lavaca Comprehensive Plan.

- Pre-Development requirements
- Utility Connections
- Building Permits
- Certificate of Occupancy requirements
- Site Plan requirements
- Regulations of the Extra-Territorial Jurisdiction—State laws have limited ETJ regulations

The following items are the recommended changes to the original 2020 UDC draft:

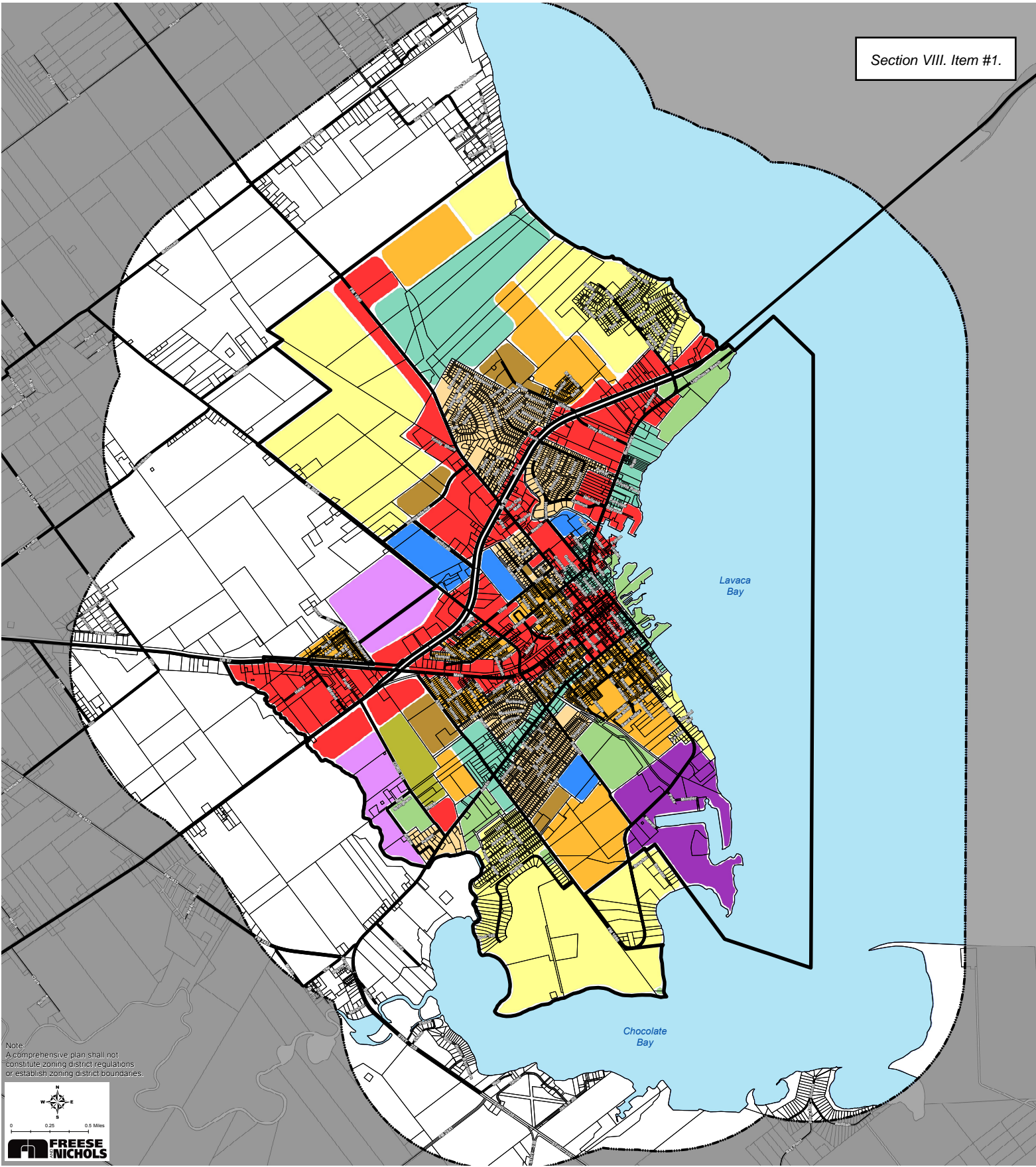
- The districts have been developed using the **cumulative zoning method**—more restrictive uses are permitted in less restrictive districts. For example, Residential use is permitted in Commercial Districts. However, Commercial use is not permitted in Residential Districts.
- Definitions were added
- Established new districts—Removed Old Towne and Coastal Districts
- Permitted Home Occupations

Finally, the Zoning Ordinances does create the following residential density limits for each district:

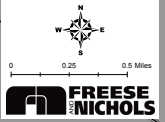
- R-1—four (4) units per acre (single family dwellings)
- R-2—eight (8) units per acre (single family dwellings and duplexes)
- R-3—ten (10) units per acre (single family dwellings, duplexes, triplexes, and tiny homes)
- R-4—twenty-one units per acre (apartments, townhouses, etc.)
- M-1—ten (10) units per acre

ATTACHMENTS:

- Proposed Zoning Ordinance
- ZAC's draft UDC
- Adopted Land Use Plan
- Latest draft of revised Land Use Plan developed by the ZAC



Note:
 A comprehensive plan shall not
 constitute zoning district regulations
 or establish zoning district boundaries.



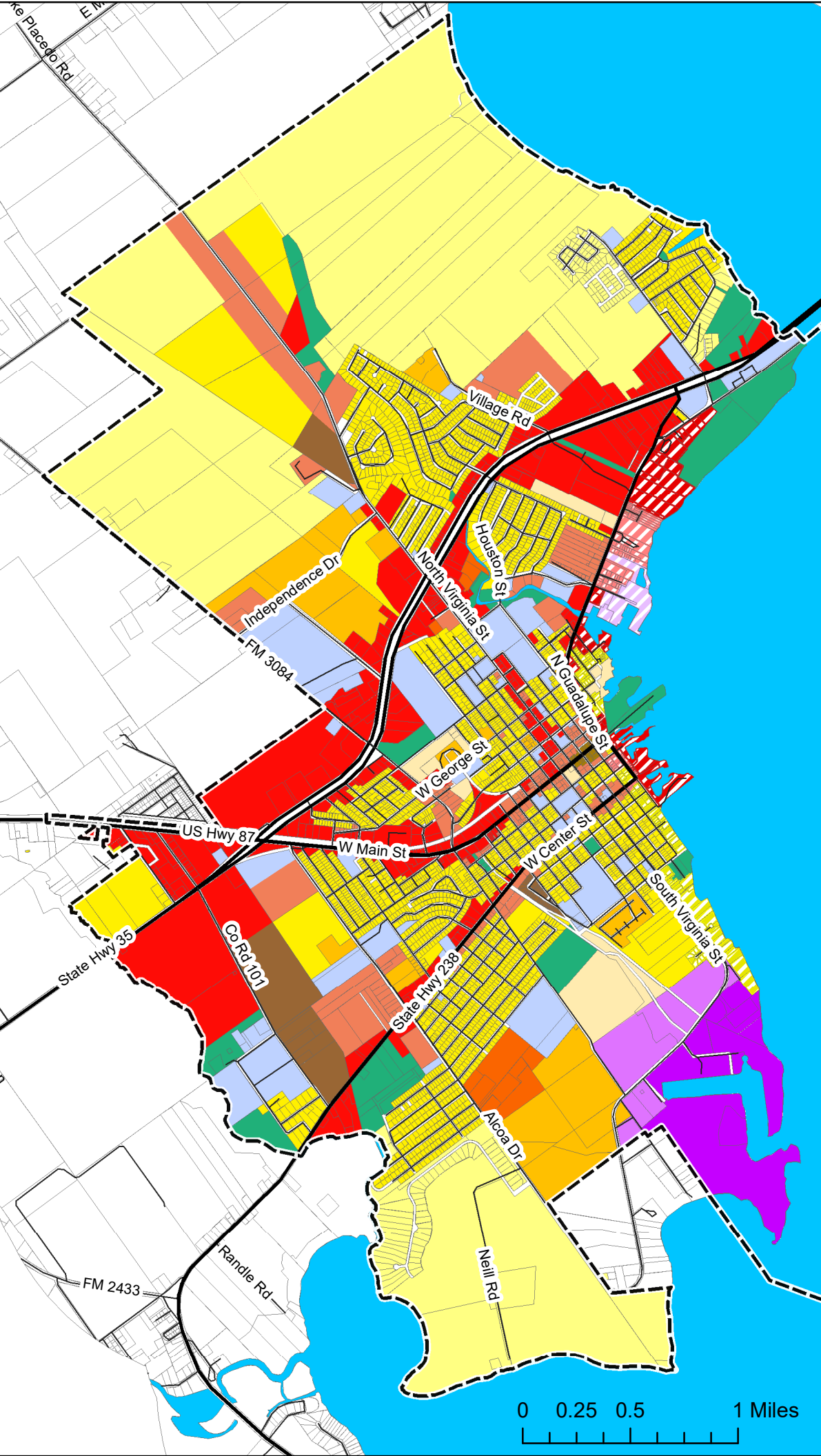
Future Land Use

- | | |
|--|--|
|  Low Density Residential |  Commercial |
|  Medium Density Residential |  Light Industrial |
|  High Density Residential |  Industrial |
|  Multi-Family |  Parks and Open Space |
|  Manufactured Home Park |  Public/Semi-Public |
|  Mixed Use | |

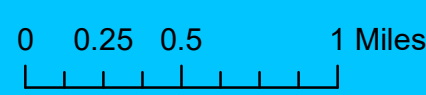
Port Section VIII. Item #1. Draft Zoning Map

Legend

- City Limits
- Parcels
- Lavaca Bay
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Multi Family Residential
- Manufactured Home Park
- Mixed Use
- Old Town District
- Public and Semi-Public Space
- General Commercial District
- Light Industrial
- Medium Industry
- Parks and Open Space
- Planned Unit Development
- Coastal Residential
- Coastal Mixed Use
- Coastal Commercial
- Coastal Industrial
- US Highway
- Local Road



Created on: 12/10/2019
By: Texas Community
Watershed Partners



Port Lavaca Zoning Ordinance - DRAFT

ARTICLE I. - GENERAL PROVISIONS

Sec. 56-1. - Short title.

This ordinance shall be known and may be cited as the "City of Port Lavaca Zoning Ordinance" or "this Ordinance".

Sec. 56-2. - Jurisdiction.

This Ordinance applies to all land within the regular municipal boundaries of Port Lavaca.

Sec. 56-3. - Purpose.

This Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of Port Lavaca. More specifically, this ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with the comprehensive plan to achieve objectives that include, but are not limited to, the following:

- A. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with the Port Lavaca Comprehensive Plan.
- B. Protect the character and the established pattern of the Land Use District in each area;
- C. Prevent or minimize future land use incompatibilities and conflicts among different land uses;
- D. Maintain property values by stabilizing expectations and ensuring predictability in development;
- E. Establish a process that effectively and fairly applies the regulations and standards of this Ordinance and respects the rights of property owners and the interests of citizens;
- F. To enhance the scenic beauty, aesthetics of the planning jurisdiction; and,
- G. Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality

Sec. 56-4. - 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:

Accessory building means:

- (1) In a residential district, a subordinate building that is attached to or detached from the main building on the same lot or parcel of land, without separate utilities, not used for commercial purposes, and not rented which serves a purpose that is customarily

associated with the principal use. Examples of accessory buildings include a washroom, a storage room for domestic storage only, and a space for one or more automobiles,

(2) In other districts, a subordinate building, the use of which is incidental to and used only in conjunction with the main building on the same lot or parcel of land.

Accessory use means a use subordinate to the principal use of a building or lot and serving a purpose customarily incidental to the principal use.

Administrative Officer means the official appointed by the city manager to administrate and enforce this chapter.

Agent of owner means any person who can show certified written proof that he is acting for the property owner.

Apartment means a room or suite of rooms in an apartment house arranged, designed or occupied as a residence by a single family, individual or group of individuals.

Apartment house means any multiple-family dwelling or building, or portion thereof, that is designed, built, rented, leased, let or hired out to be occupied as three or more apartments or which is occupied as the home or residence of three or more families living independently of each other and maintaining separate cooking facilities.

Beginning of construction means the incorporation of labor and material within the foundation of the building.

Building means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, property, or business activity, and includes any structure used or intended to be used for supporting or sheltering a use or occupancy. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building.

Building line means a line parallel or approximately parallel to a lot line or street line and beyond which buildings may not be erected.

Building, main, means a building in which is conducted the principal use of the site on which it is located. In any residential district, any and all dwellings shall be deemed to be main buildings on the site on which they are located.

Clinic, medical, means an institution or station for the examination and treatment of ill and afflicted out-patients.

Convalescent home means any structure used for or occupied by persons recovering from illness or suffering from the infirmities of old age.

Court means an open, unoccupied and unobstructed space, other than a yard, on the same lot with the building or group of buildings.

Coverage of a lot means the ratio of gross floor area of the first floor of a building or a group of buildings on the same lot to the area of the lot, expressed as a percentage.

Day nursery means a place where children are left for care between the hours of 7:00 a.m. and 12:00 p.m.

Detached structure means any building, accessory building or structure that is not physically attached to any other building or structure by any means.

District or *zoning district* means a portion of the territory of the city within which certain uniform resolutions and requirements or various combinations thereof apply under the provisions of this chapter.

Dwelling means a building which contains at least one dwelling unit, and used exclusively for residential purposes, but not including tents, trailers, recreational vehicles, or mobile homes.

Dwelling, duplex, means a dwelling designed for and used by two families, each having its own dwelling unit.

Dwelling, multiple-family, means a dwelling designed for and used by three or more families, each having its own dwelling unit.

Dwelling, single-family, means a dwelling designed for and used exclusively by one family.

Dwelling unit means a single unit providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation, and in full compliance with the city's minimum housing standards.

Family means a person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit and in which not more than four individuals are unrelated by blood.

Floor area of a building means the sum of the gross horizontal areas of the several floors of a building, measured from the centerlines of exterior walls or from the centerline of walls separating two buildings in square feet.

Frontage means the total length of the line or curve of a lot boundary that is coterminous with a street right-of-way line. For corner lots, frontage may be calculated for each street.

Grade, existing, means the average level of the original surface of the ground adjacent to the exterior walls of the building.

Hotel/motel means a building or group of buildings, including either separate units or a row or rows of units that contain living or sleeping accommodations primarily for transient occupancy, and have individual entrances.

Lot includes the terms "plot" and "parcel" and means one piece, parcel or tract of land that collectively meets all the following requirements:

- (1) Is located in a single block;
- (2) Has frontage on an accepted and improved public street;
- (3) Is occupied or utilized or designated by its owner or developer to be occupied, developed or utilized as a unit for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter; and
- (4) A plat of which has been recorded in the office of the county clerk.

Lot, area of, means the net area of the lot and shall not include portions of streets and alleys.

Lot depth means the mean horizontal distance between the front lot line and rear lot line of a zoning lot.

Lot line means a boundary of a lot.

Lot line, front, means the street right-of-way line at the front of a lot.

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

Lot line, side, means a lot line which is not a front lot line or rear lot line. A side lot line separating a lot from a thoroughfare other than an alley is an exterior side lot line as opposed to an interior side lot line.

Lot width means the mean horizontal distance between the side lot lines of a lot.

Manufactured home means a HUD-Code manufactured home or a mobile home and collectively means and refers to both.

Manufactured home, HUD-Code, means a structure constructed on or after June 15, 1976, according to the rules of the federal department of housing and urban development transportable in one or more sections that, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected onsite, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the home's plumbing, heating, air conditioning, and electrical systems.

Manufactured home park means a tract of land, not less than three acres in size, under single or common ownership, that is designed and improved to contain five or more sites available for long-term lease or rent to the public for the placement of manufactured homes, and that may include private streets, buildings, and other facilities and services for common use by the residents, meeting all requirements of this chapter.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or more sections that, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected in site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation

when connected to the required utilities, and includes the home's plumbing, heating, air conditioning, and electrical systems.

Multi-wide HUD-Code manufactured home means a HUD-Code manufactured home in which the narrowest exterior wall is no less than 14 feet in width when assembled, transportable in two or more sections.

Nursing home means any premises where more than three persons are lodged and furnished with meals and nursing care.

Open space means an area included in any side, rear or front yard or any other unoccupied space on a lot that is open and unobstructed to the sky.

Recreational vehicle means a vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven which is designed as a temporary living accommodation for recreational, camping, and travel use, and which includes, but is not limited to, travel trailers, truck-campers, camping trailers, and self-propelled motor homes. Except as provided in Chapter 12, for use in conjunction with a temporary event or business activity otherwise allowed, and not to exceed 30 days, or parked on a lot with an otherwise conforming residence or business, and located on the lot for not longer than 14 days, the use of a recreational vehicle as a dwelling, other than within a recreational vehicle park, is prohibited.

Recreational vehicle park means any parcel or tract of land, not less than three acres in size, under single or common ownership, that is designed and improved to provide two or more camping unit sites that are offered for the use of the public by rent or lease, and that may include private streets, buildings, and other facilities and services for common use by the residents, meeting all requirements of this chapter. Recreational vehicle park sites are designed and intended to accommodate recreational vehicles only.

Setback line means that line which is parallel to and the minimum allowable horizontal distance from a given point or line or reference, such as a lot line, to the minimum required building line.

Sexually oriented business means any business that includes a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Sign means any structure or part thereof, or any device attached to, painted on or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device.

Sign, area of, means the total exterior surface computed in square feet of a sign having but one exposed exterior surface; the aggregate exposed exterior surface computed in square feet of a sign having more than one such surface.

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

Street means any thoroughfare other than an alley.

Street line means a dividing line between a street right-of-way and an abutting lot, tract, or parcel of land.

Structural alteration means any change in the structural members of a building, such as walls, columns, beams, or girders.

Structure means anything constructed, the use of that required permanent location on the ground or attachment to something having a permanent location on the ground.

Townhouse means a single-family dwelling constructed in a series or group of attached units with property lines separating each unit.

Townhouse, private yard, means an area of open space within a townhouse but which is unoccupied and unobstructed by any portion of a structure.

Used and occupied include the phrase "intended, designed or arranged to be used or occupied."

Yard means an open, unoccupied space other than a court on the lot in which a building is situated that is unobstructed from the ground to the sky.

Yard, front, means an open, unoccupied space on a lot facing a street and extending across the front of a lot between the side yards and being the minimum horizontal distance between the street line and the main building.

Yard, rear, means an open space unoccupied and unobstructed extending across the rear of a lot from one side lot line to the other side lot line and being the minimum horizontal distance between the rear lot line and the main building.

Yard, required front, means an open space extending the full width of a lot between the front line and the front setback line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in this chapter.

Yard, required rear, means an open space extending the full width of the lot between the rear lot line and the rear setback line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in the chapter.

Yard, required side, means an open space extending from the minimum front yard setback line to the minimum rear yard setback line between the side yard setback line and the nearest side lot line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in this chapter.

Yard, side, means an open, unoccupied space on the same lot with a building, situated between the building and side line of the lot, and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

Zoning map, official, means the zoning map or maps of the city attested together with all amendments subsequently adopted.

Sec. 56-5. – Provisions of Chapter Declared to be Minimum Standards; Conflicts.

In interpreting and applying the provisions of this Ordinance, these provisions shall be held to be the minimum requirements for the promotion of the public safety, health, environment, convenience, comfort, morals, prosperity and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or laws, including private deed restrictions and covenants, the more restrictive or that imposing the higher standards shall govern; however, the City shall have no obligation to review or enforce private deed restrictions or covenants.

Sec. 56-6. – Official Zoning Map.

A. Adoption by reference; certification required. The City Council has divided the city into zones or districts as shown on the official zoning map that, together with all explanatory matter thereon, is adopted by reference into this section. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map of the city referred to in the official City Code."

B. Changes to map. No changes of any nature shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change is a violation of this chapter. If authorized changes are made in district boundaries or other matter portrayed on the official zoning map in accordance with the provisions of this chapter, such changes shall be made on the official zoning map promptly after the amendment has been approved by the City Council. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon this official zoning map. The entry shall be signed by the mayor and attested by the city clerk.

C. Original map controlling over copies in the event of conflicts. Regardless of the existence of purported copies of the official zoning map that may from time to time be made or published, the official zoning map, located in the office of the city clerk, shall be the final authority as the current zoning status of land, building and other structures in the city.

D. Adoption of new zoning map. 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, this chapter or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and

bearing the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map previously adopted by the city."

Sec. 56-7. - Compliance With These Regulations.

- A. No land shall be used except for a purpose permitted in the district in which it is located.
- B. No building shall be erected, reconstructed, moved or structurally altered or used for any purpose other than permitted in the district in which such building is located.

Sec. 56-8. - Effective Date.

The effective date of this Ordinance shall be **TBD**

Sec. 56-9. - Severability.

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

(Ord. No. 1001, § 1, 4-1-18)

Sec. 56-10. - Transitional Provisions.

A. Previously Approved Plats. Nothing in this Ordinance shall limit or modify the rights of any person to complete any subdivision project which has received prior plat approval under existing subdivision regulations in place at that time. Such project should otherwise meet at least one (1) of the following criteria:

- 1. Any subdivision created by plat and recorded before the effective date of this Ordinance and has remained undeveloped.
- 2. Plats that were recorded before the effective date of this Ordinance and development has commenced and is continuing in good faith.
- 3. A. complete application for preliminary plat and/or conceptual plan approval filed with the City prior to adoption of this Ordinance and any plat currently under review by the City before adoption of this Ordinance.

B. Expired Plats. Expired plats shall conform to current City regulations and construction standards.

C. Nothing in this Ordinance shall limit or modify the rights of any person to continue a use approved by City Council prior to the effective date of this Ordinance, subject to any and all of the conditions specified in such approval.

D. New Development Applications. The land use districts in the currently adopted Port Lavaca comprehensive plan prior to the effective date of this Ordinance shall be converted in accordance with the following table:

PREVIOUS DISTRICT	NEW BASE ZONING DISTRICTS
Low Density Residential	R-1 Low Density Residential
Medium Density Residential	R-2 Medium Density Residential
High Density Residential	R-3 High Density Residential
Multi-Family	R-4 Multi Family Residential
Manufactured Home Park	M-1 HUD-Code Manufactured Home Park
Mixed Use	
Commercial	C-1 Commercial
	C-2 Commercial
Light Industrial	I-1 Light Industrial
Industrial	I-2 Industrial
Parks and Open Space	PR Public and Recreation
Public/Semi-Public	PR Public and Recreation
	PUD Planned Unit Development

Sec. 56-11---56-34. – Reserved.

ARTICLE II. – DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 56-35. - Zoning District Intent Statements.

A. *Purpose.* Zoning district intent statements are provided for the following purposes:

1. To indicate the general nature of permitted and prohibited uses;
2. To indicate the nature and intensity of uses permitted;
3. To assist with interpretation of ordinance requirements applicable to a specific zoning district;

4. To indicate the necessity for adequate public services, including roads, potable water, sanitary sewer, drainage, etc.; and
5. To Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality.

Sec. 56-36. – District Regulations are minimum and to be applied uniformly.

The regulations set by this article within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as otherwise specifically provided in this chapter.

Sec. 56-37. – Districts Established.

- A. Port Lavaca Comprehensive Plan adopted on September 12, 2016, containing a Future Land Use Map that included both land-use types and Districts where a variety of standard land use districts are recommended. Additionally, while not defining specific districts for the waterfront, the Plan did recommend the development of a waterfront ordinance. The intent of the districts identified below is to provide consistent land-use with the City's Comprehensive Plan, for the classification of land uses in areas where such uses will be consistent with existing or proposed surrounding land uses.
- B. For the purpose of this Ordinance, the City of Port Lavaca is hereby divided into the following districts:
- C. Base Zoning Districts
 1. R-1 District: Low Density Residential District.
 2. R-2 District: Medium Density Residential District.
 3. R-3 District: High Density Residential District.
 4. R-4 District: Multi-Family Residential District.
 5. M-1 District: HUD-Code Manufactured Home Park District.
 6. PUD District: Planned Unit Development District.
 7. C-1 District: Commercial District.
 8. C-2 District: Commercial District.
 9. I-1 District: Light Industrial District.
 10. I-2 District: Industrial District.

- 11. I-3 District: Coastal Industrial District.
- 12. PR District: Public and Recreation District.

D. The location and boundaries of the districts established here are shown on the Official Zoning Map, which is hereby incorporated into this Ordinance. The Map, together with all its notations, references and other information and any amendments, shall be as much a part of this Ordinance as if fully set forth and described here. The Official Zoning Map is on file in the Office of the City Clerk, and copies are available from the Development Services Department.

Sec. 56-38. - Rules for Interpretation of Boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, the following rules apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys; platted lot lines; city limits; railroad centerlines; banks or centerlines of banks, streams, rivers, canals, lakes or other bodies of water shall be construed to follow such lines.
- B. Boundaries indicated as parallel to or extensions of features indicated in subsection (1) of this section, shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- C. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not otherwise covered in this section, the board of adjustments shall interpret the district boundaries.

Sec. 56-39—56-65. – Reserved.

DIVISION 2. – RESIDENTIAL DISTRICTS

Sec. 56-66. – Purpose and Intent

It is the intent of the zoning regulations to provide for the establishment of residential districts that are free from the encroachment of commercial or manufacturing uses, but which permit certain uses that are necessary within residential neighborhoods.

Sec. 56-67. – R-1 Residential Districts.

- A. R-1, Low Density Residential: The “R1” district is designed to establish peaceful low density neighborhoods containing single family dwellings. The density for R-1, Low Density Residential shall consist of no more than four (4) dwelling units per acre. This zone will encourage development of attractive residential areas that provide a sense of

community, establish a pedestrian-friendly atmosphere and provide public and community facilities. The following uses are permitted within the R-1, Low Density Residential:

1. A single-family dwelling, specifically excluding manufactured homes.
2. Accessory building for storage residential only and meeting all requirements of this chapter.
3. An enclosed storage building for residential storage only and meeting all requirements of this chapter.
4. Automobile parking, for residents and guests only.
5. Cellular, Radio or television broadcasting transmitter or tower, microwave relay tower.
6. Field crops, horticulture, nursery, truck gardening, but not including retail sales on the premises.
8. Golf courses and golf clubs, but no commercial miniature courses or driving ranges.
9. Any public building erected or used by the city, county, state or federal government.
10. Public utilities.
11. Schools; kindergarten, elementary, high, college and universities, public or denominational.
12. Signs, identification, of resident or permitted use, real estate, sales, lease, rent, development.
13. Swimming pool, private.
14. Railroad right-of-way, but not including shops and yards.
15. Tract offices and construction buildings which shall be removed upon completion or abandonment of construction work.
16. Home occupations as described in subsection (I) of this section.
 - (a) Home occupations in R-1 districts are limited to any occupation that is customarily carried on at a place of residence that does not involve a structural change in the dwelling unit or in a building accessory to the dwelling unit, that does not require the employment of help other than members of the immediate household. The occupation cannot store material, inventory, or product outside or result in fumes, odors or noises that create a nuisance. The following uses shall not be permitted as home occupations unless approved as specific use permits:

- (i) Any office in which chattels, goods, wares, or merchandise are commercially created, exchanged, or sold on site.
 - (ii) Barbershops or beauty shops; beauty schools.
 - (iii) Commercial stables or kennels.
 - (iv) Medical offices for the treatment of patients.
 - (v) Commercial automobile repairs, motor vehicle repair of more than one vehicle.
 - (vi) Small engine repair.
 - (vii) Childcare of more than six children under 14 years of age.
- B. R-2, Medium Density Residential: Any use permitted in the R-1 district. The R-2 district is designed to establish peaceful moderate density neighborhoods containing single family dwellings and duplexes. The density for R-2, shall consist of no more than (8) dwelling units per acre. This zone will encourage development of attractive residential areas that provide a sense of community, establish a pedestrian-friendly atmosphere, and provide public and community facilities.
- C. R-3, High Density Residential: Any uses permitted in the R-2 district. The R-3 district is designed to establish high density neighborhoods containing single family homes, duplexes, triplexes, and tiny homes. The density for R-3, shall consist of no more than (10) dwelling units per acre. This zone is to establish areas for higher residential densities with easy pedestrian access to commercial areas and public facilities.
- D. R-4, Multi-Family Residential: Any use permitted in the R-3 district. The R-4 district is designed for the development of apartments, condominiums, townhouses, or other group dwellings with provisions for adequate light, air, open space and landscaped areas. The density for R-4, shall consist of no more than (21) dwelling units per acre.
- E. M-1, HUD-Code Manufactured Home Park: To establish and preserve areas for manufactured home parks to provide a satisfactory living environment for those living in manufactured homes. The maximum density for Manufactured Home Park M-1 shall consist of no more than (10) dwelling units per acre.
- F. PUD, Planned Unit Development: To provide pedestrian-friendly development that blends two or more land-use types, including Commercial (C-1), Public & Recreation (PR), and Residential Districts (R1, R2, R3, R4). The intent is to encourage, consistent with the City's comprehensive plan, the use of innovative and creative development techniques to benefit the city and to provide a mixture of residential and nonresidential uses in a manner that preserves natural resources, encourages non-vehicular circulation, provides a sense of community, and allows the use of flexible development standards.

Sec. 56-68---56-78. – Reserved.

DIVISION 3. – BUSINESS, COMMERCIAL, AND INDUSTRIAL DISTRICTS

Sec. 56-79. - C-1 Commercial districts.

A. *Purpose and Intent.* The C-1 district consist mainly of land occupied by or suitable for the retailing of convenience goods and the furnishing of certain personal services to satisfy most of the daily needs of the neighborhood. C-1 districts also provide space for personal services.

1. *Outdoor Storage Prohibited.* It is also the intent of this section to exclude from the C-1 districts those uses that require outdoor storage of goods, materials, supplies and equipment. Any use listed below that requires outdoor storage in conflict with this section shall be restricted to C-2 Commercial Districts.

2. The following uses are permitted within C-1 districts:

- (a) Any use permitted in R-3 districts.
- (b) Bakeries, retail sales only.
- (c) Banking and Financial Institutions.
- (d) Bed and breakfast lodgings.
- (e) Business services.
- (f) Clubs or Lodges.
- (g) Eating Establishments (Indoor Only)
- (h) Florist or nursery (outside sales and plant storage permitted).
- (i) Gasoline Service Stations.
- (j) Laundry and Dry-Cleaning Pickup Stations.
- (k) Office and office buildings.
- (l) Medical clinic, dental clinic, and associated laboratory facilities.
- (m) Limited repair, or assembly, of miscellaneous items, including home appliances, jewelry, clothing, computers.
- (n) Personal services including barber shops, beauty salons, photographic and artist studios, tailoring, and similar personal services.
- (o) Professional Services.

Sec. 56-80. - C-2, Commercial

Any uses permitted in the C-1 district. The C-2 district is designed to provide, consistent with the City's comprehensive plan, locations for a wide range of certain retail, wholesale, service, and business activities that are not generally appropriate or compatible next to residential districts. This district is designed to permit development of the enumerated functions and to provide space for uses oriented to regional trade areas, but not so intensive as to restrict them to an industrial district.

Sec. 56-81. - I-1, Light Industrial District

Any use permitted in the C-2 district. The I-1 district establishes and preserves areas for industrial and other uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses. Light industries require only a small number of raw materials, area and power and do not create smoke, gas, odor, dust, noise, vibration of earth, soot or lighting to a degree that is offensive when measured at the property line of subject property.

Sec.-56-82. - I-2, Industrial District

Any use permitted in the I-1 district. The I-2 district provides areas for the development and operation of industrial, distribution, and manufacturing uses which, by nature of their intensity, may be incompatible with other types of land uses. Because of the nature of the products or character of activities, uses within this district will likely produce greater than average negative visual qualities and external effects involving noise, fumes, noxious odors, glare, or other atmospheric influence beyond the boundaries of the property on which the use is located. Industrial districts are to be located adjacent to major transportation facilities, including freeways, waterways, arterials, collectors, railroads, etc. Industrial districts are to provide additional setback or buffer areas to minimize objectionable impacts on adjacent property.

Sec. 56-83 – PR, Public and Recreation

Land that has been reserved for the purpose of formal and informal sport and recreation, preservation of natural environments, provision of green space and storm water management. Parks and open space vary in size, form and the functions that they perform.

Sec. 56-85. - Proposed Uses.

The Administrative Officer shall determine if the proposed use is allowed in a particular district and if the proposed use requires a Specific Use Permit. The Administrative Officer shall use the intent statement of the particular district for which the proposed use would be conducted in. Comparison of proposed and listed uses shall focus on the following characteristics:

- A. Relative amount of site area or floor space and fixed equipment.
- B. Relative amount of sales

- C. Type of customers.
- D. Relative number of employees.
- E. Days and hours of operation.
- F. Building and site arrangement.
- G. Vehicles, rolling equipment, trailers and portable equipment used.
- H. Relative number of vehicle trips generated and parking.
- I. Building and site storage.
- J. Likely impact on surrounding properties.
- K. Whether the activity is likely to be found independent of the other uses on the site.

Sec. 56-86. - Accessory Uses.

Accessory uses are allowed by right in conjunction with a principal use. Accessory uses are subject to the same regulations as the principal use.

Sec. 56-87---56-109. – Reserved.

ARTICLE III. – NONCOMFORMING LOTS, STRUCTURES, AND USES

DIVISION 1. – GENERALLY.

Sec. 56-110. – Purpose and Intent.

- A. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures that were lawful before this chapter was passed or amended but are prohibited, regulated, or restricted under the terms of this chapter or future amendment and, therefore, nonconforming.

- B. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their use. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.
- C. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same districts.

Sec. 56-111 – Preservation of Rights in Pending Litigation and Violations.

By adoption of the ordinance from which this chapter is derived, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense which was committed, and no liability, penalty of forfeiture, either civil or criminal, incurred prior to the time this chapter was repealed and recreated, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

Sec. 56-112. - Exception for nonconformities under construction.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, constructed or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. The term "actual construction" as used in this section means the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Sec. 56-113. - Repairs and maintenance.

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding fifty percent of the current replacement value of the building, provided that the cubic content of the buildings as it existed at the time of passage or amendment of this chapter shall not be increased.

- B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official of the city whose responsibilities are directly involved upon order of such official charged with protecting the public safety.

Sec. 56-114. - Uses permitted by exception not deemed nonconforming.

Any use for which an exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district.

Sec. 56-115. - Fees, charges, and expenses.

The city council has established fees associated with this chapter as provided in the city fee schedule and a collection procedure for building permits, amendment applications, appeals and other matters pertaining to this chapter. No permit, amendment, special exception or variance shall be issued unless or until all applicable costs, charges, fees or expenses have been paid in full. Further, no action shall be taken, or public hearing be held unless or until preliminary charges and fees have been paid in full.

Sec. 56-116---56-132. – Reserved.

DIVISION 2. – SPECIFIC NONCONFORMITIES

Sec. 56-133. – Lots of Record.

In a district where single-family dwellings are permitted, a single-family detached dwelling may be erected on a lot of official record at the effective date of adoption or amendment of this chapter, irrespective of its area or width, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard dimensions and other requirements shall be obtained only through action of the board of adjustment.

Sec. 56-134. – Land Uses.

If, at the effective date of adoption or amendment of this chapter, lawful use of the land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, provided that:

- A. No such nonconforming use shall be enlarged or increased, nor shall be extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
- C. If any such nonconforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

Sec. 56-135. – Structures.

If a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of the ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, provided that:

- A. No such structure may be enlarged or altered in any way which increases its nonconformity.
- B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- C. Should such structure be moved for any reason for any distance, it shall conform to the regulations for the district in which it is located after it is moved.

Sec. 56-136. – Structure Uses.

If a lawful use of structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, provided that:

- A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure or structure and premises, may be changed to another nonconforming use provided that the board of adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustments may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.
- E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not be used except in conformance with the regulations of the district in which it is located.

Sec. 56-137. - Combined Nonconforming Structure and Land.

If a nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Sec. 56-138—56-158. - Reserved.

ARTICLE IV. – ADMINISTRATIVE AND ENFORCEMENT

DIVISION 1. – GENERALLY

Sec. 56-159. – Administrative Officer

- A. *Designated Officer.* The City Manager shall appoint the Administrative Officer of this Ordinance.
- B. *Powers and Duties.* The Administrative Officer or a designated person shall be responsible for the following powers and duties with regard to this Ordinance:
 1. Review and final action on pre-development permits, building permits, certificates of occupancy, and written interpretations of this Ordinance.
 2. Review and make recommendations to the Planning and Zoning Commission on specific use permits, planned unit developments, subdivisions, text amendments to this Ordinance, and map amendments or re-zonings
 3. The Administrative Officer may consult with the City Engineer, Building Official, Fire Chief, Public Works Director, Planner, Economic Development Director for the purpose of reviewing land development plans.
 4. If the Administrative Officer finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such

violations, including the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

5. Any other powers and duties as may be assigned by the City Manager.

Sec. 56-160. - Complaints Regarding Violations.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Officer. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

Sec. 56-161. - Violations and penalties.

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements shall be guilty of a Class C misdemeanor.
- B. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and shall be guilty of a Class C misdemeanor.
- C. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 56-162---56-182. – Reserved.

DIVISION 2. – SPECIFIC USE PERMITS

Sec. 56-183. - Uses that may be subject of specific use permits.

The city council of the city may, after public hearing and proper notice to all parties affected, and after recommendation from the planning and zoning commission containing such requirements and safeguards as are deemed necessary to protect adjoining property, authorized by ordinance the location of any of the following in the following specified districts:

- A. Airport, landing field or heliport in any district.
- B. Cemetery or mausoleum.
- C. Drive-in theater in any district, minimum lot size ten acres.

- D. Hospital, convalescent home, nursing home, retirement center, maternity home, boarding house, or similar uses in any district; or on a minimum of five acres, penal or correctional institution, jail, prison, substance abuse facility, social rehabilitation facility, halfway house, psychiatric care facility, or similar uses in any district.
- E. Veterinarian, Animal Hospital and Kennels
- F. Institutions of a religious or philanthropic nature in any district.
- G. Recreational Vehicle Parks

Sec. 56-184. - Recommendations of planning and zoning commission.

The planning and zoning commission may, within its discretion, recommend to the city council that a specific use permit be denied or that it be granted or granted with such conditions as permitted in this section.

Sec. 56--185. - Conditional permits.

- A. *Authority of city council to impose.* In granting a specific use permit, the city council may impose conditions that must be complied with by the grantee before a certificate of occupancy may be issued by the Administrative Officer for the use of the buildings on such property pursuant to the specific use permit.
- B. *Compliance with conditions required for issuance of certificate of occupancy.* Such conditions shall not be construed as conditions precedent to the granting of the specific use permit for a change in zoning for such property but shall be construed as conditions precedent to granting of the certificate of occupancy.
- C. *Regulatory measures that may be included as permit conditions.* The following are regulating measures that may be included in the conditions of a specific use permit:
 - 1. Parking stipulations.
 - 2. Site plan modifications.
 - 3. Approval of means of ingress and egress.
 - 4. Approval of building size and location.
 - 5. Control of outside lighting and screening.
 - 6. Special setbacks and/or building lines.
 - 7. Surfacing of parking areas and drives.
 - 8. Installation of curbs and drainage structures.
 - 9. Approval of use or uses permitted.
 - 10. Limit the terms and establish expiration dates for specific use permits.

Sec. 56-186. - Permits to be specific to persons or property.

A specific use permit shall be applied to either a specific owner/operator or to a specific lot, group of lots or tract upon adoption.

Sec. 56-187. - Granting does not amend zoning ordinance.

A specific use permit granted under the provisions of this article shall not be considered an amendment to the zoning ordinance as applicable to such property.

Sec. 56-188. - Rescind and termination of specific use permit.

After notice to the owner of record and a public hearing, city council may rescind and terminate a specific use permit if any of the following occur:

- A. One or more of the conditions imposed by the specific use permit has not been met or has been violated.
- B. Change of ownership/occupancy if the original specific use permit was approved for sole and singular use.
- C. The structure is a "substandard building" pursuant to Chapter 12, Article IV, Code of Ordinances, Port Lavaca, Texas.
- D. The specific use permit was obtained through fraud or deception.
- E. Abandonment of the structure, lease space, lot, or tract of land. "Abandonment" shall be determined if any of the following conditions are found to apply for 90 days or more:
 - 1. The most current occupant surrenders occupancy by vacating or ceasing to operate or inhabit such property.
 - 2. Ad valorem taxes on the property are delinquent.
 - 3. Disconnection or discontinuance of water and/or electrical services to the property.

Sec. 56-189---56-209. – Reserved.

DIVISION 3. – ZONING BOARD OF ADJUSTMENTS

Sec. 56-210. Established.

- A. *Appointment and removal of members; vacancies.* A board of adjustments is hereby established which shall consist of five members to be appointed by the city council, each for a term of three years. Members of the board of adjustments may be removed from office by the city council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the city council for the unexpired term of the member affected.
- B. *Rules; meetings.* The board of adjustments shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairperson and at such times as the board may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- C. *Minutes.* The board of adjustments shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such

fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board.

Sec. 56-211. – Procedures for appeals

- A. Any persons aggrieved, or any official or department of the city affected by any decision of judgment of the Administrative Officer concerning interpretation or administration of this chapter, may appeal such decision or judgment to the board of adjustment. Such appeals shall be taken within a reasonable time, not to exceed ten days or such other period as may be provided by the rules of the board by filing with the Administrative Officer and with the board of adjustments a notice of appeal accompanied by a fee as established by the city council specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- B. The board of adjustments shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

Sec. 56-212. - Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the board of adjustments after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such cases, proceedings shall not be stayed other than by a restraining order that may be granted by the board of adjustments or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.

Sec. 56-213. - Powers and duties.

- A. The board of adjustments shall have the following powers and duties:
 - 1. *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this chapter.
 - 2. *Exceptions or temporary use permits.* To hear and decide only such exceptions or temporary use permits as the board of adjustments is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether exceptions should be granted; and to grant exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny exceptions when not in harmony with the purpose and intent of this chapter.
 - 3. *Variances.* To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

- B. In granting any exception, the board of adjustments may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the exception is granted shall be deemed a violation of this chapter. The board of adjustments shall prescribe a time limit within which the action for which the exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void exception.
- C. The board of adjustments shall include a finding in all final decisions that it is empowered under this chapter to grant the exception, and that the granting of the exception will not adversely affect the public interest.

Sec. 52-214. - Temporary use permit procedure and requirements.

- A. An exception of temporary use permit shall not be granted by the board of adjustments unless and until a written application for an exception together with fee is submitted, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, indicating the section of this chapter under which the exception is sought and stating the grounds on which it is requested.
- B. Notice shall be given of such public hearing to the owner of the property for which the exception is sought or his agent and to all owners of real property lying within 200 feet of the subject property, such notice to be given not less than ten days before the date set for hearing to all such owners who have rendered their the property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing same, properly addressed and postage paid, in the city post office. Notice of the time and place of such hearing shall also be given by one publication in the official newspaper at least 15 days prior to such hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken.
- C. A public hearing shall be held on the application. Any party may appear in person, or by agent or attorney.

Sec. 56-215. - Variance procedure and requirements.

- A. A variance from the terms of this chapter shall not be granted by the board of adjustments unless and until a written application for variance together with fee is submitted, accompanied by an accurate legal description, maps, site plans, drawings, and any necessary data, demonstrating that:
 1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 2. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

3. The special conditions and circumstances do not result from the actions of the applicant.
 4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
- B. No nonconforming use of neighboring lands, structures or building in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
 - C. Notice of public hearing shall be given in the same manner as required for temporary use permit applications.
 - D. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
 - E. The board of adjustments shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. The board of adjustments shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
 - F. Under no circumstances shall the board of adjustments grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the districts.

Sec. 56-216. - Decisions; required vote.

- A. In exercising its powers, the board of adjustments may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirements, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.
- B. The concurring vote of four of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in the application of this chapter.

Sec. 56-217---56-237. – Reserved.

DIVISION 4. – AMENDMENTS

Sec. 56-238. - Initiation of amendment proceeding.

The city council may, from time to time, amend this chapter by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and general welfare require such amendment. In addition, an amendment proceeding may be initiated by the planning and zoning commission or by an application of one or more owners of property affected by the proposed amendment.

Sec. 56-239. - Application fee required for property owner-initiated proceedings.

Each application by a property owner shall be accompanied by a fee in the amount provided in the city fee schedule to cover administrative and processing costs.

Sec. 56-240. - Documentation to be submitted with application.

An application for an amendment shall be accompanied by an accurate legal description, maps, site plans, drawings and any data necessary to demonstrate that the proposed amendment is in general conformance with the comprehensive plan of the city and that public necessity, convenience and general welfare require the adoption of the proposed amendment.

Sec. 56-241. - Public hearing before the planning and zoning commission.

- A. *Required.* Upon filing of the application, the planning and zoning commission shall call a public hearing on the application as provided herein.
- B. *Notice of hearing.* Written notice of such hearing shall be sent to the owners of property or their agents and to all owners of property lying within 200 feet of the property on which the change in classification is proposed. The notice to be given not less than ten days before the date set for the hearing, to all such owners who have rendered their property for city taxes as the ownership appears on the last approved city tax roll. Notice may be served by regular U.S. Mail. 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 in one publication in the official newspaper appearing at least 15 days before the time of hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken.
- C. *Recommendation of commission.* If at the conclusion of the hearing, the planning and zoning commission decides to recommend amendment of this chapter to the city council, the recommendation shall be by resolution of the planning and zoning commission carried by the affirmative votes of not less than a majority of its total membership. A copy of any recommended amendment shall be submitted to the city council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.
- D. *Recommendation of denial may be appealed to city council.* In the event the planning and zoning commission recommends denial of an application after public hearing, the applicant may appeal the determination to the city council by filing a written notice of

appeal with the city clerk within ten days after the determination of the planning and zoning commission.

Sec. 56-242. - Review by and final decision of city council.

- A. *Public hearing; notice.* If the planning and zoning commission has recommended approval of an application, or if the planning and zoning commission has recommended denial of an application and a notice of appeal has been filed pursuant to this division, the city council shall set the application for public hearing and shall give notice of the time and place of the hearing by one publication in the official newspaper appearing at least 15 days prior to such hearing, and in addition shall send written notices to the owners of property lying within 200 feet of the subject property.
- B. *Final action.* The city council may, by simple majority vote, disapprove an application for amendment of this chapter, or in approving an amendment to this chapter, the city council may impose such requirements and conditions or changes as they deem necessary.
- C. *Three-fourths vote of council required for certain actions.* A vote of three-fourths of the city council is required in order to adopt proposed amendments that have been recommended for disapproval by the planning and zoning commission or to adopt proposed amendments that have been recommended for approval by the planning and zoning commission against which a written protest has been filed with the city clerk duly signed and acknowledged by the owners of 20 percent of the land included in the proposed amendment or the owners of 20 percent of the land immediately adjacent to the land included in the proposed amendment and extending 200 feet therefrom.
- D. *Reconsideration after denial.* In case an application for an amendment to this chapter is denied by the city council, the application shall not be eligible for reconsideration for one year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the planning and zoning commission, to be eligible for consideration, within one year of the denial of the original application.

Sec. 56-243. - Joint public hearings authorized, procedure.

As an alternative to separate hearing before the planning and zoning commission and the city council, the city council may by three-fourths vote call for a joint public hearing with the planning and zoning commission and prescribe the type of notice to be given of the time and place of the hearing.

Port Lavaca Unified Development Code DRAFT

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CHAPTER 1. - GENERAL PROVISIONS

Sec. 101. - Short title.

This ordinance shall be known and may be cited as the "City of Port Lavaca Unified Development Ordinance" or "this Ordinance."

Sec. 102. - Jurisdiction.

- A. This Ordinance applies to all land within the regular municipal boundaries of Port Lavaca.
- B. The subdivision requirements of this Ordinance also apply within the City's designated ETJ (extra-territorial jurisdiction). The Port Lavaca extra-territorial jurisdiction extends one (1) mile from the regular municipal boundaries unless preempted by appropriate jurisdictional control of other municipalities.

Sec. 103. - Purpose.

This Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of Port Lavaca. More specifically, this ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with the comprehensive plan to achieve objectives that include, but are not limited to, the following:

- A. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with the Port Lavaca Comprehensive Plan.
- B. Protect the character and the established pattern of the Land Use District in each area
- C. Prevent or minimize future land use incompatibilities and conflicts among different land uses;
- D. Maintain property values by stabilizing expectations and ensuring predictability in development
- E. Establish a process that effectively and fairly applies the regulations and standards of this Ordinance and respects the rights of property owners and the interests of citizens;
- F. To enhance the scenic beauty, aesthetics of the planning jurisdiction; and,
- G. Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality.

Sec. 104. - Minimum Standards.

In interpreting and applying the provisions of this Ordinance, these provisions shall be held to be the minimum requirements for the promotion of the public safety, health, environment, convenience, comfort, morals, prosperity and general welfare.

Sec. 105. - Conflicting Provisions.

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or laws, including private deed restrictions and covenants, the more restrictive or that imposing the higher standards shall govern; however, the City shall have no obligation to review or enforce private deed restrictions or covenants.

Sec. 106. - Compliance with These Regulations.

- A. No land shall be used except for a purpose permitted in the district in which it is located.
- B. No building shall be erected, structurally altered or used for any purpose other than permitted in the district in which such building is located.
- C. No lot area shall be reduced or diminished so that yards shall be smaller than prescribed by this Ordinance, nor shall the lot area per family be reduced in any manner, except in conformity with the district in which such building is located.
- D. The owner of a tract of land located within the corporate limits or the extra territorial jurisdiction of the City of Port Lavaca that divides the tract in any manner that creates two (2) or more parts to lay out a suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared in accordance with Section 212.004 of the Texas Local Government Code and must also adhere to the City of Port Lavaca Planning Requirements XX.

Sec. 107. - Effective Date.

The effective date of this Ordinance shall be TBD

Sec. 108. - Severability.

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

Sec. 109. - Transitional Provisions.**A. *Previously Approved Plats.***

Nothing in this Ordinance shall limit or modify the rights of any person to complete any subdivision project which has received prior plat approval under existing

subdivision regulations in place at that time. Such project should otherwise meet at least one (1) of the following criteria:

1. Any subdivision created by plat and recorded before the effective date of this Ordinance and has remained undeveloped.
2. Plats that were recorded before the effective date of this Ordinance and development has commenced and is continuing in good faith.
3. A. complete application for preliminary plat approval filed with the City prior to adoption of this Ordinance and any plat currently under review by the City before adoption of this Ordinance.

B. Expired Plats.

Expired plats shall conform to current City regulations and construction standards.

C. Existing Community Unit Plans (CUP) and Special Permits (SP).

Nothing in this Ordinance shall limit or modify the rights of any person to continue a use approved through the Community Unit Plan or Special Permit process prior to the effective date of this Ordinance, subject to any and all of the conditions specified in such approval.

D. New Development Applications.

The land use districts in the currently adopted Port Lavaca comprehensive plan prior to the effective date of this Ordinance shall be converted in accordance with the following table.

PREVIOUS DISTRICT	NEW BASE ZONING DISTRICTS
Low Density Residential	R-1 Low Density Residential
Medium Density Residential	R-2 Medium Density Residential
High Density Residential	R-3 High Density Residential
Multi-Family	R-4 Multi Family Residential
Manufactured Home Park	M-1 Manufactured Home Park
Mixed Use	MU Mixed Use
Commercial	C Commercial
Light Industrial	I-1 Light Industrial
Industrial	I-2 Medium Industry
	OT Old Towne
	PUD Planned Unit Development
Parks and Open Space	OS Parks and Open Space
Public/Semi-Public	P/SP Public/Semi-Public
	CR Coastal Residential
	CMU Coastal Mixed-Use
	CC Coastal Commercial
	CI Coastal Industrial

APPENDIX A - UNIFIED DEVELOPMENT ORDINANCE

CHAPTER 2. - DEVELOPMENT REVIEW BODIES

Sec. 201. - Administrative Officer.

A. *Designated Officer.*

The City Manager shall appoint the Administrative Officer of this Ordinance.

B. *Powers and Duties.*

The Administrative Officer or a designated person shall be responsible for the following powers and duties with regard to this Ordinance.

1. Review and final action on pre-development permits (Section 304), building permits (Section 305), certificates of occupancy (Section 306), and written interpretations of this Ordinance (Section 308).
2. Review and make recommendations to the Planning and Zoning Commission on special use permits (Section 315), planned unit developments (Section 316), subdivisions (Section 317), text amendments to this Ordinance (Section 318), and map amendments or rezonings (Section 318).
3. The Administrative Officer may consult with the City Engineer, Building Official, Fire Chief, Public Works Director, Planner, Economic Development Director for the purpose of reviewing land development plans.
4. Any other powers and duties as may be assigned by the City Manager.

Sec. 202. - Planning and Zoning Commission Board.

A. *Membership.*

Per section 11.02 in the City Charter the Council shall establish by ordinance a Planning and Zoning Commission Board composed of not less than five (5) nor more than seven (7) qualified voters of the City and who shall hold such office for a period of two (2) years.

B. *Meetings.*

The Planning and Zoning Commission Boards meets once a month with dates to be posted on the City calendar. All meetings and minutes shall be open to the public.

C. *Powers and Duties.*

Section 11.04 in the City Charter provides that the commission shall perform the following duties and responsibilities:

1. Make recommendations on the Comprehensive Plan for the physical development of the municipality and of any land outside the City;
2. Promote the public interest in and understanding of the Comprehensive Plan and of the planning of the City;
3. Consult and advise public officials and agencies, public utilities, civic, educational, professional and other organizations and with citizens in relation to the protection or implementation of the Comprehensive Plan or of special planning reports;
4. Make recommendations to the Council regarding programs for public improvements and for the financing thereof;

5. Shall be the platting board of the municipality, and, as such, shall have the control of the platting or subdivision of land within the City and its extraterritorial jurisdiction, or as may otherwise be determined by ordinance of Council;
6. Shall serve as the Zoning Commission and make a preliminary report, hold public hearings on that report, and submit a final report to Council regarding recommendations of the boundaries for zoning districts, regulations for each district and related applications; and
7. Provide recommendations regarding rules and regulations governing the zoning, subdivision and the general development of land within its jurisdiction.

In addition to state law and any powers and duties set forth in the City Charter, the Commission shall have the additional following responsibilities:

8. Review and make recommendations to the City Council on special use permits (Section 315), planned unit developments (Section 316), subdivisions (Section 317), text amendments to this Ordinance (Section 318) and map amendments or re-zonings (Section 318).
9. Review and make recommendations to the Zoning Board of Adjustments on variances (Section 312)
10. Perform any other duties as directed by the council or by ordinance

Sec. 203. - Zoning Board of Adjustment.

A. Membership.

The five regular and two alternate members of the Zoning Board of Adjustment are appointed to two-year staggered terms by the City Council. Members must be qualified voters. Of the five regular members, one of the members must be in the Zoning and Planning Commission Board. Of the two (2) alternates, one must be in the Zoning and Planning Commission Board.

B. Meetings and Minutes Open to the Public.

The Zoning Board of Adjustment does not have a regular meeting schedule, but hold public meetings when required to address a request for a variance or special exception. Meetings will be posted on the City calendar. All meetings and minutes shall be open to the public.

C. Powers and Duties.

The Board of Adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an Administrative Officer in the enforcement of this Ordinance (Section 309).
2. To authorize in specific cases a variance from the terms of this Ordinance if the variance meets the criteria in Section 312.
3. To hear and decide special exceptions where it is alleged there is error of law in any order, requirement, decision or determination made by an Administrative Officer in the enforcement of this Ordinance (Section 313).

D. Authority.

1. The Board shall have no authority to change any provisions of this Ordinance, nor shall the Board grant variances to the use provisions of this Ordinance.
2. The jurisdiction of the Board is limited to appeals and hardship cases that arise from time to time.
3. In exercising its authority under paragraph D.1 above, the Board may reverse or affirm, in whole or in part, or modify the Administrative Officer's order, requirement, decision or determination from which the appeal is taken.
4. The concurring vote of four members of the Board is necessary to reverse an order, requirement or decision, or to authorize a variance to the terms of this Ordinance. The board shall decide the appeal at the next meeting and not later than the 60th day after the date the appeal is filed. If a meeting with the ZBA is not reached by the 60th day due to lack of Zoning Board of Adjustment membership, the governing body can serve intermittently until positions are filled.

Sec. 204. - City Council.**A. Powers and Duties.**

The City Council shall have the following powers and duties with regard to this Ordinance.

1. Decide appeals of subdivisions denied by the Planning and Zoning Board (Section 317).
2. Take final action on special use permits (Section 315), planned unit developments (Section 316), text amendments to this Ordinance (Section 318), and map amendments or re-zonings (Section 318).

CHAPTER 3. - DEVELOPMENT REVIEW PROCEDURES

Sec. 301. - In General.

A. *Pre-Application Conference.*

An applicant for development approval may request a pre-application conference with the Administrative Officer. An applicant for plat approval must request a pre-application conference. Prior to the conference, the applicant shall provide a description of the character, location and magnitude of the proposed development. The purpose of this meeting is to acquaint the participants with the requirements of this Ordinance and the views and concerns of the City.

B. *Application Forms.*

Every application for development approval shall be in a form specified by the Administrative Officer, and is subject to the requirements of Section 307: Application Completeness and Expiration.

C. *Standard Application Submission Cycle.*

Applications that will be reviewed by the Planning and Zoning Commission Board must be filed at least twenty-eight (28) days in advance of the scheduled public hearing, in order to allow adequate time for staff review. Note that this does not guarantee placement on a particular agenda date, as determination of completeness and publication requirements may require a longer timeframe.

D. *Fees.*

Application and administrative fees for the requirements of these regulations are established in the Port Lavaca Fee Schedule as adopted by ordinance. No application shall be processed until the established fee has been paid. This nonrefundable fee shall be established from time-to-time by the City Council to defray the actual cost of processing the application and providing public notice. No application fee shall be required when a text or map amendment is being proposed by the Administrative Officer, City Manager, City Council or Planning and Zoning Commission Board.

Sec. 302. - Public Notice and Public Hearings.

A. *Published Notice of Public Hearing.*

Whenever the provisions of this Ordinance require a public hearing before the Planning and Zoning Commission or City Council, notice shall be published by the City in a newspaper of general circulation in the City of Port Lavaca at least fifteen (15) days before the public hearing.

B. *Mailed Notice of Public Hearing.*

1. Notice of required public hearings shall also be sent by mail by applicant to owners of real property within at least 200 feet of the lot lines of the land that is the subject of the application. Owners of real property shall be identified by reference to the most recent tax records. Notice shall be deemed mailed by virtue of its deposit with the United States Postal Service, properly addressed with postage prepaid.

2. Planning and Zoning Commission and Zoning Board of Adjustments. Mailed notice shall be deposited in the US Mail before the tenth (10th) day before the Planning and Zoning Commission public hearing.
3. If a hearing before the City Council is required, such notice shall be mailed and postmarked at least fifteen (15) days before the City Council public hearing.

C. Content of Published and Mailed Notice.

1. Published and mailed notices shall provide at least the following information:
2. The general location of the land that is the subject of the application;
3. A summary of the subject property's legal description or a street address;
4. The substance of the application;
5. The time, date and location of the public hearing;
6. A contact person at the City and their telephone number; and
7. A statement that interested parties may appear at the public hearing and be heard with respect to the application.

D. Continuation of Public Hearings.

1. A public hearing for which proper notice was given may be continued to a later date without complying with the notice provisions above provided that the continuance is set for a certain date and time announced at the public hearing.

E. Postponement of Public Hearing.

1. Once a public hearing has been scheduled in accordance with this Section, the applicant may request postponement or withdrawal of the application by notifying the Administrative Officer in writing by 12:00 noon on the Wednesday preceding the initially scheduled hearing.
2. An applicant will be allowed no more than one postponement of a public hearing. If review of an application is postponed at the request of the applicant and set for hearing on a later date, the application will be reviewed at that time; no additional requests for postponement by the applicant shall be considered.
 - a. Publications and notices will be required as per initial application per Section 302 A, B, C.

Sec. 303. - Summary of Development Review Procedures.

The following table summarizes the level of review for each development review procedure specified in this Ordinance.

TABLE 303-1 Development Review Procedures

Procedure	Ordinance Section	Administrative Officer	P&Z Board	Board of Adjustment	City Council
Pre-Development Certification	Section 304	F	R		
Build Permit Utility Connections	Section 305	F	R		
Certificate of Occupancy	Section 306	F	R		
Written Interpretation	Section 308	F	R		
Administrative Appeal	Section 309		R	A	
Vested Rights petition (Zoning and Subdivision)	Section 310	F	R		A
Non-Residential Site Plans	Section 311	R	F		A
Variances	Section 312	R	R	F	
De Minimus Variances	Section 312	F	R	A	
Special Exceptions	Section 313	R	F		
Petition for Subdivision Waiver	Section 314	R	H		F
Special Use Permit	Section 315	R	H		F
Planned Unit Development	Section 316	R	H		F
Subdivision	Section 317	R	F		A
Amendments to Text or Zoning Map	Section 318	R	H		F

F=Final Approval
R=Review and Report
H= Public Hearing
A= Appeal

Sec. 304. - Pre-Development Certification.

A. Certification Required.

No person, company or corporation shall clear, grade or in any way alter vacant land within the incorporated limits of the City of Port Lavaca without first obtaining a Pre-Development Certification from the Administrative Officer.

B. Application.

Applicants for such permits shall provide proof of ownership or agency and a plan for pre-development. The pre-development plan shall identify the project site, all easements, rights-of-way and utilities. It shall address the purpose of the project, project duration, project hours and methods, including material disposal. The Administrative Officer may require a drainage plan and run-off calculations to ensure grade changes do not adversely affect run-off or promote erosion.

C. Vesting.

Vesting will begin upon submittal date of first application as identified in Section 310.

Sec. 305. - Building Permits/Utility Connections¹.

A. Building Permits Required.

No building, structure, patio, porch, deck, swimming pool, spa, sign, or fence or other similar structure shall be erected, constructed, altered, moved, converted, extended or enlarged, and no structure or modular home shall be placed on any lot, without the owner first having obtained a building permit from the Building Department. No parking lot shall be resurfaced, including seal coats, overlays, slurries, rehabilitations, or reconstructions, without the owner first having obtained a

¹ Requires compliance with currently approved International Building Code.

permit from the Building Department. Such permits shall require conformity with the provisions of this section and all other applicable City Ordinances. Exceptions are listed within the City of Port Lavaca adopted Building Code.

B. *Permit Valid for 6 Months.*

When issued, a building permit shall be valid for a period of six (6) months, at which time construction must have begun. Once construction has begun, construction must be completed within two (2) years. One (1) six (6) month extension may be granted by the Building Official.

C. *Application Contents.*

The permit application shall include adequate information to allow the Administrative Officer to determine compliance with this section, including, as necessary, site plans, elevations, construction details, etc.

D. *Recorded Plat Required.*

No building permits or utility connections shall be issued for any construction or existing structure on any lot, tract or plot of land in the City or within its extra-territorial jurisdiction, when applicable, without a plat properly recorded in the County records, except as expressly exempted in Section 212.012, Texas Local Government Code, or as amended.

E. *Additional Requirements.*

The City may require the installation of public improvements (sidewalks, curb and gutter, extension of water or sewer mains, etc.) as a condition of building permit approval or certificate of occupancy.

Sec. 306. - Certificate of Occupancy.

A. *Certificate of Occupancy Required.*

No building or premises shall be occupied until a certificate of occupancy has been issued by the Administrative Officer.

B. *Existing Building Changes.*

No change in the use, tenant, or occupancy of land or an existing building (except solely for single-family residential purposes) shall be made until a certificate of occupancy has been issued by the Administrative Officer.

C. *Vacant Land.*

No vacant land shall be occupied or used until a certificate of occupancy has been issued by the Administrative Officer.

D. *Certificate of Occupancy and Building Permit Application.*

A certificate of occupancy shall be applied for at the same time as a building permit, when such permit is required.

E. *Conformity Required.*

Before issuing a Certificate of Occupancy, the Administrative Officer shall require conformity with the provisions of this Ordinance and all other applicable City Ordinances. Every certificate of occupancy shall state that the new occupancy complies with the provisions of City Ordinances.

Sec. 307. - Application Completeness and Expiration.

A. Zoning Regulations.

1. The following procedures shall apply to any zoning related plan or application that is required by the City and is submitted in accordance with this UDC.
2. Determination of Completeness for Zoning Related Applications. Every required application shall be subject to a determination of completeness by the responsible official for processing the application.
 - a. Acceptance Standard. The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this UDC. A typographical error shall not, by itself, constitute an incomplete application.
 - b. Acceptance Procedures. A determination of completeness of an application shall be conducted in accordance with the following procedures:
 - i. A determination of completeness shall be made by the responsible official not later than the tenth (10th) business day, unless otherwise specified, after the official vesting date.
 - ii. If the submitted application is incomplete, then the applicant shall be notified in writing not later than the tenth (10th) business days after the official vesting date.
 - a) Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10th) business day following submission of the application.
 - b) The notification shall specify the documents or other information needed to complete the application, and shall state the date the application will expire (see 4 below) if the documents or other information are not provided to the City.
 - iii. An application shall be deemed complete on the eleventh (11th) business day after the application has been received if notice is not served in accordance with ii above.
 - iv. If the application is determined to be complete, the application shall be processed as prescribed by this UDC.
 - c. Acceptance shall not Constitute Compliance. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this section.
 - d. Acceptance shall not Guarantee Approval. It is not guaranteed that an accepted, complete application will be approved, if after the application is deemed complete it is determined that the application does not comply with this UDC.
3. Re-Submittal after Notification of Incompleteness.

- a. If the application is re-submitted after a notification of incompleteness within the time allotted in subsection 2.b.ii above, the application shall be processed upon receipt of the re-submittal.
- b. To the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.
4. Expiration of a Zoning Related Application due to Incompleteness.
 - a. Pursuant to Texas Local Government Code Chapter 245² (or as amended), a zoning related application shall automatically expire at the close of business on the forty-fifth (45th) calendar day after the application's official vesting date, if:
 - b. The applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
 - c. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
 - d. The applicant fails to provide the specified documents or other information necessary to comply with the City's requirements relating to the application within the time provided in the notification.
5. Zoning Amendment Application.
 - a. Complete Applications Required. No zoning amendment application shall be accepted for filing or processing unless such request is accompanied by a completed application and all documents required by and prepared in accordance with the requirements of the zoning regulations and any other applicable ordinance and it is filed with the Administrative Officer.
 - b. Texas Local Government Code Chapter 245 does not apply to zoning amendment applications. Chapter 245 of the Texas Local Government Code, as amended, shall not apply to a zoning amendment application or an ordinance establishing zoning since neither is a permit under this UDC or Chapter 245.
 - c. Denial of Zoning Applications.
 - i. The acceptance or processing by any City official of a zoning application prior to the time a complete application is submitted hereby is deemed to be null and void and, upon discovery, shall be grounds for denial or revocation of such application.
 - ii. A typographical error shall not constitute an incomplete application.
 - iii. The applicant may be notified of such denial or revocation for an incomplete zoning application in writing.
6. Vesting Begins on the Official Vesting Date.
 - a. An application shall be vested into the standards of the UDC in effect at the time of the application's official vesting date.
7. Submission of Previously Decided Zoning Related Application. After the final decision on a specific application by the decision-maker, the same application

² CHAPTER 245. ISSUANCE OF LOCAL PERMITS

shall not be submitted again until after six (6) months from the decision-maker's action.

*B. Subdivision Regulations.*³

1. The following procedures shall apply to any subdivision related plan or application that is required by the City and is submitted in accordance with this UDC.
2. Determination of Completeness for Subdivision Related Applications. Every required application shall be subject to a determination of completeness by the responsible official for processing the application.
 - a. Acceptance Standards. The application shall only be accepted by the responsible official for processing when it is accompanied by all documents required by, and prepared in accordance with, the requirements of this UDC. A typographical error shall not, by itself, constitute an incomplete application.
 - b. Acceptance Procedures. A determination of completeness of an application shall be conducted in accordance with the following procedures:
 - i. A determination of completeness shall be made by the responsible official not later than the tenth (10th) business day, unless otherwise specified, after the official vesting date.
 - ii. If the submitted application is incomplete, then the applicant shall be notified in writing not later than the tenth (10th) business day after the official vesting date.
 - a) Such notice shall be served by depositing it in the U.S. Postal Service, or by electronic mail transmission, before the tenth (10th) business day following submission of the application.
 - b) The notification shall specify the documents or other information needed to complete the application, and shall state the date the application will expire (see subsection 5. below) if the documents or other information are not provided to the City.
 - iii. An application shall be deemed complete on the eleventh (11th) business day after the application has been received if notice is not served in accordance with ii above.
 - iv. If the application is determined to be complete, the application shall be processed as prescribed by this UDC.
 - c. Acceptance shall not Constitute Compliance. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this UDC.
 - d. Acceptance shall not Guarantee Approval. There is no implied intent or guarantee that an accepted and completed application will be approved, if after the application is deemed complete, it is determined that the application does not comply with this UDC.
3. Re-Submittal after Notification of Incompleteness.

³ See Texas Local Government Code Ch. 42; City of Port Lavaca City Ordinance Ch. 42.

- a. If the application is re-submitted after a notification of incompleteness, the application shall be processed upon receipt of the re-submittal.
 - b. The statutory 30-day time frame for plat approvals shall begin on the date of the re-submittal.
 - c. To the extent that the information or documents submitted is not sufficient to enable the decision-maker to apply the criteria for approval, the application may be denied on such grounds.
4. Waiver of Right to 30-Day Action. The Administrative Officer shall be the responsible official to approve a waiver of right to 30-day action.
- a. Request. An applicant may submit in writing a waiver of right to 30-day action.
 - b. Received.
 - i. If the applicant is requesting a waiver of right to 30-day action, the waiver of right to 30-day action must be received by the Administrative Officer on or before the seventh (7th) calendar day prior to the Planning and Zoning Commission meeting at which action would have to be taken (based on the 30-day requirement in State law) on the application.
 - ii. Waiver requests that are not received by that day shall not be considered properly submitted, and action shall be taken on the application at such meeting as scheduled.
 - c. Requirements Maintained.
 - i. Submission of a waiver of right to 30-day action, and acceptance of such waiver by the City as part of an application, shall not be deemed in any way a waiver to any requirement within this UDC.
 - ii. A waiver from requirements herein is a separate and distinct process (see Section 314 Petition for a Subdivision Waiver).
5. Expiration of a Subdivision Related Application - Before Approval Decision. Pursuant to Texas Local Government Code Chapter 245⁴ (or as amended), a subdivision related application shall automatically expire (ending all vesting claims) at the close of business on the forty-fifth (45th) calendar day after the application's official vesting date, if:
- a. The applicant fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
 - b. The City provides to the applicant, not later than the tenth (10th) business day after the date the application is filed, written notice that specifies the necessary documents or other information, and the date the application will expire if the documents or other information is not provided; and
 - c. The applicant fails to provide the specified documents or other information necessary to comply with the City's requirements relating to the application within the time provided in the notification.
6. Vesting Begins on the Official Vesting Date. An application shall be vested into the standards of the UDC in effect at the time of the application's official vesting date.

⁴ Sec. 245.005. DORMANT PROJECTS

7. Right to 30-Day Action for Plats Applications Begins on the Official Submission Date. The statutory 30-day time frame for plat approvals, established by TLGC 212 (or as amended), shall commence on the official submission date⁵.

Sec. 308. - Written Interpretation.

A. Authority.

1. The Administrative Officer shall have authority to make all written interpretations concerning the provisions of this Ordinance and the Official Zoning Map.

B. Request for Interpretation.

1. An applicant for a permit may request a written interpretation. Such request shall be submitted to the Administrative Officer.

C. Interpretation by Administrative Officer.

1. Within ten (10) working days after a request for interpretation has been submitted, the Administrative Officer shall:
2. Review and evaluate the request in light of the text of this Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information;
3. Consult with other staff, as necessary; and
4. Render an opinion.
5. The interpretation shall be provided to the applicant in writing by mail.

D. Official Record.

1. The Administrative Officer shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. Appeal.

1. To appeal written interpretations made by the Administrative Officer, the procedure set forth in Section 309 shall be followed.

Sec. 309. - Administrative Appeal.

A. Who May Appeal.

An appeal may be taken to the Board of Adjustment, by any person, firm, or corporation or any Official or department affected by a decision of any Administrative Officer within thirty (30) days of notice of the decision.

B. Application.

The applicant must file a notice of appeal specifying the grounds for the appeal with the Board and the official from whom the appeal is taken. The burden of proof shall be upon the applicant.

⁵ Sec. 212.009. APPROVAL PROCEDURE

C. Powers of the Board.

The Board may reverse or affirm or may modify the decision made by the Administrative Officer, and to that end the Board shall have all the powers of the official from whom the appeal is made.

D. Board Hearing and Action.

1. The Board shall fix a reasonable time for the hearing of the appeal. Upon the hearing, any party may appear in person or by agent. The Board shall decide the appeal within a reasonable time.
2. In considering such an appeal, the Planning and Zoning Commission Board shall review the decision and public testimony in light of the Comprehensive Plan, this Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning and Zoning Commission or City Council, whichever are applicable.
3. The Board of Adjustment shall affirm, modify or reverse the decision of the Administrative Officer in interpreting the provisions of this Ordinance and the Official Zoning Map. (See Chapter 4)

Sec. 310. - Vested Rights Petitions (Zoning and Subdivision).**A. Zoning Vested Rights Petition.**

1. Purpose. The purpose of a zoning vested rights petition is to determine whether one or more standards of this UDC should not be applied to a plan or application, or whether certain permits are subject to expiration.
2. Applicability of a Zoning Vested Rights Petition. A zoning vested rights petition may be filed for an application, permit, or plan required under these zoning regulations.
3. Petition Submission.
 - a. A zoning vested rights petition shall be submitted to the City's responsible official in accordance with the Texas Local Government Code, Chapter 245 or successor statute.
 - b. Submission of such petition shall stay further proceedings on the related application until a final decision is reached on the zoning vested rights petition.
4. Petition Form Requirements. The zoning vested rights petition shall allege that the petitioner has a vested right that requires the City to review and decide the application under standards in effect prior to the effective date of the currently applicable standards. The petition shall include, at a minimum, the following information and documents:
 - a. Basic Owner Information. The name, mailing address, phone number and email address of the property owner (or the property owner's duly authorized agent).
 - b. Identification of Property and "Project."
 - i. Identification of the property for which the property owner claims a vested right.

- ii. Identification of the "project," as that term is defined in Chapter 245 at 245.001(3).⁶
- iii. A chronology of the history of the "project," with special emphasis on facts establishing that the project was in progress on or commenced after September 1, 1997, as required by Chapter 245 at 245.003.
- c. Narrative Description for Purpose of Petition. A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific regulation or to an entire project.
- d. Identification Regulations.
 - i. Identification of all City regulations in effect at the time the original application for the permit was filed that
 - a) the owner contends are vested, and
 - b) the owner contends controls the approval, disapproval, or conditional approval of an approval for a permit, pursuant to Chapter 245 at 245.002(a) and (b).
 - ii. Identification of all City regulations, with particularity and in detail that the property owner contends do not apply to the project due to the vested rights provided the property owner by Chapter 245.
 - a) Global references to a particular ordinance, or set of criteria, may be deemed insufficient and the City may consider the request for a vested rights determination to be incomplete and, hence, not subject to a staff determination at that time.
 - iii. Identification of any current City regulations which petitioner agrees can be applied to the application at issue.
- e. Copies of Applications. A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition.
- f. Submittal Date of First Application. The submittal date of the first application that began the vesting process (i.e., first permit in the series of permits required for the project), as identified in Section 307 Application Completeness and Expiration.
- g. Submittal Date of Subsequent Application. If applicable, the submittal dates of subsequent applications for the permits for the project.
- h. Narrative Description of How Current Regulations Affect Proposed Use. A narrative description of how the application of current regulations affect proposed use of the land, landscaping, open space, or park dedication, lot size, lot dimensions, coverage or building size shown on the application for which the petition is filed.
- i. Copies of Prior Vested Rights Determinations. A copy of any prior vested rights determination involving the same land.
- j. Benchmarking Project Progress for Expiring Permits or Applications. Whenever the petitioner alleges that a permit or application subject to

⁶ (3) "Project" means an endeavor over which a regulatory agency exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.

expiration should not be terminated, a description of the events constituting progress toward completion of the project for which the permit subject to expiration was approved.

5. Validity and Expiration of Different "Permits" for Vesting Purposes.
 - a. Required Plan Validity and Expiration.
 - i. Required Plan. An approved site plan, Specific Use Permit's site plan, or PUD's site plan shall be considered a "permit" as described by State law in Chapter 245.005, as amended, of the Texas Local Government Code (TLGC) and herein be referred to as "Required Plan."
 - ii. Appropriate Approval Required for a "Permit." A required plan shall not be considered a "permit" unless, it has been approved by the appropriate entity before the effective date of these regulations, or an application for a required plan is complete as of the effective date of these regulations.
 - iii. Required Plan Expiration. Any approved required plan shall be deemed expired two (2) years from the date on which the required plan was originally approved by the appropriate entity if no progress (see subsection iv. below) has been made toward completion of the project.
 - iv. Progress Benchmarks. The term "progress" shall be as defined based on TLGC Chapter 245.005 as follows:
 - a) Plans for construction and an application for a building permit for at least one of the buildings on the approved required plan are submitted within two (2) years following approval of the required plan;
 - b) A good-faith attempt is made to file with the City an application for a permit necessary to begin or continue towards completion of the project;
 - c) Costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent (5%) of the most recent appraised market value of the real property on which the project is located;
 - d) Fiscal security is posted with the City to ensure performance of an obligation required by the City; or
 - e) Utility connection fees for the project have been paid to the City.
 - v. Required Plan Expiration. If one of the items listed in subsections iv.a) through iv.e) above is not accomplished within the two (2) year period, the approved required plan shall expire upon the second (2nd) anniversary of its approval by the appropriate entity, and shall become null and void.
 - vi. Required Plan Extension and Reinstatement Petition.
 - a) Prior to the expiration of a required plan, the applicant may petition the City (in writing) to extend the required plan approval.
 - b) The Administrative Officer shall be the responsible official for processing and review of the application, and final approval.

- c) If appealed petition shall be recommended for approval or denial by the Planning and Zoning Commission Board, and shall be granted approval or denied by the City Council.
 - d) If no petition is submitted, then the required plan shall be deemed to have expired and shall become null and void.
 - (i) Any new request for required plan approval thereafter shall be deemed a "new permit," and shall be submitted with a new application form, with a new filing fee, and with new plans and materials in accordance with the procedures set forth in this section.
 - (ii) The new request shall also be reviewed for compliance with the ordinances and regulations in effect at the time the new application is made.
 - e) In determining whether to grant a request for extension, the Planning and Zoning Commission Board and City Council shall take into account the following:
 - (i) The ability of the property owner to comply with any conditions attached to the original approval; and
 - (ii) The extent to which development regulations would apply to the required plan at that point in time.
6. Decision of a Zoning Vested Rights Petition.
- a. Review of a Zoning Vested Rights Petition. The responsible official shall promptly forward the owner's vested rights request, along with any supporting information or documentation provided along with the request, to the Administrative Officer and City Attorney for their respective reviews.
 - b. Decision on a Zoning Vested Rights Petition.
 - i. The Administrative Officer, after consultation with the City Attorney, shall issue a final administrative determination of whether a vested right exists in relation to the project, and shall identify, with particularity, all claims for vested rights exists in relation to the project, and shall identify, with particularity, all claims for vested rights that have been granted and all claims for vested rights that have been denied.
 - ii. The Administrative Officer shall issue a final administrative determination with thirty (30) business days from the receipt of the responsible official.
 - c. Vesting Pre-Determination Conference. Prior to rendering the final determination, the Administrative Officer may request a pre-determination conference with the owner to discuss the owner's vested rights claim and to ensure that the nature of the claim is fully and completely understood by the Administrative Officer prior to a final determination being rendered.
7. Appeal to the Council of a Decision on a Zoning Vested Rights Petition.
- a. If the property owner believes that the Administrative Officer's vested rights determination is in error, the property owner shall have the right to appeal within thirty (30) business days of such determination to the City Council, which will have jurisdiction to hear and decide the appeal

- pursuant to this UDC and Chapter 211 of the Texas Local Government Code.
- b. The property owner may also request the Zoning Board of Adjustments to grant a zoning variance from the regulations at issue under the same standards governing variances for other matters, as set forth in this UDC table 303-1 and/or Chapter 211 of the Texas Local Government Code.
8. Judicial Review. Should the property owner or any aggrieved person be dissatisfied with the actions of the City Council, they may avail themselves of all legal remedies to review the decision as set forth in Section 211.011 of the Texas Local Government Code.⁷
 9. Binding Determination.
 - a. The Administrative Officer's final determination, if not appealed to the City Council within thirty (30) business days, shall be immediately filed in the City's files related to the project and the determination shall be considered binding upon the City and the property owner for the duration of the project.
 - b. Similarly, any decision by the City Council regarding a vested right claim, if not timely appealed pursuant to Section 211.011 of the Texas Local Government Code, shall be filed in the City's files related to the project and the determination shall be considered binding upon the City and the property owner for the duration of the project.
 - c. Notwithstanding the binding nature of the Administrative Officer's final determination and any ruling by the City Council, the City and the property owner may, at any time, enter into a development agreement that, to the extent authorized by law, modifies the final determination and the applicable development regulations to be applied to the project.
 10. Action on Petition and Order.
 - a. Action on the Petition. The Administrative Officer or City Council on the petition or appeal may take any of the following actions:
 - i. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards;
 - ii. Grant the relief requested in the petition, and direct that the application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - iii. Grant the relief requested in part, and direct that certain identified current standards be applied to the application, while standards contained in identified prior regulations also shall be applied.

B. Subdivision Vested Rights Petition.

⁷ Sec. 211.011. JUDICIAL REVIEW OF BOARD DECISION.

(a) Any of the following persons may present to a district court, county court, or county court . . .

(b) The petition must be presented within 10 days after the date the decision is filed in the board's office.

1. Purpose. In accordance with the Texas Local Government Code, Chapter 245 or successor statute, the purpose of a subdivision vested rights petition is to determine whether an application should be processed under the terms of a previous ordinance, to provide a process for determination of possible vested status, and to determine when certain permits are subject to expiration.
2. Applicability of a Subdivision Vested Rights Petition. A subdivision vested rights petition may be submitted for any application authorized by these subdivision regulations.
3. Petition Submission.
 - a. Filing. A subdivision vested rights petition shall be submitted to the City's responsible official and shall be in accordance with the Texas Local Government Code, Chapter 245 or successor statute.
 - b. Automatic Waiver. Submission of a subdivision vested rights petition shall require a waiver of right to 30-day action (see Section 307.B.4 above).
 - c. Stay of Further Proceedings. Submission of a subdivision vested rights petition shall stay further proceedings on the related application until a final decision is reached on the subdivision vested rights petition.
4. Time for Filing a Petition and Application.
 - a. A subdivision vested rights petition shall be filed jointly with an application for which a vested right is claimed.
 - b. A subdivision vested rights petition may be filed without a joint application if the petition is filed pursuant to subsection below.
 - c. Where more than one application is authorized to be filed simultaneously by this UDC, the petition may be filed simultaneously for each application.
5. Petition Requirements. The subdivision vested rights petition shall allege in writing that the applicant has a vested right for some or all of the land subject to the application under Texas Local Government Code, Chapter 245⁸ or successor statute, or pursuant to Texas Local Government Code, Section 43.002⁹ or successor statute, that requires the City to review and decide the application under standards that were in effect prior to the effective date of the currently applicable standards. The petition shall include the following information and documents:
 - a. The name, mailing address, phone number and email address of the property owner (or the property owner's duly authorized agent).
 - b. A narrative description of the grounds for the petition, including a statement as to whether the petition asserts a vested right related to a specific standard or to an entire project;
 - c. A copy of each approved or pending application which is the basis for the contention that the City may not apply current standards to the application which is the subject of the petition;
 - d. The official vesting date of the application;
 - e. The date the subdivision for which the application was submitted was commenced;

⁸ Chapter 245 applies to vesting and timing of application.

⁹ Section 43.002 applies to annexation and the ETJ.

- f. Identification of all standards otherwise applicable to the application from which relief is sought;
 - g. Identification of any current standards which applicant agrees can be applied to the application at issue;
 - h. A narrative description of how the application of current standards affect proposed landscaping, open space or park dedication, shown on the application for which the petition is filed;
 - i. A copy of any prior vested rights determination involving the same land; and
 - j. Whenever the applicant alleges that an application subject to expiration should not be terminated, a description of the events constituting progress towards completion of the subdivision for which the application was approved.
6. Decision of a Subdivision Vested Rights Petition.
- a. Reviewing a Subdivision Vested Rights Petition.
 - i. The responsible official for a subdivision vested rights petition is the same as that for reviewing the application with which the petition is associated.
 - ii. Where multiple applications are submitted, and there is more than one responsible official, the decision of each responsible official shall be coordinated with that of any other responsible official on the subdivision vested rights petition.
 - iii. The City Attorney shall also be notified of the subdivision vested rights petition following its filing and acceptance for processing.
 - iv. The applicant shall reimburse the City for all related legal costs for review of a subdivision vested rights petition. This reimbursement shall be paid in full prior to filing of the final plat.
 - b. Decision by the Responsible Official on a Subdivision Vested Rights Petition.
 - i. If the responsible official is the decision-maker on the original related application, that official shall determine whether the relief requested in the subdivision vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the decision-maker's reasoning and recommendation.
 - ii. The applicant shall be notified of the decision within fourteen (14) calendar days following the date the subdivision vested rights petition was filed at the City.
 - iii. The responsible official may defer making a decision on the subdivision vested rights petition and instead forward the petition to the Planning and Zoning Commission for a decision, in accordance with the process outlined in subsection c. below.
 - c. Decision by Planning and Zoning Commission on a Subdivision Vested Rights Petition.
 - i. If the original related application is to be decided by the Planning and Zoning Commission, or if the responsible official defers making a decision on a subdivision vested rights petition pursuant to subsection

- b.iii. above, the responsible official for that type of application shall submit a report in the form of a recommendation on the petition to the Planning and Zoning Commission.
 - ii. The Planning and Zoning Commission shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City or deferred by the responsible official.
 - iii. The Planning and Zoning Commission's decision on a petition shall be upon a simple majority vote of the full Planning and Zoning Commission's voting members.
 - d. Decision by City Council on a Subdivision Vested Rights Petition.
 - i. Where the City Council is the final decision-maker on the related application, or for any petition submitted pursuant to subsection 11. below, the responsible official for that type of application shall submit a report in the form of a recommendation on the petition to the City Council.
 - ii. The City Council shall render a decision on the petition within thirty (30) calendar days following the date the petition was filed at the City.
 - iii. The City Council's decision on a petition shall be upon a simple majority vote of the full City Council's voting members, and shall be final.
 - e. Appeal to the Council of a Decision on Subdivision Vested Rights Petition.
 - i. The applicant may appeal the responsible official's or Planning and Zoning Commission's decision on the subdivision vested rights petition to the City Council by submitting written notice of appeal to the applicable responsible official within fourteen (14) calendar days following the date of such decision. a) A letter stating the reasons for the appeal, citing the specific applicable section(s) of the UDC, shall be submitted by the applicant.
 - ii. The City Council shall hear and decide the appeal within thirty (30) calendar days following receipt of the notice of appeal by the City.
 - iii. Approval of an appeal by the City Council shall only be upon a favorable vote of at least four (4) of the City Council's voting members, and shall be final.
7. Criteria for Subdivision Vested Rights Petition Approval.
- a. Factors. The decision-maker shall decide the subdivision vested rights petition based upon the following factors:
 - i. The nature and extent of prior applications filed for the land subject to the petition;
 - ii. Whether any prior vested rights determinations have been made with respect to the property subject to the petition;
 - iii. Whether any prior approved applications for the property have expired or have been terminated in accordance with State law or local ordinances;
 - iv. Whether current standards adopted after commencement of the project affect proposed use of the land, landscaping, open space or park

- dedication, lot size, lot dimensions, lot coverage or building size based upon the proposed application;
- v. Whether any statutory exception applies to the standards in the current subdivision regulations from which the applicant seeks relief;
 - vi. Whether any prior approved applications relied upon by the applicant have expired; and
 - vii. Any other applicable provisions outlined in Chapter 245 or Section 43.002 of the Texas Local Government Code, or successor statutes.
- b. Conditions for a Pending Application. If the claim of vested rights is based upon a pending application, subject to standards that have been superseded by current standards of this UDC, the decision-maker may condition any relief granted on the subdivision vested rights petition on the approval of the pending application.
8. Action and Record of Action on the Subdivision Vested Rights Petition.
- a. Action. The decision-maker may take any of the following actions:
 - i. Deny the relief requested in the petition, and direct that the application shall be reviewed and decided under currently applicable standards; or
 - ii. Grant the relief requested in the petition, and direct that the related application be reviewed and decided in accordance with the standards contained in identified prior regulations; or
 - iii. Grant the relief requested in part, and direct that certain identified current standards be applied to the related application, while standards contained in identified prior regulations also shall be applied.
 - b. Record. The responsible official's report and the decision on the subdivision vested rights petition shall be recorded in writing in an order identifying the following:
 - i. The nature of the relief granted, if any;
 - ii. The related application(s) upon which relief is premised under the petition;
 - iii. Current standards which shall apply to the related application for which relief is sought, if applicable;
 - iv. Prior standards which shall apply to the related application for which relief is sought, including any procedural standards, if applicable;
 - v. The statutory exception or other grounds upon which relief is denied in whole or in part on the petition; and
 - vi. To the extent feasible, subsequent related applications that are subject to the same relief granted on the petition.
9. Effect of the Final Petition Decision on Related Applications.
- a. Petition Decision Required Before Proceeding with Application. A final decision on the subdivision vested rights petition must be achieved prior to further processing, and prior to any consideration of, or decision on, the related application.
 - b. Revision Made (if necessary) to Related Application after Petition Decision. Following the City's final decision on a petition, the applicant shall, if necessary, revise the related application such that it conforms to the City's decision on the petition.

- c. Related Applications with Revisions. After submission of a revised related application, the decision-maker on the related application shall review and consider the revised application in accordance with the procedures for deciding that type of application, as outlined in this UDC, and in conformity with any relief granted.
 - d. Related Applications without Revisions. If the relief granted on the petition is consistent with the related application on file, no revisions shall be necessary, and the related application shall be deemed submitted at the time of the final decision on the petition.
10. Expiration and Extension of a Subdivision Vested Rights Petition.
- a. Expiration. Relief granted on a subdivision vested rights petition shall expire on occurrence of one of the following events:
 - i. The applicant fails to submit a revised application that is consistent with the relief granted, if any, within sixty (60) calendar days following the final decision on the petition;
 - ii. The application for which relief was granted on the petition is denied; or
 - iii. The application for which relief was granted on the petition expires.
 - b. Extension. Extension of the date of expiration for the application for which relief was granted on a petition shall result in extension of the relief granted on the petition for the same time period.
11. Dormant Projects.
- a. Definitions. For purposes of this section only:
 - i. Dormant Project. A dormant project shall meet the following criteria:
 - a) An Initial Permit does not have an expiration date; and
 - b) No progress towards completion has been made within the project.
 - ii. Initial Permit. Initial permit means any of the following types of approvals granted under these subdivision regulations, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this UDC:
 - a) Preliminary Plat;
 - b) Construction Plans;
 - c) Construction Release;
 - d) Subdivision waivers to any requirement in these UDC subdivision regulations (per Section 314, Petition for a Subdivision Waiver); or
 - e) Any other application that was approved subject to a schematic drawing illustrating the location, arrangement, orientation or design of development, lots or improvements on a site intended for development.
 - iii. Final Permit. Final permit means a final plat approved under these UDC subdivision regulations, or any predecessor subdivision or development-related regulation or ordinance that was in effect prior to the adoption of this UDC.
 - b. Expiration Date Established for an Initial Permit. Any application for an Initial Permit that was approved or filed two (2) years prior to the adoption

date of this UDC, and was not subject to an expiration date shall expire on the effective date of this UDC.

- c. Reinstatement of an Expired Initial Permit.
 - i. The property owner of the land subject to an Initial Permit that expires under b above may petition the City Council to reinstate such initial permit by filing a written petition within one (1) year following the effective date of this UDC.
 - ii. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation the following:
 - a) As of two (2) years prior to the effective date of this UDC, one of the following events had occurred:
 - (i) A final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the approved initial permit and was approved by the City, or was filed and was subsequently approved by the City;
 - (ii) An application for a final permit to continue toward completion of the project was submitted to the City for all or part of the land subject to the expired initial permit, but such application was rejected on grounds of incompleteness (consistent with Texas Local Government Code, Chapter 245.005(c)(2)¹⁰, or as amended);
 - (iii) Costs for development of the land subject to the initial permit, including costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five percent (5%) of the most recent appraised market value of the land;
 - (iv) Fiscal security was posted with the City to guarantee performance of obligations required under these subdivision regulations, including the construction of required improvements associated with the proposed development, for all or a part of the land subject to the approved initial permit; or
 - (v) Utility connection fees for all or part of the land subject to the approved initial permit were paid to the City.
 - iii. City Council Action on Reinstatement of a Dormant Project's Expired Initial Permit. The City Council may take one of the following actions:
 - a) Reinstatement the expired initial permit without an expiration date, if it finds that the applicant has met any one of the criteria listed in subsection ii. a) above.
 - b) Reinstatement the initial permit for all or part of the land subject thereto, if it finds that the applicant has met any one of the criteria listed in subsection ii.a) above, subject to expiration dates or other

¹⁰ TGC 245.005(c) Progress towards completion of the project shall include any one of the following: (1-5)
 (2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;

conditions that ensure that the remaining land that is not subject to an approved or pending final permit application will be developed in a timely fashion.

- c) In granting relief under this provision, the City Council may require that development of such remaining land is subject to standards enacted after approval of the initial permit.
- d) Deny the reinstatement petition, if it finds that the applicant has failed to meet any of the criteria in subsection c. above); or
- e) Reinstate the permit for only that part of the land subject to a pending final permit application, if it finds that the applicant has met the criteria in subsection ii. a) above and the pending application subsequently was approved, and deny the reinstatement petition for the remaining land subject to the expired initial permit.

Sec. 311. - Site Plans for Nonresidential Uses.

A. Purpose.

The purpose of the site plan process is to establish a procedure for coordinating and verifying improvements to properties. Through site plan review, zoning standards and other applicable municipal standards or ordinances that may apply to specific site development can be uniformly implemented by the City for nonresidential development. This process is intended to promote, among other items, the efficient and harmonious use of land, safe and efficient vehicular and pedestrian circulation, parking and loading, lighting, screening, open space, landscaping, and natural features.

B. Applicability.

1. Requirement. No building permit shall be issued for any applicable developments or any on-site construction/development activity shall occur unless a site plan is first approved by the Planning and Zoning Commission Board.
2. Nonresidential Development Requiring Site Plans.
 - a. All nonresidential development within the City's corporate limits, except as provided in subsection D., require an approved site plan.
 - b. Parking lot development, reconstruction, or reconfiguration requires an approved site plan.
3. Public Hearings. A public hearing on a site plan is not required unless a site plan is prepared in conjunction with a rezoning application.
4. Effect. No certificate of occupancy shall be issued unless all construction and development conform to the site plan as approved by the City.

C. Approval and Process.

1. The approval of a site plan related to a building permit or construction/development application requires approval by the Administrative Officer.
2. Site Plan Process Overview. The purpose of the site plan process is to:

- a. Ensure compliance with adopted City development regulations and other applicable regulations that apply to the property for which the City has enforcement responsibility;
- b. Promote safe, efficient and harmonious use of land through application of City-adopted design standards and guidelines;
- c. Promote the vision established by the Comprehensive Plan;
- d. Ensure adequate public facilities to serve development;
- e. Coordinate and document the design of public and private improvements to be constructed;
- f. Prevent or mitigate adverse development impacts, including overcrowding and congestion;
- g. Aid evaluation and coordination of land subdivision, including the granting of easements, right-of-way, development agreements and provision of surety;
- h. Identify and address environmental concerns (floodplain, drainage, trees, topography, etc.); and
- i. Promote the public health, safety and welfare.

D. Site Plan Exempted Development.

The following types of development are exempted from these requirements:

1. Agricultural uses or buildings on tracts ten (10) acres or greater; and
2. Temporary buildings for new construction.

E. Submission of Site Plan Applications.

1. Coordinating Official. Applications for approval of plans required by this section must be submitted to the Administrative Officer.
2. Calendar of Official Processing Dates. A calendar of official processing dates for items requiring Staff review shall be published annually by the City.
3. Late Application Processing Date. All applications required by this section filed on a date other than an official processing date shall be processed according to the schedule established by the subsequent official processing date appearing on the calendar after the filing date and after the date of receipt of the application.

F. Fees, Forms and Procedures.

1. Schedule of Fees. The fees relating to the site plan approval process shall be established by the fee schedule.
2. Delinquent Taxes. No site plan shall be approved for properties with delinquent City taxes.
3. Procedures, Forms and Standards. The Administrative Officer shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a site plan.

G. Site Plan.

Site Plan Application Procedure and Requirements.

1. Site Plan Pre-Application.

- a. Before preparing a site plan, the applicant may meet with the Administrative Officer to allow the applicant to learn the general procedures for approval and to review the concept of the proposed development, if desired by applicant.
- b. No application for a permit may be submitted to or accepted for filing with the Administrative Officer during the meeting.
2. Site Plan General Application.
 - a. The property owner shall file an application for the approval of a site plan. This application shall include the information listed on the site plan application form and checklist, which shall be created and maintained by the Administrative Officer.
3. Site Plan Additional Requirements.

The following plans shall be submitted with a site plan application and approval is necessary prior to final authorization for development:

 - a. Final plat or replat;
 - b. Engineering plans or construction plans;
 - c. Traffic Impact Analysis, if applicable;
 - d. Landscape plans, if applicable;
 - e. Flood Study, if required;
 - f. Other approvals as required by ordinance or resolution; or
 - g. Tax certificate.
4. Site Plan Standards of Approval.
 - a. Administrative Officer Approval. The Administrative Officer may approve, conditionally approve, or deny a site plan based upon the criteria listed below.
 - b. Approval Criteria.
 - i. Conformance with the Comprehensive Plan and adopted design guidelines.
 - ii. Compliance with this UDC and other applicable regulations and previously approved, valid plans for the property.
 - iii. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
 - iv. The width, grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
 - v. The use of landscaping and screening to provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary, and to complement the design and location of buildings and be integrated into the overall site design.
 - vi. The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
 - vii. Protection and conservation of soils from erosion by wind or water or from excavation or grading.
 - viii. Protection and conservation of water courses and areas subject to flooding.

- ix. The adequacy of streets, water, drainage, wastewater, storm water facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.
- x. The design of adjacent public street improvements and right-of-way including existing or proposed deceleration lanes, median openings and left turn bays, location of driveways, drive aisles, cross access between internal developments, and access to properties adjacent to the subject site.
- xi. The City shall not take action on a site plan for property where City taxes are delinquent.

H. Site Plan Effect.

1. Approval of a site plan is the City's authorization to apply for approval of building permits and to receive approval of engineering plans. Approval of a site plan does not give authorization for commencing construction.
2. During the time the site plan remains valid, the City shall not apply any additional requirements above and beyond the approved regulations at the time of vesting concerning construction elements.
3. Site plan approval is separate and distinct from other permits and approvals as may be required by the City and other regulatory agencies.
4. Approval of a site plan shall not affect other applicable regulations concerning development and land use.
5. Except where authorized by ordinance, a site plan may not be used to approve a variance to development regulations.
6. Where an approved plan conflicts with an adopted regulation and no variance or special exception is expressly approved, the regulation in effect at the time of vesting shall apply.
 - a. Site Plan Lapse.
 - i. Two (2) Year Effective Period.
 - a) The approval of a site plan shall be effective for a period of two (2) years from the date of filing of the application with the Administrative Officer. At the end of this time, the site plan shall expire unless the applicant demonstrates to the Administrative Officer that progress has been made towards completion of the project for which the site plan was approved.
 - b) Submission and receipt of approval of engineering plans and building permits prior to expiration of the site plan shall be evidence of progress towards completion.
 - c) However, if engineering plans and permits have been approved only for a portion of the property or if the progress towards completion is only for a portion of the property and/or improvements, the site plan for the remaining property and/or improvements shall expire.
 - ii. Expired Site Plans.

- a) For all expired site plans, the applicant shall be required to submit a new site plan subject to the existing regulations (see Section 311.G.1 above).
- b) Site plan approval shall expire upon completion of the improvements shown on the plan. Permits must remain valid during the construction process.
- c) Subsequent additional development, site modifications and redevelopment shall be considered a new project subject to the then existing ordinances, laws and regulations of the City.

I. Revocation of Site Plan Approval.

1. The Administrative Officer may revoke approval of a site plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information or if it is determined that it was obtained using fraud or deceit.

J. Design Standards and Specifications.

1. The following design standards and specifications, as they exist or may be amended, are required in addition to the design standards and specification set forth in this UDC:
 - a. Zoning Regulations;
 - b. Subdivision Regulations;
 - c. Fire Code;
 - d. Engineering Standards;
 - e. Any design standards and specifications approved by the City Council following the enactment of this provision; and
 - f. Building Code.

Sec. 312. - Variances.

A. Who May Request a Variance.

Any applicant may request a variance to the strict interpretation of this Ordinance.

B. Hearing and Action by Zoning Board of Adjustment.

After due notice, the Board of Adjustment shall hold a public hearing on an application for a variance. At the public hearing, the Board of Adjustment shall consider the application, the relevant support materials and the public testimony given at the public hearing in light of the criteria below. After the close of the public hearing, the Board of Adjustment shall vote to approve, approve with conditions or deny the application for a variance, pursuant to the criteria below. (Also see Section 203.C.4).

C. Allowed Variances.

In exercising its authority to grant a variance, the Board of Adjustment shall affirmatively find that one or more of the following circumstances applies.

1. Special circumstances resulting in unnecessary hardship. A variance may be granted where special circumstances exist on the property related to the size,

shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this Ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.

2. **Overriding Public Interest.** A variance may be granted if it addresses a recognized community concern or promotes an overriding public interest, including, but not limited to, the following: a. Preserving the natural environment; or b. Promoting maintenance or reuse of older urban or historic buildings.
3. **Equity.** A variance may be granted to permit modifications of height or setback regulations as may be needed to secure equity in the development of a parcel of land where it has been demonstrated that, due to the existence of legally nonconforming structures, a substantial proportion of the other properties in the same area and zoning district are legally enjoying the conditions that the applicant is requesting.

Literal Enforcement. A variance may be granted if it is found that the literal enforcement and strict application of this Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this Ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.

D. Variances Not Allowed.

In exercising its authority, the Board of Adjustment shall not grant a variance that would create any of the following effects:

1. The effect of the variance on the specific property would adversely affect the land use pattern as outlined by the Port Lavaca land use plan or policy.
2. The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.
3. The variance is not the minimum variance that will relieve the proven hardship.
4. The variance would allow a use not allowed in the use table for the district in which the parcel is located.
5. The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land after the effective date of the subdivision regulations of this Ordinance, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.
6. The variance will relieve the applicant of conditions or circumstances that are self-imposed.
7. The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.
8. The variance will modify any condition imposed by the Planning and Zoning Commission or City Council as part of a conditional use or special use review.
9. The variance would not only affect a specific parcel, but would be of such general nature as to constitute, in effect, a change in zoning of the parcel or a larger area, or would merit an amendment to this Ordinance.

E. Variance Criteria.

To approve an application for a variance, the Board of Adjustment shall make an affirmative finding that each and every one of the following criteria are met.

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.
2. These special circumstances are not the result of the actions of the applicant.
3. Literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.
4. Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Ordinance and substantial justice.
5. Granting the variance will not adversely affect adjacent land in a material way.
6. Granting the variance will be generally consistent with the purposes and intent of this Ordinance.

F. Conditions of Variance.

The Board of Adjustment may impose such conditions on a variance as are necessary to accomplish the purposes of this Ordinance, to prevent or minimize adverse impacts upon the public and neighborhoods, and to ensure compatibility of the site with its surroundings. These conditions may include but are not limited to limitations on

1. Size, bulk and location;
2. Standards for landscaping,
3. Buffering and screening,
4. Lighting and adequate ingress and egress;
5. Cash deposits, bonds and other guarantees of deposit;
6. Other on-site improvements; and
7. Limitations on the duration or hours of operation of an allowed use.

G. Effect of Variance.

1. Issuance of a variance shall authorize only the particular variation which is approved in the variance. A variance shall run with the land.
2. Unless otherwise specified in the variance, an application to commence construction of the improvements that were the subject of the variance request must be applied for and approved within twelve (12) months of the date of the approval of the variance; otherwise, the variance shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, only one extension of the twelve (12) month period may be granted by the Administrative Officer if it is determined that conditions of the site and immediately surrounding area are substantially unchanged.

H. Meeting Minutes Justification.

The Board of Adjustment shall state in their minutes the nature of the circumstance that justifies the variance.

Sec. 313. - Special Exceptions.**A. Purpose.**

The Board of Adjustment is authorized to hear and decide special exceptions to the zoning regulations that are not permitted by right in a particular district because of potential adverse effect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted where specifically authorized by subsection D. below, and in accordance with the substantive and procedural standards of this Ordinance.

B. Special Exceptions Defined.

A special exception is differentiated from a variance by the following:

1. No Hardship Required. A special exception does not require a finding of a hardship.
2. Specifically Allowed. Approval of a special exception by the Board is allowed only as specifically provided for and defined in these regulations. (See Permitted Use Table in Section 406)

C. Requests for a Special Exception.

The Board may consider a special exception to the provisions of subsection D. below upon written request of the property owner.

D. Special Exception Authorized.

After holding a public hearing as required in Section 302, the Board may consider a special exception for the following standards:

1. Nonconformities.
2. Residential setbacks.
3. Off-street parking requirements.
4. Landscaping requirements.
5. Screening requirements.

Sec. 314. - Petition for a Subdivision Waiver.**A. Purpose.**

The purpose of a petition for a subdivision waiver to a particular standard or requirement with these UDC subdivision regulations, as such are applicable to plats or construction plans, is to determine whether or not such particular standard or requirement should be applied to an application.

B. Definitions.

Subdivision waivers shall be classified as a Subdivision Waiver when it will create change to both the standards and intent of the UDC subdivision regulations, which involves Planning and Zoning Commission Board approval.

C. Decision-Maker.

1. Subdivision Waiver

- a. Decision-Maker Authority. After review and recommendation from the Planning and Zoning Commission, the City Council shall decide a Subdivision Waiver.

D. Subdivision Waiver Applicability.

1. Waiver of Standard or Requirement.
 - a. An applicant may request a subdivision waiver of a particular standard or requirement applicable to a preliminary plat, to construction plans, or where no preliminary plat application has been submitted for approval, to a final plat or a replat.
 - b. A subdivision waiver petition shall be specific in nature, and shall only involve relief consideration for one particular standard or requirement.
 - c. An Applicant may, if desired, submit more than one subdivision waiver petition if there are several standards or requirements at issue.
 - d. For processing a subdivision waiver in relationship with a plat application, an applicant shall submit a waiver of right to 30-day action in accordance with Section 307.B.4 Waiver of Right to 30-Day Action.
2. Waiver Petition Acceptance. A petition for a subdivision waiver shall not be accepted in lieu of:
 - a. A Subdivision Vested Rights Petition (see Section 310.B).
 - b. If there is a question as to whether a Subdivision Vested Rights Petition is required instead of a subdivision waiver petition, such determination shall be made by the Administrative Officer.

E. Subdivision Waiver Submission Procedures.

1. Written Waiver Request with Application.
 - a. A request for a subdivision waiver shall be submitted in writing by the Applicant with the filing of a preliminary plat, construction plans, final plat or replat, as applicable.
 - b. No subdivision waiver may be considered or granted unless the applicant has made such written request.
2. Grounds for Waiver.
 - a. The applicant's request shall state the grounds for the subdivision waiver request and all of the facts relied upon by the applicant.
 - b. Failure to do so will result in denial of the application unless the applicant submits a waiver of right to 30-day action in accordance with Section 307.B.4, Waiver of Right to 30-Day Action.

F. Subdivision Waiver Criteria.

1. Undue Hardship Present. A subdivision waiver to regulations within this UDC may be approved only when, in the City Council opinion, undue hardship will result from strict compliance to the regulations.
2. Consideration Factors. The decision-maker shall take into account the following factors:
 - a. The nature of the proposed land use involved and existing uses of the land in the vicinity;

- b. The number of persons who will reside or work in the proposed development; and
 - c. The effect such subdivision waiver might have upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.
- 3. Findings. No subdivision waiver shall be granted unless the decision-maker finds:
 - a. That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this UDC would deprive the applicant of the reasonable use of his or her land; and
 - b. That the subdivision waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the subdivision waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - c. That the granting of the subdivision waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this UDC.
- 4. Intent of UDC Subdivision Regulations.
 - a. A subdivision waiver may be granted only when in harmony with the general purpose and intent of the UDC subdivision regulations so that the public health, safety and welfare may be secured and substantial justice done.
 - b. Financial hardship to the applicant shall not be deemed to constitute undue hardship.
- 5. Minimum Degree of Variation. No subdivision waiver shall be granted unless it represents the minimum degree of variation of requirements necessary to meet the needs of the applicant.
- 6. Violations and Conflicts. The decision-maker shall not authorize a subdivision waiver that would constitute a violation of, or conflict with, any other valid ordinance, code, regulation, master plan or Comprehensive Plan of the City.
- 7. Falsification of Information.
 - a. Any falsification of information by the applicant shall be cause for the subdivision waiver request to be denied.
 - b. If the subdivision waiver request is approved based upon false information, whether intentional or not, discovery of such false information shall nullify prior approval of the subdivision waiver, and shall be grounds for reconsideration of the subdivision waiver request.

G. Burden of Proof.

The applicant bears the burden of proof to demonstrate that the requirement for which a subdivision waiver is requested, if uniformly applied, imposes an undue hardship or disproportionate burden on the applicant. The applicant shall submit the burden of proof with the original submittal.

H. Subdivision Waiver Decision.

- 1. Decision Process for Subdivision Waiver.
 - a. Recommendation of the Planning and Zoning Commission.
 - i. The Planning and Zoning Commission shall consider the subdivision waiver request at a public meeting no later than forty-five (45) calendar

days after the date on which the notice of subdivision waiver is submitted to the Administrative Officer.

- ii. The Planning and Zoning Commission shall recommend to the City Council deny of grant a request for a subdivision waiver by simple majority vote.
- b. Decision by City Council.
 - i. After the recommendation from the Planning and Zoning Commission has been made, the City Council shall consider the subdivision waiver request at a public meeting no later than thirty (30) calendar days after the date on which the Planning and Zoning Commission's recommendation was made.
 - ii. The City Council will deny or grant a request for a subdivision waiver by a 3/4 (e.g., super-majority) vote.
 - iii. The decision of the City Council is final.
 - iv. Notification of Decision on Petition- 14 Days. The applicant shall be notified of the decision on the subdivision waiver by the City Council within fourteen (14) calendar days following the decision.
- I. *Effect of Approval.*
 - 1. Submission and Processing. Following the granting of a subdivision waiver, the applicant may submit or continue the processing of a plat or construction plans, as applicable.
 - 2. Expirations. The subdivision waiver granted shall remain in effect for the period the plat or construction plans are in effect, and shall expire upon expiration of either or both of those applications.
 - 3. Extensions. Extension of those applications shall also result in extension of the subdivision waiver.

Sec. 315. - Special Use Permit (SUP).

A. Purpose.

Special use permits (SUPs) allow for review of specified uses that may be appropriate in designated areas, provided that consideration is given to conditions that will minimize any negative impacts of the use. A special use permit should be approved if these conditions can be met.

B. Who May File.

An application for special use approval shall be submitted by the owner or an agent authorized by affidavit to act on the owner's behalf, unless initiated by City officials.

C. Submission of Application.

A complete application shall be submitted to the Administrative Officer along with the appropriate fee. The Administrative Officer may require an application for special use approval to be accompanied by a site plan of existing and proposed development of the affected site.

D. Applicable Development Standards.

Unless otherwise specified in this Ordinance, no special use approval shall be granted for any use that does not conform to the dimensional standards of the district in which it is located. Each special use shall also be subject to any specific use requirements set forth in this Ordinance.

E. Review by Administrative Officer.

After determining that the application is complete, the Administrative Officer shall schedule a public hearing before the Planning and Zoning Commission.

F. Hearing and Recommendation by Planning and Zoning Commission.

1. The Planning and Zoning Commission shall, after appropriate notice, conduct a public hearing on each request for approval of a special use.
2. At the public hearing, the Planning and Zoning Commission shall consider the application, any pertinent comments by City staff, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the Planning and Zoning Commission shall recommend that the City Council approve the request, approve the request with additional conditions, or deny the request. The Planning and Zoning Commission may propose such conditions as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: screening, buffer zones, limitations on size, bulk and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation for the special use so allowed.

G. Hearing and Action by City Council.

1. The City Council shall, after appropriate notice, conduct a public hearing on each request for approval of a special use.
2. At the public hearing, the City Council shall consider the application, any pertinent comments by City staff, the Planning and Zoning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the City Council shall approve the request, approve the request with additional conditions, or deny the request. The Council may attach such conditions to a special use approval as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: screening, buffer zones, limitations on size, density and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation of the special use.
4. Where written protest against a proposed special use is made and signed by:
 - a. The owners of twenty (20) percent or more of the area subject to the special use; or
 - b. The owners of twenty (20) percent or more of the area within two hundred (200) feet of the affected area, Then the proposed special use shall require a favorable vote of at least three-fourths ($\frac{3}{4}$) of all the members of the City Council to become effective.

H. Special Use Approval Criteria.

Approval of a special use by the Planning and Zoning Commission and City Council shall be based upon the following criteria.

1. Impacts Minimized. Whether and the extent to which the site plan minimizes adverse effects, including adverse visual impacts, on adjacent properties.
2. Consistent with this Ordinance. Whether and the extent to which the proposed special use would conflict with any portion of this Ordinance, including the applicable zoning district intent statement.
3. Compatible with Surrounding Area. Whether and the extent to which the proposed special use is compatible with existing and anticipated uses surrounding the subject land.
4. Traffic Circulation. Whether and the extent to which the proposed special use is likely to result in extraordinarily prolonged or recurrent congestion of surrounding streets, especially minor residential streets.
5. Effect on Natural Environment. Whether and the extent to which the proposed special use would result in significant adverse impacts on the natural environment, including but not limited to water or air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
6. Community Need. Whether and the extent to which the proposed special use addresses a demonstrated community need.
7. Development Patterns. Whether and the extent to which the proposed special use would result in a logical and orderly pattern of urban development in the community.

I. Expiration of a Special Use Permit Site Plan.

Approval of an SUP Site Plan shall be void if a building permit is not issued and construction begun within two (2) years of the granting of the SUP.

J. Violation of Permit Requirements.

Any violation of the requirements of a special use permit may be considered grounds for immediately voiding the special use permit.

Sec. 316. - Planned Unit Development (PUD).

A. Applicability.

The owner of any tract of land may request a rezoning as a planned unit development (PUD). A proposed site plan shall be submitted indicating density of residential, commercial and/or industrial areas, along with the location of all proposed streets, alleys, protective screening and open spaces.

B. Review by Administrative Officer.

After determining that the application is complete, the Administrative Officer shall schedule a public hearing before the Planning and Zoning Commission.

C. Review by Planning and Zoning Commission.

The Planning and Zoning Commission shall, after appropriate notice, conduct a public hearing on each request for approval of a planned unit development. After considering the application, pertinent comments by City staff, other relevant support materials and public testimony given at the public hearing, and after reviewing the site plan in accordance with the criteria listed in this section, the Planning and Zoning Commission shall recommend that the City Council rezone to PUD, subject to approval of the submitted site plan; recommend that the City Council rezone to PUD, subject to modifications to the submitted site plan; or recommend that the City Council deny the request.

D. Hearing and Action by City Council.

1. The City Council shall, after appropriate notice, conduct a public hearing on each request for approval of a planned unit development.
2. At the public hearing, the City Council shall consider the application, any pertinent comments by City staff, the Planning and Zoning Commission recommendation, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the City Council shall rezone to PUD, subject to the submitted site plan; rezone to PUD, subject to modifications to the submitted site plan; or deny the request. The Council may attach such conditions to a planned unit development approval as are necessary to prevent or minimize adverse effects on other property in the neighborhood, including, but not limited to: limitations on size, density and location, provision of adequate ingress and egress, duration of special use approval, and hours of operation of the planned unit development.
4. Where written protest against a proposed planned unit development is made and signed by:
 - a. The owners of twenty (20) percent or more of the area subject to the special use; or
 - b. The owners of twenty (20) percent or more of the area within two hundred (200) feet of the affected area, then the proposed special use shall require a favorable vote of at least three fourths (3/4) of all members of the City Council to become effective.

E. Conditions.

A planned unit development granted under these provisions shall be considered as an amendment to this Ordinance as applicable to such property. In granting such planned unit development the City Council may impose or amend all conditions recommended by the Planning and Zoning Commission, plus additional conditions considered appropriate by the City Council.

F. PUD Concept Plan as Preliminary Plat.

After initial approval of a PUD by the City Council, the Planning and Zoning Commission is hereby authorized to accept a PUD site plan as a preliminary plat. A final PUD will be handled as would any final plat.

G. Expiration of a PUD Site Plan.

Approval of any PUD site plan shall be void if construction has not begun within two (2) years from the time of approval of the final PUD (final plat).

H. Site Plan Modifications.

In no case shall an approved site plan be amended nor the area of the total planned unit development be reduced once a portion has been constructed without first resubmitting the changes as a new application for site plan approval or rezoning, as appropriate.

I. General PUD Design Criteria.

All PUDs shall be designed in accordance with the following criteria.

1. The arrangement of developed uses on the site shall properly consider significant natural features and drainage patterns, views, roadway access and surrounding land uses.
2. Clustering of development sites, especially buildings, is encouraged so as to preserve natural features and provide usable common open space.
3. The circulation system shall be integrated and coordinated, with complete interconnection.
4. The street, drainage and utility systems shall be designed to accommodate the overall demand of the PUD.
5. Provision shall be made for ownership and maintenance of common open space through a homeowners association or other similar mechanism.

J. Approval Criteria.

A PUD concept plan and rezoning shall be approved only if the following criteria are all met.

1. The proposal is consistent with the City's Comprehensive Plan.
2. The PUD is necessary to address a unique situation or represents a substantial benefit to the City, compared to what could have been accomplished through strict application of the otherwise applicable zoning district standards.
3. The proposed plan mitigates any potential significant adverse impacts to the maximum practical extent.

Sec. 317. - Subdivision.

Refer to Chapter 42 of the City of Port Lavaca Code of Ordinances for requirements regarding Subdivisions and Plats, and State of Texas Local Government Code.

Sec. 318. - Amendments to Text or Official Zoning Map.**A. Who May File.**

1. Text Amendment. An application for amendment of the text of this Ordinance may be filed by the Administrative Officer, City Manager, Planning and Zoning Commission or City Council.

2. Map Amendment. An application for an amendment of the Official Zoning Map (including any amendment required by other procedures in this Chapter) shall only be filed by the following persons:
 - a. A person, firm or corporation that, together or separately, is the owner of the subject property.
 - b. An authorized representative of such a person, firm or corporation. A notarized affidavit shall be required from the property owner designating such a representative.
 - c. The City Council or Planning and Zoning Commission, acting of its own volition or at petition of the public. A resolution to initiate the amendment process shall appear in the minutes of the official body initiating the request.

B. Submission of Application.

1. A complete application for amendment to the text of this Ordinance or the Official Zoning Map shall be submitted to the Administrative Officer, along with the appropriate fee.
2. All zoning requests must include submittal of development plans or an engineered site plan.

C. Review by Administrative Officer.

After determining that the application is complete, the Administrative Officer shall schedule a public hearing before the Planning and Zoning Commission.

D. Hearing and Recommendation by Planning and Zoning Commission.

1. The Planning and Zoning Commission shall, after required notice, conduct a public hearing on each request for an amendment of the Official Zoning Map or text of this section.
2. At the public hearing, the Planning and Zoning Commission shall consider the application, comments and recommendations of City staff, other relevant support materials and public testimony given at the public hearing.
3. After the close of the public hearing, the Planning and Zoning Commission shall recommend that the City Council approve, approve with modifications, or deny the proposed amendment based on the criteria in paragraph G below.
4. A tie vote by the Planning and Zoning Commission on any proposed amendment to the Official Zoning Map or the text of this Ordinance shall be forwarded without recommendation to the City Council.

E. Hearing and Action by City Council.

1. After receipt of the recommendation from the Planning and Zoning Commission, and after appropriate notice, a public hearing shall be held by the City Council before adopting any proposed change.
2. At the public hearing, the City Council shall consider the application, comments and recommendations by City staff, the Planning and Zoning Commission recommendation, other relevant support materials and public testimony given at the public hearing.

3. The City Council may approve, approve with modifications, or deny the proposed amendment.
4. Where written protest against an amendment is made and signed by
 - a. The owners of twenty (20) percent or more of the area subject to the zone change to be affected; or
 - b. The owners of twenty (20) percent or more of the area within two hundred (200) feet of the affected area,Then the proposed amendment shall require a favorable vote of at least three-fourths ($\frac{3}{4}$) of all the members of the City Council to become effective. The area of rights-of-way and street shall be included in any computation of land area under this subsection.

F. Appeal.

Appeal of an amendment to the text of this Ordinance or the Official Zoning Map by an affected party shall be made within thirty (30) days of the final action by the City Council to the Calhoun County.

G. Amendment Criteria.

The wisdom of amending the text of this Ordinance or the Official Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt, adopt with modifications or deny the proposed amendment, the City Council shall consider the following factors.

1. Compatible with Plans and Policies. Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning and Zoning Commission or City Council.
2. Consistent with this Ordinance. Whether and the extent to which the proposed amendment would conflict with any portion of this Ordinance.
3. Compatible with Surrounding Area. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.
4. Changed Conditions. Whether and the extent to which there are changed conditions that require an amendment.
5. Effect on Natural Environment. Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.
6. Community Need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.
7. Development Patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.

H. Development Inconsistent with Future Land Use Plan.

Where proposed development is not consistent with the City's Future Land Use Plan, a concurrent Comprehensive Plan amendment shall be processed and approved prior to approval of the amendment to the Official Zoning Map.

Sec. 319. - Re-application for Zoning Change Request.

See UDC Chapter 2 Section 202- C. Powers and Duties of the Planning and Zoning Commission

CHAPTER 4. - DISTRICT REGULATIONS

Sec. 401. - Establishment of Districts.

A. *Intent of the Districts.*

Port Lavaca Comprehensive Plan adopted on September 12, 2016 containing a Future Land Use Map that included both land-use types and Districts where a variety of standard land use districts are recommended. Additionally, while not defining specific districts for the waterfront, the Plan did recommend the development of a waterfront ordinance. The intent of the districts identified below is to provide consistent land-use with the City's Comprehensive Plan, for the classification of land uses in areas where such uses will be consistent with existing or proposed surrounding land uses.

B. *Districts.*

For the purpose of this Ordinance, the City of Port Lavaca is hereby divided into the following districts:

R-1	Low Density Residential
R-2	Medium Density Residential
R-3	High Density Residential
R-4	Multi-Family Residential
M-1	Manufactured Home Park
MU	Mixed Use
C	Commercial
I-1	Light Industrial
I-2	Medium Industrial
OS	Parks and Open Space
P	Public/ Semi-Public
PUD	Planned Unit Development
CR	Coastal Residential
CMU	Coastal Mixed Use
CC	Coastal Commercial
CI	Coastal Industrial
OT	Old Towne

C. *Incorporation of Official Zoning Map.*

The location and boundaries of the districts established here are shown on the Official Zoning Map, which is hereby incorporated into this Ordinance. The Map, together with all its notations, references and other information and any amendments, shall be as much a part of this Ordinance as if fully set forth and described here. The Official Zoning Map is on file in the Office of the City Secretary, and copies are available from the Building Department.

Sect. 402. - Official Zoning Map.**A. Administrative Officer Duties.**

It shall be the duty of the Administrative Officer to keep the Official Zoning Map current by entering on such map any changes which the City Council may from time to time order by amendments to this Ordinance and the Map.

B. City Secretary Duties.

The City Secretary, upon the adoption of this Ordinance shall affix a certificate identifying the Map as the "Official Zoning Map of the City of Port Lavaca" with the appropriate effective date.

Sect. 403. - Rules for Interpretation of Boundaries.

A. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Map, the following rules apply:

B. Streets or Alleys.

The district boundaries are either streets or alleys unless otherwise shown, and where the district designated on the Map is bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

C. Lot Lines.

Where property has been divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the Map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts.

D. Interpretation by Scale.

In any un-subdivided property, the district boundary lines on the Map shall be determined by use of the scale appearing on the map. The property being subdivided shall adhere to the district boundary lines on the Map.

E. Ground takes Precedence.

Where the streets, alleys, or lot lines on the ground differ from lines as shown on the Map, the streets, alleys, or lot lines on the ground shall control.

Sect. 404. - Zoning District Intent Statements.**A. Purpose.**

Zoning District intent statements are provided for the following purposes:

1. To indicate the general nature of permitted and prohibited uses;
2. To indicate the nature and intensity of uses permitted;
3. To assist with interpretation of ordinance requirements applicable to a specific zoning district;
4. To indicate the necessity for adequate public services, including roads, potable water, sanitary sewer, drainage, etc.; and
5. To Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality.

B. Zoning Districts.

1. R-1, Low Density Residential: The “R1” district is designed to establish peaceful low density neighborhoods containing single family dwellings. The density for R-1, Low Density Residential shall consist of no more than four (4) dwelling units per acre. This zone will encourage development of attractive residential areas that provide a sense of community, establish a pedestrian-friendly atmosphere and provide public and community facilities.
2. R-2, Medium Density Residential: The R-2 district is designed to establish peaceful moderate density neighborhoods containing single family dwellings and duplexes. The density for R-2, shall consist of no more than eight (8) dwelling units per acre. This zone will encourage development of attractive residential areas that provide a sense of community, establish a pedestrian-friendly atmosphere and provide public and community facilities.
3. R-3, High Density Residential: The R-3 district is designed to establish high density neighborhoods containing single family homes, duplexes, triplexes, and tiny homes. The density for R-3, shall consist of no more than ten (10) dwelling units per acre. This zone is to establish areas for higher residential densities within easy pedestrian access to commercial areas, public facilities by the City.
4. R-4, Multi-Family Residential: The R-4 district is designed for the development of apartments, condominiums, townhouses or other group dwellings with provisions for adequate light, air, open space and landscaped areas. The density for R-4, shall consist of no more than twenty one (21) dwelling units per acre.
5. M-1, Manufactured Home Park: To establish and preserve areas for manufactured home parks to provide a satisfactory living environment for those living in manufactured homes. The maximum density for Manufactured Home Park M-1 shall consist no more than ten (10) dwelling units per acre.
6. MU, Mixed Use Development: To provide pedestrian-friendly development that blends two or more land-use types, including; Commercial (C), Public and Semi Public (P), Parks & Open Space (OS),and Residential Districts (R1,R2,R3,R4).
7. C, Commercial District: To provide, consistent with the City's comprehensive plan, locations for retail and commercial activities that serve the general community.
8. I-1, Light Industrial District: To establish and preserve areas for industrial and other uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses. Light industries require only a small amount of raw materials, area and power and do not create smoke, gas, odor, dust, noise, vibration of earth, soot or lighting to a degree that is offensive when measured at the property line of subject property.
9. I-2, Medium Industrial District; To provide areas for the development and operation of industrial, distribution, and manufacturing uses which, by nature of their intensity, may be incompatible with other types of land uses. Because of the nature of the products or character of activities, uses within this district will likely produce greater than average negative visual qualities and external effects involving noise, fumes, noxious odors, glare or other atmospheric influence beyond the boundaries of the property on which the use is located.

Medium Industrial districts are to be located adjacent to major transportation facilities, including freeways, waterways, arterials, collectors, railroads, etc. Industrial districts are to provide additional setback or buffer areas to minimize objectionable impacts on adjacent property.

10. OS, Parks and Open Space: Land that has been reserved for the purpose of formal and informal sport and recreation, preservation of natural environments, provision of green space and storm water management. Parks and open space vary in size, form and the functions that they perform.
11. P, Public and Semi Public: Provide for a wide range of public, quasi-public, and private uses, such as school sites, government administrative offices and facilities, public utilities, institutes of higher learning, religious institutions, libraries, hospitals, recreational activities, and cultural or historical buildings.
12. PUD, Planned Unit Development District: To encourage, consistent with the City's comprehensive plan, the use of innovative and creative development techniques to benefit the City and to provide a mixture of residential and nonresidential uses in a manner that preserves natural resources, encourages non-vehicular circulation, provides a sense of community, and allows the use of flexible development standards.

C. Coastal Zone Districts.

The purpose of the coastal districts is to provide a range of housing, commercial opportunities and land development options that are compatible with coastal land uses. The intent is to emulate the character and nature of a coastal aesthetic: with streets designed for safe and convenient use by both pedestrians and motor vehicles and at a scale appropriate for walkable neighborhoods, beach and coastal access; a mix of activities that serve some of the routine needs of neighborhood residents; and a sense of security and protected investments.

Land use development designs should protect buildings and lands from flooding and accelerated erosion; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Coastal development requires that building designs address floor elevations that can accommodate coastal storms and flooding. Building height design should be done in a manner that do not obstruct scenic vistas for neighbors, tourists and travelers.

1. CR, Coastal Residential: Provides for various types of housing in a waterfront neighborhood setting, which includes provisions for infill housing and redevelopment on combined lots.
2. CMU, Coastal Mixed-Use: To provide pedestrian-friendly development that blends two or more land-use types, including; Commercial (C), Public and Semi Public (P), Parks & Open Space (OS), and Residential Districts (R1,R2,R3,R4).

The district includes minimum standards to enhance the character and appearance of development along this corridor.

3. CC, Coastal Commercial: To provide, consistent with the City's comprehensive plan, locations for retail and commercial activities that serve the general community. The district includes minimum standards to enhance the character and appearance of development along this gateway corridor.
4. CI, Coastal Industrial: To provide for water-related and maritime shipping-related industrial operations, in particular marina, port and harbor operations. The CI District protects deep-water resources by limiting the types of industrial users allowed within the district and are subject to special design standards.

D. Special Purpose Districts.

1. OT, Old Towne: The intent of this district is to encourage consistent with the City's comprehensive plan, the unique potential of this historic center of the community, and to encourage retail, entertainment, commercial and residential activities to attract both tourists and residents. By recognizing this historic district it will promote development and improvements to sites, structures, and infrastructure that retain, simulate, and enhance the distinctive character of the Old Towne Port Lavaca historic area. Uses that do not create activity, such as warehousing or industrial uses, are subject to approval. The maximum residential density for the OT, Old Towne district, shall be twenty (20) units per acre.

Sect. 405. - Permitted Use Table.

The table in this section shall be used to determine the uses which are allowed in each district.

"P"	Indicates that the use is permitted by right and only a Building Permit or Certificate of Occupancy is required (see Section 305 and 306).
"SP"	Indicated that the use requires a Special Use Permit before a Building Permit or Certificate of Occupancy can be issued. The procedure for obtaining a Special Use Permit is set forth in Section 315.
Blank	The use is not permitted in that district.

[This Permitted Use Table shall not supersede or negate any other City, County, State, or Federal Statute which regulates certain activities. See Section 105.]

Sec. 406. - Unlisted Uses.

When a proposed use is not listed in the Permitted Use Table, the Administrative Officer shall determine if the proposed use is allowed in a particular district and if the proposed use requires a Special Use Permit. In order to do that, the Administrative Officer shall use the intent statement of the particular district the proposed use would be conducted in and compare the characteristics of the proposed use to the other uses listed in the same district of the Permitted Use Table. Comparison of proposed and listed uses shall focus on the following characteristics:

- A. Relative amount of site area or floor space and fixed equipment.
- B. Relative amount of sales.
- C. Type of customers.
- D. Relative number of employees.
- E. Days and hours of operation.
- F. Building and site arrangement.
- G. Vehicles, rolling equipment, trailers, and portable equipment used.
- H. Relative number of vehicle trips generated and parking.
- I. Building and site storage.
- J. Likely impact on surrounding properties.
- K. Whether the activity is likely to be found independent of the other uses on the site.

Sec. 407. - Accessory Uses.

Accessory uses are allowed by right in conjunction with a principal use. Accessory uses are subject to the same regulations as the principal use.

Sec. 408. - District Dimensional Standards.

A. Building Setbacks and Requirements.

The City's Buildings and Building Regulations Ordinance Chapter 12 -24 addresses building setbacks. This Chapter also provides specific setbacks incorporated into a number of residential subdivisions platted in the City. Similarly, the City's Subdivisions and Plats Ordinance Chapter 42-131 also addresses building setback requirements.

B. Building Height.

- 2. Unless defined otherwise in City Ordinances, all residential districts (R1-R4) shall have a maximum building height of thirty-five (35) feet.
- 3. Nonresidential buildings in Mixed Use and Commercial shall not exceed a height of "ten (x) feet above (CODE).
- 4. Unless defined otherwise in City Ordinances, Coastal Zones (CR, CMU) shall be required to build at a minimum of three feet (3) above the base flood elevation. CC shall be required to build at a minimum of one foot above (1) the base flood elevation.

C. Easements.

No building or structure (other than fences and driveways legally permitted in advance) shall be erected or maintained closer than five (5) feet to any any easement (Refer to Chapter 12 of the Code of Ordinances section 12-24)). No building or structure (other than fences and driveways legally permitted in advance) shall be erected or maintained in any easement.

D. Multiple Buildings on a Single Lot.

More than one industrial, commercial, or institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings.

E. Government buildings, school buildings, necessary utility structures, churches, and similar institutional facilities.

Government buildings, school buildings, necessary utility structures, churches and similar institutional facilities may exceed the maximum building height of the zoning districts in which they are located with special permit.

F. Setbacks.

Refer to Chapter 12 of the City Code of Ordinances Section 12-24.

Sec. 409. - Reserve.

CHAPTER 5. - SUPPLEMENTARY USE REGULATIONS

Sec. 501. - General Description.

The following supplementary use regulations are additional, modified, or more stringent standards for particular land uses contained in Chapter 4, zoning districts and boundaries. The standards set forth in the supplementary use regulations shall be met regardless of the form of action required for approval.

Sec. 502. - Bars, Saloons, Lounges, and Dance Halls, Private Clubs.

These uses are permitted in accordance with the use table, provided such uses are a minimum of three hundred (300) feet from any church, school or hospital, or any R-1, R-2 District per Texas Alcoholic Beverage Commission (TABC) regulations. All such uses shall meet the current licensing requirements of the TABC.

Sec. 503. - Amusement Redemption Machine Establishment.

A. Additional Requirements.

An Amusement Redemption Machine Establishment¹¹ shall be subject to these additional requirements:

1. Separation from Other Uses

An Amusement Redemption Machine Establishment shall be located at least three hundred (300) feet from the following uses: residential, religious assembly, library, cultural service, child care center, elementary or secondary school, or community center. This distance shall be measured from property line to property line (including off-site parking lots).
2. Signage
 - a. Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator, occupant or owner of a gaming site not to clearly identify the site with a sign as required by this article.
 - b. The sign displayed should be one provided by the City.
3. Transparent and Uncovered Windows
 - a. A Game Room shall provide at least one (1) window in the front of the building and at least one (1) other window on one (1) other side meeting the criteria set forth in subsection (B), allowing a clear and unobstructed view of all machines.
4. Window Requirements
 - a. Windows are located on at least two (2) sides of the Game Room, and each machine located therein is visible through such walls or windows; and
 - b. At the lowest point are not more than four (4) feet above the adjacent sidewalk or ground level; and
 - c. At the highest point are at least six and one half (6.5) feet higher than the adjacent sidewalk or ground level; and,
 - d. Are at least four (4) feet wide
 - e. It shall be unlawful for a Person to cover or tint a Game Room window or door, or otherwise block a window or door so as to obscure the view of any

¹¹ See Port Lavaca Code of Ordinances Chapter 8-19 through 8-32.

machine located in a Game Room, or the interior of the location from a sidewalk through a Game Room window or door. Any window tint must allow at 69% visible light transmission.

5. Safety
 - a. All Amusement Redemption Machine Establishments shall have an adult supervisor on the premises at all times in which the arcade or game room is open to the public.
 - b. All Amusement Redemption Machine Establishments shall post rules of non-acceptable patron conduct in a conspicuous location and shall order anyone violating the rules to leave the premises. Should the violator refuse to leave, the supervisor of the amusement arcade shall advise the Police Department immediately.
6. License
 - a. The site holds a valid, current on premise license under V.T.C.A, Alcoholic Beverage Code Title 3, Subtitle B, Chapter 69 where the gaming machines or eight-liners are incidental to the primary business and;
 - b. Amusement Redemption Machine Establishments licensed herein shall comply with all other building, fire code, and applicable laws and regulations.

B. Amusement Redemption Machine Defined.

1. Definitions
 - a. Amusement Redemption Machine: An amusement redemption machine is a skill or pleasure coin-operated machine that is designed, made and adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance affords the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys, novelties, or a representation of value redeemable for those items.
 - b. Amusement Redemption Machine: Included in the foregoing, an amusement redemption machine is any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with non-cash merchandise, prizes, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than ten (10) times the amount charged to play the game or device once or five dollars (\$5.00), whichever is less.
 - c. Coin-Operated Machine: A coin-operated machine includes a machine or device operated by the payment or insertion of paper currency or any other consideration.
 - d. Representation of Value: A representation of value includes cash paid under authority of sweepstakes contests as provided in the Texas Business and Commerce Code, Chapter 43[B], or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.
2. Excluded Machines: An amusement redemption machine does not include:
 - a. A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor

- b. A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical object into the machine or a part thereof, including basketball, skeetball, golf, bowling, pusher, or similar machines.
- c. A machine or any device defined in Section 47.01, Penal Code, as a gambling device, or any activity prohibited or described in Chapter 47, Penal Code.

C. Local Permit Fee for Amusement Redemption Machine Premise Permit.

1. Fee: An owner, operator, or lessee of premises on which an amusement redemption machine is made available to others shall be required to secure a permit by paying to the City an annual inspection and amusement redemption machine premise permit fee of $\frac{1}{2}$ the amount of the State fee per machine.
2. Expiration and Renewal: Annual Amusement Redemption Machine Premises Permits issued by the City shall automatically expire on the 31st day of December following its issuance, except as otherwise stated herein. Such permit shall automatically expire if the holder thereof sells, transfers equity, or otherwise disposes of such devices. The City shall not refund any portion of an amusement redemption machine premises permit after the permit is issued, nor shall it prorate or reduce in amount any fee due to the City.
3. Late Penalty: Upon the expiration of a permit, and within thirty (30) days thereafter, the person making the device available to others shall obtain a renewal thereof in the same manner as an original permit if he wishes to continue operating premises on which an amusement redemption machine is made available to others. (Failure by a person to pay this fee within thirty (30) days will require such person to pay an additional late fee as designated in Port Lavaca Code of Ordinances Appendix A.)
4. Sealing: The City shall have the authority to seal any coin-operated machine located at an establishment for which an amusement redemption machine premises permit fee has not been secured. A fifty dollar (\$50.00) fee will be charged for the release of any machine sealed for non-payment of said amusement redemption machine premises permit fee.

D. Permit.

1. Posting of Permit: The permit shall be conspicuously posted inside the building.
2. Revocation of Permit: The City Council may revoke any permit to maintain and operate premises on which an amusement redemption machine is made available to others when the licensee has been found guilty by a court of competent jurisdiction of violating any provision of State law or this Ordinance. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the premises are being maintained and operated in full compliance with law and this Ordinance. Provided, however, that an owner, operator, or lessee of premises on which an amusement redemption machine is made available to others, who is found to be in violation of this Ordinance based on a finding that the number of amusement redemption

machines exceeds the number for which the premises is permitted shall be required to pay an amount equal to twice the difference of the original permit fee and the permit fee required for the number of machines actually on the premises.

3. Issuance: By issuing the required permit, the City of Port Lavaca is not certifying the installation or use of the amusement redemption machines or implying in any way that such machines comply with applicable law.

In applying for a permit, the applicant shall acknowledge that the City of Port Lavaca is not certifying or sanctioning the installation or use of such machines. The City of Port Lavaca and applicant shall acknowledge that the installation and use of such machines may be found to violate state law. In the event the installation and or use of such machines is found to violate any law, applicant shall acknowledge that any permit fee paid belongs to the City of Port Lavaca and will not be refunded.

Sec. 504. - Home Occupations.

A. Home Occupations shall be Designated.

1. An occupation or profession carried on by the inhabitants of the single family dwelling, and including up to one additional assistant, which is clearly incidental and secondary to the use of the structure which does not change the character thereof, and which is conducted entirely within the main or one accessory building. No activities conducted nor mechanical equipment shall be used which impact air, water, soil, or light quality or creates any noise, dust, odor, or electrical disturbance beyond the confines of the lot in which the occupation is conducted, or which requires off-site (i.e.) street parking even if temporary.

Sec. 505. – Industrial Uses.

A. Conflict Advice and Recommendation.

Any trade, industry or use which, in the opinion of the Administrative Officer, is in conflict with the laws of the State of Texas or the ordinances of the City of Port Lavaca shall, after consideration by said Administrative Officer, be referred to the Fire Official, or other persons discharging the duties of the officer or other persons for the City of Port Lavaca, for advice and recommendation.

B. Application Approval Regarding Location.

If it is determined that the location desired and the use requested will not be dangerous to the health, safety and public welfare of the City in general and the surrounding neighborhood in particular, the application may be approved. However, if it is determined that the use requested at the location indicated will endanger the safety of the city and surrounding neighborhood by reason of fire or explosion, or that the use desired at such location will seriously affect the health, welfare and comfort of the city and surrounding neighborhood the application may be denied.

C. Appeal.

The decision shall be appealable to the Board of Adjustment.

Sec. 506. - Inside and Semi Storage, Self Service.

Self-service storage facilities shall meet all Nonresidential Design Guidelines and the requirements that follow:

A. Security Lighting.

Said facilities shall have sufficient security lighting so as to service client security needs so that no part of the ingress and egress driveway is unlighted at night.

B. Written Agreement for Hazardous Materials.

The owner/operator of said facility shall require a written agreement with tenants to prohibit the storage of hazardous materials.

C. Isle Width.

Minimum isle widths of twenty-four (24) feet shall be maintained between buildings for emergency vehicle ingress and egress.

D. Trash and Debris.

Adequate provisions shall be made by the storage owner for the disposal and removal of trash and debris. Loading and unloading of dumpsters shall be accomplished on the storage facility property and shall not encroach on public or adjacent property.

E. Parking for Additional Structures.

Any facility used as an accessory to the storage facility, including but not limited to business offices, manager residence quarters, etc., shall have appropriate parking facilities for the uses intended.

Sec. 507. - Outside Storage, Self Service.**A. Security Lighting.**

Said facilities shall have sufficient security lighting so as to service client security needs so that no part of the ingress and egress driveway is unlighted at night.

B. Written Agreement for Hazardous Materials.

The owner/operator of said facility shall require a written agreement with tenants to prohibit the storage of hazardous materials.

C. Isle Width.

Minimum isle widths of twenty-four (24) feet shall be maintained between buildings for emergency vehicle ingress and egress.

D. Trash and Debris.

Adequate provisions shall be made by the storage owner for the disposal and removal of trash and debris. Loading and unloading of dumpsters shall be accomplished on the storage facility property and shall not encroach on public or adjacent property.

E. Parking for Additional Structures.

Any facility used as an accessory to the storage facility, including but not limited to business offices, manager residence quarters, etc., shall have appropriate parking facilities for the uses intended.

F. Distance from other Districts.

Storage facilities may not be placed on a lot within two hundred (200) feet of all districts with the exception of Commercial and Industrial Districts.

G. Buffer Design and Landscaping.

Outside storage areas in Old Towne, or Mixed Use Development shall incorporate a buffer design and landscaping including the following elements:

1. A decorative or opaque fence consisting of conventional fencing materials eight (8) feet in height and set back from the lot line a minimum of ten (10) feet, and
2. Vegetative screening may be permitted as recommended by the Administrative Officer and approved by City Council.

Sec. 508. - Temporary Use.**A. Temporary Construction Buildings or Trailers.**

Temporary Buildings that are only used in conjunction with construction work may be permitted in any district during the period the work is under way, but such temporary buildings shall be removed upon the completion of the construction work as determined by the Administrative Officer.

B. Model Home or Subdivision Sales Office.

A temporary use located in the same platted subdivision in which homes or lots are offered for sale. Sales at the temporary use shall be restricted to homes and/or lots within the subdivision. Such use shall be discontinued within thirty (30) days of notice by the Building Officer that seventy-five (75) percent or more of the lots in the subdivision have an occupied residence thereon.

Sec. 509. - Vehicle Sales and Service.

All parking areas for vehicles (including, but not limited to cars, trucks, vans, boats and recreational vehicles) shall be improved with a surface acceptable to the Administrative Officer. In general, such areas shall be paved. Required parking spaces shall not be used for storage of vehicles during business hours.

Sec. 510. - Veterinarian, Animal Hospital and Kennels.

Any new veterinarian/animal hospital with outdoor kennels and any new kennel shall be located at least one hundred (100) feet from any residential property line.

Sec. 511. - Accessory Building Used as Caretakers Quarters.**A. Acceptable Occupants of a Caretakers Quarters.**

B. When permitted, an accessory building used as a caretaker quarters shall not be used or occupied as a place of abode or residence by anyone other than:

1. A bona fide caretaker, servant, or farm worker actually and regularly employed by the land owner or occupant of the main building; or
2. A family member of the land owner or occupant of the main building. For the purposes of this section, a family member includes a parent, child, grandparent, grandchild, aunt, uncle, niece, or nephew.

C. Accessory Building.

Only one (1) accessory building used as a caretaker quarters shall be allowed on any lot within a permitted zoning district, and they shall be clearly incidental to the primary use. An accessory used as a living structure shall not, in any case, be leased or sold.

D. Mobile Homes and Recreational Vehicles.

Mobile homes and recreational vehicles may not be used as a caretaker quarters.

Sec. 512. - Bed and Breakfast.

A bed and breakfast shall meet the following requirements:

A. Distance.

Be no closer than two hundred (200) feet from any other bed and breakfast.

B. Food Permit.

Meals may be served in guest rooms but not prepared in guest rooms. Permits to prepare and/or serve food shall be secured from the Victoria County Department of Health which shall continuously inspect the residence to ensure compliance with all Texas Food Establishment Rules.

C. Garbage Disposal.

The use of commercial dumpsters for day to day garbage disposal shall be prohibited.

D. Parking.

Provide two (2) off-street parking spaces for the owners and one-half (1/2) off-street parking spaces for each guest room. All such parking spaces shall be exclusive of driveways and immediately available for use (cannot be used for storage or any other purpose which prevents the owners and guests from using them). All such parking spaces shall be constructed of concrete or brick pavers and be properly drained. Parking in the front yard may be prohibited as a condition to the issuance of a Special Use Permit (to preserve the single-family residential character of the neighborhood at a street level).

E. Americans with Disabilities Act.

Comply with all requirements of the Americans with Disabilities Act.

F. International Building Code.

Comply with all R1 regulations of the International Building Code. The Department of Development Services shall conduct annual inspections to ensure continued compliance.

G. International Fire Code.

Comply with all R1 regulations of the International Fire Code. The Fire Department shall conduct annual inspections to ensure continued compliance.

H. Occupancy Tax.

Comply with all Hotel Occupancy Tax regulations.

Chapter 6. Subdivisions and Plats

Chapter 42 Sections 1 through 160 address requirements for the creation of subdivisions and the platting of land within the City of Port Lavaca, Texas in accordance with V.T.C.A. Local Government Code Chapter 242 and 212. It is incorporated in whole as part of the City of Port Lavaca's Unified Development Code.¹²

¹² See Code of Ordinances, City of Port Lavaca, Texas, Chapter 42.